



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 17 FEBRUARY 2004 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A

**** ** * ** * ** ***

APOLOGIES

DECLARATION OF PECUNIARY 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 17 February 2004

Minutes numbered 30 to 46

MINUTES FROM THE MAYOR

PETITIONS

Determination of a Development Application for a development submitted pursuant to SEPP 5 which comprises six (6) single storey dwellings. The subject site is currently listed (in error) as a heritage item in Ku-ring-gai Planning Scheme Ordinance 1971.

Recommendation:

Approval, subject to conditions

- GB.3 **64 Wellington Road, East Lindfield - Sepp 5 Development Comprising 4 X 2 Storey Units** **106**

File: DA1551/02

Ward: Roseville

Applicant: Debtap Pty Ltd

Owner: John and Deborah Mazlin

An application for development made under the provisions of SEPP 5 cannot be determined under delegation and must go to Council for approval.

Recommendation:

That consent be granted, subject to conditions

- GB.4 **14 Trentino Road, Turramurra - Construction Of A Detached Dual Occupancy** **172**

File: DA1190/03

Ward: Wahroonga

Applicant: Mr & Mrs Milton & Mrs Stewart, c/o Glendinning Minto & Associates

Owner: J & J Milton & S Stewart

To determine an application for the construction of a detached dual occupancy.

Recommendation:

Approval, subject to conditions

- GB.5 **25 Bayswater Road, Lindfield - Demolition Of Existing Structures And Construction Of Detached Dual Occupancy** **201**

File: DA 1063/02

Ward: Roseville

Applicant: In & Out Pty Ltd

Owner: V M and T D Luong

Dual Occupancy dwellings cannot be approved under delegation. Council sought a review of the application by an independent consultant by resolution of 18 November 2003. This report comprises this response to that Council resolution.

Recommendation:

Refusal

GB.6 **17 Redfield Road, Killara** **242**

File: 1601/02

To report on the issues raised at the Council site inspection and seek Council's determination of the development application.

Recommendation:

Approval, subject to conditions.

GB.7 **29 Dumaresq Street, Gordon** **293**

File: DA 438/03

To advise Council of the outcome of an independent investigation undertaken by Hughes Trueman Pty Ltd in relation to the impact of the development on the watercourses, the water table and the Blue Gum High Forest in Special Area 4.

Recommendation:

Approval, subject to conditions.

GB.8 **Business Centres Improvement Program** **402**

File: S02962

The purpose of this report is to seek Council's endorsement of the Business Centres Improvement Program for 2004 to 2009.

Recommendation:

That Council adopts the draft 2004 to 2009 Business Centres Improvement Program for consultation with the Business Centres Advisory Committee.

GB.9 **Policy And Procedures For Road Maintenance And Repair** **406**

File: S03152

To seek Council's approval of the Road Maintenance and Repair policy and procedures.

Recommendation:

That Council adopts the Road Maintenance and Repair policy and procedures.

GB.10 **Minutes Of The Tulkiyan Management Advisory Committee**

433

File: S02153

That Council receive and note the minutes of the Tulkiyan Management Advisory Committee meeting held 29 October 2003 and consider the appointment of a new Tulkiyan Management Advisory Committee member.

Recommendation:

That Council receive and note the minutes of the Tulkiyan Management Advisory Committee meeting held on 29 October 2003.

That Council agrees to the appointment of Ms Kathleen Rieth as the new Tulkiyan Management Advisory Committee member to replace Ms Edwards following her resignation.

GB.11 **12 Porters Lane, St Ives – Demolition Of Existing Structures And Construction Of A Detached Dual Occupancy** **444**

File: DA0927/03

Ward: St Ives

Applicant: Mr David Upton c/-Glendinning Minto & Assoc

Owner: Fernecho Pty Ltd

Recommendation:

Approval.

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

NM.1 **Heritage Advisory Committee**

476

File: S02152

Notice of Motion from Councillor E Keays dated 11 February 2004.

I move:

In light of the letters from Councillor Hall to the General Manager of January 27th & 28th 2004, regarding the Heritage Advisory Committee, and from the Chair of the Heritage Advisory Committee to the General Manager and all Councillors dated February 2nd 2004, and the requirements of the Code of Conduct and the S430 Report of September 2000 that:

Councillor Hall

- A. Unreservedly retract in writing his ill founded statements, in particular that the (Heritage Advisory Committee)

“has become a shadow council with Star Chamber implications”
and that

“the present committee seems to spend more of its time on individual DA’s, some of which should not have been referred to in the first place such as 71 Arnold, but has no really achievable goals to show at this late stage of Council’s term.”

- B. Offer an apology in writing to the Committee

and that

- C. Council formally dissociates itself from these statements.

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 **Heritage Significance Assessment For UTS Lindfield Site**

1

File: P42604

(Section 10A(2)(c) - Information that would confer a commercial advantage)

Report by Director Planning & Environment dated 11 February 2004.

Brian Bell
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.*

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	22-24 HENRY STREET GORDON - RESIDENTIAL FLAT BUILDING
WARD:	Gordon
DEVELOPMENT APPLICATION N^o:	1078/03
SUBJECT LAND:	22-24 Henry Street Gordon
APPLICANT:	Red Sea Investments Pty Ltd
OWNER:	Anne and David Taylor
DESIGNER:	Vanovac Associates Pty Ltd
PRESENT USE:	Residential
ZONING:	Residential 2(d)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Ku-ring-gai Planning Scheme Ordinance, Development Control Plan 31 - Access, Development Control Plan 43 - Car Parking, Development Control Plan 48 - Medium Density Residential Development.
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy 1 State Environmental Planning Policy 55 State Environmental Planning Policy 65
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	27 August 2003
40 DAY PERIOD EXPIRED:	6 October 2003
PROPOSAL:	Demolition of two existing dwellings and the construction of a four storey residential flat building.
RECOMMENDATION:	Approval subject to conditions

Item 1

DEVELOPMENT APPLICATION N^o 1078/03
PREMISES: 22-24 HENRY STREET GORDON
PROPOSAL: DEMOLITION OF TWO EXISTING
DWELLINGS AND THE CONSTRUCTION
OF A FOUR STOREY (12 UNIT)
RESIDENTIAL FLAT BUILDING
APPLICANT: RED SEA INVESTMENTS PTY LTD
OWNER: ANNE AND DAVID TAYLOR
DESIGNER VANOVAC ASSOCIATES PTY LTD

PURPOSE FOR REPORT

To determine an application for the demolition of two existing dwellings and the construction of a four storey residential flat building

EXECUTIVE SUMMARY

- Demolition of two existing dwellings and the construction of a 12 x 3 bedroom, four storey residential flat building and associated storage areas and car parking for 25 vehicles.
- 5 letters of objection were received during the notification period.
- The proposal has been assessed in accordance with s79C of the Environmental Planning and Assessment Act 1979.
- SEPP 1 objection received
- SEPP 65 applicable to assessment
- Recommended for approval.
- Deemed refusal appeal set down for hearing on April 2, 2004.

THE SITE

Zoning:	Residential 2(d)
Visual Character:	1920-1945
Lot Number:	A & B
DP Number:	317949
Area:	1695m ²
Side of Street:	Western
Cross Fall:	To Street
Stormwater Drainage:	To Street
Heritage Affected:	No
Required Setback:	9 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

Item 1

SITE DESCRIPTION

The site is located on the western side of Henry Street, opposite the Gordon Railway Station car park and railway under pass that leads to Werona Avenue. The subject site is rectangular in shape and has a total area of 1695m². The total frontage along Henry Street is 30.62 metres, the northern boundary length is 53.425 metres the southern side boundary length is 59.675 the rear western boundary length is 29.97 metres. The site is zoned Residential 2(d).

The immediate surrounds are predominantly residential comprising a mix of single and two storey dwellings and larger three and four storey residential flat buildings. The shops in St Johns Avenue are located approximately 150 metres to the north of the site.

The site contains a large significant tree in the south-eastern corner and several moderately sized street trees along the road frontage.

THE PROPOSAL

Is a new front fence part of the proposed development?	Yes
Is a new swimming pool part of the proposed development?	No

It is proposed to demolish two existing dwellings and construct a 12 x 3-bedroom residential flat building comprising four storeys. The development also includes a storage area, a basement car park that will accommodate 25 cars and roof top terraces. A strata subdivision was proposed as part of the application but will not be assessed as part of the application as no subdivision plans were received.

CONSULTATION - COMMUNITY

In accordance with Council's policy, adjoining owners were given notice of the application. Council received 5 letters of submission.

The following persons made submissions to the proposed development.

- Victoria Burke – Peppercorn Farm, Wellington
- Bruce Watson – 14 Yarabah Avenue, Gordon
- C Lowenstein – 12/18 Henry Street, Gordon
- Virginia Robison – 3 Rosebery Road, Killara
- Pat Rankin – P.O. Box 35, Gordon

Comments on submissions:

Overdevelopment of the site

The proposal exceeds the FSR, density and number of storey requirements prescribed in The Kuring-gai Planning Scheme Ordinance and Development Control Plan No.48 – Medium Density Development. The proposed building has a FSR of 1.08:1 and exceeds to the prescribed 0.85:1. It is to be noted that this includes storage areas above the basement car park below ground level and

Item 1

attic rooms on the top storey within an area traditionally used as roof space. Discounting these areas the FSR becomes 0.88:1.

The proposal provides greater side and rear setbacks than the prescribed minimum, 4 additional car spaces, the utilisation of roof space for attic areas and terraces and a design that is considered by Council's Heritage and Urban Design Adviser to be superior to that of surrounding developments which relates well to the surrounding environment.

The proposed development achieves a built-upon area of less than 50% and will not overshadow the living areas or balconies of the units at No.18 Henry Street. The proposal is not an overdevelopment of the site due to its attractive appearance, limited impact on adjoining properties, and sympathetic bulk and scale in relation to the streetscape and context.

Loss of Privacy

The balconies on the northern side of the proposed development are offset from the balconies on the southern side of No.26 –28 Henry Street. The balconies have been set at different levels to those at No.26 Henry Street. The development will provide suitable vegetative screening between the two properties in the form of trees and shrubs. This is in addition to the established screening along the southern boundary to No.26 Henry Street.

The balconies on the southern side of the proposed development are small (1.4 m x 2.4m) & (1m x 3.5m) and only service bedrooms. In addition, they will be at different levels to those on the northern side of No18 Henry Street and vegetative screening in the form of trees and shrubs will be provided.

The proposed private roof top terraces (ranging in areas from 13.31m² to 20.1m²) face south and will be 7.7 metres from the southern boundary and 13.5 metres from the building at No.18-20 Henry Street. A 1-metre wide planter box will be required along the edge of the terrace in addition to vegetative screening along the southern boundary. (See condition No.56).

The communal roof top terrace (comprising a total area of 36.66m²) faces north and is setback 10.2 metres from the northern boundary of the site and 16.5 metres to the closest balcony area of No. 26-28 Henry Street. In addition to the generous separation between the buildings, the established landscaping of No.26-28 Henry Street and the landscaping for the proposed development will provide adequate screening.

The privacy of adjoining properties will not be compromised.

Overshadowing

When the sun is at its lowest point on June 21 (midwinter), the proposed development will cast a shadow along the driveway of No.18-22 Henry Street from 12pm to late afternoon. The living areas and balconies of the north-facing units of 18-22 Henry Street will not be overshadowed. The rear communal open space of No.18-20 Henry Street will still receive adequate levels of sunlight.

Item 1

The proposal will allow suitable levels of sunlight to the living areas and communal open space of the building at No.18-20 Henry Street. As a result of the orientation of the property, no adjoining properties will be overshadowed.

Heritage Issues

The two existing houses are not heritage items. Council's Heritage and Urban Design Adviser does not believe that the dwellings contribute to the character of Henry Street because it has been changing for some time to one dominated by residential flat buildings.

The subject property backs onto No.707 Pacific Highway, which is a listed heritage property. Council's Heritage and Urban Design Adviser believes the proposed development is unlikely to detract from the listed Heritage item at No.707 Pacific Highway due to sufficient separation, the attractive appearance of the rear elevation, and the subject property is set down in relation to the level of the listed property.

Urban Design

Council's Heritage and Urban Design Adviser considers the proposal offers a high quality design that responds well to the character of the area and sets a good example for future development close to Gordon Station.

CONSULTATION - WITHIN COUNCIL

Development Engineer

Summary – Supported, subject to conditions

Vehicle Access and Accommodation comments

Specifically:

- *Dimensions of parking spaces comply with Australian Standard 2890.1 1993 – “Off street Car Parking”.*
- *Aisle widths comply with Australian Standard 2890.1 1993 – “Off street Car Parking”.*
- *Driveway widths comply with Australian Standard 2890.1 1993 – “Off street Car Parking”.*
- *Driveway grades comply with Australian Standard 2890.1 1993 – “Off street Car Parking”.*
- *Headroom complies with Australian Standard 2890.1 1993 – “Off street Car Parking”.*
- *The number of parking spaces at 25 exceeds Council DCP 43 requirements.*
- *Internal waste collection area is provided.*

The traffic generation from the proposed medium density RFB development (calculated using RTA guidelines) would be 12 (3 bedroom dwellings) x 5 daily vehicle trips per dwelling = 60 daily vehicle trips. Existing generation would be 18 daily trips based on two existing single dwellings. This is an additional 42 trips per day (a trip defined as the 2 way movement)

Item 1

However, given the proximity of the site to the Gordon railway station, it could be argued that the number of weekday trips would be substantially lower. In any event, Henry Street is expected to be capable of handling the increased traffic.

Accordingly, the proposed vehicle access and accommodation arrangements are considered satisfactory for approval, subject to the Conditions shown in this response.

Impacts on Council Infrastructure and associated works – comments

A construction management plan is required for this development given its scale and its proximity between the Ravenswood School and station.

A bond is to be applied to cover any incomplete infrastructure works, or damage to Council land.

Site drainage comments

The submitted concept drainage plan (refer Stormwater Drainage Details by S&E Ivanov Consultancy, drawings 1 and 2, amendment B, dated 8/12/2003) is generally satisfactory. In essence, the site is able to drain to the public drainage system and will be able to satisfy Council on-site detention requirements, as shown on the concept drainage plan. Requirements for detailed construction drawings may be handled by way of conditions.

The submitted drainage plan for Construction Certificate purposes must be compatible with the approved landscaping plan.

Geotechnical / Structural Comments

This proposal will involve a substantial level of excavation for the basement level. There is not a large offset for the excavations. It is expected that these excavations may be in the zone of influence of neighbouring property.

To ensure that the method of excavation and construction (including temporary and permanent support measures) are satisfactory for the type of construction and the founding material on the site, a geotechnical investigation and report is to be carried prior to any excavations, and prior to the Construction Certificate being issued. This condition is included.

Excavations are to be carried out by a contractor with excavation experience, in accordance with the recommendations of the submitted geotechnical report. This condition is also included.

Recommendation

Based on the formal assessment, Councils Development Engineer has determined that the proposal is satisfactory for development approval, subject to Conditions.

Accordingly, the following Conditions of Development Consent are to be applied:

NOTE : NO SUBDIVISION ASSUMED UNDER THIS DA

Item 1

Comment

The strata subdivision does not for part of the assessment. The amended width of the driveway can be satisfied as a condition of consent.

Landscape Development Officer

An inspection of the property was conducted on November 21st 2003.

Comments

The site

It is proposed to demolish the existing dwellings (2) and construct a 12 Unit residential flat building with basement car parking for 25 cars on the existing two allotments comprising a total of 1 695sqm. The site is characterised by mature gardens within formal garden beds and lawn areas of predominantly exotic small trees and shrubs. The site is dominated by a mature Eucalyptus sp. Approximately 20.0m high located in the south east site corner.

The proposed residential flat building provides generous side and rear setbacks to accommodate tree replenishment and screen planting. The revised location of the driveway and associated drainage works have minimised impacts on existing significant trees on site, but will result in the removal of one street tree planting to accommodate the driveway crossover. As this tree is less significant than the large Eucalypt this is considered acceptable. The proposed residential flat building should not impact existing significant trees.

It is noted that a wall within the front setback on the southern site boundary a masonry wall is proposed. This cannot be supported. The wall is within the critical root zone of the large Eucalypt and does seem to serve any purpose. If a fence is required by the applicant it is required that it be constructed of light weight materials that do NOT require footings to be utilised within the primary root zone of existing trees to be retained.

To maximise privacy and to reduce overlooking of adjacent properties it is required that a planter box with a minimum planting width of 1.0m be included adjacent to the rooftop terraces to allow planting for small shrubs to attain a minimum height of 1.0m.

Subject to the above requirements the application can be supported with conditions.

Comment

The planter box will be required as a condition of consent. (See Condition No. 56).

Heritage and Urban Design Adviser

Streetscape/Context

Item 1

The existing houses at nos 22 and 24 Henry Street are not noted on the Neighbourhood Character Study or elsewhere as having heritage value; but they are pleasant inter-war buildings constructed of brick and sandstone with tiled roofs and good joinery. One cannot say that they contribute to the character of the street because this has been changing for some time to one dominated by residential flat buildings. Nos 22 and 24 are two of the few remaining individual dwellings in this street. Henry Street does, however, have a strong brick flavour, especially with Ravenswood School just down the road. The subject site is quite prominent as it faces the cross street, which connects Henry Street with Werona Avenue under the railway bridge. The proposal is a high quality design with a lively abstract exterior treatment. It is superior to the neighbouring blocks of flats but would relate well to its context as it includes wall planes of face brickwork in a collage of other materials. The front fence is also appropriately face brick.

Bulk, form & scale

Acceptable. Although the development is higher than its neighbours the setting back of loft areas and the different cladding used will tend to make them visually recede. The half level step across the building is a clever decision that enlivens the design and helps it to fit in with its neighbours.

Heritage impact

The site backs onto a listed heritage property at 707 Pacific Highway. Unfortunately the potential heritage impact on the development has not been examined in the accompanying reports. I was unable to gain access to fully assess this myself but I do not believe the proposed development would detract from the listed building. The rear (west) elevation is well articulated and is just as attractive as the front, it is set down in relation to the level of the listed property and the upper level is set back. There is sufficient separation between the buildings in my view.

Solar design & energy efficiency

All units have an ideal northern aspect and good cross ventilation; but winter sun will be blocked from the living rooms of units 2, 4, 7 & 9 by deep overhanging balconies. More sun shading is needed to bedroom 2 of unit 12.

Site planning

The proposal is well planned for pedestrian circulation and private open space. It is well provided with useable common areas. Entrances are visible from street entry and there are no long corridors.

Other design comments

No vents are shown from the underground car park. These should be integrated with the design and screened as necessary. Glass louvres are shown in front of kitchen benches on the front elevation.

Conclusion

Item 1

This is a high quality design that responds well to the character of the area and sets a good example for future development close to Gordon Station. I support the application but recommend that the points mentioned above be addressed prior to approval.

Comment

Amended plans incorporating the reduced balcony depth to units 2, 4, 7, and 9, shading to bedroom 2 of unit 12, and vents to the basement car park were received and acceptable.

Heritage Advisory Committee

The Heritage Advisory Committee declined to offer any comments on the application.

PROVISIONS OF RELEVANT LEGISLATION

The Environmental Planning & Assessment Amendment Act 1979

1. Environmental Planning Instruments

- State Environmental Planning Policy No.1 – Development Standards (SEPP 1)
- State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy No.65 (SEPP 65)
- The Ku-ring-gai Planning Scheme Ordinance, (KPSO)
- Development Control Plan No.48 – Medium Density Residential Development
- Development Control Plan No.43 – Car Parking
- Development Control Plan No.31 - Access
- Development Control Plan No.40 – Waste Management

State Environmental Planning Policy No.1

The applicant has submitted an objection pursuant to clause 6 of SEPP 1, to vary clauses 43(6)(f) and 60(1) of the Ku-ring-gai Planning Scheme Ordinance (KPSO) in relation to maximum number of storeys and maximum floor space ratio. Clause 43(6)(f) requires that a residential flat building shall not exceed a height of 3 storeys in the Residential 2(d) Zone. The proposed height of the building is 4 storeys. Clause 60(1) specifies a maximum floor space ratio of 0.85:1 for buildings in the Residential 2(d) Zone.

Height

The applicant's grounds of objection to the height standard are as follows:

In this instance, strict compliance with the building height development standard at Clause 43(6)(f) of the KPSO is unnecessary and unreasonable for the following reasons:

- *The proposed attic rooms are centred to the building footprint, are centred back behind the main three storey street face of the building, have low floor to ceiling heights and low curved roof forms.*

Item 1

- *The proposed building form readily complies with the building envelope control specified under Clause 17 of Development Control plan No.48 – Medium Density Development.*
- *The attic rooms are contained within the volume of a typical pitched roof form.*
- *The proposed building is compatible in height and scale with existing neighbouring buildings, and the proposed setbacks and massing of the building ensure that neighbouring residential properties will not be adversely overshadowed.*
- *The proposed attic rooms will provide valuable amenity to the upper level apartments as additional storage space or use as a study while allowing access to desirable private roof top open space areas that do not adversely overlook adjoining properties.*
- *The proposal will not result in any detrimental impacts to adjoining properties by way of overshadowing, loss of privacy or views.*

Floor Space Ratio

The applicant's grounds for objection to the floor space ratio standard are as follows:

In this instance, strict compliance with the floor space ratio development standard at Clause 60(1) of the KPSO is unnecessary and unreasonable for the following reasons:

- *The proposed storage and attic roof levels account for most of the exceedance from the 0.85:1 FSR standard. The storage level is located below ground level in a void above basement level while attic rooms are centred to the building footprint and contained within the volume of a typical pitched roof form, and therefore do not generate additional building bulk or scale. If the storage and attic levels are excluded from FSR calculations, the FSR of the building would be 0.88:1. The proposed building is well articulated, and readily complies with the applicable building envelope and side and rear setback requirements specified under DCP No.48 – Medium Density Development. Furthermore, the proposed external zinc cladding to the attic will give them a light airy appearance from the street and neighbouring buildings.*
- *The below ground storage areas will provide high value amenity for the future residents of the building.*
- *The proposed roof level attic spaces are contained within a curved roof form and centred to the building footprint so as to minimise visual bulk and overshadowing to the neighbouring southern property. These attic spaces will provide valuable amenity to the upper level apartments as storage and/or study spaces and by providing internal access to desirable private, roof top terrace space.*
- *The proposed building form readily complies with the building envelope control specified under Clause 17 of DCP No.48 –Medium Density Development, and the proposed side and rear boundary setbacks of the building exceed those required under Clause 18 of the DCP for Medium Density Development.*
- *The proposed building is compatible in height and scale with existing neighbouring buildings, and the proposed setbacks and massing of the building ensure that neighbouring residential properties will not be adversely overshadowed.*
- *The design, height, scale, and setbacks of the building are compatible with existing adjoining development and no adverse impacts by way of overshadowing, loss of privacy or views will be occasioned to adjoining properties.*

Item 1

Consideration

The following questions are relevant in the consideration of the SEPP 1 objection, and relate to the provision of clauses 3, 6 and 7.

1. *Is the planning control a development standard?*

Yes. According to section 4 of the NSW Environmental Planning and Assessment Act, 1979, a development standard is defined as a “provision of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development...including the dimensions of the land.”

2. *What is the underlying object or purpose of the standard?*

The KPSO does not establish a specific objective for Clause 43(6)(f) or Clause 60(1), but does establish general aims for residential areas. The general aims of the KPSO in relation to land within the Residential Zones are:

- 1) to maintain, and, where appropriate, improve the existing amenity and environmental character of residential zones, and,
- 2) to permit new residential development only where it is compatible with the existing environmental character of the locality and has a sympathetic and harmonious relationship with adjoining development.

The KPSO also identifies specific objectives in relation to land within Zones 2(a), 2(b), 2(c), 2(d), 2(e), 2(f), 2(g) and 2(h), however these relate to dwelling-houses and not flat buildings.

The applicant identifies both the general aims of the KPSO for residential zones as being applicable to the objects and purpose of the standard. This is considered to be an appropriate interpretation of the development standard.

3. *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

Compliance with the development standards for maximum number of storeys and floor space ratio is considered unnecessary and unreasonable in the circumstances of the case because the proposal addresses the specific objectives of the KPSO in relation to residential zones providing a development that has design quality, does not affect the residential amenity of adjoining properties and relates well to the existing streetscape. Compliance with the development standard would not necessarily reduce the bulk or size of the building because areas of non-compliance are not prominent, such as, the storage area is below the ground floor and the attics are proposed in an area that is traditionally used as roof space.

4. *Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(I) and (ii) of the EP and A Act?*

Item 1

The objects of S5(a)(I) and (ii) of the EP and A Act state:

- a) *to encourage:*
 - i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - ii) *the promotion and co-ordination of the orderly and economic use and development of land*

There is no evidence to suggest that the strict compliance with the development standards will hinder the attainment of the objects of the standard, however, strict compliance is considered unnecessary and unreasonable in the circumstances of the case.

5. *Is the objection well founded?*

The objections are well founded for the following reason:

- a) The additional floor space is predominantly made up of storage and attic space. The two areas are not in prominent parts of the building and do not contribute to the bulk of the building. The storage area is below the ground floor while the attic rooms utilise the area traditionally used as roof space. For this reason, strict compliance with the height and FSR development standards is considered unnecessary.

6. *Would non-compliance with the development standard raise any matter of significance for State or regional environmental planning?*

No.

7. *What is the public benefit of maintaining the planning controls adopted by the environmental planning instrument?*

Strict compliance with the maximum number of storeys and maximum floor space ratio would not benefit the wider public interest because the bulk of the building would predominantly remain the same if the attic rooms, roof top terraces, and storage areas were removed.

In conclusion, the objection under the provisions of State Environmental Planning Policy No.1 is supported.

State Environmental Planning Policy No.55

A consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. A review of Council records has revealed that the land is not contaminated.

Item 1

The proposed demolition of the existing building will not cause contamination of the development site. The demolition is to be carried out in accordance with Australian Standard 2601.1991: The Demolition of Structures.

State Environmental Planning Policy No.65

The aims of SEPP 65 are to improve the design quality of residential flat development in New South Wales. It provides ten design principles to be used as a guide to achieving good design and the means of evaluating the merit of proposed solutions.

Design Principles

Design Principle	Requirement	Compliance
Context	Identifying the desirable elements of a location's current character to create a new building that will contribute to the quality and identity of the area	Yes. The design is of high quality according to Council's Heritage and Urban Design Adviser.
Scale	Provide an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.	Yes. The scale of the building relates well to the surrounding buildings and streetscape according to Council's Heritage and Urban Design Adviser.
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	Yes. Front fencing and landscaped communal areas at the front of the property define the public domain.
Density	The density is sustainable and consistent with the existing density in an area or in precincts undergoing a transition, are consistent with the stated desired future density.	Yes. Density is consistent with surrounding developments. The density is appropriate due to the close proximity to public transport such as Gordon Railway Station and the Pacific Highway.
Resource, energy, and water efficiency	Sustainable 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	Yes. All buildings receive northerly sun to living areas. All units achieve a NATHERS rating of 3.5 stars or greater.

Item 1

	zones for vegetation and reuse of water.	
Landscape	Creates an integrated and sustainable system with the building resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.	Yes. The submitted landscape concept is considered satisfactory by Council's Landscape Development Officer.
Amenity	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.	Yes. The individual units have been orientated to receive adequate levels of solar access. The amenity of the building is satisfactory.
Safety and security	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.	Yes. The provision of communal open space at the front of the property and on the roof top allows passive surveillance of public spaces. There is clear definition between public and private spaces.
Social dimensions	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.	Yes. A contemporary development that offers a mix of housing style in close proximity to public transport and commercial and business zones
Aesthetics	Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, undergoing transition, contribute to the desired future character of the area.	Yes. Council's Heritage and Urban Design Adviser considers the development to be of high quality, relates well to the existing character of the area, and will set a good example for future development.

Item 1

In addition to the ten design principles, Council must give consideration to the *Residential Flat Design Code*. The *Residential Flat Design Code* is a document that supports the ten design principles identified in SEPP 65 and gives greater detail in how to achieve these principles.

The development has satisfactorily addressed the ten design principle of SEPP 65 and the *Residential Flat design Code*.

Ku-ring-gai Planning Scheme Ordinance

Clause 23 -Residential Flat Buildings are permissible within the Residential 2(d) Zone with the consent of Council.

Clause 43(6) – A residential flat building shall not be erected in Zone No.2(d) –

- (a) On an allotment with an area less than 1,208m²
- (b) On a rectangular shaped allotment which has a width less than 24.4 metres
- (c) To a height exceeding three storeys

Comment

The land area is greater than 1,208m² with a frontage greater than 24.4 metres.

The height exceeds three storeys as the development creates a loft and rooftop balcony that would normally be roof space. A SEPP 1 objection has been lodged to vary the height requirement which is considered well founded.

Clause 53 – requires a minimum area of 5.5 metres by 2.4 metres for vehicular parking spaces for each flat.

Comment

The car parking dimensions comply.

Clause 60 – requires a maximum floor space ratio of 0.85:1 in the Residential 2(d) Zone.

Comment

The proposal exceeds the prescribed maximum by proposing a floor space of 1.08:1. A SEPP 1 objection has been lodged to vary this development standard which is considered well founded.

Clause 61E – requires an assessment of the effect the carrying out of a development on land in the vicinity of a heritage item will have on the heritage significance of the item and its setting.

Comment

Item 1

The dwellings are not listed heritage items, however the property adjoins No.707 Pacific Highway Gordon (Tulkiyan) which is listed in Schedule 7 of the KPSO as a building with a significant interior. The Ku-ring-gai Heritage Committee declined to offer and comments on the application. Council’s Heritage Adviser believes the development will not detract from the listed building as the proposal is well articulated and set down in relation to the level of the listed property with the upper level set back. The separation between the buildings is considered sufficient.

The setback and design of the proposal and associated landscaping (including existing landscaping at the rear of No.707 Pacific Highway) will not impact on the heritage significance of the listed item at 707 Pacific Highway Gordon.

Schedule 9 – Aims and Objectives for Residential Zones

The aims and objectives of the Residential zones are:

- 1) to maintain, and, where appropriate, improve the existing amenity and environmental character of residential zones, and,
- 2) to permit new residential development only where it is compatible with the existing environmental character of the locality and has a sympathetic and harmonious relationship with adjoining development.

Comment

Council’s Urban Design Adviser considers the proposal to be of a high quality design, superior to that of the two adjoining residential flat buildings. Although superior in design, the proposal will still relate well to the adjoining residential flat buildings through the use of face brickwork in a collage of other materials. Expanded design comments were provided above.

Development Control Plan No.48 – Medium Density Residential Development

Development Standards and Objectives

Standard	Requirement	Proposal	Compliance
FSR	0.85:1	1.08:1	No
Density	1/150m ²	1/141.25	No. These figures are only a guide and development applications will be assessed on individual merits.
Building height	Maximum 3 storeys	4 Storeys	No
Allotment size	Minimum 1208m ²	1695m ²	Yes
Length of building	No wall length greater than 12 metres without a physical break. Total length of wall no greater than 24 metres.	No wall length greater than 12 metres without a physical break. Total wall length approximately 36	Yes No. The proposed building will be

Item 1

		metres.	articulated and will be constructed using a variety of building materials and colours to reduce the bulk.
Building Setbacks	Front – 9 metres Side – 5 metres Rear – 5 metres	Front – 9.8 metres Side – 5.6 metres Rear – 6 metres	Yes
Privacy and overlooking	Appropriate orientation of windows and balconies. The provision of appropriate screening.	Windows and balconies are off set. A planter box has been included on the roof top terraces. Vegetative screening is proposed.	Yes
Sunlight	Access to sunlight Overshadowing of adjoining properties	The living areas and private open space of all units is orientated north. Communal areas are also orientated north Overshadows driveway along northern boundary of no.18 Henry Street at June 21..	Yes. All living areas and open space will have access to sunlight. The shadow diagrams submitted illustrate that the living areas and balconies of units at No.18 Henry Street will receive adequate levels of sunlight.
Site development	Maximum built upon area of 50%	47%	Yes
Landscaping and tree cover	Maintain or enhance the predominant landscape quality by retaining and replanting trees	The significant Eucalypt at the front of the property is to be retained. Generous setbacks will accommodate screen planting and tree replenishment.	Yes
Energy efficiency	Achieve a NATHERS rating of 3.5 stars	Units 1, 5, 8, & 12 achieve 3.5 stars Units 3 & 10 achieve 4 stars Units 2, 6, 7 & 11 achieve 4.5 stars Units 4 & 9 achieve 5 stars.	Yes
Views	View sharing	Existing views and outlook predominantly	Yes

Item 1

		maintained.	
Noise	Ensure reasonable noise separation of noise sources from noise sensitive areas	Reasonable separation achieved through generous side setbacks.	Yes
Private Open Space	Each dwelling is to have an identifiable area of private and useable open space or balcony area	Each dwelling has access to private open space or balcony area.	Yes
Common Open Space	Must be functional and accessible. Total area is merits based.	Common open space is accessible.	Yes
Traffic Car Parking	24 car spaces required	25	Yes, exceeds minimum requirement by one space.
Access	Comply with AS2890.1	Paved area gradients will be 1:14. Two lifts will allow disabled access to all units.	Yes
Stormwater Management	Comply with Council's Water Management Plan	On-site detention	Yes. No issues raised by Council's Development Engineer.
Heritage Protection	Protect adjoining heritage items from structural damage.	The proposed excavation will be approximately 30 metres from the heritage item at the rear.	Yes

Development Control Plan No.43 – Car Parking

There is inconsistency between the number of car parking spaces required under DCP 43 – Car Parking and DCP 48 – Medium Density Development. DCP 43 – Car Parking requires 1.5 spaces per 3 bedroom unit plus visitor spaces at 1 space per 4 units. DCP 48 – Medium Density Development requires 1.75 spaces per 3 bedroom unit plus visitor spaces at 1 space per 4 units.

Under DCP 43 – Car Parking, 21 spaces are required while under DCP 48 – Medium density Development, 24 spaces are required. The applicant has calculated Car Parking rates using the formula in DCP 48 – Medium Density Development and provides 25 Car Parking spaces. The proposal complies with the car –parking requirements of both DCP's.

Development Control Plan No.31 – Access

For residential development containing 8 or more dwellings, DCP 31 requires that at least 1 dwelling be accessible to the disabled. The proposal provides two dwellings that have direct access

Item 1

from the street, while the other dwellings are accessible via a lift. All dwellings are accessible to the disabled and the proposal meets the aims and objects of DCP 31.

Development Control Plan No.40 – Waste Management

A waste management plan has been submitted in accordance with DCP 40. The majority of waste as a result of demolition will be taken away by Building Recyclers Pty Ltd.

An internal waste storage and collection area will be provided. DCP 40 requires a minimum of 12 x 55 litres bins. The storage areas are capable of accommodating the required collection containers, however, details are required to ensure that adequate area will be provided for recyclables and compost. A specific condition of consent will address this issue. (See Condition No. 77).

2. Likely Impacts

The likely impacts of the development have been addressed. It is concluded that the proposed development will have minimal impact on the surrounding natural and built environment.

3. Suitability of The Site

The site is zoned 2(d) and residential flat buildings are permitted in the zone with the consent of Council. The site is suitable for such a development being close to transport networks such as Gordon Railway Station and Pacific Highway.

The site is not subject to natural hazards or contamination and is considered suitable for development.

4. Any Submissions

All submissions have been addressed.

5. Public Interest

The public interest is served by the orderly development of the site that provides a development of high quality without affecting the amenity of adjoining properties. The proposal offers additional housing that is close to two major transport corridors, being the Newcastle to Sydney rail link and the Pacific Highway.

6. Section 94

The proposal is subject to a contribution towards provision of services and facilities as required by Council's adopted Section 94 Contribution Plan for Residential Development. The proposed development will add an additional 10 dwellings to the sites, being a total contribution of \$259,735.30.

Item 1

CONCLUSION

The proposal complies with the general aims of Schedule 9 of the KPSO and has utilised the design principles of SEPP 65. The development seeks a variation to the maximum number of storeys and floor space ratio prescribed for the Residential 2(d) Zone in the KPSO and DCP No.48 – Medium Density Development. The SEPP 1 objection lodged to vary the maximum number of storeys and floor space ratio of the KPSO is well founded and strict compliance with the two standards is considered unnecessary and unreasonable in the circumstances of the case.

RECOMMENDATION

THAT Development Application No.1078/03 for the demolition of two existing dwellings and the construction of a residential flat building consisting of 12 x 3 bedroom units, be approved, subject to the following conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No. 1078/03 and Development Application Plans prepared by Vanovac Associates reference number Dwg No.s. DA 200 to DA 205 and Dwg No.s. DA 300 & DA 301 dated 12 December 2003.
2. All building works shall comply with the requirements of The Building Code of Australia
3. The works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.
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.
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.

Item 1

8. 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. Compliance with the notations overdrawn on the consent plans.
13. To maintain existing ground levels all excavated material shall be removed from the site.
14. 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.
15. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
 - a. The type and size of machinery proposed.
 - b. The routes of all trucks to convey material to and from the site.
 - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.
16. With regard to the proposed rock breaking the following conditions are to be observed:
 - a. The Geotechnical Engineer shall supervise the works in progress.
 - b. A dilapidation report on adjoining or nearby properties shall be prepared prior to any excavation, rock breaking, or associated work commencing and shall be submitted to the Principal Certifying Authority.
 - c. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
 - d. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls

Item 1

shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.

17. 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.
18. 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.

19. 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.
20. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
21. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
22. 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.
23. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
24. 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:

Item 1

- 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.
25. 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.
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. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
28. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- a. stating that unauthorised entry to the work site is prohibited, and
 - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
29. Any such sign is to be removed when the work has been completed.
- This clause does not apply to:
- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
30. For stormwater control a (minimum) 200mm wide grated channel/trench drain with heavy duty removable galvanised grates is to be provided at the base of the ramped driveway and be connected to the stormwater drainage system.
31. For stormwater control all paved areas are to be drained to the main drainage system.
32. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the street drainage system via the site drainage system, including on-

Item 1

site detention. Drainage line connections to the kerb shall conform and comply with the detailed requirements contained within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe"). Drainage crossings of the footway area shall be via suitably sized galvanised RHS. To ensure compliance with this condition, a Certificate from the installer is to be submitted to the Principal Certifying Authority prior to issue of the Final Compliance Certificate.

33. For stormwater control, an On-site Stormwater Detention is to be provided in accordance with Council's Stormwater Management Manual and generally in accordance with the stormwater drainage details by S&E Ivanov Consultancy, drawings 1 and 2, amendment B, dated 8/12/2003. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

The system is to be cleaned regularly and maintained to the satisfaction of Council.

NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.

NOTE 4: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.

NOTE 5: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings.

34. 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 minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities are to be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps are to be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.

Item 1

35. The relocation or adjustment of any utility service facilities are to be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
36. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route and an area free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Aust 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.
37. The excavation and development works must be undertaken in accordance with the recommendations of the Geotechnical report to be prepared under the conditions of this consent.
38. Provision of suitable oil separator units in the drainage systems of basement carparking areas which are designed to remove oils and sediment from any water runoff from these areas prior to discharge to the stormwater system.
39. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.
40. A maintenance period of six (6) months shall apply to the work in the public road carried out by the Applicant after it has been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the designed conditions.
41. Driveways and 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 Australian Standard AS 2890.1 – "Off-Street car parking".
42. The access driveway must be widened to provide a minimum clear width of 5.5 metres for the first 6 metres from the frontage roadway (kerb alignment). The driveway may then taper back to the design width. This requirement is for provision for two vehicles to pass at a designated point on the driveway.
43. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please 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

Item 1

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.

44. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.
45. Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.
46. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
47. REMOVAL of the following tree/s from Council's nature strip to permit vehicular access 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

Alectryon tomentosus (Rambutan) x 1
Henry St nature strip within proposed driveway crossover

48. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
49. No tree roots of 50mm 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

Eucalyptus species (Eucalypt)
South east site corner

9.0 metres

Ceratopetalum gummiferum (NSW Xmas Bush)
Adjacent to southern site boundary

3.0 metres

50. Excavation for the installation of CONDUITS/SEWER/STORMWATER/GAS within the specified radius of the trunk/s of the following tree/s shall be carried out using the thrust

Item 1

boring method. Thrust boring shall be carried out at least 600mm beneath natural ground surface at the tree/s to minimise damage to tree/s root system. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.

Tree/Location	Radius From Trunk
<i>Eucalyptus species</i> (Eucalypt) South east site corner	9.0 metres

51. 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.
52. On completion of the LANDSCAPE WORKS/TREE PLANTING OR SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
53. 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.
54. To preserve the ongoing health and vigour of existing trees to be retained on site the proposed masonry wall within the front setback on the southern site boundary is to be deleted.
55. A construction management plan must be submitted for the approval of Council's Development Engineer before the commencement of demolition, excavation or construction works. The Plan must:
 - a. **Describe the anticipated impact of the construction works on:**
 - local traffic routes
 - pedestrian circulation adjacent to the building site;
 - and on-street parking in the local area; and;
 - b. **Describe the means proposed to:**
 - manage construction works to minimise such impacts;
 - provide for the standing of vehicles during construction;
 - provide for the movement of trucks to and from the site, and deliveries to the site; and
 - c. **Show the locations of:**
 - any site sheds and any anticipated use of cranes and concrete pumps;
 - any areas of Council property on which it is proposed to install a construction zone, or to erect structures such as hoardings, scaffolding or shoring, or to excavate.

Item 1

The Plan must make provision for all materials, plants, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding shoring or excavation need separate consent from Council. Standing of cranes and concrete pumps on Council property will need consent on each occasion.

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

56. To maximise privacy and to reduce the overlooking of adjacent properties, it is required that a planter box with a minimum planting width of 1.0 metre be included adjacent to the roof top terraces, to allow plantings for small shrubs to attain a minimum height of 1.0 metre.

PRIOR TO COMMENCEMENT OF ANY DEMOLITION, EXCAVATION OR BUILDING WORKS

57. A Geotechnical Report with supporting information (including borehole investigations of founding material) must be prepared and submitted to the Principal Certifying Authority (PCA) for approval, prior to issue of a Construction Certificate and prior to commencement of any excavation on the site. The report must include geotechnical investigations to determine the design parameters appropriate to the specific development and site. This would typically include:

- Location of nearby foundations/footings (site and neighbouring)
- Proposed method of excavation
- Permanent and temporary support measures for excavation
- Potential settlements affecting footings/foundations
- Ground-water and associated impacts (if any)
- Proposed batter slopes
- Potential vibration caused by method of excavation
- De-watering including seepage and off site disposal rate (where required)

The Report must also include professional recommendations on appropriate construction techniques to ameliorate any potential adverse impacts. The report is to be prepared by a suitably qualified and practising Geotechnical Engineer with previous experience in such investigations and construction techniques. All works must proceed in accordance with the recommendations of the geotechnical report to be prepared.

58. Prior the commencement of any works on the site and prior to issue of the Construction Certificate the Applicant shall submit, for concurrence by Council Engineers, a Construction and Traffic Management Plan specific to the subject site. This is due to the proximity of site to schools and the station. The plan must be prepared by a qualified civil/traffic engineer in general 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). The following matters must be addressed:

Heavy Vehicle Routes

Item 1

Details of the proposed route of heavy vehicles servicing the site. Light traffic roads and those subject to a load limit are to be avoided.

Safe Ingress and Egress

How the site will be safely accessed by all vehicles servicing the site including provision for forward ingress and egress and details of traffic control for the site, including provision of a flagperson to control vehicle movements to and from the frontage street.

How safe egress for vehicles will be controlled on those occasions where forward egress is not possible.

How pedestrians (particularly school children) will be safely managed across the frontage of the site.

Parking Control

The provision of on-site parking for employee, tradesperson and construction vehicles. Maintenance of existing "No Parking" restrictions over the site frontage.

Stages

The Plan must recognise the different stages of the work, including site establishment, bulk excavation, concrete pours and tradesperson and landscaper access, and specify the traffic management requirements of each stage.

NOTE 1: The Traffic Control Plan shall be submitted to and reviewed by council, attention Development Engineer. A written response from Council shall be obtained prior to the issue of the Construction Certificate. The 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 above-mentioned documents and the requirements of this condition. Evidence of RTA concurrence, as required above, is to be lodged concurrently with Council. An assessment fee applies to the review of the Plan

NOTE 2: The traffic management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of any works on-site including excavation.

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

59. 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.

Item 1

60. 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.
61. 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.
62. 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 TEN (10) ADDITIONAL DWELLINGS IS CURRENTLY \$259,935.30. 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 20 December 2000, calculated for additional person as follows:

1. Preparation of New Residents Kit	\$10.98
2. New Resident Survey	\$9.87
3. New child care centre (including land acquisition and construction of facility)	\$252.13

Item 1

4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Acquisition of Open Space - Gordon	\$7,851.00
8.	Koola Park upgrade and reconfiguration	\$143.09
9.	North Turramurra Sportsfield development	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

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)	1.25 persons
Medium dwelling (75 - under 110 sqm)	1.75 persons
Large dwelling (110 – under 150sqm)	2.75 persons
Very Large dwelling (150sqm or more)	3.5 persons
New Lot	3.5 persons

- 63. Prior to issue of the Construction Certificate the Applicant shall submit, for approval by the Principal Certifying Authority (PCA), details showing the access driveway widened to provide a minimum clear width of 5.5 metres for the first 6 metres from the frontage roadway (kerb alignment). The driveway may then taper back to the design width.
- 64. Prior to issue of the Construction Certificate the Applicant shall submit, for approval by the Principal Certifying Authority (PCA), design details for provision of a (minimum) 3000 litre rainwater tank(s) within the subject property. This is to promote water-reuse on the site. The tank(s) shall designed to capture and retain runoff from at least one roof downpipe after which runoff bypasses the tank and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced civil/hydraulic engineer.

NOTE 1: The tank is to be located at or above existing natural ground level.

NOTE 2: If abutting a wall of the dwelling, the tank must be below the eaves line.

NOTE 3: The tank must not be located on the street façade of a block.

NOTE 4: If the tank is to be attached to a structure then a structural engineer is to certify the adequacy of the design of the structure to carry the tank.

NOTE 5: Maximum height of the tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.

NOTE 6: The tank is to be a commercially manufactured tank designed for the use of water supply and to be installed in accordance with manufacturers specifications.

Item 1

NOTE 7: The tank is to be located above an available landscaped area so that the tank may be readily used for watering purposes.

NOTE 8: The tank is to be fitted with a standard garden tap or similar which is to be clearly marked as not to be used for drinking purposes.

NOTE 9: The tank is to be fitted with measures to prevent mosquito breeding.

NOTE 10: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied

65. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing, pumping facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.

NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

66. Full construction drawings of the proposed method of achieving Council requirements for on-site stormwater detention and all supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

67. DRIVEWAYS AND FOOTPATHS: Approval of this Development Application is for works wholly within the property and 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.

Footpath and driveway levels at the property boundary/road alignment are to be obtained from Council prior to release of the Construction Certificate. All footpaths and driveways are to be constructed strictly in accordance with Council's specifications "Construction of Gutter Crossings and Footpath Crossings". This is issued with alignment levels after completing the necessary application form at Customer Services and payment of the appropriate fee.

Item 1

The grading of such footpaths or driveways outside the property are to 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 this may be affected by the alignment levels fixed by Council.

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 (if applicable) of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

68. Submission, for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate, of a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater – Soils and Construction" (1998) by a suitably qualified and experienced engineer or surveyor. Such controls should include but not be limited to appropriately sized sediment basins, diversion systems, appropriate controls for each stage of works identified and barrier fencing which maximises and protects areas which are not to be disturbed. The plan must also specify inspection and maintenance regimes and responsibilities and rehabilitation measures.
69. Provision to Council, prior to the issue of a Construction Certificate, of a \$10,000.00 (ten thousand dollars) bond. This is to cover the restoration by Council of any damage to Council's infrastructure in the public road along the frontage, or within close proximity to the subject development, caused as a result of construction works relating to the subject development. The bond shall be refundable following completion of all works relating to the proposed development, or at the end of any maintenance period stipulated by consent conditions, upon approval by Council's Engineers. Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
 - a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately.
 - b. The damage has not been repaired, or incomplete works have not been completed, by the Applicant within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
70. Provision of a basement stormwater pump-out system for the driveway ramp runoff. The system is to comprise both duty and back-up pumps and be designed for the 100 year runoff and have an emergency alarm system. The system is to include a holding well which has a storage capacity equivalent to the runoff volume from a 2 hour 100 year ARI storm event so that the basement is safeguarded from flooding during power failure for such a storm over such a period. Design drawings which include holding well volume calculations, inflow and outflow calculations, pump specification and duty curves are to be prepared by a qualified

Item 1

civil/hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

71. An amended plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council’s Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council’s Landscape Development Officer prior to the commencement of works. A Landscape Assessment fee of \$460.00 will be payable on lodgement of the required landscape plan, in accordance with the following schedule.

Landscape Plan Certification Fees

Minor Landscaping Works	\$50.00
New Dwellings/Dual Occupancies	\$120.00
Multi-Unit Housing	\$100.00 plus \$30.00 per unit
Commercial	\$100.00 plus 10 cents per m ²

72. A plan detailing screen planting of the unit building adjacent to the southern and northern site boundaries shall be submitted to Council prior to the release of the Construction Certificate and approved by Council’s Landscape Development Officer, prior to completion of building works. The plan shall incorporate species capable of attaining a height of 12.0 metres.
73. The property shall support a minimum number of 12 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council’s policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council’s Landscape Development Officer, prior to commence of work.
74. The 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 Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.
75. A CASH BOND/BANK GUARANTEE of \$10 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of the this bond will be refunded upon issue of the final Certificate of Compliance, where landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after issue of the building certificate, where landscape works has been satisfactorily established and maintained.

Item 1

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.

76. A cash bond/bank guarantee of \$8 000.00 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 final Certificate of Compliance, 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

Eucalyptus species (Eucalypt)
South eastern site corner

77. The size of the garbage storage area is to comply with the requirements of Development Control Plan No.40 – Waste Management. Details of designated areas for recyclables and collection containers are to be submitted to Council for approval prior to the release of the Construction Certificate.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

78. 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.
79. 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 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

Ceratopetalum gummiferum (NSW Xmas Bush)
Adjacent to southern site boundary

3.0 metres

Eucalyptus species (Eucalypt)
South east site corner

7.0 metres

Item 1

80. 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.
81. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. 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, ISSUE OF THE OCCUPATION CERTIFICATE

82. 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.

Without further written Consent of Council the development is to comply with the following indices:

- a. Maximum floor space ratio (1.08:1).
- b. Maximum floor space area (1831m²).
- c. Maximum number of car parking spaces (25).
- d. Minimum number of visitor car parking spaces (4).
- e. Maximum built-upon area (47%).
- f. Maximum height of top floor ceiling not to exceed RL 125.61

A Surveyor's Certificate is to be submitted to the Principal Certifying Authority confirming compliance with a, b, e and f above prior to occupation.

83. A contractor with specialist excavation experience must undertake the excavations for the basement level. A suitably qualified and practising geotechnical engineer must supervise the excavation procedure. At the completion of the works and prior to occupation or issue of the Occupation Certificate, this engineer is to provide certification to the Principal Certifying Authority (PCA) that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out :-

According to the relevant Australian Standards and guidelines, and

According to the recommendations of the geotechnical report prepared prior to the commencement of works, and

In a manner that ensures that the structural amenity of adjoining structures and property is properly maintained.

Item 1

84. Prior to occupation or the issue of the Occupation Certificate the Applicant shall submit, for approval by the Principal Certifying Authority (PCA), certification from a qualified civil/traffic engineer that the as-constructed carpark, including driveway ramp grades, complies with Australian Standard 2890.1 – 1993 “Off-street car parking”.
85. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced hydraulic engineer or surveyor, prior to occupation or issue of the Occupation Certificate, that:
- The works were carried out and completed in accordance with the approved plans.
 - All enclosed floor areas, including habitable and basement floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.
 - A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier prior to Occupation.
86. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to occupation or issue of the Occupation Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must to also complete and submit Council’s standard On-site Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

- Compatibility of the drainage system with the approved plans
- The soundness of the structure.
- The adequacy of the outlet control mechanism to achieve the discharge as specified.
- The capacity of the detention storage as specified.
- The size of the orifice or pipe control fitted.
- The maximum depth of storage over the outlet control.
- The adequate provision of debris screen(s).
- The inclusion of weepholes in the base of the outlet control pit.
- The provision of an emergency overflow path.
- All enclosed floor areas, including habitable and garage floor levels, being safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The Works-as-Executed drawing(s) are to include all relevant levels including:

- invert levels
- surface or pavement levels
- floor levels including adjacent property floor levels
- maximum water surface level to be achieved in the storage zone
- dimensions of basin(s), tank(s), pit(s), etc.

Item 1

- location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
- storage volume(s) provided and supporting calculations
- size of orifice(s)

87. The creation of a Positive Covenant and Restriction on the Use of Land under the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention, re-use and pollution control facilities on the property (which expressions include all pipes, pits, pumps, rising mains, ancillary and delivery plumbing, tanks, holding structures) prior to occupation or issue of the Occupation Certificate. 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" (and modified to include items above) 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.

88. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to occupation, issue of the Occupation Certificate and/or Subdivision Certificate.

89. Prior to occupation or issue of the Occupation Certificate, all redundant driveway crossings and kerb laybacks must be reinstated as verge and kerb and/or gutter to the satisfaction of Council's Engineer. Works to match existing adjacent infrastructure. All bridge gutter crossings must be removed, and the road shoulder levelled and regraded to suit.

90. Prior to occupation or issue of the Occupation Certificate, an easement for waste collection is to 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.

91. Any infrastructure within the road reserve which has been damaged as a result of construction works on the subject site must be repaired to the full satisfaction of Council.

BUILDING CONDITIONS

92. 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..

Item 1

- b Retaining walls and associated drainage.
- c Wet area waterproofing details complying with the Building Code of Australia.
- d Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
- e Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- f Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

93. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:

- a All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
- b Any pier holes and/or foundation material.
- c Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
- d Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
- e Any stormwater drainage works prior to covering.
- f The completed landscape works in accordance with the approved plans.
- g The completed structure prior to occupation.

The required inspection fees (which also covers the issue of the Compliance Certificate) are to be paid to the Council before the issue of a Construction Certificate for this development.

If inspections are to be carried out by Council, 24 hours notice is required by Council's Department of Environmental and Regulatory Services, by telephoning Customer Service on 9424 0888 during business hours (8.30am to 4.30pm) or by facsimile on 9418 1117.

Note: Inspections of work which is found to be defective or not ready will attract a reinspection fee. Please cancel bookings which will not be ready for inspection.

94. 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.

Scott Cox
**Development Control
Officer**

Greg Smith
**Team Leader, Gordon
Ward**

Michael Miocic
**Director, Environment
and Regulatory Services**

Item 1

Attachments: **Site Plan**
 Architectural Plans
 Concept Landscape Plans
 Shadow Diagrams

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	1125 PACIFIC HIGHWAY, PYMBLE - DEMOLITION OF HERITAGE LISTED DWELLING, CONSTRUCTION OF SEPP5 DEVELOPMENT AND SUBDIVISION
WARD:	Wahroonga
DEVELOPMENT APPLICATION N^o:	442/03
SUBJECT LAND:	1125 Pacific Highway, Pymble
APPLICANT:	Wholohan Charlesworth Architects
OWNER:	Roman Catholic Church
DESIGNER:	Wholohan Charlesworth Architects
PRESENT USE:	Mount St Bernard Catholic Primary School
ZONING:	Special Uses "A" (School)
HERITAGE:	Yes
PERMISSIBLE UNDER:	State Environmental Planning Policy No.5
COUNCIL'S POLICIES APPLICABLE:	Development Control Plan 43, Development Control Plan 40, Code 1/2003
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy No.5
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	16 April 2003
40 DAY PERIOD EXPIRED:	26 May 2003
PROPOSAL:	Demolition of heritage listed dwelling, construction of SEPP5 development and subdivision
RECOMMENDATION:	Approval, subject to conditions

Item 2

DEVELOPMENT APPLICATION N^o 442/03
PREMISES: 1125 PACIFIC HIGHWAY, PYMBLE
PROPOSAL: DEMOLITION OF HERITAGE LISTED
DWELLING, CONSTRUCTION OF SEPP5
DEVELOPMENT AND SUBDIVISION
APPLICANT: WHOLOHAN CHARLESWORTH
ARCHITECTS
OWNER: ROMAN CATHOLIC CHURCH
DESIGNER WHOLOHAN CHARLESWORTH
ARCHITECTS

PURPOSE FOR REPORT

Determination of a Development Application for a development submitted pursuant to SEPP 5 which comprises six (6) single storey dwellings. The subject site is currently listed (in error) as a heritage item in Ku-ring-gai Planning Scheme Ordinance 1971.

EXECUTIVE SUMMARY

- Proposed development includes demolition of the existing dwelling (gardener's cottage); construction of a SEPP 5 development comprising six single storey dwellings, landscaping, front fence, stormwater drainage works and subdivision of the SEPP 5 site from the existing school site.
- Objections have been received from four (4) properties.
- The application is recommended for approval, subject to conditions.

THE SITE

Zoning:	Special Uses "A" (School)
Visual Character Study Category:	1920-1945
Lot Number:	1
DP Number:	724210
Area:	29,815m ²
Side of Street:	Eastern
Cross Fall:	West to east
Stormwater Drainage:	Away from street (to east)
Heritage Affected:	Yes
Required Setback:	9.0 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No
Section 94:	Yes

Item 2

SITE DESCRIPTION

The subject site is known as 1125 Pacific Highway, Pymble and is located on the north-eastern corner of the Pacific Highway and Bobbin head Road. It comprises Lot 1 in DP 724210 and forms part of the Sacred Heart Parish School, Mount St Bernard.

The area of the site affected by the proposed development is at the northern end and is currently occupied by a small single storey brick and tile dwelling that was formally used as the Gardener's residence. The remainder of the subject site is an unused vegetated area and a small portion of the School's general playing fields.

The subject site (also known as 9 Bobbin Head Rd) is currently listed in Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance as a local heritage item for its cultural, social, rarity value and municipal significance. However, Council has acknowledged that this property is listed in Schedule 7 in error. Draft LEP No 26 (copy attached) is currently with the State Government for approval to rectify this (and other) errors and inconsistencies in Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance.

The adjoining property to the north of the site at 11 Bobbin Head Road is actually the property with heritage value. In fact, the photo accompanying the listing for 9 Bobbin Head Road actually shows the dwelling at 11 Bobbin Head Road.

THE PROPOSAL

The proposal includes the following components:

- demolition of the existing single storey brick dwelling (previously the gardener's cottage);
- construction of six (6) single storey dwellings together with associated drainage, landscape and engineering works;
- 1.5 metres high open style front fence, comprising soft coloured powdercoated aluminium tube fencing over a low brickwork base & piers;
- erection of a retaining wall at the end of the school playing fields; and
- subdivision of the proposed development site (approx 3,079m²) from the remainder of the Sacred Heart School site (approx 28,577m²).

It is understood that the proposal is to be subject to a community title subdivision, however details of the community title subdivision have not been provided and therefore this has not been included as part of this application.

Each of the six dwellings comprises: double garage, living/dining room, family room, master bedroom with en-suite, second bedroom, bathroom, study, kitchen, laundry and private deck or open space area.

The proposed development following subdivision results in the following indices:

Proposed site are: 3,079 m²
Gross Floor Area: 1,010.49 m²

Item 2

Floor Space Ratio: 0.32.8:1
Landscaped Area: 1,359 m² (44.1%)
Built Upon Area: 1720 m² (55.87%)

Is a new front fence part of the proposed development? Yes
Is a new swimming pool part of the proposed development? No

CONSULTATION - COMMUNITY

In accordance with Council's policy, adjoining owners were given notice of the application.

The following comments have been received:

Brett Stevenson - 24 Bannockburn Road, Pymble
David & Margaret Baldcock - 12 Bobbin Head Road, Pymble
Evan & Kate Watson - 11 Bobbin Head Road, Pymble
Anna Yeung - 8 Bannockburn Road, Pymble

Issues raised in the submissions are as follows:

Concerned about changes in fencing style along rear boundary - suggests realignment of fence.

A consistent common boundary paling fence matching No 22 could be provided across the rear boundary of No 24 which currently has a mix of chain wire and post and rail with chain wire infill.

Details of boundary fencing can be resolved between the parties as appropriate.

Concerned about loss of trees and need for replenishment.

All trees to be removed are considered of low to moderate landscape significance except one. The only tree of high significance to be removed is No 12 which has its canopy overlapped by 2 adjoining trees. Many trees to be removed are noxious weeds.

A detailed landscape assessment has been undertaken and appropriate conditions recommended to ensure the landscape plan is implemented; tree replenishment is achieved; and noxious weeds are removed.

Concerned about 1) Impact on adjoining heritage item, 2) Displacement of flora and fauna, 3) Unsuitable site - traffic hazards, noise from school children, narrow site on slope, no visitor parking & 4) Unreasonable reduction in privacy of 11 Bobbin Head Road.

1. Curtilage of 11 Bobbin Head Road would not be affected by demolition. The architectural features of merit face west and north away from the proposed single storey villas. Screen planting (existing and proposed) will frame the heritage building.
2. See comments above.
3. Pre-lodgement meeting was held on 1.10.02 at which time single storey villa scheme was considered to respond to the intention of SEPP 5.

Item 2

A six villa development for over 55s would not add significant traffic to Bobbin Head Rd and there is no loss of existing parking.

It is unlikely that the noise of children in the play ground would be considered offensive by future occupants of the development. Living areas are positioned on northern side whilst the oval is on the southern side.

The proposal includes a roadway and pedestrian path of 1 in 10 and 1 in 14 grade only.

Visitor parking for 1 car is provided and visitors could park along the width of the driveway without obstructing normal traffic movements.

Concerned about reduction in children's playing area and danger to children due to traffic.

The playing field is not being reduced in length as the goal posts will be relocated to maintain length. The area to be used for the development is presently an unused portion of the site. Child safety is not threatened in any way.

CONSULTATION - WITHIN COUNCIL

Development Control Engineer

The development is a SEPP 5 development on part of the Mt St Bernard school grounds. The subdivision of the development lot off the original lot has been included. It is assumed that the 2 lot subdivision will be registered before occupation of the buildings, but not before the Construction Certificate is issued.

The land drains away from the street and it is proposed the built development will be connected to an existing drainage system within the site, which will need an interallotment drainage easement when subdivided. The increased stormwater runoff from the new dwellings is to be dealt with by the construction of a proposed stormwater detention system for the development.

The new dwellings are to be partly over the existing above ground stormwater detention storage on the school oval, which will have to be reconfigured. A concept design has been submitted for these works, which is acceptable in principle. This work will have to be done before the subdivision can be registered.

The garages for the new dwellings are not wide enough to provide two car spaces under SEPP 5, as they are all 6000mm by 5800mm. Double garages complying with SEPP 5 would be 6000mm by 6400mm. The applicant has claimed that each garage is a single garage. Numerically this would satisfy the requirements of the SEPP, however Development Engineers wish to express disapproval of this approach. The maximum dimensions for a single garage should be those required for disabled access ie maximum width 4.2 metres. These garages are likely to be presented and perceived as double.

The engineering works to be constructed in relation to this development are :-

- 1) On Site Detention for the new development.*

Item 2

- 2) *Amendments to existing on site detention system on the school oval.*
- 3) *Internal driveway to the new built development.*
- 4) *Widening of the accessway in two locations to form passing bays.*
- 5) *Stormwater retention system.*
- 6) *Construction of a new vehicular crossing and driveway to the existing school carpark.*
- 7) *Guard rails where driveway drops off greater than 200mm or steeper than 1 in 4.*

There are no engineering objections to the proposal.

Landscape Development Officer

This application is supported subject to conditions.

Site description

The site for the proposed SEPP 5 development is an L-shaped area at the northern end of the Sacred Heart Church and School grounds. The subject site is 3079 square metres in area. The site exhibits an easterly aspect and falls 9.50 metres between its Bobbin Head Road and its eastern boundaries. Most of the site consists of a sports field and embankments as a result of extensively cut and fill works. A sealed driveway and a small brick and tiled dwelling occupy the remainder of the site.

Several exotic, native and remnant indigenous trees are scattered adjacent to the perimeter of the sports field and development site. Only 1 of the exotic trees: a Jacaranda mimosifolia (Jacaranda) is worth preserving, although none of the near dead native trees: Acacia decurrens (Green Wattle) are worth preserving. Most of the indigenous trees, from the Blue Gum High Forest vegetation association, are of fair to healthy condition and should be preserved wherever possible.

The northern and eastern boundary strips and the 2 lower sports field embankments are heavily infested with noxious plant and invasive species including Pennisetum clandestinum (Kikuyu), Ligustrum lucidum (Large-leaved Privet), Ligustrum sinense (Small-leaved Privet) and Solanum mauritianum (Wild Tobacco).

The proposal

It is proposed to construct a retaining wall that is to slope from an assessed height of 2.5 metres at its western end to existing ground level at its eastern end outside the site's southern boundary, fill and grade the affected area of the sports field, and construct 6 SEPP 5 dwellings as 2 single dwellings and 2 attached dual occupancies. The ground around the northern and eastern sides of House No 6 will fall steeply to the respective site boundaries.

Impact upon vegetation

Construction of the 6 dwellings will require the removal of the following 15 trees indicated on the landscape plan No 23/03 prepared by Sally Bourne Landscapes and dated 20 March 2003.

Item 2

- T7 - *Cinnamomum camphora* (Camphor laurel), a noxious plant, is located within House No 2 site.
- T8 - *Cotoneaster* sp. (*Cotoneaster*), an environmental weed, is located within House No 3 site.
- T9 - *Pittosporum undulatum* (Sweet Pittosporum), is of exempt size located within House No 3 site.
- T10 - *Acacia decurrens* (Green Wattle), is a near dead tree located within House No 3 site.
- T12 - *Angophora floribunda* (Rough barked Apple), of 15 metres height and healthy condition, is located just outside the northern side of House No 3 site.
- T13 - *Angophora floribunda* (Rough barked Apple), of 14 metres height and healthy condition, is located within the exemption zone to the north of House No 3 site.
- T14 - *Eucalyptus saligna* (Sydney Blue Gum), is a sapling tree of 8 metres height and healthy condition, located within House No 3 site.
- T15 - *Eucalyptus saligna* (Sydney Blue Gum), is a semi-mature tree of 12 metres height and healthy condition, located within the exemption zone to the north of House No 4 site.
- T16 - *Acacia decurrens* (Green Wattle), is a near dead tree located at the northern perimeter of House No 4 site.
- T17 - *Pittosporum undulatum* (Sweet Pittosporum), is of exempt size and fair condition, located within the exemption zone to the north of House No 5 site.
- T18 - *Acacia decurrens* (Green Wattle), is a near dead tree located just outside the northern perimeter of House No 5 site.
- *Acacia decurrens* (Green Wattle) – T20, is a near dead tree located just outside the northern perimeter of House No 5 site.
- T28 - *Angophora floribunda* (Rough barked Apple), of 12 metres height and very poor condition due to Bracket Fungal infection to its trunk, is located within the exemption zone to the east of House No 1 site.
- T53 - *Angophora floribunda* (Rough barked Apple), of 14 metres height and healthy condition, is located within the exemption zone to the north of House No 3 site although it is indicated for preservation.
- T54 - *Acacia decurrens* (Green Wattle), is a semi-mature tree of 5 metres height, located within the exemption zone to the north of the dividing line between House Nos 5 and 6 sites.

There is no objection to the removal of the above mentioned trees except for trees: T12, T13 and T53.

The architectural site plan indicates the removal of (non-existing) trees 36 - 41 and 47 for House No 1. It appears that an outdated site survey has been used for this project as the trees probably removed in relation to construction of the curved driveway some years ago.

*The landscape plan indicates the removal of trees 2 - 6, 26, 36 - 41 and 44 - 47. However, trees 2, and 4 are located beyond the 3 metre exemption zone of proposed House No 2, and therefore, require separate approval under Council's Tree Preservation Order. T5 *Ligustrum lucidum* (Large-leaved Privet) is except as it is a noxious plant. Trees: T3 - a multi-stemmed *Jacaranda mimosifolia* (Jacaranda) of 9 metres height and healthy condition, T6 - *Angophora floribunda* (Rough barked Apple) of 10 metres height and healthy condition, and T26 - *Eucalyptus paniculata* (Grey Ironbark), of 20 metres height and good condition despite having been pruned in the past, should be preserved due to their visual value as streetscape elements.*

Item 2

Trees 44 - 46 were replaced some years ago by a row of (now) semi-mature Syncarpia glomulifera (Turpentine) and Tristaniopsis laurina (Water Gum) adjacent to the Bobbin Head Road boundary. Excavation for footings of the Bobbin Head Road fence (for which there are no details) could cause the demise of this row of trees growing adjacent to the Bobbin Head Road boundary. The fence plan appears to indicate a solid base and piers with open infill.

Landscape proposal

The proposed landscape arrangement and nominated species, including at least the required 20% of tree and shrub plantings from the Blue Gum High Forest assemblage of vascular plants, are considered satisfactory. The success of the landscape works on the lower half of the site will depend largely upon the elimination of Pennisetum clandestinum (Kikuyu) from the site. In addition, the steep eastern embankment, of greater than a 1 : 3 grade, may require netting to prevent mulch slippage on the proposed underlay during heavy rain.

Stormwater concept plan

*The stormwater proposal is satisfactory in relation to existing trees subject to conditions. **There is a conflict between the proposed detention tank and landscape planting to the south of House No 6 which requires resolving.***

The Landscape Development Officer's concerns have been addressed by Condition 64 in the recommendation requiring the submission of detailed hydraulic drawings for the on site detention system.

Urban Design & Heritage Consultant

Context: on the same side of Bobbin Head Road there is a federation bungalow and school playing fields. On the opposite side there are some large recent houses of no consistent style. Brick and tiles are the predominant materials.

The proposal respects the low scale of its neighbours at No 11 but in the absence of colours and materials it is hard to comment further on the proposal's streetscape impact.

Houses 1 & 2 have large west-facing windows to bedrooms and living rooms - these should have verandahs or other shading devices to avoid overheating in summer. It is not clear from the plans how the "highlight windows" will relate to the dwellings.

CONSULTATION - EXTERNAL

No external consultation has been undertaken for this development application. It is not considered necessary to consult with the RTA because the proposed access and egress is via Bobbin Head Road, notwithstanding that the street address of the property is Pacific Highway.

PROVISIONS OF RELEVANT LEGISLATION

Item 2

**The Environmental Planning & Assessment Amendment Act 1979
 Section 79C**

1. Environmental Planning Instruments

This application is a Local Development under Part 4 of the Environmental Planning & Assessment (Amendment) Act and the proposal requires development consent under the Ku-ring-gai Planning Scheme Ordinance.

State Environmental Planning Policy No 5

The application has been made under the provisions of State Environmental Planning Policy No 5. The proposal is permissible with Council’s consent pursuant to Clause 4(1)(b)(iv) SEPP 5 as the subject allotment is zoned Special Uses.

SEPP 5 aims to encourage the provision of housing that will:

- a) *increase the supply and diversity of housing that meets the needs of older people or people with a disability*
- b) *make efficient use of existing infrastructure and services*
- c) *be of good design*

Clause 3 of SEPP 5 states that these aims will be achieved by:

- a) *setting aside local controls that would prevent the development of housing for older people or people with a disability that meets the development standards specified in this Policy, and*
- b) *ensuring that applicants and councils take into consideration the level of additional demand for support services for older people or people with a disability in the council’s area to be generated by the development when preparing and assessing development applications that are affected by this policy, and*
- c) *setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and location*

Clause 12 lists matters for consideration that must be satisfied before development consent can be granted. Clause 13 specifies development standards. A summary of compliance with these clauses is as follows:

Clause	Standard	Compliance
Clause 12(1), (2)	Access to shops, banks, other retail and commercial services, community services and	Yes. The site is located approximately 370m from bus stops located on the east and west side of Pacific Highway, which provide direct access north to Turrumurra

Item 2

	recreation facilities and the practice of a general medical practitioner.	Railway Station and the Turramurra business district and south to Chatswood Station and the Chatswood Regional business centre. Access to the bus stops is provided along fairly level concrete footpaths and via traffic control signals across Pacific Highway. These bus stops are serviced by Shorelink Route 590 which operates a limited daily service Monday – Friday only.
Clause 12(2A)	Reasonable access to home delivered meals, personal care and home nursing and assistance with housework.	Yes. A specific report on Access and support services has not been submitted in support of this application. However, brief mention is made in the Statement of Environmental Effects that support services such as personal care, home nursing, housework assistance and meals at home are available locally.
Clauses 12(2B)-(2D)	Bush Fire Prone Land	Not applicable. The site is not identified as Bush Fire Prone Land.
Clause 12(3)	Availability of facilities and services when housing is ready for occupation.	Not applicable. Given the small scale of the proposed development, no services are being provided on-site.
Clause 12(4)	Water and sewer	Yes. Written evidence has been provided confirming the availability of water and sewer.
Clause 13(2)	Maximum height of 8 metres or less. A building adjacent to a boundary of the site must not be more than 2 storeys in height	Yes. The proposed dwellings are single storey.
Clause 13(3)	Site frontage of at least 15 metres width	Yes. The site has a frontage of 45.94 metres to Bobbin Head Road.

Clause 13A lists development standards specifically relating to access and useability that must be complied with before development consent can be granted.

Clause	Standard	Compliance
Clause 13A(2)(a) Wheelchair access	100% of dwellings have access to public road or internal road/driveway OR 50% where internal gradient exceeds 1:10	Yes. The site has a gradient of 1:14 for the front three dwellings including the adaptable dwelling and 1:10 for the rear three dwellings.
Clause 13A(2)(b)	10% of dwellings satisfying Clause	Yes.

Item 2

	13A(2)(a) to have wheelchair access to a public road	
Clause 13A(2)(c)	Wheelchair access to be available to all common areas and facilities associated with the development	Yes. Internal paths and driveway have been designed to comply.
Clause 13A(2)(d)	10% of dwellings satisfying clause 13A(2)(a) to have wheelchair access to essential areas in the dwelling	Yes. Dwelling 3 has been identified as an adaptable dwelling.
Clause 13A(3)	Street signage	Yes, signage is proposed as part of the development.
Clause 13A(4)	Security Lighting	Yes. The Statement of Environmental Effects indicates ground level security lighting will be provided at 50 LUX.
Clause 13A(5)	Letterboxes	Yes. The plans and Statement of Environmental Effects indicate that lockable letterboxes will be provided on a hard stand area adjacent to Bobbin Head Road.
Clause 13A(6)	Car parking dimensions regarding size, clearance and garage door.	Yes. The plans and Statement of Environmental Effects indicate that the car parking proposed satisfies all relevant requirements.
Clause 13A(7)	Accessible entry	Yes. The Statement of Environmental Effects indicates the entries of the development will comply with the criteria of this clause.
Clause 13A(8)	Key access	Yes. The Statement of Environmental Effects indicates that all external doors to individual dwellings will be keyed alike as required.
Clause 13A(9)	Interior dimensions	Yes. The Statement of Environmental Effects indicates that interior dimensions comply.
Clause 13A(10)	Living room and dining room	Yes. The Statement of Environmental Effects indicates that the design of the units will comply with Australian Standard 1428 Design for Access & Mobility & Australian Standard 4299 Adaptable Housing.
Clause 13A(11)	Kitchen standards	Yes. The Statement of Environmental Effects indicates that the design of the units will comply with Australian Standard 1428

Item 2

		Design for Access & Mobility & Australian Standard 4299 Adaptable Housing.
Clause 13A(12)	Main bedroom standards	Yes. The Statement of Environmental Effects indicates that the design of the units will comply with Australian Standard 1428 Design for Access & Mobility & Australian Standard 4299 Adaptable Housing.
Clause 13A(13) and (14)	Bathroom standards and accessible toilet	Yes. The Statement of Environmental Effects indicates that the design of the units will comply with Australian Standard 1428 Design for Access & Mobility & Australian Standard 4299 Adaptable Housing.
Clause 13A(15)	Access to kitchen, main bedroom, bathroom and toilet	Yes. The Statement of Environmental Effects indicates that the design of the units will comply with Australian Standard 1428 Design for Access & Mobility & Australian Standard 4299 Adaptable Housing.
Clause 13A(16)	Laundry standards	Yes. The Statement of Environmental Effects indicates that the design of the units will comply with Australian Standard 1428 Design for Access & Mobility & Australian Standard 4299 Adaptable Housing.
Clause 13A(17)	Storage standards	Yes. The Statement of Environmental Effects indicates that the design of the units will comply with Australian Standard 1428 Design for Access & Mobility & Australian Standard 4299 Adaptable Housing.
Clause 13A(18)	Door handles	Yes. The Statement of Environmental Effects indicates that the design of the units will comply with Australian Standard 1428 Design for Access & Mobility & Australian Standard 4299 Adaptable Housing.
Clause 13A(19)	Surface finishes	Yes. The Statement of Environmental Effects indicates that the design of the units will comply with Australian Standard 1428 Design for Access & Mobility & Australian Standard 4299 Adaptable Housing.
Clause 13A(20)	Ancillary items	Yes. The Statement of Environmental Effects indicates that the design of the units

Item 2

		will comply with Australian Standard 1428 Design for Access & Mobility & Australian Standard 4299 Adaptable Housing.
Clause 13A(21)	Garbage	Yes. The Statement of Environmental Effects indicates that the design of the units will comply with Australian Standard 1428 Design for Access & Mobility & Australian Standard 4299 Adaptable Housing.
Clause 13A(22)	Public housing provision	Not applicable because the development is being carried out as a private development.

Clause 14 includes development standards that cannot be used as grounds for refusal of an application where the proposal complies with specified criteria. A summary of compliance with this clause is provided as follows:

Clause	Standard	Proposed	Compliance
Clause 14(a) Building Height	8 metres or less in height	Proposed development is of single storey construction.	Yes
Clause 14(b) Density and Scale	Floorspace ratio of 0.5:1	0.33:1	Yes
Clause 14(c) Landscaped Area	Landscaped area of 35sqm per dwelling	60sqm per dwelling.	Yes
Clause 14(d) Parking	0.5 spaces per bedroom (studies are treated as bedrooms) $6 \times (3 \times 0.5) = 9$	12 Spaces	Yes
Clause 14(e) Visitor Parking	The proposed development is less than 8 dwellings, and is not situated on a clearway	One visitor parking space proposed.	Yes
Clause 14(f) Landscaped Areas	322sqm	372sqm	Yes
Clause 14(g) Private open space	15sqm for dwellings at ground level with an area of 3m x 3m and accessible from a living area.	All dwellings have been provided with sufficient open space areas accessible from the living areas.	Yes

In consideration of **Clause 19** of SEPP 5, the proposed development is within the vicinity of a heritage item. However, this item is of municipal significance and therefore consultation with the Heritage Council is not required.

Item 2

Council's Heritage & Urban Design Consultant comments that the proposal respects the low scale of the adjoining neighbour at No 11 Bobbin Head, however in the absence of colours and materials it is hard to comment further on the proposal's streetscape impact.

Condition No 95 requires the submission and approval of external finishes that are sympathetic to the surrounding environment.

A site analysis plan has been submitted (drawing 207/DA03 Rev A) in accordance with **Clause 24** of SEPP 5. The plan is accompanied by a written statement and is informative in terms of surrounding development, site constraints and vegetation, the plan is considered to meet the intention of Clause 24.

Clause 25 of SEPP 5 requires that consent must not be granted unless Council is satisfied that adequate regard has been given to the following design principles:

a. Neighbourhood Amenity and Streetscape

The proposal has been designed with due regard to the amenity of the surrounding development and the character of the area. The single storey brick and tile dwellings are unobtrusive within the context of the streetscape and the immediately surrounding area.

Council's Heritage and Urban Design Consultant has indicated that the proposal respects the low scale of the neighbouring heritage item to the north at 11 Bobbin Head Road.

The plans indicate that the proposal is responsive to the site's land form as the dwellings will have different floor levels depending on the natural ground level.

b. Visual and Acoustic Privacy

The location of windows and rooms within the development responds well to the surrounding development and the privacy needs of the adjoining properties. Limited east and west-facing windows in the majority of dwellings (generally only small bathroom windows) protect the privacy of the residents within the development.

Generous setbacks from the northern and eastern boundaries, combined with screen planting, provide adjoining properties with acoustic and visual privacy. The proposed setbacks are well in excess of that generally required for a two storey detached dwelling.

The school located to the south of the proposed development may generate significant noise at certain times throughout the day. However, this kind of noise (being children at play) is not considered offensive and does not continue indefinitely.

c. Solar Access and Design for Climate

Item 2

The proposed development has been orientated to take advantage of the site's northerly aspect. With the exception of Dwelling 1, all living areas and courtyards benefit from a northern aspect. Dwellings 1 and 2 have large west-facing windows that would benefit from sun shading devices. (Condition No 101 requires the submission of details for the shading devices to the west facing windows of dwelling 1 & 2)

The orientation of the site is east-west and the single storey nature of the proposed development along with the private open spaces having a northern orientation means that adjoining dwellings will not be overshadowed.

d. Stormwater

Council's Development Control Engineer has provided comments on the proposed development and stormwater disposal concept. The proposed stormwater will be directed to an existing easement. The increased run off is to be dealt with by an on-site detention system.

e. Crime Prevention

Clause 25(e) of SEPP 5 requires, 'where possible' views of the street, the site and approaches to the entry from within the dwellings for the purposes of crime prevention. Each of the dwellings are provided with glazed side panels adjacent to the front door to callers and the access road. Occupants of Dwellings 1 and 2 would be able to view Bobbin Head Road.

The development will be secured by a 1.8 metres high perimeter fence heavily screened by planting. Video-audio call buttons to each dwelling will provide safe visitor access.

f. Accessibility

Due to the topography of the site and the location of the proposed dwellings and driveway, the development will have convenient, attractive and safe access for motorists and sufficient parking for residents and visitors.

g. Waste Management

Waste management will be required to comply with Council's DCP 40 and a Waste Management Plan has been submitted. Once the development is complete, weekly garbage and recycling collections will be from the kerb in Bobbin Head Road. Bins will be stored within the side setback of each dwelling and transported by the residents to the kerb for emptying.

The objective of Part 3 of SEPP 5 is "to establish a process that encourages good design in residential development allowed by this Policy". The proposed development responds to the subject site and contributes to the streetscape with clear character being single storey and materials that respect the adjoining heritage dwelling.

Item 2

State Environmental Planning Policy No 55 - Remediation of Land

The site has not been identified through Council’s Contamination Land Policy as requiring remediation given the site’s previous use.

Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River

The site is within the catchment of the Hawkesbury River and, as such, the development is subject to the provisions of this environmental planning instrument. The aim of SREP 20 is to “*protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.*”

The SREP requires consideration of a number of matters such as water quality, flora and fauna, wetlands and heritage etc.

The proposed development meets the general strategies of the SREP, however, Clause 6 (4) sets out strategies for water quantity whereby the reuse of water is encouraged wherever possible. As the development consists of a new structure and new stormwater disposal provisions, it is recommended that the provision of rainwater tanks or similar be incorporated to enable the reuse of stormwater for irrigation purposes. Appropriate conditions are recommended to control runoff and sediment from the site during construction, reuse water for irrigation purposes and detain stormwater through an on site detention system.

Ku-ring-gai Planning Scheme Ordinance

There are no development standards applicable to this development pursuant to KPSO. Further, SEPP 5 specifically sets aside any planning controls of the KPSO which would prevent a development that is compliant with the standards and considerations of the SEPP.

Schedule 9 of the Planning Scheme Ordinance sets out aims and objectives for residential zones which are still applicable to the proposed development. These aims and objectives refer to such matters as streetscape character, amenity, solar access, tree replacement etc. These matters are also referred to in SEPP 5 and assessment of the proposed development against such concludes that the proposed development meets these aims and objectives.

Development Control Code 1/99 - Housing for Older People or People with a Disability

Council’s Code includes reference to the statutory development standards of SEPP 5 in relation to height, density, landscaped area and parking. The Code also provides guidelines relating to standards considered by Council to be more appropriate to the Ku-ring-gai area.

The following table presents an analysis of the development against the provisions of Council’s Code:

Control	Proposed	Compliance
Zoning	Special Uses	Yes
500m to local shops		

Item 2

250m to public transport	370m to bus stops on Pacific Hwy	No , Council's Code requires that the site be located within 250 metres of public transport. The closest public transport is located on Pacific Highway 370 metres west of the site via a concrete footway of wheelchair accessible grade. Although the travel distance is not compliant with Council's Code, SEPP 53 Clause 12 (2)(b) allows a distance of 400 metres to the available transport facility. Therefore the non compliance with Council's Code does not warrant refusal of the application.
Site analysis required	Matter addressed in SEPP 5 assessment	Yes
SEPP 5 development standards	Matter addressed in SEPP 5 assessment	Yes
Sympathetic design	Matter addressed in SEPP 5 assessment	Yes
Buildings to address street	Matter addressed in SEPP 5 assessment	Yes
Minimise visual impact of driveway	A single driveway is proposed to serve the six dwellings.	Yes
No bland building facades	The elevations of the proposed development are well articulated and provide visual interest.	Yes
Emphasise entry	Each dwelling is provided with an entry way that can be clearly identified upon entering the site.	Yes
Match setbacks	The front setbacks have been designed to be sympathetic to the development surrounding.	Yes
Level private open space	Each dwelling is provided with a deck/courtyard easily	Yes

Item 2

	accessible from the living areas.	
1.8 metre courtyard fences	Courtyard fences and walls are to be provided as required.	Yes
Living areas linked to open space	Private open spaces are linked to the main internal living areas of their respective dwellings.	Yes
Landscaping to enhance and screen	Landscaping is to be provided to embellish that which exists on the site.	Yes
Significant trees	This matter is addressed in the section of this report titled "Consultation within Council".	Yes
Car parking to meet demand	This matter is addressed within the contents of SEPP 5 assessment.	Yes
Energy efficiency	Dwellings and private open space are well orientated to enable adequate ambient light and sunlight penetration.	Yes
Privacy	Matter has been addressed within the SEPP 5 assessment	Yes
Lighting	This matter has been addressed in the SEPP 5 assessment.	Yes
Waste collection	This matter has been addressed by in the SEPP 5 assessment.	Yes
Letterboxes, TV antenna, services, house numbers	Lockable letterboxes are provided adjacent to the main pedestrian entry.	Yes
Covered entry porch	Each dwelling is provided with a covered accessible entry.	Yes
Internal space location, wall length, hobby space and eating areas	All dwellings are of generous size to accommodate a range of occupancy requirements.	Yes
Bedroom design	All bedrooms are located on the ground floor.	Yes
10% adaptable housing	This matter is addressed in the SEPP 5 assessment.	Yes
Support services	Support services are available to the proposed development	Yes

Item 2

	depending on the needs of the likely occupants.	
--	---	--

Development Control Plan No 31 - Access

Access within the development has been considered in relation to clause 13A of SEPP 5 and the information contained within the applicant’s Statement of Environmental Effects and is satisfactory. No objection is raised with regard to compliance with DCP No. 31.

Development Control Plan No 40 - Waste Management

The proposed development complies with the provisions of DCP40. A Waste Management Plan has been submitted in accordance with the DCP and this covers both the demolition and construction phases. On-going waste management will be in accordance with Council’s regular kerb side collection. A garbage room is not required for this scale of development.

Development Control Plan No 43 - Car Parking

This DCP has been considered and the proposal complies with SEPP 5 in relation to number of parking spaces. SEPP 5 overrides Council’s parking DCP.

2. Likely Impacts

The proposed development has been designed in response to the site’s constraints and with due regard to the amenity of adjoining properties. The development involves an increase in density for the subject site, however, is sensitive to the surrounding development and the character of the area.

It is unlikely that the proposed development will have any significant impacts on the amenity of the adjoining heritage property given the proposed setbacks, landscaping and single storey nature of the proposed development.

It is unlikely that the proposed development will have a negative acoustic impact on the adjoining properties. Screen planting along the northern and eastern boundaries will assist in alleviating any visual privacy impacts on the adjoining properties.

Potential environmental impacts during construction can be successfully managed with appropriate sedimentation controls and work practices.

3. Suitability of The Site

The site is appropriate for a SEPP 5 development. There are no site building hazards such as bushfire, flooding or land contamination and the site is not located within an area identified as being environmentally sensitive. The site is close to public transport services.

4. Any Submissions

Item 2

Submissions received in response to the proposed development have been discussed previously in this report.

5. Public Interest

The aims of SEPP 5 include the provision of housing that will increase the supply and diversity of housing that meets the needs of older people or people with a disability, make efficient use of existing infrastructure and be of good design. The proposed development will meet all these aims.

Until Council obtains an exemption from SEPP 5 applications must be assessed objectively under the provisions of the SEPP.

Any other Relevant Matters Considerations Not Already Addressed

There are no other relevant matters.

CONCLUSION

The development will provide a housing choice in a very appropriate building form, single storey, for people over the age of 55 and people with a disability and therefore meets the aims and objectives of State Environmental Planning Policy No 5.

RECOMMENDATION

That Development Application No 442/03 for consent to demolish an existing dwelling & construction of SEPP5 development (6 dwellings) at 1125 Pacific Highway Pymble being lot 1 in DP 724210, be approved, subject to the following conditions:

1. The development to be in accordance with Development Application No 442/03 and Development Application plans prepared by Wholohan Charlesworth & Associates Pty Ltd, reference number 207/DA01 Revision C, 207/DA02 Revision C, 207/DA03 Revision A, and SK-01 dated 13 October 2003, 6 November 2002 and 14 March 2003 and plans prepared by Sally Bourne Landscapes, reference number Drawing No.23/03, dated 21 March 2003 and lodged with Council on 16 April 2003.
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 works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.

Item 2

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 a 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. The works shall be erected in conformity with the approved plans and specifications and in accordance with the conditions of approval set out herein.
8. 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.
9. 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.
10. 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.
11. 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.
12. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
13. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
14. 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.

Item 2

15. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
 - a. The type and size of machinery proposed.
 - b. The routes of all trucks to convey material to and from the site.
 - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.
16. 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.
17. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
18. 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.

19. 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.

20. 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.

Item 2

21. To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the Certificate.
22. If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

23. 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.
24. The creation of a Restriction as to use of land under Section 88E of the Conveyancing Act 1919, restricting the occupation of the premises to:
 - a. People 55 or over or people who have a disability;
 - b. People who live with people 55 or over or people who have a disability;
 - c. Staff employed to assist in the administration of and provision of services to housing provided in this development.
25. The development is to remain as Housing for Aged or Disabled Persons within the meaning of State Environmental Planning Policy No 5 at all times.
26. All advertising, signage, marketing or promotion of the sale of the dwellings in this development shall make clear reference to the fact that this is a SEPP5 development and that at least one occupier shall be aged 55 years or over or have a disability:
27. 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

Item 2

from the Human Rights and Equal Opportunity Commission (phone (02) 9284 9600) in respect of your application.

28. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
29. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
30. 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.
31. 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.

32. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
33. 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.
34. 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.

Item 2

35. 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.
36. 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.
37. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
38. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
39. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
40. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
41. A traffic management plan shall be submitted to and approved by the Principal Certifying Authority, where major demolitions are likely to impact on arterial or main roads.
42. 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.
43. 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.
44. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - a. stating that unauthorised entry to the work site is prohibited, and
 - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

This clause does not apply to:

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
45. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.

Item 2

46. So as to ensure adequate fire separation, walls and floors separating occupancies are to be constructed in accordance with the requirements of Part 3.7.1 of the Building Code of Australia Housing Provisions. Details of the proposed method of compliance are to be submitted.
47. The relocation or adjustment of any utility service facilities are to be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
48. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works.
49. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.

50. Separate written approval under Council's Tree Preservation Order is required prior to the removal of the following trees within the subject property:

Tree/Location

T2 *Prunus serrulata* (Japanese Flowering Cherry)
/ Close to the site's northwestern corner.

T4 *Pittosporum undulatum* (Sweet Pittosporum)
/ Close to the site's Bobbin Head Road boundary and near its northwestern corner.

51. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
52. Tree planting to satisfy tree retention/replenishment requirements shall be completed prior to the issue of the final Certificate of Compliance
53. Any imported fill material shall be restricted to material from the local soil landscape on which the site is located or be derived from sandstone geology sites.
54. Constructed slopes greater than 1:3 gradient shall be vegetated immediately earthworks are completed.

Item 2

55. 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 reports from the Arborist to the Council shall be required at monthly intervals. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.

56. Excavation for the installation of CONDUITS/SEWER/STORMWATER/GAS within the specified radius of the trunk/s of the following tree/s shall be carried out using the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground surface at the tree/s to minimise damage to tree/s root system. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.

Tree/Location	Radius From Trunk
T26 <i>Eucalyptus paniculata</i> (Grey Ironbark) Within the church and school grounds between the retaining wall and the subject site.	6 metres
T27 <i>Angophora floribunda</i> (Rough barked Apple) Close to the House No.1 site.	4 metres
T29 <i>Angophora floribunda</i> (Rough barked Apple) Close to the House No.1 site.	3 metres
T30 <i>Angophora floribunda</i> (Rough barked Apple) Within the church and school grounds south-east of the House No.1 site.	4 metres

57. 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.

58. On completion of the landscape works including tree planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.

59. The following noxious and/or undesirable plant species shall be removed from the property prior to completion of the proposed building works. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to the release of the final Compliance Certificate:

Plant Species

- Asparagus densiflorus* (Asparagus Fern)
- Chlorophytum comosum* (Spider Plant)

Item 2

Cinnamomum camphora (Camphor laurel)
Cotoneaster sp. (Cotoneaster)
Hedera helix (English Ivy)
Lantana camara (Lantana - Pink Flower)
Jasminum polyanthum (Jasminum)
Ligustrum lucidum (Large-leaved Privet)
Ligustrum sinense (Small-leaved Privet)
Nephrolepis cordifolia (Fishbone fern)
Senna pendula (Cassia)
Solanum mauritianum (Wild Tobacco)
Toxicodendron succedaneum (Rhus Tree)

60. 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.
61. For stormwater control the driveway directly in front of the garages should be graded away from the door so that overland flow does not enter the garages.
62. For stormwater control all paved areas are to be drained to the main drainage system.
63. Stormwater runoff from all hard surfaces, or landscaped areas that are not at natural ground level, is to be piped to the existing drainage system within the property. To ensure compliance with this condition, a Certificate from a suitably qualified person is to be submitted to the Principal Certifying Authority.
64. For stormwater control, an On-site Stormwater Detention System is to be provided for the new development, in accordance with Council's Stormwater Management Manual, and the existing on site detention system is to be modified as required to be clear of the development works. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

The system is to be cleaned regularly and maintained to the satisfaction of Council.

NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface

Item 2

are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.

NOTE 4: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.

NOTE 5: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings.

65. The driveway to the proposed new dwellings is to incorporate the following:-
 1. Widening in two locations to form passing bays. These bays are to be of dimensions 5.5m x 6.0m, with a transition of 2.5m at each end. These passing bays are to be located adjacent to the garage for unit 2 & 4.
 2. Construction of a new 5.5m wide crossing. This width is to be provided for a length of 6.0m so as to allow two vehicles to pass.
66. 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 minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities are to be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps are to be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
67. Where required, the relocation or adjustment of any utility service facilities are to be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
68. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works.
69. The development approved under this determination (DA 442/ 03), is to be completed to “lock-up” stage prior to issue of any documentation that finalises the subdivision of the individual units on the development lot. “Lockup” is defined as that stage where the building has the following components constructed : external walls, cladding roofing, and all doors and windows with locks, installed, erected or constructed in their approved completed form.
70. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please 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.

Item 2

CONDITIONS TO BE COMPLIED WITH PRIOR TO RELEASE OF A CONSTRUCTION CERTIFICATE

- 71. To enable the reuse of collected stormwater and meet the objectives of Sydney Regional Environmental Plan 20 the proposed development should incorporate rainwater tanks for irrigation purposes. The tanks should be located so that they are accessible from the open space areas of each dwelling and not be visible from Bobbin Head Road or the adjoining properties. Details of rainwater tanks to be included are to be indicated on the plans submitted with the application for a Construction Certificate.
- 72. 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 FIVE (5) ADDITIONAL DWELLINGS IS CURRENTLY \$22,339.00. 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 20 December 2000, calculated for additional person as follows:

1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New Library bookstock	\$17.95
4.	New Public Art	\$2.93
5.	Acquisition of Open Space - Pymble	\$1,966.00
6.	Koola Park upgrade and reconfiguration	\$143.09
7.	North Turramurra Sportsfield development	\$986.80
8.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
9.	Section 94 Officer for period of Plan 2000-2003	\$118.42
10.	Preparation of New SEPP 5 Residents Kit	\$22.44
11.	SEPP 5 S94 Study and Interim Plan, 2000-2003	\$108.95

- 73. 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.
- 74. 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

Item 2

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).

75. 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.

76. The Construction Certificate shall not be released until a Site Management Plan is submitted to the Principal Certifying Authority and approved by a suitably qualified professional.

The plan shall indicate the planned phases of the construction work, erosion and drainage management, tree protection measures, areas nominated for storing materials, site access and where vehicle parking is proposed, during construction.

77. An amended plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works. A Landscape Assessment fee of \$280.00 will be payable on lodgement of the required landscape plan, in accordance with the following schedule.

Landscape Plan Certification Fees

Minor Landscaping Works	\$50.00
New Dwellings/Dual Occupancies	\$120.00
Multi-Unit Housing	\$100.00 plus \$30.00 per unit
Commercial	\$100.00 plus 10 cents per m ²

The amended plan shall accurately locate and represent the following trees:

Item 2

- T3 – *Jacaranda mimosifolia* (Jacaranda)
- T6 – *Angophora floribunda* (Rough barked Apple)
- T26 – *Eucalyptus paniculata* (Grey Ironbark)
- Row of semi-mature *Syncarpia glomulifera* (Turpentine) and *Tristaniopsis laurina* (Water Gum) growing adjacent to the site's Bobbin Head Road boundary south of the vehicular entrance.

78. The property shall support a minimum number of 16 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commencement of work.

79. A CASH BOND/BANK GUARANTEE of \$10,000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of the this bond will be refunded upon issue of the final Certificate of Compliance, where landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after issue of the building certificate, where landscape works has 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.

80. A CASH BOND/BANK GUARANTEE of \$12,000.00 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 final Certificate of Compliance, 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

T19 *Eucalyptus saligna* (Sydney Blue Gum)
/ Abutting the site's northern boundary and towards its eastern end.

Item 2

T22 *Eucalyptus saligna* (Sydney Blue Gum)
 / Close to the site's northern boundary and towards its eastern end.

T23 *Eucalyptus saligna* (Sydney Blue Gum)
 / Near the site's eastern boundary

T24 *Eucalyptus saligna* (Sydney Blue Gum)
 / Near the site's eastern boundary

T25 *Eucalyptus saligna* (Sydney Blue Gum)
 / Close to the site's southeastern corner

T27 *Angophora floribunda* (Rough barked Apple)
 / Close to the eastern side of the site for House No 1

T53 *Angophora floribunda* (Rough barked Apple)
 / Between the site's northern boundary and the site for House No 3

81. To preserve the following tree/s, footings of the proposed front boundary and privacy screen walls shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 50mm shall be severed or injured in the process of any site works during the construction period. The beam shall be located on or above existing soil levels.

The location and details of the footings shall be submitted to Council's Landscape Development Officer and be approved prior to release of the Construction Certificate.

Tree/Location	Radius in Metres
T3 <i>Jacaranda mimosifolia</i> (Jacaranda) / Close to the site's Bobbin Head Road boundary and near its northwestern corner	8 metres
Row of semi-mature <i>Syncarpia glomulifera</i> (Turpentine) and <i>Tristaniaopsis laurina</i> (Water Gum) Adjacent to the site's Bobbin Head Road boundary south of the vehicular entrance	4 metres

82. The drainage concept design, by K Stubbs and Associates, Drawing No. GK13.01, sheet 1 dated April 2003, is to be modified prior to issue of a Construction Certificate since no enclosed "Cell type" on site detention storage systems are permitted. The on site detention system is to be a concrete tank type system that is accessible for maintenance.

83. The new vehicular crossing and driveway access to the school car park are to be designed in accordance with AS2890.1 – 1993 *Off street car parking*, with respect to grades, transitions and dimensions. Details are to be submitted to and approved by the Principal Certifying Authority prior to issue of a Construction Certificate. The design is to include longitudinal

Item 2

sections along both sides of the proposed driveway from the centreline of Bobbin Head Road to existing carpark level demonstrating that vehicular access can be obtained using grades of 20% (25% maximum) or less without scraping the underside of a car. All changes in grade are to comply with AS 2890.1. The longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application at Customer Services.

84. The applicant is to obtain and submit the Instrument H854441, which contains the terms of the easement for support along the Bobbin Head Road frontage of the subject site. The applicant is to demonstrate to the satisfaction of the Principal Certifying Authority that the works proposed within the easement are not contrary to the terms of the easement. If this cannot be demonstrated, the applicant is to have the terms modified at its own expense. This condition is to be satisfied prior to the issue of the Construction Certificate.
85. For stormwater retention and quality control provision of a five (5) metre long first-flush absorption trench for each dwelling designed to capture and retain the first-flush stormwater runoff from the subject property after which runoff bypasses the trench and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate.

NOTE 1: The first-flush system may be achieved by the use of a separate low-level outlet from a pit located on the main drainage system.

NOTE 2: Where practicable, runoff from driveway and landscaped areas is to be directed to the retention system in preference to roof runoff.

NOTE 3: The trench shall be 700mm wide x 700mm deep and fitted with half round PVC (230mm radius) dome sections backfilled with crushed or round river gravel to within 150mm of surface level, surrounded with suitable geofabric and finished with topsoil.

NOTE 4: The trench is to be at least 5 metres from private property boundaries and 3 metres from the footings of any structure.

NOTE 5: A suitably designed litter and coarse sediment 450mm square grated arrestor pit is to be provided immediately upstream of the trench.

NOTE 6: The trench is not to require excavation underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 7: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied.

NOTE 8: This requirement does not apply where the Applicant considers installation to be impractical.

OR

Item 2

For stormwater retention, provision of a 2000 litre rainwater tank for each dwelling designed to capture and retain runoff from at least one roof downpipe after which runoff bypasses the tank and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate.

NOTE 1: The tank is to be located at or above existing natural ground level.

NOTE 2: If abutting a wall of the dwelling, the tank must be below the eaves line.

NOTE 3: The tank must not be located on the front facade of a dwelling.

NOTE 4: If the tank is to be attached to a structure then a structural engineer is to certify the adequacy of the design of the structure to carry the tank.

NOTE 5: Maximum height of the tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.

NOTE 6: The tank is to be a commercially manufactured tank designed for the use of water supply and to be installed in accordance with manufacturers specifications.

NOTE 7: The tank is to be located above an available landscaped area so that the tank may be readily used for watering purposes.

NOTE 8: The tank is to be fitted with a standard garden tap or similar which is to be clearly marked as not to be used for drinking purposes.

NOTE 9: The tank is to be fitted with measures to prevent mosquito breeding.

NOTE 10: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied

NOTE 11: This requirement does not apply where the Applicant considers installation to be impractical.

86. A guardrail barrier is to be provided where the drop from the edge of the driveway is greater than 200mm or where the grade from the edge of the driveway exceeds 25%. Details are to be provided and approved by the Principal Certifying Authority prior to release of the Construction Certificate.

87. To prevent surface stormwater from entering the buildings, the finished habitable ground floor level(s) of the buildings shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of each building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage. This requirement is to be demonstrated on submitted Construction Certificate drawings.

Item 2

88. The property drainage system shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces and in accordance with Council's Stormwater Management Manual. Design drawings and calculations are to be prepared by a suitably qualified and experienced hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate.

NOTE 1: The property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.

NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

89. Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention and supporting calculations are to be prepared by a suitably qualified and experienced hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate.
90. **DRIVEWAYS AND FOOTPATHS:** Approval of this Development Application is for works wholly within the property and does not imply approval of footpath or driveway levels, materials or location regardless of whether this information is shown on the Application.

Footpath and driveway levels at the property boundary/road alignment are to be obtained from Council's Technical Services Department prior to release of the Construction Certificate. All footpaths and driveways are to be constructed strictly in accordance with Council's specifications, "Construction of Gutter Crossings and Footpath Crossings" which is issued with alignment levels after payment of the appropriate fee.

The grading of such footpaths or driveways outside the property are to 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 this may be affected by the alignment levels fixed by Council.

Note: 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.

91. Submission for approval with the Construction Certificate of a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater – Soils and Construction" (1998) by a suitably qualified and experienced engineer

Item 2

or surveyor. Such controls should include but not be limited to appropriately sized sediment basins, diversion systems, appropriate controls for each stage of works identified and barrier fencing which maximises and protects areas which are not to be disturbed. The plan must also specify inspection and maintenance regimes and responsibilities and rehabilitation measures.

92. Due to the location of the development site on a sub-arterial road and close to heavy pedestrian movements, the Applicant shall produce a Traffic Control Plan, incorporating a Parking and Delivery Management Plan, in general 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), addressing all of the following matters:

Heavy Vehicle Routes

- a. Details of the proposed route of heavy vehicles servicing the site. Light traffic roads and those subject to a load limit are to be avoided.

Safe Ingress and Egress

- a. How the site will be safely accessed by all vehicles servicing the site including provision for forward ingress and egress and details of traffic control for the site, including provision of a flagperson(s) to control vehicle movements to and from the site.
- b. How safe egress for vehicles will be managed where forward egress is not possible.
- c. How pedestrians will be safely managed across the frontage of the site.

Parking Control

- a. The provision of on-site parking for employee, trades person and construction vehicles.
- b. Establishment of a no-parking zone for the full frontage of the site prohibiting on-street parking during the relevant morning and afternoon peak periods where located on main or arterial roads or during school peak periods where located near schools or full time where located near shopping centres.

RTA Concurrence

- a. Evidence of consultation with and concurrence of the RTA for the Traffic Control Plan where located on an arterial road or where parking restrictions are proposed prior to submission with Council.

Stages

- a. The Plan must recognise the different stages of the work, including site establishment, bulk excavation, concrete pours and tradesperson and landscaper access, and specify the traffic management requirements of each stage.

Item 2

NOTE 1: The Traffic Control Plan must be submitted to and approved by Council, attention Development Engineer, prior to the commencement of any demolition, land clearing, excavation or construction works. A minimum of two (2) weeks will be required for assessment.

NOTE 2: The 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. Evidence of RTA concurrence, as required above, is to be lodged concurrently with Council.

NOTE 3: The traffic management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of any works on-site including excavation.

All traffic management measures contained in the approved plan shall be implemented in accordance with the approved plan at the necessary stages. Failure to do so may result in fines and proceedings to stop work.

The plan must make provision for all construction materials to be stored on site at all times during the works.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

93. 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.
94. 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 of \$15.00 for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
95. 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.
96. To enable the "ageing in place" philosophy to be achieved in Ku-ring-gai:

Item 2

- a. Prior to the commencement of construction, documentary evidence is to be provided to Council's satisfaction, of an agreement with suitably qualified service provider/s for the provision of the following services if and when required by any of the residents of the development:
 - Personal care, including bathing and dressing;
 - Housekeeping, including cleaning and laundry;
 - Home delivered meals; and
 - 24 hour a day monitored emergency call system.
- b. The documentary evidence is to include the following details:
 - Proposed cost to residents of each of the services listed in (a) above; and
 - Proposed means of altering the cost to residents of these services. This may include: linking costs to the Consumer Price Index or a proportion of the Aged Pension; or be selecting a new service provider.
- c. Promotional material shall include details of the services available to residents of the development and their cost.
- d. A comprehensive residents' manual is to be provided to all residents which includes information of relevance to them, such as doctors, churches and other community services and facilities.

97. To preserve and enhance the natural environment, a geofabric filter fence shall be installed along contour immediately downslope of construction and disturbed areas prior to any earthworks or construction commencing. Both ends shall be turned uphill by 1.0 metre. Approved geofabric, such as CSR - Humes "Propex" Terram 1000, Polyfelt TS500, Bidim U24 or Terratrack 2415 or equivalent is to be stretched between posts placed at 2.0 to 3.0 metre centres. The base of the fabric must be buried at least 200mm in the ground on the upslope side. Geofabric material shall be replaced at intervals not exceeding 18 months, or as directed by the Principal Certifying Authority.

The geofabric filter fence shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the structure when 40% capacity has been reached.

98. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s excluding that area of the proposed house sites 1 - 6, driveway and front fences shall be fenced off for the specified radius from the trunk 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 From Trunk
T3 <i>Jacaranda mimosifolia</i> (Jacaranda) Close to the site's Bobbin Head Road boundary	6 metres

Item 2

and near its northwestern corner

T6 *Angophora floribunda* (Rough barked Apple) 3 metres
 North of the driveway entrance between the
 Bobbin Head Road boundary and House No.2 site

T19 *Eucalyptus saligna* (Sydney Blue Gum) 6 metres
 Abutting the site's northern boundary and
 towards its eastern end

T22 *Eucalyptus saligna* (Sydney Blue Gum) 6 metres
 Close to the site's northern boundary
 and towards its eastern end.

T23 *Eucalyptus saligna* (Sydney Blue Gum) 6 metres
 Near the site's eastern boundary

T24 *Eucalyptus saligna* (Sydney Blue Gum) 6 metres
 Near the site's eastern boundary

T25 *Eucalyptus saligna* (Sydney Blue Gum) 6 metres
 Close to the site's southeastern corner

T26 *Eucalyptus paniculata* (Grey Ironbark) 6 metres
 Within the church and school grounds between
 the retaining wall and the subject site

T27 *Angophora floribunda* (Rough barked Apple) 4 metres
 Close to the eastern side of the site for House No.1.

T29 *Angophora floribunda* (Rough barked Apple) 3 metres
 Close to the eastern side of the site for House No.1

T30 *Angophora floribunda* (Rough barked Apple) 4 metres
 Within the church and school grounds south-east
 of the House No.1 site

Row of semi-mature *Syncarpia glomulifera* (Turpentine)
 and *Tristaniopsis laurina* (Water Gum)
 Adjacent to the site's Bobbin Head Road boundary south of the vehicular entrance.

T53 *Angophora floribunda* (Rough barked Apple) 4 metres
 Between the site's northern boundary and
 the site for House No.3

Item 2

99. 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.
100. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. 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.
101. The west facing windows of dwellings 1 and 2 are to be provided with shading devices. Details of which are to be submitted for approval.

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

102. Prior to issue of a Subdivision Certificate, the existing on site detention system is to be relocated or amended so that the system is wholly within the remaining school lot.
103. Prior to the issue of a Subdivision Certificate, the new driveway to the school carpark is to be constructed in accordance with the approved design.
104. Prior to issue of the Subdivision Certificate, the submission of an original Plan of Subdivision plus five (5) copies, suitable for endorsement by the certifying authority.

Note: The following details must be submitted with the Plan of Subdivision:

- a. The 88B Instrument.
- b. The Engineer's Certification of the relocated on-site stormwater detention facility within the remaining school lot. This must be on the standard Council On-Site Detention certification sheet, available from Council's customer services.
- c. Any Surveyors or Engineers Certification required by other conditions in this consent.
- d. The Section 73 Compliance Certificate.

Note: Council will check the consent conditions and failure to submit the required information will delay issue of the Subdivision Certificate.

105. For any of the legal instruments created as a requirement of this determination, Ku-ring-gai Council is to be named as the only authority empowered to release, vary or modify such instruments.
106. The submission of an instrument under Section 88B of the Conveyancing Act with the Plan of Subdivision, plus five (5) copies, creating any required easements, rights-of-carriageway, positive covenants, restrictions etc. Ku-ring-gai Council must be named as the authority empowered to release, vary or modify the same.

Item 2

107. Prior to issue of a Subdivision Certificate, creation of all burdens including drainage easements, service easements and rights-of-carriageway as required. A registered surveyor is to certify, prior to issue of the subdivision certificate, that all existing interallotment drainage lines, services and/or driveways are fully contained within the proposed burdens and/or that future provision of such are fully covered by the proposed burdens. Alternatively, where the surveyor is of the opinion that no interallotment easements or rights-of-carriageway are required, then certification to this effect must be submitted.
108. Prior to issue of a Subdivision Certificate, the creation of suitable drainage easements with minimum widths in accordance with Council's Stormwater Management Manual, over all of the inter-allotment and Council drainage systems.
109. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to issue of a Subdivision Certificate. 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" (available from Council on request) 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.

110. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to issue of the Subdivision Certificate.
111. Prior to issue of a Subdivision Certificate, the existing on site detention system is to be relocated or amended so that the system is wholly within the remaining school lot.
112. Prior to the issue of a Subdivision Certificate, the new driveway to the school carpark is to be constructed in accordance with the approved design.
113. Prior to issue of the Subdivision Certificate, the submission of an original Plan of Subdivision plus five (5) copies, suitable for endorsement by the certifying authority.

Note: The following details must be submitted with the Plan of Subdivision:

- a. The 88B Instrument.
- b. The Engineer's Certification of the relocated on-site stormwater detention facility within the remaining school lot. This must be on the standard Council On-Site Detention certification sheet, available from Council's customer services.
- c. Any Surveyors or Engineers Certification required by other conditions in this consent.
- d. The Section 73 Compliance Certificate.

Item 2

Note: Council will check the consent conditions and failure to submit the required information will delay issue of the Subdivision Certificate.

114. For any of the legal instruments created as a requirement of this determination, Ku-ring-gai Council is to be named as the only authority empowered to release, vary or modify such instruments.
115. The submission of an instrument under Section 88B of the Conveyancing Act with the Plan of Subdivision, plus five (5) copies, creating any required easements, rights-of-carriageway, positive covenants, restrictions etc. Ku-ring-gai Council must be named as the authority empowered to release, vary or modify the same.
116. Prior to issue of a Subdivision Certificate, creation of all burdens including drainage easements, service easements and rights-of-carriageway as required. A registered surveyor is to certify, prior to issue of the subdivision certificate, that all existing interallotment drainage lines, services and/or driveways are fully contained within the proposed burdens and/or that future provision of such are fully covered by the proposed burdens. Alternatively, where the surveyor is of the opinion that no interallotment easements or rights-of-carriageway are required, then certification to this effect must be submitted.
117. Prior to issue of a Subdivision Certificate, the creation of suitable drainage easements with minimum widths in accordance with Council's Stormwater Management Manual, over all of the inter-allotment and Council drainage systems.
118. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to issue of a Subdivision Certificate. 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" (available from Council on request) 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.

119. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to issue of the Subdivision Certificate.

CONDITIONS TO BE COMPLIED PRIOR TO OCCUPATION

120. Low level lighting shall be provided along the entrance pathway and the driveway to the front entries of each unit in accordance with the requirements of SEPP 5. The lighting must provide at least 50 lux at ground level. Documentary evidence of such is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Item 2

121. To ensure compliance with the requirements of SEPP 5 and the documentation submitted with the development application the garages shall be provided with a power operated roller door.
122. To ensure compliance with the requirements of SEPP 5 the accessible entry must have an entry door handle and other hardware that complies with AS 1428. Additionally all exterior doors for each dwelling shall be keyed alike. Documentary evidence shall be submitted prior to the release of an Occupation Certificate.
123. Prior to issue of the Final Compliance Certificate, all disused driveway crossings, pipe crossing and/or kerb laybacks are to be reinstated as footway and kerb and/or gutter to the satisfaction of Council's Development Engineer. Reinstatement works to generally match surrounding infrastructure. Any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer, at the Applicants cost.
124. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to issue of the Final Compliance Certificate. 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" (available from Council on request) 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.

125. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced hydraulic engineer or surveyor, prior to Occupation, that:
 - a. The works were carried out and completed in accordance with the approved plans.
 - b. 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.A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier prior to Occupation.
126. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed drawing issued by a suitably qualified and experienced engineer or surveyor is to be submitted to the Principal Certifying Authority prior to occupation or issue of an Occupation Certificate.

NOTE 1: The Certificate is to be with respect to compliance with:

Item 2

- a. The soundness of the structure.
- b. The adequacy of the outlet control mechanism to achieve the discharge as specified.
- c. The capacity of the detention storage as specified.
- d. The size of the orifice or pipe control fitted.
- e. The maximum depth of storage over the outlet control.
- f. The adequate provision of a debris screen.
- g. The inclusion of weepholes in the base of the outlet control pit.
- h. The provision of an emergency overflow path.

NOTE 2: The certifying engineer and surveyor is to also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

NOTE 3: The Works-as-Executed drawing(s) are to include all relevant levels including:

- Extend of passing bays
- Dimensions of crossing
- Details of turning area adjacent to unit 6.
- Invert levels of drainage works
- Surface or pavement levels
- Floor levels
- Maximum water surface level to be achieved in the storage zone
- Dimensions of basin(s), tank(s), pit(s), etc.
- Location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
- Storage volume(s) provided and supporting calculations
- Size of orifice(s)

127. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to occupation, the issue of the Occupation Certificate.

128. The creation of a Restriction-on-Use under the Conveyancing Act, prior to the issue of an Occupation Certificate, restricting the occupation of the premises to:

- a. People aged 55 years or over, or people with a disability as defined by the provisions of State Environmental Planning Policy No 5 (as amended December 2000).
- b. People who live with such people as defined in (a) above.
- c. Staff employed to assist in the administration of and provision of services to housing provided in this development.

129. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/ release of the Occupation Certificate.

BUILDING CONDITIONS

Item 2

130. 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. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
 - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
 - d. Retaining walls and associated drainage.
 - e. Wet area waterproofing details complying with the Building Code of Australia.
 - f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
 - g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
131. Any mechanical ventilation installed in a dwelling shall comply with the requirements of Part 3.8.5.0 of the Building Code of Australia Housing Provisions. Documentary evidence of compliance is to be obtained from a suitably qualified person and submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
132. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any pier holes and/or foundation material.
 - c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
 - d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - e. Any stormwater drainage works prior to covering.
 - f. The completed landscape works in accordance with the approved plans.
 - g. The completed structure prior to occupation.

The required inspection fees (which also covers the issue of the Compliance Certificate) are to be paid to the Council before the issue of a Construction Certificate for this development.

If inspections are to be carried out by Council, 24 hours notice is required by Council's Department of Environmental and Regulatory Services, by telephoning Customer Service on 9424 0888 during business hours (8.30am to 4.30pm) or by facsimile on 9418 1117.

Item 2

Note: Inspections of work which is found to be defective or not ready will attract a reinspection fee. Please cancel bookings which will not be ready for inspection.

133. 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.
134. To ensure compliance with this determination a Registered Surveyor's Report confirming reduced levels as shown on the approved plans with particular regard to the future finished level of the ground floor shall be submitted to the Principal Certifying Authority on completion of that floor.
135. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.

- 136 For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

Risers:	Maximum 190mm	Minimum 115mm
Going (Treads):	Maximum 355mm	Minimum 240mm

Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.

137. So as to ensure adequate fire separation, walls and floors separating occupancies are to be constructed in accordance with the requirements of Part 3.7.1 of the Building Code of Australia Housing Provisions. Details of the proposed method of compliance are to be submitted.
138. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
 - a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
 - b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
 - ii. are connected to the mains and have a standby power supply; and
 - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

Item 2

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.

139. 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.

B Banning
Special Projects

M Miocic
Director
Environment & Regulatory Services

Attachments: **Location Sketch**
 Elevations
 Site Plan
 Draft LEP No 26

Item 3

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	64 WELLINGTON ROAD, EAST LINDFIELD - SEPP 5 DEVELOPMENT COMPRISING 4 X 2 STOREY UNITS
WARD:	Roseville
DEVELOPMENT APPLICATION N^o:	1551/02
SUBJECT LAND:	64 Wellington Road, East Lindfield
APPLICANT:	Debtap Pty Ltd
OWNER:	John and Deborah Mazlin
DESIGNER:	K & B Pty Ltd
PRESENT USE:	Residential
ZONING:	Residential 2A
HERITAGE:	No
PERMISSIBLE UNDER:	State Environmental Planning Policy No. 5
COUNCIL'S POLICIES APPLICABLE:	Clause 5(2) provides that if this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, this Policy prevails to the extent of the inconsistency
COMPLIANCE WITH CODES/POLICIES:	Not Applicable under the provisions of Clause 5(2) of SEPP No 5
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy No. 5
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	6 November 2002
40 DAY PERIOD EXPIRED:	16 December 2002
PROPOSAL:	SEPP 5 Development comprising 4 x 2 storey units
RECOMMENDATION:	That consent be granted, subject to conditions

Item 3

DEVELOPMENT APPLICATION N^o 1551/02
PREMISES: 64 WELLINGTON ROAD, EAST LINDFIELD
PROPOSAL: SEPP 5 DEVELOPMENT COMPRISING 4 X
2 STOREY UNITS
APPLICANT: DEBTAP PTY LTD
OWNER: JOHN AND DEBORAH MAZLIN
DESIGNER K & B PTY LTD

PURPOSE FOR REPORT

An application for development made under the provisions of SEPP 5 cannot be determined under delegation and must go to Council for approval.

EXECUTIVE SUMMARY

- Demolition of existing dwelling and attached dual occupancy and swimming pool.
- Excavation extension of the existing underground parking area.
- Construction of a four unit SEPP 5 development.
- 18 objections including one petition containing 120 signatures.
- Issues relate to bulk scale, streetscape, noise, privacy, intensity of use, loss of landscaping, hazards to children and other pedestrians, failure to comply with Council's controls, inappropriateness of SEPP 5 Development in the locality.
- Recommended for approval subject to conditions.

HISTORY

From 1987 through to 1990 some four development applications have been granted consent on the subject land. These involved; the construction of a car port, a swimming pool and alterations and additions resulting in a 'dual occupancy' style development being constructed on the site.

The current application was received on 7 November 2002. Amended plans and additional information were sought and received on four occasions. In respect to plan amendments, modifications to the original submission were made on 10, May 2003, 10 October 2003, and finally on 3 November 2003. Additional information in the form of a Geotechnical report and an access assessment were submitted in January 2003.

An appeal was lodged in relation to the deemed refusal of Development Application 1551/02 and has been set down for hearing on 11 May 2004.

THE SITE

Zoning: Residential 2A
Visual Character: 1960
Lot Number: 746

Item 3

DP Number:	752001
Area:	831.10m ²
Frontage:	16.155m
Side of Street:	North-western
Cross Fall:	South-west to north east (Wellington Road Frontage) 791mm; north west to south east (Coopernook Avenue) 4000mm
Stormwater Drainage:	Basement detention tanks discharging to Council's drainage system
Heritage Affected:	No
Required Setback:	N/A
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

SITE DESCRIPTION

The subject property is located on the northern corner of the intersection of Coopernook Avenue and Wellington Road. The site is currently occupied by two single storey brick houses, with an in-ground pool located over the front (south western) portion of the subject site and a concrete paved driveway to the northern site boundary.

THE PROPOSAL

Is a new front fence part of the proposed development?	Yes
Is a new swimming pool part of the proposed development?	No

The proposal is to demolish the existing dwellings and to erect four residential units under the provisions of SEPP No. 5. The work proposed includes:

- Demolition of all structures on site including the swimming pool in the front yard,
- Further excavation to permit the extension of the existing underground parking area providing a total of 8 car parking spaces, four of which are in a stacked configuration, basement storage area and a lift which provides access between the basement parking area and the ground floor lobby.
- Erection of a part one part two storey building accommodating two, two bedroom dwellings and two, three bedroom dwellings.

Units 1 and 2, located on the north west portion of the site, are to be constructed over two levels, with a dining, living, kitchen and master bedroom at foyer level accessed at grade from Coopernook Avenue. Two secondary bedrooms for each unit are located at first floor level accessed via an internal stair alternatively on the south-western and north-eastern elevations.

Item 3

Residential units 3 and 4 are located to the south-eastern portion of the site, addressing Wellington Road, and are entirely at grade to the entry foyer and each comprises a dining room, kitchen, living areas and two bedrooms all at one level.

A secondary pedestrian access to the entry foyer is provided by a pathway set at a grade of 1:14 which runs from the paved entry portico along the south east property alignment, after which it essentially 'meanders' around the front yard to Wellington Road, ultimately discharging at the north western corner of Wellington Road and Coopernook Avenue. Stairways are provided at various intervals. In one instance, to circumvent the need for more mobile people to travel the north-eastern component of the ramped pathway and in the second to provide stair way access to the head of the driveway prior to its entry to the basement area.

This pathway which was added introduced to the proposal by amendment D dated 19 December 2003 and appears to have arisen as a result of the applicant's access consultants review of the proposal.

Vehicular entrance to the development is provided via a 3.5 metres wide crossing located 1.0 metre from the north-eastern property boundary. The tilt up garage door is set into the undercroft area some 12 metres from the front property alignment.

All existing vegetation on site will be removed as a result of the development with the exception of a 10 metre high Pine tree located on the south-eastern portion of the north-eastern property alignment. Trees to be removed are; a 8 metres high Himalayan Cedar, centrally located in the existing front yard, cedars ranging in height but generally in the in the order of 5 metres located adjacent to the south-western boundary and three Hinoki Cypresses within the front (eastern) setback rising to approximately 6.0 metres in height.

Amended landscaped plans indicate that two Scribbly gums and a Mediterranean Olive tree will be located on the southern corner of the site with a further three Mediterranean Olive trees to be planted on the south-eastern boundary and on the south-western side of the driveway. Mass boundary planting will be provided for some 12 metres adjacent to the north-eastern boundary of the site adjoining No 66 Wellington Road and will consist of Blueberry Ash interspersed with Marre Cordylina; with both species capable of achieving heights of 6 metres and 2.5 metres, respectively.

Similar treatments are proposed for all other boundaries, with the exception of the northern and eastern corners of the site which will each be provided with a Golden Champaca able to attain a height of 13 metres. The elevated courtyards to the front (Wellington Road Elevation) to units 3 and 4 will be provided with low level planting including star jasmine and native violets.

Courtyards will be partially paved with the more restricted side elevations being entirely paved with the exception of the front portion of the south-western setback area. Clothes drying areas are indicated on the north-eastern and south-western elevations, whilst storage facilities for waste receptacles are adjacent to the Coopernook Avenue access serving units 1 and 2.

Item 3

The building has been designed in a manner which seeks to address both Wellington Road and Coopernook Avenue. The original submission provided essentially a 'Federation' style design which was significantly bulkier than its immediate built environment. Revised plans, dated 30 October 2003, resolved many of these issues by largely reducing the bulk of the roof design and rationalising and reducing the quantity of gable elements on both the Wellington Road and Coopernook Avenue facades.

CONSULTATION - COMMUNITY

In accordance with Council's policy, adjoining owners were given notice of the application.

Submissions were received from the following persons:

Mr and Mrs Hepburn - 76 Wellington Road EAST LINDFIELD NSW 2070
Mr and Mrs Choy - 3 Coopernook Avenue EAST LINDFIELD NSW 2070
Mr P and Mrs S Chan - 6 Coopernook Avenue EAST LINDFIELD NSW 2070
Mr E and Mrs W Chan - 9 Coopernook Avenue EAST LINDFIELD NSW 2070
Mr and Mrs Bown - 62 Wellington Road EAST LINDFIELD NSW 2070
Mr D Burton - 63 Wellington Road EAST LINDFIELD NSW 2070
Mr and Mrs Rosen - 3 Tarago Place EAST LINDFIELD NSW 2070
Mr and Mrs Vikas - 54 Wellington Road EAST LINDFIELD NSW 2070
Dr N & Mrs J Betts - 68 Wellington Road EAST LINDFIELD NSW 2070
Mr H Hort - 92 Wellington Road EAST LINDFIELD NSW 2070
Mrs E Belan - 69 Wellington Road EAST LINDFIELD NSW 2070
Mr and Mrs Simes - 74 Wellington Road EAST LINDFIELD NSW 2070
S D S & H Donnelley - 66 Wellington Road EAST LINDFIELD NSW 2070
Mr and Mrs Fraser - 26 Crest Park Parade QUEANBEYAN NSW 2621 (78 Wellington Road)
Mr and Mrs Clark - 70 Wellington Road EAST LINDFIELD NSW 2070
M Eslake - 82 Wellington Road EAST LINDFIELD NSW 2070
L. I. J & S McKenzie - 72 Wellington Road EAST LINDFIELD NSW 2070

A petition containing some 120 signatures opposed to the development was also submitted.

1. *The development does not comply with Council's normal requirements*

State Environmental Planning Policy No. 5 sets aside local planning controls that would prevent the development of housing for older people or people with a disability to the extent of the inconsistency.

2. *The location of the egress will conflict and represents a potential hazard to children particularly to those using the bus stop.*

It is acknowledged that the egress is in close proximity to the bus stop however, the land currently accommodates two dwellings and, as such, the increase in likely traffic generation in real term is not significant and would not represent a measurable hazard to pedestrians accessing the bus stop. Notwithstanding, and as will be discussed below, it is agreed that the

Item 3

introduction of 8 car parking spaces, being well in excess of the SEPP No 5 requirement for 5 spaces, is excessive and will unnecessarily increase traffic movements from the site, albeit marginally.

Importantly, the provision of excessive parking burdens the site in terms of the quantum of excavation required which, in turn, limits the potential for the land to sustain reasonable deep root planting, particularly on the north-western boundary of the site. For these reasons, whilst not necessarily classifiable as hazard, it is accepted that the quantum of parking proposed at basement level is unreasonable and it is recommended that the basement configuration be redesigned to provide for 5 spaces only as prescribed by the SEPP.

3. *The proposal is an overdevelopment of the site*

The proposed development is consistent with all SEPP No.5 standards as they relate to bulk scale and intensity of use and with the majority of Council's additional requirements for SEPP 5 housing. The intensity of the use is increased from two dwelling units to four dwelling units. On this basis, whilst the objection is acknowledged, the application could not be characterised as an overdevelopment of the site in planning terms.

4. *SEPP 5 Development is inappropriate in the neighbourhood.*

State Environmental Planning Policy No 5 applies to the State and sets out a series of locational criteria which are discussed in detail below. The proposal meets those criteria and therefore is deemed appropriate within its locality as prescribed by the Policy.

5. *The development if approved would set a precedent.*

Under the provisions of the SEPP, the development is permissible with consent and is consistent with the development standards set out therein. Under such circumstances, the granting of consent to the development could not be construed as precedent.

6. *The proposal will impact on privacy*

It is agreed that privacy issues may arise in relation to the overlooking of the rear yard of No. 66 Wellington Road from the proposed upper level north-east facing window of Bedroom 2 in Unit 2. A condition of consent is suggested that requires that this window be provided with a 1500mm sill height. (See Condition No 66)

Concern has also been raised that there may be an oblique backward view available to the front south-facing windows of this adjoining premises from the proposed deck, living room windows and bedroom windows of Unit 3. Whilst the objector's windows, in this case, are to a front elevation - and observable from the public way, it is none the less reasonable to provide screening both along the north eastern boundary in the form of 6.0 metres high screen planting (facilitated by the increased basement set back) and to the north-eastern side of the deck in the form of planters to alleviate any overlooking impact.

Item 3

In terms of the residence to the north west, located on the corner of Coopernook Avenue and Tarago Place, this dwelling is topographically higher than the development site and thus less likely to be affected by overlooking. The dwelling is also separated from its common boundary with the development site by some 10 metres. In such circumstances, it is unlikely that significant overlooking impacts will flow in this direction. However, for abundant caution, screen planting of 5.0 metres in height is applied as a condition to the north western boundary of the site (screen planting of any greater height is not recommended on the basis that it would interfere with solar access to the north facing courtyards of the development. (See Condition No 103)

7. *Health issues arising from increase pollution associated with basement parking and visitor parking on street.*

Provided that the quantum of parking at basement level is restricted to that required under Clause 14 of SEPP No. 5 it is unlikely that the increased traffic movements associated with two additional dwelling units would give rise to a discernable health impact to surrounding residents.

8. *Health issues associated with the removal of existing trees.*

The reduced bio mass associated with the removal of trees will be more than compensated by the tree replenishment requirements of Council's Landscape officer's consent conditions.

9. *Inadequate landscaping proposed and potential damage to landscaping on the adjoining property.*

The amended landscape plans introduce greater landscaping onto the site than currently exists. Trees on adjoining properties will be protected by conditions of consent. (See Condition Nos 83 & 103)

10. *The proposal will cause storm water drainage impacts.*

Council's Development Engineer has reviewed the stormwater concept plans submitted with the application and raises no objection to the stormwater management suggested, subject to conditions of consent.

11. *The development is out of character with the surrounding area*

Whilst the proposal is for a substantial two storey structure, the surrounding built environment exhibits an array of architectural forms of varying scale and mass, often of two storey construction and contemporary design. The site is not located in a conservation area nor does the land contain or is it in the vicinity of any Item of Environmental Heritage. Under such circumstances prescribing a particular design solution would be difficult to sustain in planning terms. Moreover, the original proposal has been substantially modified in consultation with Council's Urban Design Advisor resulting in an architectural outcome which is now acceptable within its context.

Item 3

12. *The development is excessive in terms of bulk and scale and height.*

As discussed above, the proposed development is consistent with the floor space ratio and height provisions of SEPP No. 5. Further, the design solution provides adequate articulation in a manner which will mitigate any visual perception of bulk and scale.

13. *General traffic generation concerns in Cooperook Street including construction traffic and their hazard to children.*

These concerns are acknowledged and it is accepted that the proposed development significantly exceeds the parking requirements under the provisions of SEPP No. 5. For this reason, and as a result of concerns related to the extent of excavation on the site, a condition of consent is recommended which limits parking at basement level to 5 spaces. (See Condition No 101)

Construction traffic is an unavoidable consequence of development, however conditions of consent requiring the submission of a detailed traffic management plan are recommended. Such requirements will assist the management of any issues associated with the construction phase.

14. *The development will destroy the natural landscape and the built-upon area is excessive*

As discussed in detail under the relevant sections below the, soft landscaping required by SEPP 5 is exceeded by the development proposal. Substantial re-vegetation of the site will occur as a result of the approved landscape plans and conditions of consent. It is agreed that there is limited potential for soft landscaping along the north eastern boundary of the site. A condition of consent is recommended which will require that the size of the basement parking area to be reduced and that the setback of the excavation from the north-eastern boundary be increased to 2.0 metres to essentially correlate with the ground floor building foot print to this alignment.

15. *The development is not suited to, nor can it be guaranteed that the proposed development will be used by the target group.*

The primary objective of SEPP No 5 is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those older people who are independent, mobile and active as well as those who are frailer and other people with a disability regardless of their age. The proposed development has been assessed against, and is considered to satisfy, the policy objectives of SEPP No. 5 and the technical requirements of AS1428 and AS4299 for adaptable housing. As a consequence, compliance with the requirements of SEPP No. 5 ensures that appropriate housing options for older people and people with a disability are enhanced.

Notwithstanding this, a condition requiring the creation of a Restriction-on-Use under the Conveyancing Act, prior to issue of the Final Compliance Certificate/Occupation is

Item 3

recommended. This will ensure that the premises are occupied by people aged 55 years or over or people with a disability as defined by SEPP No 5.

16. *The development will overload existing infrastructure, in particular, water, sewerage and electricity.*

It is unlikely that the increased intensity of use by two dwelling units will unreasonably burden existing urban infrastructure in the locality.

17. *The proposed excavation is likely to damage adjoining dwellings.*

Conditions of consent are recommended below which will manage excavation and demolition, as well as reduce the likelihood of any damage.

18. *The proposed development will, once occupied, give rise to excessive noise.*

It is unlikely that noise generated by the use of the development would be considerably greater or different to that generated by the normal domestic activity in the neighbourhood.

CONSULTATION - WITHIN COUNCIL

Urban Design Consultant

Comments on revised design:

Following discussions with the applicant the proposal has been amended and is much improved in my view. The building's apparent bulk has been reduced by changing the design of the roof. The Federation styling has been dropped although there are still too many gables.

The Wellington Road elevation is now more in keeping with surrounding dwellings. Louvred vents from the underground car park are less apparent on the front elevation; but the drawings may be misleading here as one vent shown on plan does not appear on the south elevation.

The Coopernook Avenue frontage relates better to adjacent buildings than the previous scheme. Drawings are ambiguous as far as the right hand gable is concerned. On elevation it is shown as a gambrel and on plan as gable. I would prefer to see a simple hipped roof here. The triangular skylights are alien elements and seem unnecessary as the adequate natural light.

Energy Efficiency

Labelling of elevations is misleading. The side facing Coopernook Avenue is labelled west but is closest to south. North facing windows now have a suitable overhang but east and west elevations still have large areas of un-shaded glazing.

Conclusion

Drawings should be clarified in regard to number and location of car park vents and roof design.

Item 3

I would prefer the design to be further simplified by the deletion of the decorative gables from the two storey section at the rear and the triangular skylights from the Wellington Road frontage. The proposal is now more compatible with its surrounding and if the above comments are addressed I would support it.

Development Engineer

Traffic Comments

Dimensions of Parking Spaces do not strictly comply with Australian Standard 2890.1 1993 - "Off street Car Parking" and the requirements of SEPP 5, in that all car space dimensions do not meet or exceed 6m x 3.2m. Space "2" is shown with a 2.7 metre width. In addition, spaces "4" and "5" must be a minimum width of 3.4 metres for manoeuvring purposes as they are located at the end of the blind aisle.

It is expected that the required dimensions be conditioned, as there appears to be room to widen the non-complying spaces with some design adjustments.

Driveway width does not strictly comply with Australian Standard 2890.1 1993 - "Off street Car Parking". A minimum clear width of 2.9 metres must be provided. This may be conditioned.

Driveway grades would appear to comply with Australian Standard 2890.1 1993 - "Off street Car Parking".

Headroom does not appear to comply with Australian Standard 2890.1 1993 - "Off street Car Parking" and the requirements of SEPP 5 in that minimum headroom of 2.5m has not been provided. This may be conditioned.

RTA comments are not required.

The frontage road can handle increased traffic, sight distances are satisfactory. The existing driveway crossing location is to be utilised.

Access to the property for waste collection is not needed, as there are less than 7 dwellings. The number of parking spaces at 8 appears to meet the requirements of SEPP 5 based on 0.5 spaces per bedroom.

Accordingly, the proposed vehicle access and accommodation may be approved, subject to the Conditions shown in this response.

Impacts on Council Infrastructure and associated works - comments

Existing driveway crossing location will be utilised, except that a new concrete crossing is to be constructed. Redundant crossings and laybacks to be reinstated to match adjacent infrastructure. A bond is to be applied to cover potential damage to Council Infrastructure (as applied to all SEPP 5 and larger scale developments). Conditions to be applied as shown.

Drainage Comments

Item 3

Submitted drainage plans generally comply with Council requirements in terms of storage/discharge relationships.

A direct connection to the Council drainage pit adjacent to the existing driveway crossing will be required.

Landscape Development Officer

The Site

It is proposed to construct a four unit SEPP 5 development, on the existing single allotment of 838.10sqm with vehicular access from Wellington Road. The site frontage along Wellington Road is characterised by existing small trees and shrubs within formal garden beds. There is an existing swimming pool located adjacent to the site frontage, with a semi mature Cedrus deodar (Himalayan Cedar) centrally located in the front garden. The site frontage adjacent to Cooperbrook Avenue is characterized by a paling fence with small trees and shrubs behind. There is a single storey attached Dual Occupancy dwelling existing on site with a large courtyard towards the centre of the site. Vehicle access is presently from both Wellington Road and Cooperbrook Avenue.

Site Condition - landscape

The existing landscape is in poor condition with minimal maintenance undertaken. Existing trees have been previously pruned and have epicormic re-growth. The site frontage adjacent to Wellington Road is dominated by a semi mature Cedrus deodar (Himalayan Cedar) approximately 10.0m high. The tree is prominent within the site but is not significant within the broader landscape.

Impact on trees

The proposed development will result in the removal of all existing trees on site. As stated, the most prominent tree is a semi-mature Cedrus deodar (Himalayan Cedar) located centrally within the front garden. The Cedrus is approximately 8.0m high and appears to be in good condition. Other trees on site are pruned for overhead wires or are in poor health. There are no significant trees located on site.

Tree replenishment

The proposed landscape plan for the development is considered satisfactory for the Development Application stage of the development proposal. A revised landscape plan will be required with revised species to reflect the existing character of the neighbourhood. Native endemic canopy trees will be required to be planted within the front setback. It is required that a minimum three canopy trees be included as part of the proposed landscape works to satisfy Council's Tree Replenishment Policy adopted in 26th April 1988. Four canopy trees have been included within the revised landscape plan.

Screen planting

Screen planting is required adjacent to the north east and south west site boundaries to facilitate landscape amenity. Screen planting is required up to 6.0metres adjacent to the two storey sections of the proposal and up to 3.0 metres elsewhere adjacent to the side boundaries. The proposed basement car park has a minimum setback of approximately 450mm adjacent to the north east site

Item 3

boundary, with a maximum setback of 900mm. This limits the availability of deep soil area for screen planting to establish. This is not desired. The proposed dwellings have a maximum setback of 2.1m, including the second storey. Along with side access requirements this leaves little scope for screen planting from neighbouring properties. It is preferred that the side setback adjacent to the north east site setback adjacent to the north east site boundary be increased to accommodate screen planting.

Deep soil zone

The SEPP5 guidelines require that a 'Deep Soil Zone' amounting to 15% of the site be included as part of the development works. Clause 14(f) requires that a total singular area not less than 15% of the site area be included, preferably at the rear as a deep soil zone to facilitate moisture absorption and large planting (including trees). The deep soil zone should be free of development works such as drainage works, services, paving and structures. In this case a total area of approximately 125.7sqm will be required. The deep soil zone requirement has been provided on site but is located within the rear and side setbacks and proportion of the front setback. Although acceptable, it is preferred that a larger singular area be accommodated. It is noted that tree replenishment requirements can be complied with.

Drainage concept

No drainage plans have been sighted for comment. Depending upon the location of proposed pipes and services there may be impact on landscape amenity, and the ability for the proposal to provide landscape requirements. It is noted that the detention tank is located within the front setback from Wellington Avenue and that the tank is to be covered over with a mound of soil. This is not a good design outcome and will require the construction of additional retaining walls. These proposed walls impact on the proposed planting areas particularly adjacent to the site frontage where there are two retaining walls with associated footings within 1.0m of each other. This leaves very little soil area for proposed planting and screening. Available planting areas have been increased and although small can accommodate suitable screen/shrub planting.

Landscape Plan

Landscape assessment has the following concerns with regard to the submitted landscape plan.

- *How are the turf areas for the two units to the north to be maintained? There is no external access for lawn mowers or maintenance equipment. This is impractical.*
- *No levels existing or proposed have been shown on the plans. These are required to fully assess proposed landscape works.*
- *It is preferred that some planting be undertaken immediately adjacent to the building to provide visual softening, particularly adjacent to the Wellington Road frontage.*

Other comments

Excavation

Excavation is also proposed over basically the whole site, including the front and rear landscape areas. This will result in proposed soft landscape areas being either in subsoil or possibly on top of bedrock, which will require further excavation to provide soil depth for plant growth. This is not particularly desired. It is preferred that the existing ground levels be maintained as much as possible within the soft landscaped area, but particularly adjacent to the site boundaries.

Item 3

Trees to be removed

Existing trees to be removed include:

- *A Cedrus deodar (Himalayan Cedar) centrally located within the Wellington Road frontage. The tree is approximately 8.0m high and appears to be in good condition. The tree is a juvenile specimen and multi trunked.*
- *Three Cupressus species (Cypress) located adjacent to the Cooperook Ave site frontage. The trees are approximately 5.0 high and appear to be in moderate condition. The trees have been poorly pruned for overhead wires and cannot grow to their natural form.*
- *Three Chamaecyparis species (Hinoki Cypress) located within the front setback from Wellington Avenue. The trees are approximately 6.0m high and appear to be in moderate condition. The trees are highly prominent within the streetscape, but are not considered significant specimens.*

The application is supported with conditions.

The landscape officer's concerns are able to be resolved by condition of consent. It is noted however that issue has arisen in relation to excavation both in terms of the basement and the need for levelling of the rear courtyard area.

As discussed below, increased opportunity for deep soil planting will be provided by increasing the setback between the excavated basement and the north eastern boundary by 2000mm as provided by Condition No 101.

The geotechnical report submitted confirms that the removal of some 686mm of soil required to level the western courtyards will expose the underlying sandstone. It is considered appropriate, that the amended landscape plan in Condition 6 address a further requirement to introduce raised planters within the rear western courtyard to resolve this issue.

PROVISIONS OF RELEVANT LEGISLATION

The Environmental Planning & Assessment Amendment Act 1979 Section 79C

1. Environmental Planning Instruments

- State Environmental Planning Policy No 5 (SEPP 5) - Housing for Older People or People with a Disability.
- The Ku-ring-gai Planning Scheme Ordinance 1971 (KPSO).
- Housing for Older People and People with a Disability - Development Control Code 1/99.
- Access - Development Control Plan 31.
- Waste Management - Development Control Plan 40.

State Environmental Planning Policy No 5

Item 3

The proposal for the construction of a four unit residential development comprising two, two bedroom units and two, three bedroom units for aged persons and those people with a disability is permissible subject to Council consent pursuant to Clause 4(1) of SEPP No5 which states:

- (1) *This Policy applies to land within New South Wales:*
 - (a) *that is zoned primarily for urban purposes, or that adjoins land zoned primarily for urban purposes, and*
 - (b) *on which development for the purpose of any of the following is permitted:*
 - (i) *dwelling-houses,*
 - (ii) *residential flat buildings,*
 - (iii) *hospitals,*
 - (iv) *development of a kind identified in respect of land zoned for special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries.*

Part 1, Clause 3 of SEPP 5, states that the aim of the Policy is to encourage housing that will:

- a) *increase the supply and diversity of housing that meets the needs for older people or people with a disability.*
- b) *make efficient use of existing infrastructure.*
- c) *be of good design.*

Clause 3 of the SEPP states that these aims will be achieved by:

- (a) *setting aside local planning controls that would prevent the development of housing for older people or people with a disability that meets the development standards specified in this Policy, and*
- (b) *ensuring that applicants and councils take into consideration the level of additional demand for support services for older people or people with a disability in the council's area to be generated by the development when preparing and assessing development applications that are affected by this Policy, and*
- (c) *setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and location.*

Clause 9 of SEPP 5, Development Criteria states,

The objective of this Part is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those older people who are independent, mobile and active as well as those who are frailer, and other people with a disability regardless of their age.

Clause 12 of SEPP 5, provides the matters of consideration as follows:

Clause	Standard	Compliance
--------	----------	------------

Item 3

<p>Clause 12(1) and 12(2)</p>	<p>Access to community, medical, retail and commercial services or access to public transport which provides access to the above listed services (written evidence)</p>	<p>Yes. The site is approximately 500 metres to East Lindfield, 2.5 kilometres to Lindfield and 5 kilometres to Chatswood commercial precincts. Because these shopping precincts exceed 400 metres pursuant to clause 12(2)(a), the applicant relies on clause 12(2)(b)(i)(ii) &(iii). These are discussed as follows;</p> <p>Transport A bus stop, serviced by STA bus 207,208 and 558 is located adjacent to the site whilst the return (westbound) stop is 75metres from the other side of Wellington Avenue. These services access Chatswood shopping centres as well as Sydney CBD, Northbridge, Cammeray, North Sydney Lindfield, Roseville.</p> <p>Pedestrian Access to Buses The kerb ramps to cross Cooperbrook Avenue and Wellington Road do not comply with the required AS1428.1 and in the case of Cooperbrook Avenue are un-constructed and thus unsuitable for wheel chair access. Whilst amended plans have provided for internal pathway ramping it will be necessary for the purposes of clause 25(f)(i) that the applicant upgrade and carry out the installation of kerb ramps and/or footpaths to enable safe, obvious and convenient access to the bus stop opposite the site on the western side of Wellington Road.</p>
<p>Clause 12(2A)</p>	<p>Access to nursing, home and housekeeping services (written evidence)</p>	<p>Yes, provided that conditions in relation to kerb and ramps are met it is noted that the East Lindfield area provides the following services;</p> <ul style="list-style-type: none"> • Supermarket • Chemist • Medical Practice • Newsagent • Butcher • Hair salon

Item 3

Clause 12(3)	Availability of facilities and services to be provided for residents	Not applicable. No particular services are to be provided with the development.
Clause 12(4)	Sewer and water availability (written evidence)	Yes. The site currently supports a dual occupancy granted consent by Council under DA 982/85 by notice of determination dated 7 January 1986. An additional two residential units beyond that currently approved is well within the capacity of existing services to sustains
Clause 13(2)(a) Building Height	8.0 metres or less (to ceiling from natural grade)	Yes, The maximum height of the proposed buildings is 6.5 metres.
Clause 13(2)(b)	No more than 2 storeys adjacent (i.e. in proximity) to a boundary	Yes, The proposed development is part one part two storeys as defined by SEPP 5
Clause 13(3) Site Frontage	15 metres or more.	Yes, This property has 19.55 metres frontage to Wellington Road and a 40.85 metre frontage to Cooperbrook Avenue.

Clause 13A lists the development standards specifically relating to access and useability that must be complied with before development consent can be granted. A summary of compliance with this clause is as follows:

Clause	Standard	Compliance
Clause 13A(2)(a) Wheelchair Access	100% of dwellings have access to public road or internal road/driveway, or 50% where internal gradient exceeds 1:10	Yes, the development is proposed on a site which has an average natural slope of 1:10 – 1:11 in an east west direction from front to rear of the site, the most pronounced slope being on the eastern front boundary of 1:29. Therefore the specified minimum percentage of 100% applies. A 1:14 gradient pedestrian ramp from the main entrance on the corner of Wellington Road and Cooperbrook Avenue is provided on the amended plans that enables access to the entry foyer and thence to all four units. Therefore the test that a continuous accessible path of travel to the entrance at 1:14 under AS1428 is satisfied. However this solution has the effect as introducing excessive

Item 3

		hard stand area. It is considered that a better solution would involve the installation of an inclinator linking the upper (western) pathway to the corner entry gate. A condition is applied to confirm this requirement. (See Condition No 104)
Clause 13A(2)(b)	10% of dwellings that satisfy Clause 13A(2)(a) must have wheelchair access to a public road.	Yes. 100% of units have wheelchair accessibility to both Cooperbrook Avenue and Wellington Road
Clause 13A(2)(c)	Wheelchair access to be available to all common areas and facilities associated with the development.	Yes, plans indicate that the threshold entry to the common foyer will have a 25-40mm height variation between the paths and finished floor level which will provide the need for a small ramp at the entry doorway, however this will remain consistent with AS1428
Clause 13A(2)(d)	10% of dwellings satisfying Clause 13A(2)(a) to have wheelchair access to essential areas inside dwelling.	Yes. The front door landings, and access to lifts with services to all units and the car parking and storage area below will comply with wheelchair access provisions of AS4299
Clause 13A(3)	Street signage.	Yes. The site is located on a corner. A condition is proposed that will ensure that both entrance gateways will display the same address for each unit for the purposes of appropriate identification under SEPP 5.
Clause 13A(4)	Security lighting	Yes – by condition
Clause 13A(5)	Letterboxes	Yes – by condition
Clause 13A(6)	Car parking dimensions regarding size, clearance, and garage door	Yes, SEPP No. 5 requires that car spaces be 6000mm in length and 3200 in width 6 of the 8 spaces complying with this provision. Car parking spaces marked for visitors no 7 and 8 fail to comply with this provision. See discussion under clause 14(d) below.
Clause 13A(7)	Accessibility entry	Yes, a covered portico entry to the common foyer of Cooperbrook Avenue is provided, whilst lift access is provided from the basement parking area opening to the foyer area. As noted above the plans indicate that the entry landing will have a 50mm grade difference from the external pathway

Item 3

		to the foyer area. Because the plans provide insufficient detail to establish accessibility in this regard a condition should be applied requiring that any threshold ramp be provided in accordance with AS1428 and have no steps to the entry point. Otherwise it is noted that the common foyer is level with the individual unit entries and compliant with AS 1428. Other matters such as the placement and form of door handles may be conditioned
Clause 13A(8)	Key access	Yes , there is inadequate information on plan to establish compliance with this control; however it may be dealt with by condition of consent.
Clause 13A(9)	Interior door standards	Yes , plans indicate that all internal ground floor corridors will be 1200mm wide providing at least 1200mm doorway approach to all rooms in all units.
Clause 13A(10)	Living and dining room standards	Yes , the plans provide for combined living and dining areas that have internal circulation space which achieve compliance with this clause
Clause 13A(11)	Kitchen standards	Yes , the kitchen layouts comply with the circulation requirements of this clause, however the plans do not provide sufficient fit out details to establish complete compliance. It is appropriate that a condition of consent be applied to require compliance at the construction certificate stage.
Clause 13A(12)	Main bedroom standards	Yes , this clause stipulates that main bedrooms on accessible floors shall provide an area of 3500mm by 3200mm exclusive of the required built in wardrobe. Further 1200mm clearance must be provided at the foot of the bed and 1000mm clearance must be provided at each side of the bed together with 1200mm circulation space at the doorway. The plans indicate that compliance is achieved in this regard

Item 3

Clause 13A(13)	Bathroom standards	Yes , plans indicated that the ensuite bathroom in every unit will comply with the minimum AS1428 requirement of 2060mm by 2700mm thereby complying with the clause. None the less the plans provide insufficient detail to establish compliance with other provisions of sub-clauses (a) to (h) such as the need for hobless shower recess areas, strengthened wall for grab rails and the like. These matters are appropriately dealt with by condition of consent
Clause 13A(14)	Accessible toilet	Yes , as discussed above the toilets are capable of compliance with this provision by condition of consent.
Clause 13A(15)	Access with multi-level dwelling	Yes , whilst it is noted that two of the four units are two storey in plan, all essential rooms and amenities are provided on the accessible ground floor in compliance with the control
Clause 13A(16)	Laundry	Yes , plans indicate that laundry facilities are located in rooms with dimensions of at least 2200mm by 1800mm and provide space for a washing machine, direr and tub all with at least 1300mm clearance in front the appliances. Matters such as slip resistance floors and thermostatic mixing valves may be conditioned.
Clause 13A(17)	Storage	Yes , storage is provided in an accessible manner via the lift at basement level and each unit is provided with a linen closet.
Clause 13A(18)	Door handles	Yes , there is insufficient detail in relation to door handles; however this matter is amenable to condition of consent.
Clause 13A(19)	Surface finished	Yes , there is insufficient detail in relation to surface finishes; however this matter is amenable to condition of consent.
Clause 13A(20)	Electrical outlets	Yes , there is insufficient detail in relation to ancillary items such as electrical outlets; however this matter

Item 3

		is amenable to condition of consent.
Clause 13A(21)	Garbage	Yes. The plans indicate two 'service yards' adjacent to Cooperbrook Avenue.
Clause 13A(22)	Department of Housing applications	Not applicable.

Clause 14 lists the development standards that cannot be used as grounds for refusal of a SEPP 5 is complied with. Where a standard is not complied with, Council may consider a refusal of an application on the grounds of non-compliance with that standard. A summary of compliance with this Clause is as follows:

Clause	Standard	Compliance
Clause 14(a) Building Height	Maximum height of 8.0 metres	Yes. Maximum height is 6.5 metres.
Clause 14(b) Density and Scale	Floor space ratio of < 0.5:1	Yes. The proposed floor space ratio is 0.48:1.
Clause 14(c)	Landscaped area of 35 m ² per dwelling.	Yes. The proposal provides in excess of 200m ² of soft landscape area, thereby exceeding the SEPP 5 requirement as defined of 140sqm.
Clause 14(d) Parking	0.5 spaces per bedroom.	Yes, Clause 14(e) sets out the numerical requirements for parking of 0.5 spaces per bedroom. Hence the development requires 5 spaces with no requirement for visitor spaces for developments under 8 units. Because the additional parking, due to their location are unlikely to be used for visitor parking – but rather set aside for resident use - and given the additional parking spaces give rise to unnecessary excavation and contributes to concerns by residents in relation to the safety of vehicle movements to and from the site it is considered appropriate that a condition be attached deleting the stacked car parking visitor spaces and stacked parking space No 3. A condition should thus be applied which limits the quantity of parking to 5 spaces and reconfigures the parking area to permit increased dimensions for deep root planting to the northeastern boundary. (See Condition 101)

Item 3

Clause 14(e) Visitor Parking	Applies to developments in excess of 8 units	Not applicable to this project.
Clause 14(f) Soft Landscape Areas	15% of the site, preferably at the rear of the site.	Yes , under this clause 126sqm of deep root planting area is required. The proposed development complies. Despite this non compliance concern has been raised at the restricted area available for deep root planting and by result the ability for the site to sustain substantive screen planting on the northeastern boundary. Given the excessive amount of parking provided for the development in terms of Clause 14(d) of SEPP 5 there is ample opportunity, once the parking is reduced to 5 spaces as required, for the extent of excavation to be limited to the building foot print on the north eastern alignment above. By so doing an average of 2 metres would be achieved between the excavated basement and the northeast boundary thereby facilitating substantial landscaping on this boundary. Condition No 102 is suggested to provide for this outcome.
Clause 14(g) Private Open Space	15 sqm for ground level dwellings.	Yes , the plans indicate that there is a 25-50mm height variation between the FFL levels of living/dining rooms and the outdoor courtyard and balcony areas which is overcome by small threshold ramps which accord with AS1428.1. Additionally each unit will have a paved area at least 3.0metres by 3.0 metres each in excess of 35 sqm. The dimensions, areas and thresholds will also be 100% wheelchair accessible from the living areas and will comply with the provisions of this clause.

Clause 24 of the SEPP requires that an analysis of the site be carried out and submitted to the consent authority. This has been submitted and is sufficient to carry out a proper assessment.

Clause 25 of the SEPP requires that consent not be granted unless Council is satisfied that adequate regard has been given to the following design principles.

Item 3

a. Neighbourhood Amenity and Streetscape

Council's Urban Design Advisor and Landscape Officer have considered this matter on two occasions. The discussions arising from these considerations have resulted in a number of amended plans being submitted to Council. As a result of final negotiations, amended plans were submitted on 3 November, 2003.

Landscape issues were addressed as follows;

- Reducing the length of the excavated area associated with the 'manoeuvring area' on the north-east basement alignment.
- Providing a deep soil planting area on the northern portion of the basement parking area.
- Setting back the basement parking area between 1.7 and 3.0 metres from the south-western (Cooperbrook Avenue) boundary.

This increase in the available deep soil planting has been achieved by elongating the basement to the rear, north-western, quadrant of the site and by introducing four car parking spaces in a stacked configuration. No objection is raised to further excavation into the north-western quadrant as this area of basement is well below the building foot print and has no consequences for deep soil planting.

Stack parking however, given the target group associated with SEPP 5 development, is not considered appropriate. It is also unnecessary given the eight parking spaces is well in excess of the five spaces required under the State Policy. The functionality of the parking area, and its convenient use for future residence would be enhanced by deleting the stacked parking spaces 3, 7 and 8. The further benefit of this amendment would be improved ability to configure the basement parking in a manner which would permit a greater setback to the north east boundary. This would limit the extent of the basement to the proposed ground floor footprint which would enable more substantial screenplanting.

In doing this other issues raised by residents of bulk and scale, privacy, safety of pedestrians and excess noise and pollution associated with basement parking for 8 vehicles would be alleviated. Subject to a condition of consent limiting parking on site to 5 vehicles and the reconfiguration of the basement so that it relates to the ground floor foot print above, no objection is raised to the proposed development on the basis of neighbourhood amenity.

The Landscape Officer has suggested that 6.0 metres high screen planting be provided only adjacent to the second storey component of the development along its north-eastern boundary with remaining landscaping to achieve a height of 3.0 metres. Given the opportunities for increased screening resulting from the suggested 2.0 metres setback to the north-eastern property boundary it is suggested that the condition be altered to require 6.0 metres high screen planting along the entire north-east boundary

Item 3

as it relates to the proposed built form. The Landscape Officer's suggested condition has been modified by Condition No 103 of the recommendation.

Urban Design Issues were addressed as follows:

- The applicant has pressed the use of gables as being an integral component of the design and important for articulating the roof line.
- The gambrel roof facing has been corrected on plan to match the elevation and is pressed as an important element this facade. Gable roof forms to the rear, north-west elevation has also been pressed.
- Louvred vents to the southern elevation have been deleted, with those remaining on the eastern and western side are screened by landscaping.

Whilst many dwellings in the vicinity of the site are of a 1920s architectural style, the general built environment is eclectic and punctuated by a variety of buildings from different eras. These include large, contemporary dwellings of two storey construction. The land does not fall within a conservation area nor is the existing building an item of environmental heritage or a contributory item within a conservation area. Hence, it would be difficult to sustain an argument that new developments must follow a prescribed architectural solution based on any homogenous built environment. Consequently, it is considered that the final design solution represents a reasonable compromise in terms of architectural outcomes and may be supported.

b. Visual and Acoustic Privacy

The properties most likely to experience privacy impacts as a result of the proposed development are the existing dwelling to the north-east of the site (No.66 Wellington Road) and the dwelling to the north-west (No.8 Cooperbrook Street).

The dwelling at No 66 Wellington Road has two windows on its south-west facade which interface with the development site, one being to a bathroom and the second serves a minor living area which is closed off from the main living areas of the dwelling. The windows of the new development which correspond most closely to the window at No 66 serve the secondary bedroom of Unit 4. Given that this room is unlikely to be frequently used and given that at this point the proposed development is single storey, no objection is raised in relation to privacy impacts flowing from this fenestration.

The resident has however, raised concern in relation to the potential 'back view' of the living room of Unit 3 and from the Unit 3 front courtyard to their front fenestration. Whilst such views are oblique, such overlooking is nevertheless possible. To overcome this, revised landscape plans indicating mass screen planting to a height of 6.0 metres on the relevant boundary are recommended as a condition of consent. This would reasonably mitigate any potential privacy impact from the front living areas and terrace of proposed Unit 3.

Item 3

The north-eastern window to bedroom two, of Unit 2 may potentially overlook the yard area of No. 66 Wellington Road. Given the orientation however, it is important to the amenity of future residents that some fenestration be retained on this elevation. Hence it is recommended that this window be modified to have a sill height of 1500mm above finished first floor level. (See Condition No 66)

In relation to potential privacy impacts to No 6 Coopernook Avenue to the rear, this property is substantially elevated above the subject site and is unlikely to experience any adverse impacts as a result of the development. Further there is a separation of approximately 20metres from the first floor south-eastern facade of the proposed development to the relevant north-western facade of No 6 Coopernook Avenue.

Subject to appropriate screen planting to the north-eastern boundary alignment and the introduction of a 1500mm highlight window on the north-east facing window to Bedroom 2 of Unit 2, no objection is raised to the proposal in regard to privacy impacts on 6 Coopernook Avenue.

c. Solar Access and Design for Climate

Council's Urban Design Advisor considers that the revised drawings are acceptable provided that the east and west glazing are provided with suitable sun shading devices. Whilst it is agreed that west-facing windows should be shaded, the east facing windows are important sources of quality morning solar access during winter and are less likely to give rise to excessive heat penetration during summer months. For this reason the conditions in the recommendation press the requirement that east-facing windows be shaded. The application has also been supported with a certificate under the nationwide Housing Energy Rating Scheme (NatHERS) indicating that the development attains 3.5 stars which is acceptable.

The development site is located on the northern corner of Wellington Road and Coopernook Avenue. As such, the majority of shadows will fall to the street, with adjoining properties remaining entirely unaffected in terms of solar access.

d. Stormwater

Council's Development Control Engineer has not raised objection to the disposal of stormwater subject to the condition. The property can be adequately drained to Wellington Road and provides on-site detention.

e. Crime Prevention

Passive surveillance of the street is possible from the frontage units.

f. Accessibility

Item 3

On-site pedestrian pathways to units from the adjoining roadway and the overall design of the units has been assessed in terms of the requirements of SEPP 5 clause 13A(1)-(21), 14(g) and 25 (f)(iii) and relevant requirements of AS1428 and 4299 and has been found to be acceptable.

g. Waste Management

The proposal provides for a street frontage garbage bin storage area on Cooperook Avenue. (See Condition No 68) It is considered that waste management is able to be satisfied in the terms set out in Council's Waste Management DCP 40.

Urban Design

The proposal has been recommended for approval, subject to conditions to improve energy efficiency. As noted above, Council's Urban Design Advisor considers the building design acceptable, subject to modifications to the roof form.

Whilst acknowledged, these requirements are not supported on the basis that the built environment is not consistent in its character, the building itself is not an item of environmental heritage nor is it located in a conservation area. Hence, it is considered that the compromised design solution submitted dated 30 October 2003 is satisfactory.

State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

The provisions of SEPP 55 require Council to consider, when assessing a development application, 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.

Ku-ring-gai Planning Scheme Ordinance, 1971

SEPP 5 specifically sets aside any planning control of the KPSO that would prevent a development that is compliant with the standards and consideration of the SEPP.

The development is considered to be generally consistent with Schedule 9 of the KPSO.

Schedule 9 of the KPSO sets out aims and objectives for residential zones referring to such matters as streetscape, character, amenity, solar access, tree replacement, landscaping. The performance of the development against these objectives as they are relevant to a multi unit development are discussed below.

1. a) *to maintain and where appropriate, improve the existing amenity and environmental character of residential zones.*

On assessment the proposed development does not unreasonably impact on the amenity of adjoining residences in terms of overlooking and overshadowing. Concern has been raised

Item 3

with the extent of excavation associated with the development and appropriate conditions of consent to the recommendation will facilitate an acceptable outcome in terms of the landscape quality and visual amenity of the development in terms of its locality. (See Condition Nos 101, 102 and 103)

1. b) *to permit new residential development only where it is compatible with the existing environmental character of the locality and has a sympathetic and harmonious relationship with adjoining development.*

Notwithstanding that the proposal is for multi unit development, Council's Urban Design Officer has reviewed the amended proposal and considers that the proposal is now satisfactory in terms of its Wellington Road and Coopernook Avenue presentation.

2. c) *any building or development work shall maintain or encourage replacement of tree cover wherever possible to ensure the predominant landscape quality of the Municipality is maintained and enhanced.*

Subject to the Condition No 103 of consent related to increased screen planting being satisfied, the landscape quality of the locality will be improved as a result of the proposal.

2. d) *any building or development work on-site avoids total or near total site utilisation by manufacturing a reasonable proportion of the site as soft landscaping area.*

Although the proposed development complies with the SEPP 5 guidelines in relation to deep soil planting zones and soft landscape areas, concern has been raised in relation to the extent of excavation and the underlying bedrock particularly in the rear courtyards. Condition Nos 101 to 103 in effectively increase deep soil planting along the north-eastern boundary and introduces substantial screen planting both to the perimeter of the site and within the rear courtyards.

As noted in the discussion of SEPP 5 (Clause 13A(2)(a)) above, the applicant has chosen to introduce a path which essentially meanders over the entire front yard in order to meet the external accessibility test under that provision. Concern is raised that although this solution meets the accessibility threshold test, it results in a quantum of hard paving which is undesirable and would damage the visual and landscape quality of the area.

A preferable solution would be to link the access gateway, located on the corner of Coopernook Avenue and Wellington Road, to the upper ramp located between the Coopernook Avenue boundary and the north-east elevation of the development by an inclinator.

Inclusion of Condition No 104 is recommended.

Clause 33 of KPSO

Item 3

Clause 33 requires the consideration of the aesthetic appearance of proposed building work from public roads. The appearance of the development as viewed Wellington Road and Cooperbrook Street was assessed by Council’s Urban Design Consultant who considers the proposal acceptable.

Development Control Code 1/99 - Housing for Older People and People with a Disability

Council’s Code includes references to the statutory development standards of State Environmental Planning Policy No. 5 in relation to height, density, landscaped area and parking. The Code also provides guidelines relating to development standards considered by Council to be more appropriate to development in the Ku-ring-gai area.

It is important to note that the Code provides more stringent location criteria, particularly in regards to shops and facilities. Although the development generally satisfies these requirements, it is important to note that where requirements in the Code are inconsistent with standards in SEPP 5, the provisions of SEPP 5 prevail.

Provision	Proposed	Comply
500m to local shops	The proposed development is approximately 500 metres from East Lindfield.	Yes
250m to public transport	A bus stop is within 400 metres of the subject property.	Yes
Site analysis required	Matter addressed in SEPP 5 assessment.	Yes
SEPP 5 development standards	Matter addressed in SEPP 5 assessment.	Yes
Sympathetic design	Matter address in SEPP 5 assessment.	Yes
Buildings to address street	The front entry, feature windows and roof treatment should be oriented towards the street.	Yes
Minimise visual impact of driveway	The entry driveway proposed is not considered dominant.	Yes
No bland building facades	The front building facade is well integrated and has variation in the setback, creating relief and interest to the facade.	Yes
Emphasise entry	The entrances to each building are apparent and therefore meet the requirement.	Yes
Match setbacks	The proposal does not match adjoining setbacks. The property to the north east of the subject lot has a setback to the main building of 17 metres. In front of the main	No , However Wellington Road provides for a range of setbacks with No. 62 Wellington Road coming

Item 3

	building is a carport. The property to the north west (in Cooperbrook Avenue) has front setback of 12.5 metres. The proposed development is setback approximately 7 metres to the elevated courtyard structure, whilst the building itself is set back a minimum of 11 metres from Wellington Road. Lesser setbacks of 2.7 metres are provided to Cooperbrook Avenue.	within 11 metres. Given its corner location, and the array of setbacks exhibited in the immediate built contexts, as well as the minimal environmental consequences flowing from the non compliance, it is not considered that this issue is such that would warrant the rejection of the application.
Integrated garages	Basement parking is provided.	Yes
Level open private space	All units have level open space.	Yes
1.8m courtyard fences	Conditions can be imposed in respect of rear fencing requirements. However the front courtyards are provided with planter box elements set at approximately 900mm. Landscape plans indicate that these planters will be provided with planting which would attain a further height of 300mm which will provide total screening of 1200mm	No , however the courtyards which fail to comply are on the front elevation. The provision of planter boxes with landscaping attaining a height of 1200mm will provide adequate privacy whilst being an acceptable design solution for a front elevation
Living areas link to open space	All units have acceptable open space links.	Yes
Landscaping to enhance and screen	Refer to comments by Council's Landscape Development Officer	Yes , subject to conditions that the basement parking level be setback to conform with the building envelope above and that landscaping plans be modified to provide substantive screen planting to the north eastern boundary.
Significant trees	Matter has been addressed by Council's Landscape Development Officer.	Yes , Council's landscape officer advises that there are no significant trees worthy of retention on site.
Carparking to meet demand	Matter addressed above by Traffic Engineer. Refer to comments under Section 14(d).	Yes
Energy efficiency	Solar access could be improved by the introduction of suitable screening devices to be installed on fenestration to the	Yes

Item 3

	eastern and western facade.	
Privacy	Matter addressed in SEPP 5 assessment.	Yes , refer to earlier comments and conditions of consent.
Lighting	Matter addressed in SEPP 5 assessment.	Yes
Waste collection	Matter may be addressed by a condition regarding compliance to DCP 40.	Yes
Letterboxes, TV antenna, services, house numbers	Matter addressed in SEPP 5 assessment.	Yes
Covered entry porch	Proposal is acceptable.	Yes
Internal space location, wall length, hobby space and eating areas	Complies	Yes
Bedroom design	Matter addressed in SEPP 5 assessment.	Yes
10% adaptable housing	Matter addressed in SEPP 5 assessment.	Yes
Support services	Matter addressed in SEPP 5 assessment.	Yes

Although this application substantially complies with Council Codes, there are a number of issues of non-compliance, being;

- that the front setback does not match that of the adjoining building to the north-east and north-west, and
- Front courtyards do not have 1800mm high fencing.

These issues have been discussed within the above table. Although the application does not meet all Council Code standards, it complies with a majority of these requirements, meets SEPP No 5 requirements and is acceptable.

Development Control Plan 31 - Access

Access within the development has been considered in relation to Clause 13A of SEPP No 5, and is found acceptable, subject to conditions of consent. On this basis no objection is raised with regard to compliance with DCP 31.

Development Control Plan 40 - Waste Management

The provisions of the DCP are complied with as a development of this size need only provide the same facilities as a normal dwelling. Garbage bin areas could be suitably screened in any amended landscape plan.

Item 3

Development Control Plan 43 - Car Parking

The Traffic Engineer has considered this application and parking required under SEPP No 5 has been met.

The development has proposed some three parking spaces in excess of the SEPP No. 5 requirements. This additional parking has extended the excavated basement area and required a stack parking configuration. This has resulted in a less functional parking configuration, particularly in terms of the likely needs of the target resident group, and a reduction of deep soil planting opportunities.

In view of these issues a condition is recommended to reduce the number of parking spaces at basement level to a maximum of 5, in an unstacked configuration and to reduce the extent of the basement excavation to the north east property alignment in a manner which correlates to the building foot print above. (See Condition No 102)

Section 94 Contribution

The proposal is subject to a contribution towards the provision of services and facilities as required by Council's Section 94 SEPP 5 Contribution Plan 2002. The proposed development will add 2 dwellings to the site. A contribution rate of \$12,118.30 is payable in respect of each of the additional 2 dwellings created. The total contribution is \$24,236.60.

2. Likely Impacts

All relevant impacts of the development have been considered. It is found that the likely impacts on the visual privacy of the adjoining dwellings to the north west and north-east are acceptable, subject to conditions and solar access provision is in compliance with the relevant AMCORD guidelines.

3. Suitability of The Site

The site is situated in an established residential area and proximity to the service proscribed for SEPP No 5 housing. Additionally, there are no known environmental or infrastructure constraints to its development. All services are available and there are no hazards such as contaminated land, bushfire, flooding or the like. The site complies with the SEPP No 5 locational criteria. The size shape and topography of the site are sufficient to sustain the development without giving rise to unreasonable adverse environmental consequences.

4. Any Submissions

All matters raised in submissions have been considered and discussed in this report. As stated in the body of this report, a number of the concerns are supported and these are able to be addressed by way of suitable recommended conditions.

Item 3

5. Public Interest

In the circumstances of the case, the public interest is served by the orderly economic development of land in a form which is well mannered in terms its design and siting. Given the foregoing assessment, the development as proposed is satisfactory.

In addition, the broader public interest is served by the introduction of housing specifically designed for aged and disabled person within suitable locations. An important aspect here is the need to provide for adequate and accessible dwelling forms within established residential precincts familiar to potential residents. The benefit being that as older residents within the community reach an age where their current housing situation is inadequate for their needs, sufficient appropriate housing choices are available without the necessity of relocating out of the neighbourhood. This assists in minimising the disruption which is often associated with obtaining suitable accommodation for aging populations within any community.

CONCLUSION

By virtue of the provisions of SEPP No. 5, development for the purposes of aged and disabled housing is permissible within a 2(a) zone and is appropriate for the site in terms of suitability and access to required services.

Issues of urban design and the passive environmental controls associated with the development have been discussed in this assessment. Whilst concerns have been raised in relation to these aspects, the issues are overcome by the amended plans and by the application of appropriate conditions of consent.

The proposal has given rise to substantial objections from the surrounding residential community. These concerns are acknowledged and many are considered well founded. However, those objections which are sustainable are able to be either overcome or substantially mitigated by suitable conditions of consent. Particularly, it is considered that an increased setback of the basement alignment from the north-eastern property boundary as detailed above will resolve many of the issues raised when combined with a reduction of the basement car parking capacity generally.

RECOMMENDATION

That Development Application No 1551/02 for the demolition of the existing two residences on site the construction of four residential dwellings within a part single part two storey building comprising of two, two bedroom units and two, three bedroom units together with basement parking, pursuant to the provisions of clause 5 of SEPP No 5 at No 64 Wellington Road East Lindfield legally described as the whole of Lot 746 in, DP 752001, be granted development consent subject to the following conditions:

GENERAL CONDITIONS

1. The Development is to be in accordance with Development Application 1551/02 and Development Application plans prepared by Keers and Banks Pty Limited, Architects

Item 3

reference number 2021: A01(A) dated August 2002, A04(B), A05(B), A06(B), A07(B), A08(B), A09(B), A10(B), A011(C) revisions dated October 2003 and A02(D), A03(D) revision dated 19 December 2003 except where modified by any of 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.

Demolition Conditions

4. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
5. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
6. 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.
7. 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.
8. 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.

9. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
10. 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:

Item 3

- 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.
11. 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.
 12. 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.
 13. 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.
 14. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
 15. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
 16. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
 17. Fire hoses are to be maintained on site during the course of demolition.
 18. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
 19. A traffic management plan shall be submitted to and approved by the Principal Certifying Authority, where major demolitions are likely to impact on arterial or main roads.
 20. 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.
 21. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

Item 3

- a. stating that unauthorised entry to the work site is prohibited, and
- b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

This clause does not apply to:

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
22. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.

Administration Conditions

23. The works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.
24. 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.
25. 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.

Construction Conditions

26. 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.
27. 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.
28. 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,

Item 3

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.

29. 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.
30. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
31. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
32. To maintain existing ground levels all excavated material shall be removed from the site.
33. 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.
34. 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.
35. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
36. 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.
37. 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

Item 3

- 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.

38. 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.
39. To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the Certificate.
40. If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

41. 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.
42. 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

Item 3

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.

SEPP 5 Conditions

43. The creation of a Restriction as to use of land under Section 88E of the Conveyancing Act 1919, restricting the occupation of the premises to:
 - a. People 55 or over or people who have a disability;
 - b. People who live with people 55 or over or people who have a disability;
 - c. Staff employed to assist in the administration of and provision of services to housing provided in this development.
44. The development is to remain as Housing for Aged or Disabled Persons within the meaning of State Environmental Planning Policy No 5 at all times.
45. All advertising, signage, marketing or promotion of the sale of the dwellings in this development shall make clear reference to the fact that this is a SEPP5 development and that at least one occupier shall be aged 55 years or over or have a disability:
46. All dwellings to be serviced by a 24 hour a day monitored emergency call system, or all dwellings to be built to easily accommodate the installation of a 24 hour a day monitored emergency call system if required by the resident

Special Conditions

47. 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.
48. The proposed development is to be compliant with both AS 1428 (Design for Access and Mobility and AS 4299 (Adaptable Housing) and is to satisfy the requirements of Clause 13A of SEPP 5.
49. The interior design of dwellings, ancillary facilities (e.g. letterboxes, lighting etc) and circulation space within the development shall comply with the standards contained in clause 13A of SEPP 5. A Compliance Certificate prepared by a suitably qualified and experienced person, certifying compliance with the provisions and standards contained in this clause, shall be submitted to the Principal Certifying Authority prior to occupation of the development.
50. The applicant's attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owner's which may arise from this application and it is advised that enquiries in this regard may be made at the nearest Local Court.

Item 3

51. No mobile outdoor surveillance systems shall be installed without prior approval of Council.
52. No advertising signs are to be erected without the prior consent of Council.
53. Master TV antennas are to be provided to avoid having individual antennas. The master antenna should be located at the rear of the site to reduce visibility from the street. Alternatively, location within the roof space can be considered.
54. Letter boxes must be provided in accordance with the requirements of Australia Post and be accessible to wheelchair users
55. On site power must be underground and satisfy the requirements of Energy Australia.
56. Unit/dwelling numbers must be clearly displayed and visible for emergency vehicles and visitors.
57. Each dwelling must have a childproof storage place for poisons or other dangerous substances.
58. Walls and Fences within the development are to be in accordance with Council's Development Control Code 1/99 or as otherwise directed.
59. The development is to provide night lighting along all driveways and footpaths throughout the site such that the full length of travel paths is illuminated. Lighting is to be shielded so that neighbouring residences are not adversely affected.
60. Throughout the development it is necessary to utilise non-slip materials. Surfaces, which will be slippery when wet, are not permitted. Loose material such as gravel or sand should be avoided near footpaths.
61. Locate TV antenna outlets on interior walls (away from windows and potential glare problems) in positions that maximise, options for TV location in the living and sleeping areas.
62. Locate telephone sockets so that residents have a choice of places/rooms to put a telephone and its related furniture.
63. All vehicles shall enter and leave the property in a forward direction.
64. Threshold ramps are to be provided to all courtyards and decks in accordance with AS1428.1.
65. Thermal insulation is to be provided to the walls, ceilings and roofs of both buildings.
66. The north east facing (side) window to bedroom 2 of unit 2 shall be amended to provide a minimum sill height of 1500mm measured from first floor finished floor level.

Item 3

67. Suitable window shades are to be provided to west facing windows.
68. Accessible garbage storage areas shall be provided in a suitable location for use by all units with at least 1550mm circulation space to enable easy access. All garbage areas, including those marked on plans as 'service yard' shall be effectively screened from view from any public vantage point.
69. All courtyard fencing is to be in accordance with the requirements of Council's Code except in relation to the front decks to units 3 and 4 which shall be provided with planters no less than 900 in height and located in accordance with landscape plans no. A011(C) which shall be densely planted with species able to attain a height of 300mm.
70. All signposting or road works associated with the development are to be at no cost to the Council

Pollution and Environment

71. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
72. Sites shall not be re-shaped, re-contoured, excavated nor the levels on any part of the site altered without the Consent of the Council being obtained beforehand.
73. To preserve and enhance the natural environment, sediment removed from erosion and sediment control structures shall be disposed of to an approved sediment dump.
74. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
75. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.
76. To prevent pollution, any areas cleared of vegetation where there is a flowpath greater than 12.0 metres in length shall have a properly constructed silt fence erected to intercept runoff.
77. To prevent pollution, all disturbed areas which are not to be built upon or otherwise developed within 14 days shall be stabilised with mulch, woodchip or other rehabilitation methods to provide permanent protection from soil erosion.
78. Topsoil shall be stripped from areas to be developed and stock-piled within the site. Stock-piled topsoil on the site shall be located outside drainage lines and be protected from run-on water by suitably positioned diversion banks. Where the period of storage will exceed 14 days stock-piles are to be sprayed with an appropriate emulsion solution or seeded to minimise particle movement.

Landscape Conditions

Item 3

79. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.

80. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times
81. 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.
82. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Wellington Road. The tree/s used shall be 25 litre container size specimen/s:

Tree Species

Syncarpia glomulifera (Turpentine)

83. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
84. On completion of the Landscape work/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
85. 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.

Engineering Conditions

86. A contractor with specialist excavation experience must undertake excavations the on the site. A suitably qualified and practising geotechnical engineer must supervise the excavation procedure. Excavations to be carried out:

Item 3

- a. According to the relevant Australian Standards and guidelines, and
- b. In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.

87. For stormwater control a 200mm wide grated channel/trench drain with heavy duty removable galvanised grates is to be provided at the base of the ramped driveway and connected to the stormwater drainage system.
88. For stormwater control all balconies and paved areas are to be drained to the main drainage system.
89. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the Council stormwater pit fronting the site on Wellington Road. Backflow prevention to be provided.
90. For stormwater control, an On-site Stormwater Detention System is to be provided with volumes and discharge in accordance with Council's Stormwater Management Manual. Design and layout to be generally in accordance with the concept On-Site Detention design Bruce Longfoot, drawings BR 1010 to 1014 inclusive. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location. The system is to be cleaned regularly and maintained to the satisfaction of Council.

NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.

NOTE 4: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings.

91. 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 minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities are to be maintained in working

Item 3

order during construction works and up to the completion of the maintenance period. All sediment traps are to be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.

92. The relocation or adjustment of any utility service facilities are to be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
93. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers. Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Aust 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.
94. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.
95. Driveways and 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 Australian Standard AS 2890.1 – "Off-Street car parking" and the provisions of SEPP 5. The driveway and circulation aisles must accommodate two-way traffic.
96. Disposal of site water (includes groundwater, seepage, dewatering and stormwater trapped in excavations) to Council's stormwater system is not permitted. The applicant is advised to liaise with Sydney Water regarding a Trade Waste Agreement.
97. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please 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.

PRIOR TO COMMENCEMENT OF ANY EXCAVATION OR ASSOCIATED SITE WORKS

98. The submission and approval by the Principal Certifying Authority (PCA) of a Geotechnical/Civil Engineering report which addresses:

Item 3

- a. The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level, and include the location and description of any anomalies encountered in the soil profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum.
- b. Engineering measures described in full to temporarily and permanently support the excavation for the basement area, adjacent to the footpath and adjacent property and structures. These measures are to ensure that there will be no adverse impacts on adjacent property, structures and infrastructure.

The report must be prepared by a practising geotechnical engineer with previous experience in such investigations and reporting. The report is to be prepared and submitted for approval prior to **any** excavations on the site and prior to release of the Construction Certificate.

99. A practicing structural/geotechnical engineer must prepare a full structural dilapidation report on the structural condition of all existing structures at 66 Wellington Street, East Lindfield, within 15 (fifteen) metres distance of the excavations along the northern boundary.

The dilapidation report must be completed and submitted to Council prior to the commencement of **any** demolition, excavation or construction works, and prior to the issue of the Construction Certificate. Note: A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council (prior to issue of the Final Compliance Certificate).

100. Council property adjoining the construction site must be fully supported at all times during all excavation, demolition and building construction works. Details of shoring, propping and anchoring of works adjoining Council property, prepared by a qualified Structural Engineer or Geotechnical Engineer, must be submitted for the approval of the Principal Certifying Authority (PCA), before the commencement of the works. Backfilling of excavations adjoining Council property, or any void remaining at completion of construction between the building and Council property, must be fully compacted prior to issue of the Final Compliance Certificate.

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

101. The basement parking area shall be redesigned to accommodate a maximum of 5 off street vehicle spaces designed strictly in accordance with the provisions of AS4299 and with each space having clear internal dimensions of 3200mm by 6000mm exclusive of any columns and minimum headroom of 2500mm and driveway widths and grades to be strictly compliant with AS2890.1 1993 and AS4299. Details are to be submitted to Council for approval prior to the release of the Construction Certificate.

Item 3

102. As a result of the reduced parking provisions, the basement level shall be set back 2000mm from the north-eastern common boundary with No.66 Wellington Road, East Lindfield. Details are to be submitted to Council for approval prior to the release of the Construction Certificate.
103. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works. A Landscape Assessment fee of \$220.00 will be payable on lodgment of the required landscape plan.
104. An amended landscape plan shall be prepared by a suitably qualified Landscape **designer** detailing effective screen planting of the development in the following manner; and provide additional planting opportunities in the rear courtyards as follows:
- North-east site boundary - from the south-east (Wellington Road) edge of the elevated front terraces to unit 3, along the entire length of the adjacent proposed built form - using species which are capable of attaining a height of 6.0 metres,
 - South-west site boundary adjacent to the north-eastern building elevation (but clear of any pedestrian pathways either internal or external to the site) which are capable of attaining a height of 6.0 metres.
 - North-west (rear site boundary) which are capable of attaining a height of 5.0 metres,
 - North-east site boundary to the rear garden capable of attaining a height of 3.0 **metres**,
 - South-west site boundary in the rear garden capable of attaining a height of 3.0 metres
 - South-east (front) site boundary capable of attaining a height of 2.0 metres.
 - Introduction of raised planters within the rear (western) courtyards, which are to be of a size and volume capable of supporting at least two deciduous trees, and achieving a minimum height of 6.0 metres. (One planter per courtyard)
105. An amended lower ground floor plan shall be prepared which deletes the entire ramping proposal to the front yard addressing Wellington Road, and shall indicate an inclinor which will provide an accessible link between the gateway on the corner of Cooperbrook Avenue and Wellington Road to the commencement of the ramp between the north east elevation and the Cooperbrook Avenue alignment. Details are to be submitted to Council for approval prior to the release of the Construction Certificate.

Special Conditions

106. Waste Management Facilities shall be provided for the residents in accordance with Chapter 3 of the Development Control Plan No. 40 – Waste Management. The facilities shall be provided, and a summary of compliance with DCP 40 shall be forwarded to Council's Waste & Environment Management Section prior to the issue of a Construction Certificate.
107. 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.

Item 3

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF TWO (2) ADDITIONAL DWELLINGS IS CURRENTLY \$24,078.00. 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 20 December 2000, calculated for additional person as follows:

1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New Library bookstock	\$17.95
4.	New Public Art	\$2.93
5.	Acquisition of Open Space - Lindfield	\$7,851.00
6.	Koola Park upgrade and reconfiguration	\$143.09
7.	North Turramurra Sportsfield development	\$986.80
8.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
9.	Section 94 Officer for period of Plan 2000-2003	\$118.42
10.	Preparation of New SEPP 5 Residents Kit	\$22.44
11.	SEPP 5 S94 Study and Interim Plan, 2000-2003	\$108.95

To obtain the total contribution figure the occupancy rate for all SEPP 5 developments is 1.3 persons

108. Due to the location of the development site near a bus stop and close to heavy pedestrian movements, the Applicant shall produce a Traffic Control Plan, in general 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), addressing all the following matters:

Heavy Vehicle Routes

- a. Details of the proposed route of heavy vehicles servicing the site. Light traffic roads and those subject to a load limit are to be avoided.

Safe Ingress and Egress

- a. How all vehicles servicing the site including provision for forward ingress will safely access the site and egress and details of traffic control for the site, including provision of a flag person to control vehicle movements to and from the site.
- b. How safe egress for vehicles will be managed where forward egress is not possible.
- c. How pedestrians will be safely managed across the frontage of the site.

Item 3

Parking Control

- a. Suitable provision shall be made on site for all construction vehicles to alleviate any need to park on Wellington Road or Cooperbrook Avenue.

Stages

- a. The Plan must recognise the different stages of the work, including site establishment, bulk excavation, concrete pours and tradesperson and landscaper access, and specify the traffic management requirements of each stage.

NOTE 1: The Traffic Control Plan shall be submitted to and approved by Council, attention Development Engineer, prior to the issue of the Construction Certificate. The 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. Evidence of RTA concurrence, if required above, is to be lodged concurrently with Council.

NOTE 2: The traffic management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of any works on-site including excavation.

109. A construction management plan must be submitted for the approval of Council's Development Engineer before the commencement of demolition, excavation or construction works. The Plan must:

a. Describe the anticipated impact of the construction works on:

- local traffic routes
- pedestrian circulation adjacent to the building site;
- and on-street parking in the local area; and;

b. Describe the means proposed to:

- manage construction works to minimise such impacts;
- provide for the standing of vehicles during construction;
- provide for the movement of trucks to and from the site, and deliveries to the site; and

c. Show the locations of:

- any site sheds and any anticipated use of cranes and concrete pumps;
- any areas of Council property on which it is proposed to install a construction zone, or to erect structures such as hoardings, scaffolding or shoring, or to excavate.

The Plan must make provision for all materials, plants, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding shoring or excavation need separate consent from Council. Standing of cranes and concrete pumps on Council property will need consent on each occasion.

Item 3

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

Administration Conditions

110. 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.
111. 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).
112. 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.

Construction Conditions

113. To protect the amenity of the adjoining property, all fill under the slab is to be contained by dropped edge beams. Engineers details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.

Item 3

114. Suitable window shading is to be provided to the west facing windows. Details are to be submitted to Council for approval prior to the release of the construction certificate.

Landscaping Conditions

115. The property shall support a minimum number of 3 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of a Construction Certificate and approved by Council's Landscape Development Officer, prior to commencement of work.
116. The trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby Council's Tree Preservation Order will protect them. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.
117. A CASH BOND/BANK GUARANTEE of \$8,000 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of this bond will be refunded upon issue of the final Certificate of Compliance, where landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after issue of the building certificate, where landscape works has 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.

118. The applicant shall ensure that no underground services (i.e. 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.

Engineering Conditions

119. Submission, for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate, of a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater – Soils and Construction" (1998) by a suitably qualified and experienced engineer or surveyor. Such controls should include but not be limited to appropriately sized sediment basins, diversion

Item 3

systems, appropriate controls for each stage of works identified and barrier fencing which maximises and protects areas which are not to be disturbed. The plan must also specify inspection and maintenance regimes and responsibilities and rehabilitation measures.

120. Provision to Council, prior to the issue of a Construction Certificate, of a \$10,000.00 bond. This bond is to cover the restoration by Council of any damage to Council's infrastructure (including drainage lines) along the site frontage or within close proximity to the subject development, or for any incomplete works, caused as a result of construction works relating to the subject development. The bond shall be refundable following completion of all works relating to the proposed development, or at the end of any maintenance period stipulated by consent conditions, upon approval by Council's Development Engineer. Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
- a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately.
 - b. The damage has not been repaired, or incomplete works have not been completed, by the Applicant within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
121. DRIVEWAYS AND FOOTPATHS: Approval of this Development Application is for works wholly within the property and 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.

Footpath and driveway levels at the property boundary/road alignment are to be obtained from Council prior to release of the Construction Certificate. All footpaths and driveways are to be constructed strictly in accordance with Council's specifications "Construction of Gutter Crossings and Footpath Crossings". This is issued with alignment levels after completing the necessary application form at Customer Services and payment of the appropriate fee.

The grading of such footpaths or driveways outside the property are to 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 this may be affected by the alignment levels fixed by Council.

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 (if applicable) of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

Item 3

122. Submission of revised parking layout details, for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate, of the following:

- Parking spaces to have a minimum internal clear width of 3.2 metres
- Access driveway to have a minimum clear width of 2.9 metres in all locations.

123. Submission of details and certification by a qualified civil/traffic engineer, for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate, that the parking provisions provided in common areas and within private parking areas comply with:

- SEPP 5 parking design requirements (as amended December 2000), and
- Australian Standard 2890.1 – 1993 “Off-street car parking”, and
- The 2.5 metre headroom requirement under SEPP5.

NOTE 1: This is to specifically include certification that headroom requirements are met beneath all suspended service lines in the basement carpark, including stormwater and sewer lines.

NOTE 2: All driveway access widths, grades, transitions, circulation aisle widths, sight distances, signage, clearances are to comply with these requirements.

124. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.

NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

125. Full construction drawings of the proposed on-site stormwater detention (OSD) system, and supporting calculations, are to be prepared by a suitably qualified and experienced consulting

Item 3

engineer. Details must be submitted to, and approved by, the Principal Certifying Authority prior to issue of the Construction Certificate.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

Administration Conditions

126. 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.
127. 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.

Construction Conditions

128. 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.
129. The following are required details and must be submitted to the Principal Certifying Authority *prior to the works relating to the detail being carried out*. 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. A Registered Surveyors report on the set out of the buildings.

SEPP 5 Requirements

130. One (1) dwelling unit is to be designed to meet the requirements of Clause 13A(2)(d) of State Environmental Planning Policy No 5 for disabled occupation to the satisfaction of Council. Full details are to be submitted to and approved by the Principal Certifying Authority.
131. To enable the "ageing in place" philosophy to be achieved in Ku-ring-gai:

Item 3

- a. Prior to the commencement of construction, documentary evidence is to be provided to Council's satisfaction, of an agreement with suitably qualified service provider/s for the provision of the following services if and when required by any of the residents of the development:
 - Personal care, including bathing and dressing;
 - Housekeeping, including cleaning and laundry;
 - Home delivered meals; and
 - 24 hour a day monitored emergency call system.
- b. The documentary evidence is to include the following details:
 - Proposed cost to residents of each of the services listed in (a) above; and
 - Proposed means of altering the cost to residents of these services. This may include: linking costs to the Consumer Price Index or a proportion of the Aged Pension; or be selecting a new service provider.
- c. Promotional material shall include details of the services available to residents of the development and their cost.
- d. A comprehensive residents' manual is to be provided to all residents which includes information of relevance to them, such as doctors, churches and other community services and facilities.

Pollution and Environment

132. To reduce or eliminate the transport of sediment from the construction site onto public roads, a temporary construction exit, together with necessary associated temporary fencing, shall be established prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.
133. 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.
134. To preserve and enhance the natural environment, all soil erosion and sediment control structures shall be inspected following each storm event and any necessary maintenance work shall be undertaken to ensure their continued proper operation. Sediment shall be removed from the soil erosion and sediment control structures when no more than forty percent (40%) capacity has been reached. These structures shall continue in proper operation until all development activities have been completed and the site fully stabilised.
135. For stormwater control and to preserve and enhance the natural and built environment, a Sediment and Erosion Control Plan relating to all areas of the site to be disturbed or affected by earthworks or construction works shall be submitted and approved with the application for a Construction Certificate. The Control Plan shall include all details of measures and

Item 3

methods of sediment and erosion control to be adopted, implemented and methods of sediment and erosion control to be adopted, implemented and maintained during the course of development of the site. The Control Plan shall incorporate and disclose:

- a. All details of drainage to protect and drain the site during the construction processes;
- b. All sediment control devices, barriers and the like;
- c. Sedimentation tanks, ponds or the like;
- d. Covering materials and methods;
- e. A schedule and program of the sequence of the sediment and erosion control works or devices to be installed and maintained.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF THE FINAL COMPLIANCE CERTIFICATE

136. Prior to issue of the Final Compliance Certificate/occupation, a clearly visible traffic signal system or convex mirror is to be provided within the basement parking area, which informs egressing vehicles within the basement area of an ingressing vehicle on the driveway.
137. A second dilapidation report, recording structural conditions of all structures originally assessed at 66 Wellington Street, East Lindfield prior to the excavation works, must be carried out at the completion of the development and be submitted to Council, prior to issue of the Final Compliance Certificate and issue of any subdivision certificate.
138. Prior to issue of the Final Compliance Certificate/occupation, signage must be installed at the car park entry to warn pedestrians of vehicles exiting the car park. Further signage must be installed near the car park exit to warn egressing drivers to beware of pedestrians passing over the driveway.
139. A contractor with specialist excavation experience must undertake excavations for the basement parking area. A suitably qualified and practising geotechnical engineer must supervise the excavation procedure. At the completion of the works and Prior to issue of the Final Compliance Certificate, this engineer is to provide certification to the Principal Certifying Authority (PCA) 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. In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.
140. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/ release of the plan of subdivision.
141. Submission of certification to the Principal Certifying Authority from a suitably qualified and experienced civil/traffic engineer prior to issue of the Final Compliance Certificate/occupation, that:

Item 3

- a. The car park space dimensions and vehicular headroom requirements of SEPP 5 (as amended December 2000) and AS2890.1 are met for all parking spaces and areas, and
 - b. All driveways and circulation aisle widths, grades, curve radii, (including transitions) meet the requirements of AS2890.1. and the relevant conditions of consent.
142. The creation of a Restriction-on-Use under the Conveyancing Act, prior to issue of the Final Compliance Certificate/Occupation, restricting the occupation of the premises to:
- a. People aged 55 years or over, or people with a disability as defined by the provisions of State Environmental Planning Policy No 5 (as amended December 2000).
 - b. People who live with such people as defined in (a) above.
 - c. Staff employed to assist in the administration of and provision of services to housing provided in this development.
143. Construction of the property stormwater drainage is to be supervised and upon completion certified by a suitably qualified and experienced hydraulic engineer, prior to issue of the Final Compliance Certificate/Occupation, that:
- a. The works were carried out and completed in accordance with the approved plans.
 - b. 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.
- A Works-as-Executed drawing of the entire property stormwater drainage system, prepared by a registered surveyor, is also to be submitted and approved by the Certifier prior to Occupation.
144. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval prior to occupation or issue of an Occupation Certificate. Certification is to be provided by a suitably qualified engineer and the WAE is to be prepared by a registered surveyor. The certifying engineer and surveyor is to also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

- Compatibility of the drainage system with the approved plans
- The soundness of the structure.
- The adequacy of the outlet control mechanism to achieve the discharge as specified.
- The capacity of the detention storage as specified.
- The size of the orifice or pipe control fitted.
- The maximum depth of storage over the outlet control.
- The adequate provision of a debris screen.
- The inclusion of weepholes in the base of the outlet control pit.
- The provision of an emergency overflow path.

Item 3

- All enclosed floor areas, including habitable and garage floor levels, being safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The Works-as-Executed drawing(s) are to include all relevant levels including:

- invert levels
- surface or pavement levels
- floor levels including adjacent property floor levels
- maximum water surface level to be achieved in the storage zone
- dimensions of basin(s), tank(s), pit(s), etc.
- location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
- storage volume(s) provided and supporting calculations
- size of orifice(s)

145. The creation of a Positive Covenant and Restriction on the Use of Land under the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention and pollution control system on the property prior to occupation or the issue of an occupation certificate. 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" 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.
146. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to occupation, the issue of the Occupation Certificate or the issue of a subdivision certificate.
147. Prior to issue of the Final Compliance Certificate/occupation or the issue of a Subdivision Certificate, all disused driveway crossings, pipe crossing and/or kerb laybacks are to be reinstated as footway and kerb and/or gutter to the satisfaction of Council's Development Engineer. Any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer.
148. All parking spaces and all areas of common property, including visitor car parking spaces and on-site detention facilities, which is to be denoted common property, be included on the final plans of strata subdivision.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

Administration Conditions

Item 3

149. 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.

Construction Conditions

150. A survey report shall be submitted to the Principal Certifying Authority prior to occupation, which certifies that the development has been constructed in accordance with the terms of this consent in relation to built upon area, building levels and setbacks.
151. 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. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
 - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
 - d. Retaining walls and associated drainage.
 - e. Wet area waterproofing details complying with the Building Code of Australia.
 - f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
 - g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
152. Any mechanical ventilation installed in a dwelling shall comply with the requirements of Part 3.8.5.0 of the Building Code of Australia Housing Provisions. Documentary evidence of compliance is to be obtained from a suitably qualified person and submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
153. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.

Item 3

- b. Any pier holes and/or foundation material.
- c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
- d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
- e. Any stormwater drainage works prior to covering.
- f. The completed landscape works in accordance with the approved plans.
- g. The completed structure prior to occupation.

The required inspection fees (which also covers the issue of the Compliance Certificate) are to be paid to the Council before the issue of a Construction Certificate for this development.

If inspections are to be carried out by Council, 24 hours notice is required by Council's Department of Environmental and Regulatory Services, by telephoning Customer Service on 9424 0888 during business hours (8.30am to 4.30pm) or by facsimile on 9418 1117.

Note: Inspections of work which is found to be defective or not ready will attract a reinspection fee. Please cancel bookings which will not be ready for inspection.

- 154. 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.
- 155. To ensure compliance with this determination a Registered Surveyor's Report confirming reduced levels as shown on the approved plans with particular regard to the future finished level of the floors shall be submitted to the Principal Certifying Authority on completion of that floor.
- 156. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
- 157. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

Risers:	Maximum 190mm	Minimum 115mm
Going (Treads):	Maximum 355mm	Minimum 240mm

Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.

Item 3

158. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:

- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
- b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
 - ii. are connected to the mains and have a standby power supply; and
 - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

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.

159. 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.

160. The following are required details and must be submitted to the Council on completion of the works. 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. Wet area waterproofing details complying with the Building Code of Australia.
- b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation and Airconditioning.
- c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- d. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
- e. A Compliance Certificate from a suitably qualified person that the buildings comply with the relevant deemed to satisfy provisions of the Building Code of Australia.

Item 3

- f. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.

Pollution and Environment Conditions

161. Polluted water collected within excavations must be flocculated with only Gypsum (calcium sulfate) settled and filtered prior release to stormwater. Council must approve Flocculants other than Gypsum prior to use. Clarity of 50mg/L must be obtained before releasing treated water to stormwater.

Note: A practical field test to approximate this level is to fill a glass or clear plastic 65mm diameter bottle with the sample and hold it up to the light. If seeing clearly through the sample is not possible, it will need further treatment and settling.

P Robinson
**Town Planning
Consultant**

C Swanepoel
**Acting Team Leader,
Roseville Ward**

M Miocic
**Director
Environment &
Regulatory Services**

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	14 TRENTINO ROAD, TURRAMURRA - CONSTRUCTION OF A DETACHED DUAL OCCUPANCY
WARD:	Wahroonga
DEVELOPMENT APPLICATION N^o:	1190/03
SUBJECT LAND:	14 Trentino Road, Turramurra
APPLICANT:	Mr & Mrs Milton & Mrs Stewart, c/o Glendinning Minto & Associates
OWNER:	J & J Milton & S Stewart
DESIGNER:	Huxley Homes
PRESENT USE:	Residential - single dwelling
ZONING:	Residential 2C
HERITAGE:	No
PERMISSIBLE UNDER:	State Environmental Planning Policy 53
COUNCIL'S POLICIES APPLICABLE:	Development Control Plan No 43 - Carparking, Development Control Plan No 40 - Waste Management, Dual Occupancy Control Code
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy 53
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	16 September 2003
40 DAY PERIOD EXPIRED:	26 October 2003
PROPOSAL:	Construction of a detached dual occupancy
RECOMMENDATION:	Approval, subject to conditions

Item 4

DEVELOPMENT APPLICATION N^o 1190/03
PREMISES: 14 TRENTINO ROAD, TURRAMURRA
PROPOSAL: CONSTRUCTION OF A DETACHED DUAL
OCCUPANCY
APPLICANT: MR & MRS MILTON & MRS STEWART, C/O
GLENDINNING MINTO & ASSOCIATES
OWNER: J & J MILTON & S STEWART
DESIGNER: HUXLEY HOMES

PURPOSE FOR REPORT

To determine an application for the construction of a detached dual occupancy.

EXECUTIVE SUMMARY

- Construction of a fully compliant detached dual occupancy development
- Two objections received
- Recommended for approval.

THE SITE

Zoning:	Residential 2C
Visual Character:	1920-1945
Lot Number:	3
DP Number:	13703
Area:	1221m ²
Side of Street:	Northern
Cross Fall:	To rear/side street frontage to Ancona Avenue
Stormwater Drainage:	On site detention then to Council's street system via gravity to Ancona Street frontage
Heritage Affected:	No
Required Setback:	9.0 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No
Section 94 Contributions:	Yes

SITE DESCRIPTION

The site is located on the northern side of Trentino Road, with a secondary street frontage to Ancona Road. The site is generally rectangular in shape with a width to the Trentino Road boundary of 17.075 metres & 4.305 metres and the rear (north) boundary being 20.115 m. The Ancona Road (western) frontage is 57.91m and the eastern boundary is 60.96m. The site comprises

Item 4

an area of 1221m². The existing dwelling on the site is a single storey brick dwelling with tiled roof. The existing dwelling has no heritage value. Existing car access is available from Ancona Road.

THE PROPOSAL

The proposal seeks approval for the construction of a new dwelling as a detached dual occupancy development. Vehicular access to the existing and new dwelling will continue to be via Ancona Road, through separate driveway access for each occupancy.

The proposed dwelling is to be painted brick construction with selected tiles. The proposed dwelling will have a floor area, exclusive of garaging and verandah, of 129.35 m². The existing dwelling has a floor area of 212.87m².

CONSULTATION - COMMUNITY

In accordance with Council's policy, adjoining owners were given notice of the application.

The following comments have been received:

- Dr E Hippman – 6 Ancona Avenue, Turramurra
- P Sheidai – 16 Trentino Road, Turramurra

Drainage from site in heavy rain events.

Concern has been raised by the neighbour to the north of the property in regard to the potential for increased flooding from rain events. The development will assist in reducing the current overland flows to the north as the developed area is to drain to the street and, in doing so, will reduce the current uncontrolled flows to the neighbours' property. The drainage system incorporates an above ground storage basin adjacent to the northern boundary which will direct the collected stormwater by gravity to Ancona Road. The concern of the neighbour that the development will increase flooding cannot be substantiated.

Impact on significant trees.

Council's Landscape Officer has addressed the tree removal and retention schedule and supports the proposal on the basis that the significant trees are to be retained and will be generally unaffected by the works. The trees to be removed and replaced with appropriate tree and shrub planting are not considered to be significant. A landscape plan has been prepared for the site and the Landscape Officer has provided conditions of consent which are included in the recommendation of this report.

Orientation of the proposed building.

A comment has been raised suggesting that the orientation of the building is inappropriate as the as the living areas will view the "rather ugly" southern side of the neighbour's dwelling. The new building provides for north-facing living areas which will receive good solar access and will maintain an appropriate setback to the northern boundary. The landscape schedule provides for

Item 4

screen planting adjacent to the northern boundary, which will provide a pleasant outlook for the occupants of the proposed building. The northern orientation for the proposed building is appropriate. The proposal is not compromised by the view to the southern face of the neighbouring development.

Proposed site density is inconsistent with the locality

The size and shape of allotments and development in the immediate area is varied and without any distinct character or pattern. SEPP 53 provides for detached dwelling housing on allotments in excess of 600 m². The site has an area of 1221 m² and can support the development as proposed and maintain setbacks and separation in accordance with Council's requirements.

The proposal complies with the numerical criteria of SEPP 53 and the site does not exhibit any significant topographical constraints to the construction of the dwelling. The dwelling is not bulky and the overall proposal at a FSR of 0.36:1 is well within the SEPP 53 control of a maximum of 0.5:1. The dwelling size is not significant in its context and a reduction in footprint is not warranted.

Loss of privacy and outlook

Concern has been raised in regard to loss of privacy and outlook to the eastern property (No 16 Trentino Road). The location of the dwelling in the rear yard of the subject site will introduce some overlooking of the neighbouring sites. This will however, be somewhat mitigated by the retention of existing trees and shrub planting to the perimeter of the site, with supplementary planting introduced through a landscape schedule, endorsed by Council's Landscape Development Officer. The primary living levels are confined to the ground floor and as the development does not incorporate windows to the first floor eastern wall, the degree of overlooking of neighbouring properties is not significant. The landscape schedule for the site incorporates perimeter screen planting to the eastern and northern boundaries of the site and will maintain reasonable levels of privacy for the neighbours.

Overshadowing.

The north-south orientation of the site will result in some additional shadow to the neighbouring (eastern) property (16 Trentino Road). However the additional impact will only be in the later afternoon period, in midwinter, with the neighbour enjoying solar access of at least three hours throughout the morning and early afternoon. The development is not introducing unreasonable shadow effects and is acceptable in this regard.

CONSULTATION - WITHIN COUNCIL:

Urban Design & Heritage Advisor

I have no objection in principle. Some eaves overhang would be appropriate say 300mm. Roof tiles should be red clay. Front fence details should be provided – an open fence would be best, similar to nearby examples – picket or palisade.

Item 4

Comment:

The comments provided by Council's Urban Design & Heritage Advisor are noted.

The eave treatment is not inconsistent with recent developments in the area and, as the design has shading to the primary west-facing first floor windows through the first floor verandah, the lack of eaves is not seen as significant to the design. The first floor bathroom and stairwell windows are unshaded by eaves or hoods; however the retention of the existing significant trees to the western frontage will assist in providing adequate shading to the building.

The application is not currently proposing street frontage fencing, however, dense landscape screen planting is proposed in the Landscape Schedule. The street appearance of the proposal will be consistent with the generally open and landscaped setting of the area

An appropriate condition of consent is recommended which requires the provision of details of the proposed tile roofing which is to be consistent with the predominantly red clay roofing in the vicinity.

Development Control Engineer

This DA is recommended for approval subject to the engineering conditions shown.

Comment:

Appropriate conditions of consent as provided by Council's Development Engineer have been included in the recommendation of this report.

Landscape Development Officer

"The proposal is supported..."

Comment:

Suitable conditions of consent have been prepared by the Landscape Officer and have been included in the recommendation of this report.

PROVISIONS OF RELEVANT LEGISLATION

**The Environmental Planning & Assessment Amendment Act 1979
Section 79C**

1. Environmental Planning Instruments

- Ku-ring-gai Planning Scheme Ordinance, 1979 (KPSO)
- State Environmental Planning Policy No 53 (SEPP 53)
- Development Control Plan 40 – Waste Management
- Development Control Plan 43 – Car Parking

Item 4

This application requires development consent under SEPP 53.

State Environmental Planning Policy No 53

SEPP 53 aims to encourage the provision of housing in metropolitan areas that will:

- (a) *broaden the housing choice of building types and locations available in the housing market, and*
- (b) *make more efficient use of existing infrastructure and services, and*
- (c) *reduce the consumption of land for housing and associated urban development on the urban fringe, and*
- (d) *be of good design.*

Clause 3 of SEPP 53 states that these aims will be achieved by:

- (a) *by establishing planning controls that will provide opportunities for a variety of housing types to be developed in areas the councils of which have not adopted development strategies, and*
- (b) *by setting out design principals that, if followed, will achieve built form that responds to the characteristics of its site and location*
- (c) *by encouraging councils to prepare and adopt residential development strategies an supporting local environment plans and policies that will achieve those aims, and by allowing local government areas to be exempted from the whole or parts of this policy when those strategies are in place.*

Clause 18 of the SEPP permits with Council's consent the creation of a dual occupancy development.

Clauses 19 and 20 specify development standards that must be complied with and a summary of compliance is provided as follows:

Clause	Standard	Proposal	Compliance
Lot size	600sqm	1221 sqm	Yes
Floor-space ratio	0.5:1	0.36:1	Yes
Car parking	4 car spaces	4 car spaces	Yes

Note: As each dwelling is in excess of 150 sqm, two carspaces are provided for each dwelling as required.

Clause 31 states that a consent authority cannot approve a development unless it has taken into consideration a Site Analysis prepared in accordance with SEPP 53. The documentation submitted with the application is satisfactory in this regard and in relation to Schedule 5 of SEPP 53.

Clause 32 states that consent must not be granted unless Council is satisfied that adequate regard has been given to the following design principles:

Item 4

a. Streetscape

The proposed development will present an acceptable bulk and scale, with a well articulated facade to the Ancona Road streetscape. The development will enhance and complement the area with its landscape treatment and a range of compatible materials and finishes.

This area of Trentino & Ancona Roads and their surrounding vicinity exhibits a range of dwelling styles of one and two storey heights. This development will fit comfortably within its context and will make a positive contribution to the area.

Council's Urban Design & Heritage Consultant considers the proposal to be acceptable, subject to the conditions in the recommendation of this report.

b. Visual and Acoustic Privacy

The proposal will provide a relatively private and quiet living environment for the future occupants as well as the adjoining neighbours. The potential exists for limited overlooking of the neighbouring properties, however, this can be managed through additional screen planting to supplement the existing screening to the perimeter of the site, together with additional tree planting.

With regard to visual privacy of the adjoining properties, the proposal will have minimal impact due to the nature of the windows directly facing the neighbouring properties. A north-facing first floor window serves a bedroom, which together with the west-facing first floor verandah, provides a limited view to the north. This verandah and the primary first floor windows will mainly overlook the road, with the result that there will not be any significant loss of privacy to the neighbouring properties. The impact of overlooking on the neighbouring properties is also not considered to be significant as the primary living areas have been confined to the ground floor level.

c. Solar Access and Design for Climate

The two dwellings have good access to the northern sun for the primary living rooms and outdoor living spaces. The aspect and orientation of the dwellings will provide for good amenity for the dwelling's occupants and maintain the existing amenity of the neighbouring property owners.

The submission includes shadow diagrams, which detail the extent of overshadowing to the neighbouring properties. Some additional overshadowing of the rear yards of the neighbouring properties will occur, however, the development will maintain reasonable solar access to the neighbouring properties. The greatest shadow impact is at 3 pm to No 16 Trentino Road. However, the shadowing does not become significant until the afternoon, with the property enjoying good solar access until the later afternoon. The proposal will still enable the adjoining properties to receive reasonable solar access to the main living areas and private open space.

Item 4

d. Stormwater

All stormwater from built-upon areas associated with the development will be collected and drained to Council's street drainage system, via an on-site detention system.

e. Crime Prevention

Both dwellings have individual pedestrian and vehicular access from Trentino Road or Ancona Road and the occupants will be able to observe people approaching their dwelling without the need to open the front door.

f. Accessibility

Safe pedestrian and bicycle links are available to local facilities from the subject property. Convenient access and parking is proposed for future residents of the development and on street parking is available in Trentino Road or Ancona Road.

g. Waste Management

There are suitable spaces available on the property for the storage of waste management containers.

h. Visual Bulk

The building form, setbacks and height are reasonably consistent and compatible with surrounding development. The bulk is lessened by the stepping back of first floor levels from the ground floor and therefore providing a greater setback from the boundary lines of the site.

The building form, setbacks and height of the proposed development are consistent and compatible with surrounding development.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

Ku-ring-gai Planning Scheme Ordinance does not contain any specific controls in relation to dual occupancy developments, however, the aims and objectives of the Ordinance as outlined in Schedule 9 are applicable to this application.

The proposal substantially satisfies the aims and objectives of Schedule 9 of the KPSO and is reasonable in the circumstances.

The design of the proposal is consistent with the scale of development in the vicinity and the maximum height of 7.0m accords with the 8.0m height limit of Clause 46 (2)-height.

Clause 60c (2) of the KPSO applies a maximum built-upon area of 60%. The proposed built-upon area complies at 40%.

Item 4

Development Control Plan 40 - Waste Management

The site is of a sufficient size to accommodate waste storage and recycling facilities associated with the proposed use. In regard to the waste generated from the demolition works and construction activities, appropriate conditions are included in the recommendation of this report.

Development Control Plan 43 - Carparking

Development Control Plan No 43 requires the following provisions:

- Minimum 1 car space per dwelling under 125 sqm.
- Minimum 2 car spaces per dwelling in excess of 125 sqm.

As both of the dwellings exceed 150 sqm, two car spaces for each dwelling are required under the provisions of SEPP 53. The development will meet the requirements of Development Control Plan No 43 - Carparking for each dwelling and will also comply with the SEPP 53 provisions.

Council's Dual Occupancy Development Control Code – 16 April 2003

As Council has adopted the Development Control Code for Dual Occupancies as of 8 April 2003 this proposal has been assessed against the provisions of this policy. In the case of any inconsistency between this code and the provisions of State Environmental Planning Policy No 53, the provisions of State Environmental Planning Policy No 53 shall prevail. The aims and objectives of this Code should be read in conjunction with schedule 9 of the KPSO, "Aims and Objectives for Residential Zones".

A summary of compliance against the policy controls is as follows:

Standard	Requirement	Compliance
Streetscape.	Single storey. Two storey, mixed, building scale, setback, height, landscape, etc.	Yes
Visual character.	Consistent with surrounds when viewed from the street or public domain. Integrates built form and soft landscaping.	Yes
Architectural design.	Reinforce existing streetscape character, roof forms, building height, colour, material, etc.	Yes - subject to conditions incorporated within report.
Roof pitch.	Compatible with streetscape character. Consider heritage, building bulk, overshadowing.	Yes
Fences.	Consider visual character study,	Yes

Item 4

	existing fences, and landscape character.	
Visual privacy.	Use of distance or slope, dwelling layout, screen planting fencing, screening devices, window screens courtyard walls.	Yes
Acoustic privacy.	Minimise noise transmission, relationship to major roads.	Yes
Solar access.	Maximise north facing windows of living rooms and outdoor areas. Consider adjoining areas, overshadowing of public reserve and bushland.	Yes
Energy efficiency.	Designed to reduce energy use, consider thermal properties of construction materials.	Yes
Watercourses and drainage systems.	Retain ecological integrity. 100 year flood, riparian zone, etc.	Yes
Stormwater disposal.	Site detention, reuses, and effect on vegetation.	Yes
On site detention.	Should be considered.	Yes
Water conservation.	Particular plumbing fittings.	Requires specific conditions.
Rainwater tanks.	Should be considered.	Not proposed.
Site and building design.	Crime prevention measures, observation of street and public areas, dwelling entries. Reduce opportunity for illegal access, restrict side and rear access, consider landscaping obstructing observation.	Yes
Lighting.	Provide lighting to paths, etc., parking, building entries. Enhance safety.	Yes
Vehicle access.	Functional, safe, limit hard surface run-off. Reduce conflict with traffic, pedestrians, and safety. Heritage significance, existing trees.	Yes
Car parking.	Numbers, size, location, sympathetic to development.	Yes (see previous planning comments)
Disabled access.	Travel paths, etc.	Yes
Waste storage facilities.	Space for garbage, recyclables, compost. Comply with policy. Ease of access to Council collection point.	Yes

Item 4

Building setbacks.	Regard existing and pattern of street. Setback between occupancies 7 metres. Side and rear to allow for landscaping. Min 1.5m for single storey, 2.0m for two storey.	Yes. Side setbacks: North - Min 5.0m South - Min 7.4m to existing building East elevation: 3.0m West elevation: 5.025m – 6.98m The ground floor setbacks exceed the required minimum setbacks. As the walls are articulated and the extent of the first floor level over is relatively well setback from the boundaries, the ground floor setback is reasonable in this instance
Building form.	Improve and enhance visual aspect. Not to dominate, provide architectural relief and modulation. Avoid a bulky appearance. Allow for soft landscaping. Provide for sunlight, ventilation, daylight both within and outside the site.	Yes (See previous planning comments)
Built upon area.	Comply with standard for development.(40% permitted)	Yes (40% proposed)
Floor space ratio.	Comply with standard for development.(0.5:1 permitted)	Yes (0.36:1 proposed)
Building height.	Maintain relative scale, solar access, minimise overshadowing, adequate separation between building and boundary.	Yes
Building envelope.	Comply with standard for development	Yes
Cut and fill.	Maximum 1800mm.	Yes
Views.	Protect significant views.	Yes
Private open space.	Comply with standard for development	Yes
Protection of bushland.	Consider wildlife corridors and vegetation links, endangered species habitats, bushland and scenic views.	Yes
Heritage.	Consider heritage impacts both within and outside the site.	Yes

Item 4

Site and waste management.	Prepare site management plan.	Imposed via condition.
Pollution control.	Comply with Draft DCP No.47	Yes

The proposal complies with the requirements of Council's Dual Occupancy Development Control Code.

2. Likely Impacts

The proposal is unlikely to result in any significant impact upon the environment, subject to the recommended conditions. The site is not located within an area identified as being environmentally sensitive.

3. Suitability of The Site

The land is of a satisfactory shape and size to accommodate the proposed development and to enable it to integrate with the surrounding development and provide a suitable level of amenity for future occupants. Utility services are available to the site and there are no site hazards such as flooding, landslip, etc. Accordingly, the site is suitable for the proposed development.

4. Any Submissions

The submissions received have been addressed within this report.

5. Public Interest

The application proposes a more intensified use of residential land in an established residential area. The proposal is compatible with the existing environment and its approval is in the wider public interest as envisaged by SEPP 53.

Any other Relevant Matters Considerations Not Already Addressed

There are no other relevant matters for consideration.

CONCLUSION

The proposal seeks to intensify the use of a single residential allotment by constructing a second dwelling comprising a detached dual occupancy development. The design is acceptable in terms of its impact on the privacy and solar access of adjoining properties and will not adversely impact the streetscape.

The proposal meets the objectives and standards of SEPP 53 and the KPSO and the aims to make more efficient use of the land, as envisaged by SEPP 53.

The proposal is compatible with the bulk and scale of surrounding dwellings. The application has been considered in accordance with the heads of consideration as contained within the

Item 4

Environmental Planning and Assessment Act 1979 and there are no matters for concern that would warrant refusal of this application for dual occupancy. The application is recommended for approval, subject to conditions.

RECOMMENDATION

The Development Application No 1190/03 for the construction of a detached Dual Occupancy on Lot 3, DP 13703, No 14 Trentino Road, Turramurra be approved subject to the following conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No 1190/03 and Development Application plans prepared by Huxley Homes, Job No 22188, Issue A, dated 25 July 2003 and lodged with Council on 17 September 2003 and the Landscape Plan prepared by Sally Bourne Landscapes, dated 2 September 2003, Drawing No 75/03.
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 works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.
5. The new dwelling 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.
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. The works shall be erected in conformity with the approved plans and specifications and in accordance with the conditions of approval set out herein.
8. 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.
9. 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.

Item 4

10. 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.

11. 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.
12. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
13. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
14. 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.
15. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
16. 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.

17. If the work involved in the erection or demolition of a building:
- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

Item 4

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

- 18. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.

- 19. Separate written approval under Council's Tree Preservation Order is required prior to the of the following trees within the subject property:

Tree/Location

Eucalyptus saligna (Bluegum)
Adjacent to western site boundary/Ancona Rd site frontage

- 20. Landscape works shall be carried out in accordance with Landscape Drawing No 75/03 prepared by Sally Bourne Landscapes and dated 2nd September 2003 submitted with the Development Application. The landscape works shall be completed prior to issue of the final Certificate of Compliance and be maintained in a satisfactory condition at all times.

- 21. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

- 22. No tree roots of 50mm 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

Eucalyptus saligna (Bluegum) 7.0m
Adjacent to western site boundary/Ancona Rd frontage

- 23. 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.

Item 4

24. On completion of the LANDSCAPE WORKS/TREE PLANTING OR SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
25. 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.
26. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the street drainage system. Drainage line connections to the kerb shall conform and comply with the detailed requirements contained within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe"). Drainage crossings of the footway area shall be a single 100mm diameter sewer grade uPVC pipe with kerb adaptor, where the total design flows from the property are within the capacity of such a pipe, otherwise suitably sized galvanised RHS shall be used. To ensure compliance with this condition, a Certificate from the installer is to be submitted to the Principal Certifying Authority prior to issue of the Final Compliance Certificate.
27. To maintain capacity of the Public drainage system, an On-site Stormwater Detention System must be provided in accordance with Council's Stormwater Management Manual. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

The system is to be cleaned regularly and maintained to the satisfaction of Council.

NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.

NOTE 4: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.

Item 4

NOTE 5: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings. This is available from Council upon request.

28. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of AUS-SPEC.

Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Aust 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.

29. 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 minimise and/or 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, with all silt being removed from the site, or to an approved location within the site.
30. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please 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.
31. Vehicular crossing to be a minimum of 3.7 meters wide in accordance with Council's Specification.
32. To ensure the development contributes to water conservation in accordance with Council's Dual Occupancy Development Control Code the following water conservation devices shall be provided:
- a. Maximum 6/3 litre dual flush cisterns.
 - b. Shower heads with reduced water flow devices.
 - c. Any irrigation systems shall incorporate drip rather than spray mechanisms.

Item 4

33. The proposed external finish schedule shall incorporate a roof tile selection, which is predominantly a red clay roofing tile which will be consistent with the general roofing pattern in the vicinity.

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

34. 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.
35. 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).
36. 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.
37. The payment of a contribution 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 ONE ADDITIONAL DWELLINGS IS \$12,459.72 if paid by 30 June 2003. Payments after this date shall be in accordance with the schedule of Section 94 charges as at the date of payment. The schedule

Item 4

of charges may vary in accordance with any CPI indexing of Council's Section 94 Contributions Plan. Rates are usually adjusted annually as at 1 July.

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 20 December 2000, calculated for additional person as follows:

1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New child care centre (including land acquisition and construction of facility)	\$252.13
4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Acquisition of Open Space - Turrumurra	\$1996.00
8.	Koola Park upgrade and reconfiguration	\$143.09
9.	North Turrumurra Sportsfield development	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

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)	1.25 persons
Medium dwelling (75 - under 110 sqm)	1.75 persons
Large dwelling (110 – under 150sqm)	2.75 persons
Very Large dwelling (150sqm or more)	3.5 persons
New Lot	3.5 persons

38. A cash bond/bank guarantee of \$2 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of the this bond will be refunded upon issue of the final Certificate of Compliance, where landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after issue of the building certificate, where landscape works has 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.

Item 4

39. A cash bond/bank guarantee of \$5 000.00 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 final Certificate of Compliance, 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

Eucalyptus saligna (Bluegum)

Adjacent to western site boundary/Ancona Rd frontage of proposed dwelling

Corymbia citriodora (Lemon scented gum)

Adjacent to western site boundary/Ancona Rd frontage of proposed dwelling

40. DRIVEWAYS AND FOOTPATHS: Approval of this Development Application is for works wholly within the property and 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.

Footpath and driveway levels at the property boundary/road alignment are to be obtained from Council prior to release of the Construction Certificate. All footpaths and driveways are to be constructed strictly in accordance with Council's specifications "Construction of Gutter Crossings and Footpath Crossings". This is issued with alignment levels after completing the necessary application form at Customer Services and payment of the appropriate fee.

The grading of such footpaths or driveways outside the property are to 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 this may be affected by the alignment levels fixed by Council.

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 (if applicable) of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

41. Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention and all supporting calculations are to be prepared by a suitably qualified

Item 4

and experienced civil/hydraulic engineer in accordance with Council requirements. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

42. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.

NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

43. 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 minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities are to be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps are to be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
44. 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 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
Eucalyptus saligna (Bluegum)	2.0m
Adjacent to western site boundary/Ancona Rd site frontage of proposed dwelling	

Item 4

- 45 To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s excluding that area of the proposed driveway shall be fenced off for the specified radius from the trunk 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 From Trunk
Corymbia citriodora (Lemon scented gum) Adjacent to western site boundary/Ancona Rd site frontage	4.0m

46. 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.
47. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. 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

48. For any of the legal instruments created as a requirement of this determination, Ku-ring-gai Council is to be named as the only authority empowered to release, vary or modify such instruments.
49. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to issue of the Final Compliance Certificate or issue of a Subdivision Certificate. 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" (available from Council on request) 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.

50. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to issue of the Final Compliance Certificate or issue of a Subdivision Certificate.

Item 4

51. Prior to issue of the Final Compliance Certificate or issue of a Subdivision Certificate, any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site must be fully repaired to the satisfaction of Council's Development Engineer and at no cost to Council.
52. The Section 73 Sydney Water compliance certificate must be obtained and submitted prior to issue of the Final Compliance Certificate or issue of the Subdivision Certificate.
53. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to issue of the Final Compliance Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must to also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

- Compatibility of the drainage system with the approved plans
- The soundness of the structure.
- The adequacy of the outlet control mechanism to achieve the discharge as specified.
- The capacity of the detention storage as specified.
- The size of the orifice or pipe control fitted.
- The maximum depth of storage over the outlet control.
- The adequate provision of a debris screen.
- The inclusion of weepholes in the base of the outlet control pit.
- The provision of an emergency overflow path.
- All enclosed floor areas, including habitable and garage floor levels, being safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The Works-as-Executed drawing(s) are to include all relevant levels including:

- invert levels
- surface or pavement levels
- floor levels including adjacent property floor levels
- maximum water surface level to be achieved in the storage zone
- dimensions of basin(s), tank(s), pit(s), etc.
- location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
- storage volume(s) provided and supporting calculations
size of orifice(s)

54. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced civil/hydraulic engineer, prior to issue of the Final Compliance Certificate, that:

Item 4

- a. The works were carried out and completed in accordance with the approved plans.
- b. 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.

A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier Prior to issue of the Final Compliance Certificate.

BUILDING CONDITIONS

Note: If Council is the Principle Certifying Authority, the following building conditions shall form part of this consent.

55. 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. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
 - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
 - d. Retaining walls and associated drainage.
 - e. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

56. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
 - a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any pier holes and/or foundation material.
 - c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
 - d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - e. Any stormwater drainage works prior to covering.
 - f. The completed landscape works in accordance with the approved plans.
 - g. The completed structure prior to occupation.

The required inspection fees (which also covers the issue of the Compliance Certificate) are to be paid to the Council before the issue of a Construction Certificate for this development.

Item 4

If inspections are to be carried out by Council, 24 hours notice is required by Council's Department of Environmental and Regulatory Services, by telephoning Customer Service on 9424 0888 during business hours (8.30am to 4.30pm) or by facsimile on 9418 1117.

Note: Inspections of work which is found to be defective or not ready will attract a reinspection fee. Please cancel bookings which will not be ready for inspection.

57. 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.
58. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

Risers:	Maximum 190mm	Minimum 115mm
Going (Treads):	Maximum 355mm	Minimum 240mm

Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.

59. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
 - b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
 - ii. are connected to the mains and have a standby power supply; and
 - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

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.

60. 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.

Item 4

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.

61. The following are required details and must be submitted to the Council on completion of the works. 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. Wet area waterproofing details complying with the Building Code of Australia.
 - b. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code
 - c. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

V Milligan
Consultant

R Josey
Acting Team Leader,
Wahroonga Ward

M Miocic
Director, Environment &
Regulatory Services

Attachments: **Location Sketch**
 Development Plans

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	25 BAYSWATER ROAD, LINDFIELD - DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF DETACHED DUAL OCCUPANCY
WARD:	Roseville
DEVELOPMENT APPLICATION N^o:	1063/02
SUBJECT LAND:	25 Bayswater Road, Lindfield
APPLICANT:	In & Out Pty Ltd
OWNER:	V M and T D Luong
DESIGNER:	In & Out Pty Ltd
PRESENT USE:	Residential
ZONING:	Residential 2A
HERITAGE:	No - Contributory Item under Godden Mackay Logan Report and within recommended West Roseville Urban Conservation Area
PERMISSIBLE UNDER:	State Environmental Planning Policy No 53
COUNCIL'S POLICIES APPLICABLE:	Dual Occupancy DCP; DCP 43 - Car Parking, DCP 40 Waste Management
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy No 53
COMPLIANCE WITH GOVERNMENT POLICIES:	No
DATE LODGED:	30 July 2002
40 DAY PERIOD EXPIRED:	8 September 2002
PROPOSAL:	Demolition of existing structures and construction of Detached Dual Occupancy
RECOMMENDATION:	Refusal

Item 5

DEVELOPMENT APPLICATION N^o 1063/02
PREMISES: 25 BAYSWATER ROAD, LINDFIELD
PROPOSAL: DEMOLITION OF EXISTING STRUCTURES
AND CONSTRUCTION OF DETACHED
DUAL OCCUPANCY
APPLICANT: IN & OUT PTY LTD
OWNER: V M AND T D LUONG
DESIGNER: IN & OUT PTY LTD

PURPOSE FOR REPORT

Dual Occupancy dwellings cannot be approved under delegation. Council sought a review of the application by an independent consultant by resolution of 18 November 2003. This report comprises this response to that Council resolution.

BACKGROUND

This assessment report is prepared by Anthony Rowan Pty Ltd. Anthony Rowan, the author of this report, is a qualified town planner as well as being a qualified heritage consultant, with some 18 years experience in both related professional fields. He is also registered as a heritage consultant with the NSW Heritage Office.

The submissions to Council from adjoining property owners have also been considered as part of this independent review, including the Statement of Outcomes associated with a mediation held on 21 August 2003.

Other documentation considered includes the Godden Mackay Logan report in relation to the West Roseville Urban Conservation Area, October 2003 in so far as it relates to the subject site and surrounding area.

As sought by the Council resolution, this review of the application comprises a full re-assessment of the application, including matters of streetscape and design where a detailed consideration has been prepared. It does not seek to replicate the assessment of the Council officer, or replicate internal referral comments, other than from a view as to whether the conclusions reached therein are sound.

The application was originally advertised on 1 August 2002. There were 25 objections. Amended plans were re-advertised on 10 March 2003. Three (3) submissions were made to these plans.

An assessment report was prepared by Council officers in relation to the subject proposal, dated 26 May 2003, with a recommendation of approval that was considered at the meeting of the Council of 24 June 2003. The application was deferred by Council for the mediation of outstanding issues raised by objectors and for the preparation of an independent heritage report.

A mediation was held on 21 August 2003 attended by the applicant and interested objectors. A Statement of Outcomes was prepared that indicated minimal agreement on issues. The plans were amended by the applicant in light of the mediation. The outcomes of the mediation, and the revised

Item 5

plans were incorporated within a report prepared for Council by its officers for the meeting of 18 November 2003, with a recommendation for approval.

The Council resolved as follows:

That the matter be deferred for an independent consultant to review the application especially regarding streetscape and design in regard to the proposed Urban Conservation Area.

The amended plans, presented to the meeting of 18 November 2003 form the basis of this independent assessment.

EXECUTIVE SUMMARY

- Dual occupancy development (detached).
- Twenty five submissions (August 2002); 3 submissions (March 2003).
- Does not comply with either State Policy or Council Dual Occupancy DCP.
- Impact upon streetscape and character of area; deficient internal amenity, with particular regard to privacy and shadow/ solar access; and impact upon neighbouring property in terms of scale, bulk, privacy loss and overshadowing.
- Recommended for refusal.

THE SITE

Zoning:	Residential 2A
Visual Character Study Category:	1920 - 1945
Lot Number:	17 Section D
DP Number:	4349
Area:	809.3m ²
Side of Street:	North west
Cross Fall:	South east to north west
Stormwater Drainage:	To the street
Heritage Affected:	No - Contributory Item under Godden Mackay Logan Report and within recommended West Roseville Urban Conservation Area
Required Setback:	Predominant setback to Bayswater Road and Ortona Street.
Frontage:	20.115 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No
Section 94 Contribution	Yes

SITE DESCRIPTION

Item 5

The site is a corner allotment, at the intersection of Bayswater Road and the termination of Ortona Road. Bayswater Road is generally level, being located above the level of the subject site. Properties on the opposite side of the road are elevated above the roadway. Ortona Road falls away from its intersection with Bayswater Road and the rear part of the site is lower than the frontage of the site.

The existing dwelling on the site is generally aligned with the predominant building line of dwellings along the frontage of Bayswater Road. The dwelling is a single storey structure that is set down into its site due to the topographical levels of Bayswater Road. The side (eastern) elevation facing Ortona Road is some 6.1m from the side boundary. A car port/ garage structure, located to the rear (north) with access to Ortona Road, achieves a similar setback from the eastern side boundary.

The style of the existing dwelling is typical of that development which occurred following the initial subdivision of the locality, being circa 1915-1925, or thereabouts. The dwelling comprises a tiled pitch roof, with gable features. The external walls are of brickwork construction with cement render finishes.

The perimeter of the site is defined by a low plinth wall, with a timber close-boarded fence along the Ortona Road side boundary. Two palm trees are located in the front setback area of the site, appearing prominently in the streetscape of Bayswater Road.

SURROUNDING AREA

North

Located immediately north of the subject site is No 14 Ortona Road. No 14 is a contemporary dwelling set back from the street frontage by some 7.4 to 10.2m. The site is located below the level of the road, with a steep driveway providing access to a metal car port. The land within the site of No.12 rises up to Westbourne Road. No 10 Ortona Road, located on the opposite corner of Westbourne Road, comprises a two storey rear extension visible within the streetscape due to its corner location.

East

The roadway of Ortona Road extends along the eastern (side) boundary of the site. The road falls from Bayswater Road and then rises again to Westbourne Road, such that the rear part of the subject site is located almost at the base of the trough in the road. The roadway comprises a deep grass verge on both sides.

Dwellings located on the opposite side of the road front onto either Bayswater Road or Westbourne Road, with the land opposite also being in the trough of the roadway. The rear extension of No 20 Westbourne Road is clearly visible to the streetscape of Ortona Road, though well set back. The dwelling increases from single storey to two storey as the land within the site falls from Westbourne Road. Further east of No 20, is another two storey rear extension visible in the context of Ortona Road. No 23 Bayswater Road is a single storey dwelling.

Item 5

South

Bayswater Road is located south, elevated above the level of the subject land. The period dwellings opposite are partially elevated above the level of the roadway and have well-established landscaped front setback gardens in the main.

West

Immediately west of the subject site is No 27 Bayswater Road, a single storey period dwelling with a similar setback to the roadway as the dwelling on the subject site, with a landscaped garden therein.

Context

The site is located in an area of Lindfield that comprises freestanding dwellings located within garden settings, with established building alignments to the road. Though the majority are single storey in height, there are a number of two storey dwellings, both older style and contemporary, in the immediate context of the site.

The majority of houses in the locality appear to have been constructed prior to 1950, with a mix of styles evident, though there have been some contemporary two storey infill dwellings, particularly further west of the subject site (some of which are still under construction).

There is no single overriding period character to dwellings within Bayswater Road, though there are a number of common characteristics. These are:

- single and two storey height
- established building lines to street frontage
- landscape garden settings to street frontage
- tiled pitched roofs of a traditional style, comprising hips and gables
- masonry walling, comprising face brickwork (painted and unpainted) and render finishes
- vertical emphasis to window openings, comprising multiple modules in larger openings or single narrow modules

THE PROPOSAL

The development proposal comprises the demolition of the existing dwelling on the subject site and removal of the existing garage to the rear. A number of trees are to be removed and/ or relocated within the site.

The new development comprises a detached dual occupancy. The dwelling at the front (south) of the site (House 1) is oriented to Bayswater Road, maintaining a similar building line on that frontage to the existing dwelling currently on the site. House 2 is located at the rear (north) of the site, with its orientation being to Ortona Road, with vehicular access thereto.

The area set aside for House 1 is almost twice the area for House 2, with a depth of some 25.2m from the Bayswater Road frontage, compared to about 14.8m for that of House 2.

Item 5

Layout

House 1

House 1 is two storeys, with the upper floor set back from the front alignment of the ground floor accommodation on both street frontages. It is a 3 or 4 bedroom dwelling (sitting room easily converted to additional bedroom given separation from main living area).

Accommodation comprises a double garage with access directly to Bayswater Road, the slab of which is elevated about 0.85-1.0m above natural ground. The living accommodation comprises a split level arrangement, with the entry and Sitting Room at RL19.05 (similar to the level of the footway), about 0.6m above natural ground.

The living/dining room is at RL17.7, with full width glazing to a rear garden/ courtyard area located between the two dwellings. The side setback to Ortona Road for the single storey element is 3.1m. The first floor accommodation is located wholly over the living/ dining room at RL21.0, and has a setback of 5.1m to Ortona Road.

The garden/courtyard of House 1 extends to the southern wall of House 2. The western side of the garden is at RL17.6, about 1m above existing ground level at the western side boundary of the site. This area of the garden comprises a paved terrace area, with an overhead pergola type structure connecting between the two dwellings, and contained by a 1m wide planted strip along the western boundary. The landscape plan indicates provision of camellia screen planting along this boundary.

One of the date palms located on the Bayswater Road frontage is relocated further east by 2m, to facilitate driveway access to the proposed garage. It is not clear if the date palm in the south-east corner of the site is being retained, though the absence of separate colouration on the landscape plan indicates its likely removal.

House 2

House 2 is a 3/4 bedroom dwelling, with accommodation provided over two storeys.

Located in front of the dwelling, some 3.8m from the Ortona Road frontage, is a double garage, generally at or slightly above existing ground level. Above the garage are two bedrooms, with Bedroom 2 maintaining a similar setback to Ortona Road. The main living accommodation is marginally below the entry level and proximate to existing ground level.

Some levelling of the garden appears to be proposed, with the ground in the north-west corner of the site raised by about 0.6m at the boundary. A terrace area is provided in the western setback (2.8m), covered by a pergola extending 0.9m from the western boundary. The ground level of this space is about 1.4m below the garden/ terrace level of House 1. The largest area of private open space for House 2 is provided in the front setback of the site, complemented by lawn areas of about 3.6-3.8m width around the living/ dining room.

A Liquid Amber tree located in the north-western corner of the site is shown to be removed.

Item 5

External Appearance

House 1 will generally appear as a single storey dwelling when viewed from Bayswater Road, albeit more elevated than the existing dwelling. The dwelling has a traditional style hipped roof and a gable roof feature to the garage. The sitting room comprises a flat roof element typical of period sunrooms. The garage doors comprise painted solid timber modules, with render masonry to the main façade. The terracotta tiled roof has a traditional pitch, with deep eaves. The windows comprise vertical modules within multi-pane openings, though the finishes and façade treatments reflect a contemporary influence.

The northern elevation of House 1 and that to the east, continue this theme. The single storey wing of the dwelling has a pitched roof over, screening the first floor masonry wall above. A first floor balcony is generally contained by the roof overhang, with windows retaining a traditional vertical emphasis, even where there are multiple modules. The elevations are face brick or rendered masonry. The roof eaves are located at or close to the first floor window heads.

House 2 presents a less traditional character, albeit still employing three small-scale, separate pitched roof elements, connected by a flat roof feature. The roof tile is to be dark grey, though is elevated above the first floor windows by about 0.5-0.6m, with only the guttering extending beyond the wall line below. The walls are face brick and/ or rendered, with most windows expressing a vertical emphasis. The garage door appears to be a panel-lift module, with a more horizontal window serving Bedroom 2 compared to other windows within the dwelling.

Height

House 1

The height of the dwelling, as defined by the Planning Scheme Ordinance, is 6.4m in height, measured from the ceiling of the first floor level (RL23.6) over the lowest area of the land below the existing dwelling, being about RL17.2 (below Bedroom 3).

House 2

The height of the dwelling, as defined by the Planning Scheme Ordinance, is 5.7m, measured from the ceiling of the first floor level (RL21.9) over the lowest area of the land below the existing dwelling, being about RL16.2 (below study).

Excavation/ Cut and Fill

The area around House 1 is levelled within the development, with fill being up to 1m above existing ground level for the entry driveway and also for the courtyard terrace close to the western boundary of the site. There is marginal excavation along the eastern side of the site up to about 0.4m.

House 2 involves fill to the perimeter private open space, up to about 0.6m along the northern/western boundary, and around the entry area of the dwelling. There is only marginal excavation along the southern edge of the dwelling.

Gross Floor Area

Item 5

The gross floor area of the development is defined under SEPP53 for Dual Occupancy development. Though the drawings are not fully dimensioned, scaling from the plan concludes that the floor space is as follows:

House 1	198.82m ²
House 2	196.68m ²
<i>Total</i>	<i>395.5m²</i>

For a site with an area of 809.3m², this equates to 0.49:1 FSR.

Built-upon area

The maximum built-upon area of the development, including the dwellings, pergolas, terraces, recreational areas (paved patios) and driveways/ access paths comprise 392.08m². This is some 48.4% of the subject site.

Access and Parking

The development comprises two parking spaces per dwelling, ie, a total of 4 spaces.

Stormwater

The stormwater plan indicates the provision of two OSD tanks. That for House 2 is adjacent to the entry driveway whilst that for House 1 appears to be located below grassed areas of the site. It may be that the lawn is intended to serve the purpose of an OSD tank with natural filtration, though a pit is identified in one corner that indicates otherwise.

CONSULTATION - COMMUNITY

In accordance with Council's policy, adjoining owners were given notice of the application in August 2002 and, as amended, in March 2003. The following persons lodged submissions:

L Williams	10 Westbourne Road	LINDFIELD NSW 2070
A & K Bolger	14 Ortona Road	LINDFIELD NSW 2070
Mr A Bolger	14 Ortona Road	LINDFIELD NSW 2070
S & S James	14 Thomas Street	ROSEVILLE NSW 2069
F A & D C Hynes	15 Bayswater Road	LINDFIELD NSW 2070
D F Castle	16 Bayswater Road	LINDFIELD NSW 2070
J Weiher	17 Bayswater Road	LINDFIELD NSW 2070
L Chartres	2 Westbourne Road	LINDFIELD NSW 2070
J J & J Breen	20 Westbourne Avenue	LINDFIELD NSW 2070
N S & M Shirwaiker	21 Bayswater Road	LINDFIELD NSW 2070
L Langford & J Moreland	25 Bayswater Road	LINDFIELD NSW 2070
H & B Trollope	26 Bays water Road	LINDFIELD NSW 2070
C & T Fletcher	30 Thomas Avenue	ROSEVILLE NSW 2069

Item 5

P & P Hood	30 Westbourne Road	LINDFIELD NSW 2070
K Senior	31 Bayswater Avenue	LINDFIELD NSW 2070
L Longfoot	32 Thomas Avenue	ROSEVILLE NSW 2069
M Wakely	33 Bayswater Road	LINDFIELD NSW 2070
J A & S H Gale	38 Bayswater Road	LINDFIELD NSW 2070
C & C de Jong	39 Thomas Avenue	ROSEVILLE NSW 2069
R D & R I Wood	42 Bayswater Road	LINDFIELD NSW 2070
J & V Mack	9 Bayswater Road	LINDFIELD NSW 2070
N Deans	9 Bayswater Road	LINDFIELD NSW 2070
D A Littlemore	PO BOX 919	NEUTRAL BAY NSW 2089
Ms. S Zemancheff	16 Thomas Avenue	ROSEVILLE NSW 2069
T. J. Hargreaves	12 Ortona Road	LINDFIELD NSW 2070
D. Rosewell	18 Bayswater Road	LINDFIELD NSW 2070

The application was the subject of a mediation between the applicant and surrounding residents, with minutes produced in the form of a Statement of Outcomes, with further amended plans, prepared by the applicant to address some of those concerns.

These amended plans formed the basis of this assessment.

The following issues were raised:

The development is out of character with the locality/ streetscape.

Refer to the comments in the body of the report. It is considered that the footprint arrangement of Dwelling 2, at the rear of the site, will diminish the character of the locality due to its proximity with both its new 'frontage' to Ortona Road and also its new 'rear' boundary with No 27 Bayswater Road. The site will appear cramped and overdeveloped, with minimal provision of landscaping or perimeter planting in the front or rear setbacks to soften the appearance of Dwelling 2, or its prominence to surrounding land and the streetscape.

The bulk, scale and density of the development is too high.(19)

Dwelling 2 in particular will appear bulky and cramped on its site, with minimal space provided for landscaping in the front or rear setback. The arrangement of the dwelling will be overbearing to the streetscape and the outlook within No 27 Bayswater Road, due to the two storey appearance of the structure. Dwelling 1 is also elevated above existing site levels and undermines the amenity of dwellings within the site, neighbouring land and the streetscape of Bayswater Road.

Additional traffic will be created.(11)

Council's Development Control Engineer has not raised any issues related to traffic. The additional dwelling on the site will not add significantly to the traffic conditions of the locality. It is agreed that the proximity of the garage to Dwelling 2 may result in vehicles on the hardstand obstructing the footway, reflecting the deficient 'front' setback provided to this dwelling within the context of Ortona Road.

Item 5

Loss of trees, including especially the Liquid Amber on the northern boundary.(10)

The development does appear to show removal of one of the Date Palms at the front of the site that is not impacted upon by the layout of House 1 or its perimeter facilities. This tree should be retained, being a contributory feature of the streetscape. The second Date Palm is being relocated, though would need to be protected by imposition of a tree bond to ensure successful re-establishment within the site.

Council's Landscape Development Officer has indicated that the Liquid Amber is to be removed due to poor health and condition (see comments in body of report). Replanting of native tree species would be required.

The built upon area is excessive.(9) Imbalance of hard and soft surfaces.

The built-upon area (48.4%) does not exceed Council's controls (60%) under the Ku-ring-gai Planning Scheme Ordinance (KPSO) for a dwelling house. Though it is stated in the original assessment report that this control does not apply to dual occupancy developments as they are separately defined under the KPSO, it is considered that the development comprises two dwellings that are not a 'flat', and as such meet the definition of a dwelling house "for use as a dwelling for a single family" such that Clause 60C is applicable.

However, it is agreed that the distribution of landscaped area within the site is disproportionate, primarily due to House 2 (of similar floor space to House 1) occupying only about a third of the site, such that its proximity to the 'front' boundary (Ortona Street) and 'rear' boundary (side boundary with No 27 Bayswater Road) provides limited opportunity for landscaping that is characteristic of the locality.

Unsympathetic to the green/ landscaped environment and the streetscape, with dominant garage/ large building.(9)

Agreed. Refer to the comments in the body of the report.

Height and scale to side boundary to No 27 Bayswater Road is excessive, with loss of sunlight and privacy.(1)

Agreed. Refer to the comments in the body of the report.

Small boundary setbacks.(6)

Agreed. Refer to the comments in the body of the report.

Lack of open space at the rear.(6)

Agreed. Refer to the comments in the body of the report.

Overshadowing.(5)

Item 5

Agreed, with impacts over neighbouring land to the west, and also Dwelling 1 within the development. Refer to the comments in the body of the report.

Unsafe driveway.(4)

Council's Development Control Engineer has not raised any safety issue related to the proposed driveways. However, the elevation of Dwelling 1 raises amenity issues associated with land to the west and the limited length of driveway to Dwelling 2 could result in parked vehicles on the hardstand obstructing the footway.

Building material not in keeping with surrounding dwellings.(4)

Agreed. Refer to the comments in the body of the report. Concerns about Dwelling 1 could be addressed by lowering the building by about 0.5m. Other than the concerns about the overall volume and positioning of Dwelling 2 within the site, minor issues associated with window design, eaves and roof form are matters that could be addressed through minor amendments.

Will create a precedent.(3)

Given that there are no other similar developments in the area, there is a likelihood that future developments will look to this proposal as a reflection of Council's controls and how a dual occupancy should be accommodated having regard to matters of streetscape and neighbour amenity. The failure, particularly of Dwelling , to maintain the street alignment of Ortona Road or provide an appropriate rear setback from the western boundary and having regard to the deficient relationship with Dwelling 1 are matters of concern, reflected in non-compliance with relevant controls.

As such, whilst precedent is not an issue in itself, determination of this application would establish a benchmark for like developments against which some future consistency in approach would be expected. Thus, to adopt a similar approach for other sites could be viewed as undermining the intent of SEPP53 and the Dual Occupancy DCP, the latter recently adopted by the Council.

Will create an excessive load on infrastructure.(3)

Use of the site for dual occupancy development is permissible, such that the additional density of development achieved is to be anticipated by the Council.

Overlooking.(3)

Agreed. Refer to the comments in the body of the report.

The building will be very dominant on the corner site.(2)

Agreed. Refer to the comments in the body of the report.

Additional noise will be generated.(2)

Item 5

Noise generation from the proposal is not expected to be significant and within the bounds of normal residential development. Council has other methods of noise control should any nuisance occur under the Protection of the Environment Operations Act.

Development will encourage transient, investment style community.

Dual occupancy development is permissible on the subject zone. There is no restriction on ownership.

Lack of adequate on site parking.

The proposal provides parking in accord with Council's Car Parking Code. See comment about amenity impact from driveways.

Poor access to public transport.

There is no requirement for dual occupancy sites to be close to public transport. The use of the land for this purpose is permissible.

Does not appear as a single dwelling and has two driveways.

The driveways face different streets and are considered acceptable. It is preferable that the two buildings address each street separately.

The development requires a Part 3A Permit from the Department of Infrastructure, Planning and Natural Resources (DIPNR) as it is within 40 metres of a natural watercourse.

DIPNR do not require developments within 40 metres of a piped drainage system to be referred for comment or conditions.

CONSULTATION - WITHIN COUNCIL:

The following comprise comments provided by officer's of the Council in relation to this application, addressing matters that require technical consideration beyond the expertise of the author. Consideration of urban design and heritage matters are particularly detailed in the body of the report as part of the re-assessment of the application

Landscape Development Officer

Tree Removal - House No 1

No trees require removal for the proposed dwelling however, a large palm is proposed to be transplanted for the proposed driveway. The Phoenix canariensis (Canary Island Palm) is 8 metres high in good condition and is one of two palms located along the Bayswater Street frontage. Generally palms can be transplanted successfully however, it needs to be carried out by a specialist in the field.

Item 5

No objection is raised to the relocation of the subject palm provide it is carried out by an experienced tree transplanter. Conditions will be imposed to ensure the palm survives.

Tree Removal - House No 2

A mature Liquidambar styraciflua (Liquidambar) located on the western boundary will be located within 3 metres of the proposed dwelling and is to be removed. The tree has been measured with a height pole which was extended to 7.5 metres and it was estimated that the tree's height was slightly less than 15 metres. Several branches have included bark in particular where the main trunk splits into 2 co-dominant stems about half way up the tree. These inclusions are unstable and can cause limb failure as the length and weight of the branches increases.

For the above reasons it is considered appropriate to remove the subject tree. Replanting of native tree species will be required.

Landscaping Requirements

A landscape plan was not sighted for the subject property.

The property can support the required number of trees and there appears to be sufficient setbacks for screen planting.

The Landscape Section will support the application subject to conditions.

Development Engineer

The concept stormwater plan prepared by Neilly Davies & Partners P/L, Drawing No. OSD 01, dated 26/7/03 is considered unsatisfactory. However, the applicant has demonstrated in principle that stormwater disposal to the street is feasible, no further objections are raised subject to conditions.

PROVISIONS OF RELEVANT LEGISLATION

**The Environmental Planning & Assessment Amendment Act 1979
Section 79C**

1. Environmental Planning Instruments

The following planning controls are applicable.

SEPP 53 Metropolitan Residential Development

It is noted that SEPP53 is only overriding to Council's KPSO in relation to matters 'to the extent of the inconsistency'. This is to be assumed to apply also to any DCP given that such documents cannot override an environmental planning instrument.

Clause 9 is not applicable in relation to development within a heritage conservation area, given the status of the Godden Mackay report addressing the potential for an urban conservation area to include this area.

Item 5

The comments of the officer's report relating to Clauses 3 and 18 are agreed with, with the development meeting the aims of the SEPP and being permissible with Council consent.

Clause 17 permits development for two dwelling houses on one allotment. Clause 21 prevents subdivision, and it would be necessary for any approval to ensure that future subdivision were prohibited by condition, with the dual occupancy to be registered on the title of the land. The Council's planning instrument, KPSO, does not permit allotments of the size proposed that would allow such a restriction to be overridden in accordance with Clause 21(2).

Under Clause 19, the development satisfies the minimum allotment provisions, as confirmed in the officer's report and also the floor space controls, though scaled calculations indicate 0.49:1 FSR for the site, still below the maximum permissible 0.5:1 FSR. The two dwellings exceed 150m², such that two parking spaces are required by Clause 20. Each dwelling has two spaces.

Clause 30 identifies matters to be considered, under Clauses 31 and 32. I have not been provided with a site analysis plan, prepared in accordance with Schedule 5 of the SEPP, though the officer's report, in relation to Clause 31, indicates that such a plan has been provided and satisfies the requirements of the SEPP.

The matters identified under Clause 32 are addressed fully in this review, in the absence of detailed comment within the officer's report that can be otherwise referred to.

(a) Character and Identity

"the proposed development should.....contribute to an attractive residential environment with clear character and identity"

Demolition of Existing Dwelling

The existing dwelling is characteristic of the area. The Godden Mackay report identifies the dwelling as a contributory item. It is not a detracting element in the streetscape. Though reflecting development associated with the initial subdivision of the area, the dwelling cannot be said to be an outstanding building compared to other larger, more established dwellings in the street, such that would warrant its retention.

The dwelling is also not one of those identified in the Godden Mackay assessment of significance as being "on the wider allotments" where the dwellings on those are more substantial and distinctive in defining the architectural character of the locality.

The dwelling has been subject to alteration and is of a modest appearance and character. Removal of the dwelling can be accepted where its replacement retains the inherent attributes of the wider locality, in anticipation of its possible identification as a heritage conservation area. This includes siting, presentation, scale and setting of the site. These are matters addressed below.

House 1

Item 5

The elevation of House 1 to the level with the footway of Bayswater Road results in land filling of the front setback and also between the two proposed dwellings, in a manner that is uncharacteristic of the locality. The dwelling should follow the fall in the land to reflect the character of the area, such that the building should be lowered on the site by about 0.6m, reducing the need to fill the site around House 1. It would also reduce the prominence of the garage entry door in the streetscape, a feature not typical of front elevations to dwellings in the locality. It would also assist in addressing potential privacy and amenity concerns along the western boundary with the neighbouring land and also associated with House 2.

The appearance and presentation of House 1 is appropriate to the context of the locality in the main. The general detailing, presentation and orientation of the dwelling is appropriate. Though the eastern wing of the dwelling extends to within 3.1m of the side boundary, it is of single storey height and has a role in shielding the side wall of the upper floor, the latter set back to the alignment of the existing cottage. Lowering the building the recommended 0.6m would reduce the prominence of the face walls and enable planting along the side setback that is more effective.

Loss of the Date Palm in the south-east corner of the site is deemed unnecessary, with this specimen being a visually prominent feature of the streetscape. Its location does not compromise the development of House 1 or future use of the front setback area. The tree should be retained.

House 2

The location of House 2 within its site and its proximity to the street frontage of Ortona Road is out of character with the pattern of development in the locality. The building does not correspond over both levels with the predominant building alignment evident within properties north of the site. The reduced setback accentuates the presence of the dwelling within the streetscape for its full height. Vehicles waiting to enter the garage would also be required to extend over the footway, whilst there is no evident planting to reduce the presentation of built form to the footway. A greater setback is required for both levels to reduce the vertical scale of the structure in the streetscape, to diminish the appearance of the garage at footway level and provide greater potential for screen planting. A transition between the proposed eastern extent of House 1 and No14 Ortona Road is recommended.

The proximity of the building to the western boundary, for its full height and width, alongside the rear garden area of the neighbouring dwelling is also out of character with the locality. The bulk of the development located so close to the common boundary undermines the setting of the neighbouring land. The building will be visually dominant. The 'rear' setback of House 2 (given its frontage to Ortona Road) is only 2.8-3.8m.

It would be more appropriate to the context of the locality for the setback from the primary frontage of House 2 to be increased from the Ortona Road street boundary, and without the substantial return along the fence line with House 1.

Item 5

This would reduce the dominance of development as viewed from No 27 Bayswater Road by the provision of a greater 'rear' setback along the side boundary of the site. It would also provide improved opportunities for solar access in the private open space of House 1 and reduce the potential for privacy/ shadowing to No 27 Bayswater Road.

House 2 is of a more contemporary style, generally due to its proportions. The first floor window to Bedroom 2 should maintain the predominant vertical proportions evident in the locality and as expressed elsewhere on the building.

The raised gutter and absence of any tangible eaves undermines the character of predominant pitched roof forms in the locality. The eaves line should be extended to ensure the pitched roof forms are more substantial and 'cap' the building in a manner appropriate to the locality.

(b) visual and acoustic privacy of neighbours in the vicinity and residents

House 1

The elevation of the garage of House 1 to that of the footway results in the crossover also being raised, such that vehicle movement will be above the level of the neighbouring land. Vehicles using the driveway will be more visually prominent to the neighbour, with engine noise potentially likely to impact upon No 27 Bayswater Road. To avoid the need for a solid fence forward of the building line, lowering the building (as recommended in (a) above) by 0.6m would address this concern and still allow an appropriate driveway gradient to be achieved.

The elevation of the terrace area of House 1 to about 1m above existing ground level at the western boundary has privacy implications for both House 2 and No 27 Bayswater Road. A person on the terrace would be able to look over the dividing fence with House 2 and the side boundary fence of the site. Given the 1m width of planter only, there is limited opportunity to screen out noise without raising the fence line.

The opportunity exists for the dwelling to be lowered (see (a) above) by 0.6m to partly address this issue. Secondly, the terrace should also be setback a minimum of 3m from the western boundary and this area retain existing ground levels and be set aside for shrub planting of a minimum height of 2.6m at planting. This would enable the fence height dividing the terrace from House 2 to be reduced from 3.2m (assuming 1.8m above terrace level as proposed) to 1.8m, and the existing 1.8m fence with No 27 Bayswater Road be maintained.

House 2

The first floor windows (west elevation) could permit viewing into No 27 Bayswater Road. The ensuite/ bathroom windows should be fixed, with obscure glazing. The study (also able to be used as a bedroom) should have a highlight window only or have the lower panes to a height of about 1.6m fixed and obscured to prevent viewing.

Item 5

The raised ground level in the north-west corner of the site could permit viewing over the existing boundary fence. Given this setback area comprises lawn only and no direct access, this corner area should be lowered by 0.5m, to RL15.4, with step access between the Living/ Dining area doors (north) and the kitchen terrace.

(c) adequate daylight and solar access to main living areas and substantial areas of open space, and energy efficiency/ solar access.

In winter, the main private open space of House 1 will be overshadowed by House 2 primarily due to the location of its southern elevation along the northern edge of the main garden/courtyard area. Some parts will receive no sunlight in winter, with the eastern parts achieving potentially up to 2 hours maximum. North-facing living area windows of House 1 will also be affected for a substantial part of the day in winter for the same reason. Planting alongside House 2 within the courtyard would not receive winter sunlight. Given House 1 will produce shadows over its front setback, there are limited areas around this dwelling that will receive direct solar access.

The rear north-facing garden of No 27 Bayswater Road will be affected by shadows from 9am to 12noon in winter, with direct solar access received thereafter. However, the shadow effect during the morning period arises from the close proximity of House 2 to the common boundary, being closer than is considered typical for a rear setback for the locality.

A 6.034m setback would be required by the first floor level under the Dual Occupancy DCP. In the same document the second dwelling, i.e. that to the rear, is normally anticipated to be single storey (and able to achieve a 3m setback) to ensure there are no privacy or shadow impacts, and compliance with the building envelope controls are also required. Given the shadow and privacy impacts evident from House 2 upon No 27 Bayswater Road, a greater setback than that provided is recommended, as would be achieved by applying the envelope/ rear setback provisions of the DCP.

The reorientation of House 2, in a redesign, across with width of its part of the site facing Ortona Road, and with no first floor east-west return, would open up the rear setback of that dwelling as viewed from No 27 Bayswater Road and also ensure greater solar access to the main private open space of House 1.

(d) stormwater run-off and detention.

The stormwater report is not provided for consideration. It is relevant to ensure that any OSD tank is located below hard paved areas, to maximise on-site natural filtration.

(e) safety and security to residents and visitors

The entry doors of both dwellings are clearly visible to the street frontage, though the large gates proposed for House 2 would obscure viewing when in a closed position. The provision of such gates on what would now be a frontage is also out of character. The driveway entry should remain open, with fencing along the remaining frontage of House 2 to be limited to a low plinth wall/ fence of maximum 1.2m in character with the locality. Screen planting, to

Item 5

contain private open space closer to the building could be provided within the front setback area.

(f) pedestrian and vehicular links/ disabled access

The entry points into the site are level with the entry doors. The recommended reduction in the level of House 1 would still enable easy access for pedestrians.

The site is in close proximity to road links via Gloucester Road to the Pacific Highway, with the route being generally direct.

(g) waste collection and recycling

Both dwellings could accommodate waste bins and recycling bins within their garages or alongside the dwellings, with easy and direct access to the footway to permit collection.

(h) neighbour amenity and appropriate residential character

House 2 does not progressively set back from the western side boundary or the private open space of House 1, such that its visual bulk will be enclosing to No 27 Bayswater Road and the living areas of House 1, and will also result in excess and overshadowing.

The land fill of House 1 results in the development not corresponding to the land form of the locality, as is evident along Ortona Road, falling from south to north. Elevation of House 1 results in the driveway access and rear terrace being elevated above land adjacent at No 27 Bayswater Road. It also results in a significant vertical separation of some 1.4m between the open spaces of House 1 and House 2, resulting in enclosure of the open space of the latter. The dwelling should be located below the level of the street, lowered by 0.6m, to achieve a more gradual and typical transition with the land form of the site.

The two storey wall height of House 2, only 3.8m from the street frontage, is uncharacteristic of the locality, such that its scale will not appear compatible with the locality. Two storey dwellings within the locality, including that adjacent within No 14 Ortona Road, have significantly greater setbacks. A transition setback is required to address Ortona Road for House 2, between that proposed for House 1 and No 14 Ortona Road.

Ku-ring-gai Planning Scheme Ordinance

Cl.46 Height of Buildings

For any land within the Municipality, a building is not to be erected to a height of 7m without the consent of the Council under Clause 46(1) of the KPSO. Clause 46(2) limits the height of dwelling houses to 8m, where *height* is:

“a distance measured vertically from any point on the ceiling on the topmost floor of the building to the ground level immediately below that point.”

Item 5

For the purposes of the definition of height, “ground level” means “the level of a site before development is carried out on the site” under the KPSO.

The height of the two dwellings are 5.7 and 6.4m, respectively, such that the development is fully compliant.

Cl.60C Built-upon Area

Clause 60C requires that the maximum built-upon area of any site is 60% of the site area. This clause is applicable to land where a dwelling house is to be erected or extended, as is proposed in the subject case.

For a site of 809.3m², a 60% maximum built upon area equates to 485.8m² being permissible.

The definition of “built-upon area” includes

“any built structure (whether or not covered or uncovered), any building, carport, terrace, pergola, hard surface recreation area, swimming pool, tennis court, driveway, parking area or any like structure, but excluding minor landscape features”.

For the proposed development, the built-upon area is (as scaled from the plans) 48.4% (392.08m²) of the site, such that the proposal is fully compliant with the development standard, being below the permissible 60%.

Heritage items, conservation areas and development in the vicinity of Heritage Items

The site is not identified as a heritage item; is not located within a conservation area; and is not in the vicinity of an identified heritage item. Those provisions of the KPSO are not applicable to the subject site.

S.79C(1)(a)(ii) any draft environmental planning instrument

There are no relevant draft instruments applicable to this site or development.

S.79C(1)(a)(iii) any development control plan

Development Control Plan No 43, Car Parking, as it relates to the provision of parking spaces, is not applicable in this instance given the provisions of SEPP53 are overriding in this regard.

The Dual Occupancy DCP came into effect in April 2003. Whilst the application was lodged with the Council prior to this period, there are no savings or transitional provisions that can be relied upon to exempt this application from consideration against its controls.

Given that the area in which the site is located has not been subject to similar forms of development and in light of the pending inclusion of the locality within an urban conservation area, it is appropriate to assess the application against the provisions of the DCP in so far as they do not derogate from the provisions of SEPP53 or the KPSO. Such an approach is

Item 5

pertinent as the development of this site and its ability to accommodate a dual occupancy development may well influence future applications for similar development.

Dual Occupancy DCP

The relevant provisions of the Dual Occupancy DCP, deemed applicable to the subject development, are addressed below.

Site Analysis Plan

This is a matter addressed by SEPP53.

Residential Character and Urban Form

Urban Form Characteristics

The development does not reflect the urban form characteristics with regard to House 2 in particular, with the building located close to the street frontage having limited potential for planting. There is also limited tree retention, though the Date Palm located in the south-east corner of the allotment could also be retained to assist in this regard. House 2 also does not have a large proportion of open space at the rear, it being constructed close to the common boundary with No 27 Bayswater Road despite its two storey height.

The site is located within the Visual Character Area 1920-1945. House 2 undermines the distinguishing characteristics that comprise this area, in that the dwelling will not be '*partially screened.....with consistent setbacks*' from the street; it does not have a large open space to its rear sufficient to accommodate an established garden.

The front boundary fence to House 2 could be lowered to achieve a consistent boundary treatment, with the garage gates removed. The garage structure of House 2 will be prominent within the streetscape, an attribute to be discouraged for the Visual Character Area and the development of House 2, due to the minimal 'rear' setback will result in shadowing of the neighbouring garden at No 27 Bayswater Road.

It is concluded that the development, in so far as it relates to House 2, will undermine the Visual Character Area in which it is located.

Architectural Design

As indicated within the SEPP53 assessment, the general appearance and presentation of House 1 is considered satisfactory, though the dwelling should fall with the topography of the site, to reduce the visual prominence of the driveway and garage in the streetscape and to reflect the pattern of development within the street. Lowering of the building levels by 0.6m would address this consideration.

House 2, notwithstanding matters associated with siting and setback, requires deeper eaves consistent with the character of roof forms in the locality; the window to Bedroom 2 should

Item 5

incorporate an additional vertical bar and the fence height should be lowered, with the gates removed to provide a more open setting to the street, effectively turning a side setback as existing into a new front setback.

Roof Pitch

The roof pitch of both dwellings is appropriate, with the contemporary solution of House 2 (i.e., small modules) being acceptable where the eaves are more defined.

Fences

This matter is addressed above.

Visual and Acoustic Privacy

In the assessment of SEPP 53 above, concern is raised in relation to the privacy of the neighbouring dwelling, No 27 Bayswater Road, being affected by use of the vehicle crossover and private open space of House 1 and the effect of House 1 upon House 2; and the overlooking from rear windows of House 2 to No.27. Lowering of House 1 by 0.6m and amendments to the levels on the western side of the private open space of House 1 by a further 0.5m would overcome the former concerns.

Amendments to the first floor windows of House 2 could address privacy impacts in the latter instance, these being within 9m of the side boundary, as suggested in the assessment under SEPP53. Otherwise, the provisions of the DCP are satisfied.

Solar Access and Design for Climate

The development does not meet the minimum requirement for solar access to the north facing living rooms of House 1 or its private open space, with only the eastern part of the open space receiving sunlight before about 10am. For the remainder of the day, these areas will be in shadow during winter.

The dwelling at No 27 Bayswater Road will still achieve afternoon sunlight in winter that ensures compliance with the provisions of the DCP. However, proximity of House 2 to the common boundary, it being a two storey dwelling, results in a level of shadow in the garden of No 27 that would not otherwise be anticipated under the controls, i.e., in terms of building height to setback ratio promoted under the building envelope provisions.

In terms of energy efficiency, NatHERS rating certificates have not been sighted in this instance. There is some concern that, due to the positioning of House 2 the energy efficiency rating of House 1 could be compromised.

Stormwater and Water Management

This matter has been referred to in the assessment of SEPP53 and technical comment is included in the officer's report.

Item 5

Crime Prevention

This matter has been referred to in the assessment of SEPP53, with the consideration that the front fence to Ortona Road does not comply with the recommended height of 1.2m, to achieve an open character. This is matter than can be simply addressed. There is adequate surveillance from both dwellings to open space and the street. Details of lighting have not been provided but, again, could be simply addressed

Accessibility

Both dwellings have direct level access to the footway. The recommended lowering of House 1 by 0.6m would not undermine the DCP provisions for driveway access to the proposed garage.

The driveway of House 2 is only 3.8m in length, with the garage appearing prominently within the streetscape. Though incorporated within the building, the effect is a two storey structure located too close to the street. The whole structure should be setback to achieve a transition between the eastern alignment of House 1 and No 14 Ortona Road. Such a setback would provide sufficient space to ensure a vehicle standing in the front setback would not obstruct the footway; and permit greater landscaping in the front setback area.

Waste Management

There appears to be sufficient space to accommodate a garbage container and recycling bin per dwelling within each of the garages, satisfying the provisions of the DCP.

Visual Bulk

As identified in the assessment under SEPP53, the building line to Bayswater Road is maintained by the development.

However, House 2 will create a new front setback to Ortona Road where currently there is only a garden area associated with the existing dwelling. The building line of Ortona Road is defined by development on the adjacent land to the north, and to a lesser extent, the single car port structure on the subject site. The proposal is located well forward of No12 Ortona Road (and the car port structure). The setback of No 12 is achieved due to it having a deeper allotment than is available from the width of the subject allotment.

The new dwelling of House 2, comprising a 2 storey height, is located forward of the existing dwelling as it presents to Ortona Street, incorporating a garage entry at ground floor level. A greater setback is required, to achieve a transition between the eastern alignment of House 1 and No 12 Ortona Road. The proposed setback of 3.8m will result in the building appearing dominant within the streetscape and encouraging development to extend beyond established building alignments on Ortona Road, contrary to the DCP. It would also undermine the objective to maintain a garden setting of dwellings within the locality, an attribute identified for the pending urban conservation area under the Godden Mackay report for West Roseville.

Item 5

A minimum front setback of 7m is recommended by the DCP for House 2, with some potential to vary this to 5m. The recommendation for a transition, identified in the assessment under SEPP53, would achieve an appropriate settransition between House 1 and established development along Ortona Road. Some graduation of setback may be more appropriate given the significant variation in alignment of proposed House 1 and the front alignment of No 14 Ortona Road.

The development achieves the required 7m separation between dwellings within the development under the DCP, to achieve privacy. However, satisfactory amenity is not achieved due to the length of wall of House 2, comprising 13.5m along a 20.115m dividing fence line, and its 2 storey height resulting in excess shadowing of the private open space and living areas of House 1.

The side setback requirements of 2m are achieved by both dwellings from neighbouring land to the north (House 2) and west/ east (House 1).

The minimum rear setback for House 2 is 3.017m. The development achieves 3m-3.8 at ground floor level. There is a requirement for a further setback of 3.017m for the first floor accommodation or total of 6.034m from the boundary with No 27 Bayswater Road. However, the upper floor maintains the alignment of the ground floor accommodation, such that it is non-compliant. This non-compliance results in additional shadowing to the neighbouring land to the west. The dwelling presents a 12m long elevation, of 2 storey height, to the garden area of No 27. The structure will appear out of character with the locality, enclosing the openness of the adjacent garden and undermining the character of the locality.

Though planting is proposed along the common boundary, the standard of open space provided in the 'rear' setback is deficient for the character of the area, particularly as it is required to accommodate 6m high vegetation.

The built-upon area provisions are not able to override those within the KPSO, as addressed above. Likewise, the floor space provisions cannot override those of SEPP53. Of the total GFA of 395.5m², some 202.47m² is located at first floor level, or 51.2% of the total. This is in excess of the maximum 40% permissible. The effect of this excess provision of accommodation at first floor is most evident in House 2, where its overall envelope impacts upon the amenity of House 1 and No 27 Bayswater Road and upon the streetscape setting of Ortona Road.

The second storey accommodation will diminish the privacy and extent of solar access achieved by No 27 Bayswater Road. Whilst the issues of privacy could be addressed by minor redesign of windows, the shadow impact is considered unreasonable given the non-compliance with the rear setback controls and, importantly so, the impact of the building's proximity to the common boundary will have upon the character of the locality.

The building height plane, applied to House 2, results in the first floor accommodation being wholly non-compliant from all three boundaries of the site (west, north and east). Whilst

Item 5

some non-compliance with the northern boundary could be accommodated given the orientation of No 14 Ortona Road to the roadway and its location north of the subject site, greater compliance from the western and eastern boundaries (front and 'rear') is considered more essential.

Landscaping and Open Space

The minimum soft landscaped area provisions undermine the maximum built-upon area provisions of the KPSO, i.e., being 60% of the site, whereas the DCP would limit this to 40%. The development satisfies the KPSO, providing the assumed minimum requirement of 40% site area of soft landscaping and is taken to be acceptable.

The comments of the Council's Landscape Development Officer assumes that the Date Palm in the south-east corner of the site will be retained. However, it is not clearly evident from the landscape plan. There is no necessity to remove this tree, it being a remnant exotic specimen identified as an attribute to the garden setting of the wider area in the Godden Mackay report. The removal of the Liquid Amber to the rear of House 2 is supported by the Council's Landscape Development Officer due to its poor health and condition. The relocation of the remaining Date Palm is also supported, with conditions recommended to ensure its on-going health.

Replacement trees are provided on the site, which when counted with the Date Palms, meet the minimum requirement for 4 trees.

The area of private open space allocated to House 1, between the two houses, meets the minimum dimension of 5m, and has an area of some 140m². The area in the front setback of House 2 is about 70m² (less than the required 100m²) and is exposed to the street. The second area that would be required to achieve compliance is only about 40m² and less than the minimum 5m dimension. A compliant rear setback of 6m from the western boundary would overcome this non-compliance.

The private open space of House 1 will not receive the minimum 4 hours of sunlight between 9am and 3pm, with only a small area on the eastern side achieving solar access to about 10am. This is due to the depth of House 2, and two storey height for all of that depth.

S.79C(1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts upon the locality

Environmental Impacts - Natural

The area of the site allocated to House 2 is about a third of that available yet it has the same floor space as House 1 which occupies two thirds of the site, i.e., twice that of House 2. The effect is that the area of the site allocated for garden areas and open space in the front and rear setbacks is restricted, with the building appearing excessive in scale and alignment for its context. The absence of a useful garden perimeter undermines the streetscape character of the locality.

Item 5

The filling of the site for House 1 diminishes a natural feature of the local topography, a feature expressed in the profile of Ortona Road alongside the site and evident in the location of buildings below the level of Bayswater Road on its northern side. The lowering of House 1 by 0.6m will address this concern, with the built form across the length of the site graduating from south to north rather than having a single drop in the centre of the site.

It is necessary to ensure that both Date Palms are to be retained and the landscape plan be revised to confirm retention of that in the south-eastern corner of the site.

Environmental Impact - Built

House 1 is of an appropriate scale, height and appearance for the setting of Bayswater Road, notwithstanding the recommendation for the dwelling to be lowered by 0.6m to reduce the visual impact of its garage to the streetscape; to ensure the built form steps with the land; and to maintain appropriate levels of amenity for No 27 Bayswater Road and House 2.

The proximity of House 2 forward of the established building line on Ortona Road undermines the streetscape setting of the wider area. That part of the building forward of the building line is two storeys in height, incorporating a non-characteristic garage opening at ground floor level. The building will be visually prominent within the streetscape due to this non-compliance. There is also no opportunity for landscaping in the front setback to reinforce the garden setting of the streetscape.

The general proportions and presentation of House 2, albeit contemporary, are acceptable subject to the roof eaves overhang being deeper so as to be consistent with roof forms in the locality and to reinforce the 'capping' function of the roof over the dwelling.

The positioning of House 2 will also compromise the amenity of House 1, in terms of shadow impact and restricted solar access and will also undermine the setting/ outlook of No 27 Bayswater Road in a manner uncharacteristic of the locality. This arises from a minimal 'rear' setback being provided along the common side boundary of the site whilst also resulting in excessive morning shadow to restrict use of that garden of No 27 in winter.

The overall design of House 2 requires reconsideration and redesign to achieve greater front and rear setbacks, and modulation of the upper floor to maximise solar access within the site and to neighbouring land.

Social and Economic Impacts upon Locality

The proposal is unlikely to result in a change to current circumstances other than to provide an additional dwelling to the locality.

There are no perceived social or economic impacts arising from the development.

3. S.79C(1)(c) Suitability of the Site for the Development

Item 5

The proportions of the site are able to accommodate a dual occupancy development, in terms of achieving appropriate setbacks and other envelope controls. The land falls from south to north and the development seeks to following this profile. The levels within the development need to be respected more with a graduation of steps to achieve an acceptable solution.

The failing of the site in accommodating this development is the concentration of the second dwelling over only about a third of the site such that House 1 has a site area nearly twice that of House 2 yet has a comparable floor space. It also allows a reasonable perimeter around House 1 and split levels to be achieved, whereas the 'site' of House 1 is cramped by comparison with the building encroaching upon the streetscape setting of Ortona Road and upon the amenity of both House 1 and No 27 Bayswater Road.

As such, despite being a corner allotment with a dual frontage, the disproportionate allocation of site area to dwellings of equal size results in the site being unable to accommodate the development.

4. S.79C(1)(d) any submissions

There are 27 (24 from individual properties) submissions recorded in relation to the subject application. The concerns within these have been addressed already within this report.

The comments made in the submission provided are both of a specific nature, i.e., scale and bulk, privacy and shadow concerns to neighbouring land and of a generic nature, going particularly to the character of the area and the need to maintain a landscaped character to the site. These are concerns that are supported, with House 2 likely to be dominant within its context, contained in only a third of the site area with minimal opportunity to provide a garden context consistent with the streetscape character of the locality.

5. S.79C(1)(e) the public interest

This application is the first of its kind to my knowledge within the immediate locality. On that basis, it is appropriate to have carefully examined the context of this form of development in an area otherwise characterised by single dwelling houses on large allotments. The resultant form of development as that proposed will undermine the setting of the locality, changing the pattern of building form in the context of the street and as perceived from neighbouring land. The relationship of House 2 to the street boundary and to the 'rear' boundary of No 27 Bayswater Road will result in a form of development that will appear cramped within its context and undermine the future planning of the area.

It is not in the public interest, to approve this application bearing in mind the extent of non compliance with the Dual Occupancy DCP and the objectives of SEPP53 that are not satisfied by the development.

The stated intent to include the area within a heritage conservation area will not preclude dual occupancy development under SEPP53. It will, however, require concurrence from the NSW Heritage Office for all such applications. The replacement of buildings that are considered outstanding or deemed worthy of retention is still likely to occur.

Item 5

However, that potential identification of the area does require careful consideration of this new form of land use to the locality. In this instance, the streetscape and landscape garden context of the area has been overlooked, with the built form of House 2 departing from the established pattern of development within the street in terms of its alignment, scale and proximity to boundaries. The resultant built form would appear cramped on the site and have the potential to undermine the open landscape character of the locality, being an important attribute of established development in the area.

To approve the development, therefore, would not be in the public interest.

6. Section 94

This proposal would be subject to the provisions of Council's adopted Section 94 Contributions Plan for Residential Development.

Any other Relevant Matters Considerations Not Already Addressed

There are no other relevant matters for consideration.

CONCLUSION

Demolition of the existing dwelling and ancillary structures is not opposed due to the minimal contribution provided by the existing dwelling, through its modest appearance, size and width of allotment compared to the more substantial dwellings on larger allotments, found particularly on the southern side of Bayswater Road that more appropriately characterize the architectural character of the locality.

Replacement of the existing house is supported as the application demonstrates that a replacement dwelling in a similar location, in the context of House 1, has the ability to maintain the essential attributes of the area. However, the application as a whole is recommended for refusal due to primary concerns arising from second dwelling at the northern end of the site. These concerns are fundamental to the application and cannot be addressed by conditions.

The development is recommended for refusal primarily due to the inability of the rear part of the site to accommodate the scale of dwelling of House 2 within the area allocated to it.

House 2 will appear visually dominant in the streetscape of Ortona Road, due to its forward alignment of adjacent dwellings, accentuating its two storey height in an area of the site where, typically for the locality and streetscape, a landscape garden is more characteristic. The setback provided will do little to diminish the prominence of the dwelling within the streetscape, undermining the existing open character and garden setting of Ortona Road and surrounding streets.

The incorporation of a garage within this element of House 2 restricts the potential for any landscaping to shield or soften this part of the development. The garage opening also will be visually prominent and undermine the character of the streetscape as a result.

Item 5

House 2 does not incorporate a rear garden of reasonable depth commensurate with its height, as characterised by the locality. The minimal setback from the western boundary will result in this part of the site appearing cramped and relying upon neighbouring land for an outlook or spatial relief. The consequential impact upon the outlook of No 27 Bayswater Road and properties further west is also unreasonable, with the dwelling appearing cramped within the site compared to other two storey dwellings in the locality and visually dominant in terms of bulk and scale.

House 2 significantly undermines the level of amenity required by House 1 in terms of solar access, with excess shadowing of its private open space and north-facing living rooms to an unreasonable extent.

There are minor detail concerns from a streetscape perspective associated with House 2, comprising the need for more substantial eaves depth (consistent with the area) and for the Bedroom 2 window to maintain the vertical emphasis expressed elsewhere in the development, and characterised in dwelling styles in the immediate locality.

To reduce the impact of House 1 upon the streetscape arising from its garage entry, an uncharacteristic feature in the front elevation of dwellings in the locality, and to respect the pattern of dwellings north of Bayswater Road being below the roadway, lowering of this dwelling by some 0.6m is recommended. This would also go some way to addressing privacy/ amenity concerns associated with House 2 and No 27 Bayswater Road.

The Date Palm in the south-east corner should be retained and the landscape plan should be amended to confirm its retention as a contributory element within the streetscape.

The resultant design of the development is of a layout that appears cramped at the northern end of the site, with the House 2 excessive in scale for the area of the site allocated to it. From a streetscape perspective, the benefits achieved by House 1 are outweighed by the scale of House 2, such that the extent of development within the site appears excessive and consequently, is an overdevelopment of the site.

A smaller dwelling, as an alternative to House 2, with setbacks of minimum 6m from both the boundary with Ortona Road and the western setback of the site would be more likely to achieve an acceptable streetscape and design solution, whilst overcoming evident amenity concerns associated with No 27 Bayswater Road and House 1.

The provisions and objectives of SEPP53 and the Dual Occupancy DCP are not satisfied by the development as a consequence of the above. For those reasons, the application is recommended for refusal.

RECOMMENDATION

That Development Application No 1063/02 for consent for the construction of 2 x two storey detached dwellings, comprising a dual occupancy development at 25 Bayswater Road Roseville (Lot 17 Sec.D in DP 4349), be refused for the following reasons:

Item 5

1. The proposal is an overdevelopment of the site by reason of the inappropriate scale and siting of House 2 on the subject land and its impact upon the amenity of neighbouring land; upon the streetscape and upon the character of the immediate locality.
2. The development will impact upon the amenity of neighbouring property of No 27 Bayswater Road by reason of privacy loss; loss of acoustic amenity; excessive scale and bulk due to the proximity and size of House 2 to the common boundary and excessive shadow impact.
3. The development does not comply with the requirements of SEPP53 and the Dual Occupancy DCP with regard to front and rear setbacks (House 2); architectural presentation/ appearance; deficient provision of private open space (House 2); limited provision of solar access to House 1; internal privacy impact.
4. The development will result in the unreasonable loss of trees on the Bayswater Road frontage of the site.
5. The development undermines the streetscape setting of the locality, by reason of its limited landscaped character; prominence to the street boundaries (House 2); and elevation above existing ground level (House 1), the cramped arrangement of House 2 due to the disproportionate distribution of site area to this dwelling compared to House 1 and the visual appearance of the development having regard to the architectural character of the locality.
6. The arrangement of the development does not reflect the contours of the site, undermining the land form character of the locality.
7. The development is not in the public interest, given its impacts upon neighbouring land; the extent of non-compliance with SEPP53 and the Dual Occupancy DCP (recently adopted) and the strong likelihood of similar developments being pursued in the locality requiring a consistent approach to maintain the existing residential character of the locality and having regard to the recommendations of the Godden Mackay Report for an urban conservation area for West Roseville.

Anthony Rowan, ARPL
Planning and Heritage
Consultant

17 REDFIELD ROAD, KILLARA

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To report on the issues raised at the Council site inspection and seek Council's determination of the development application.

BACKGROUND:

- Application lodged 19 November 2002.
- Applicant requested to submit additional information.
- Amended plans lodged 28 April 2003.
- Late submission received from FJ Martin, which became the subject of a Question Without Notice from Councillor Janine Kitson.
- Council considered a report at its meeting on 2 December 2003.
- Consideration deferred pending site inspection.
- Colin Wood & Associates Pty Limited provided comments in relation to bushfire requirements for the proposed dwelling, dated 11 December 2003, after conducting an inspection of the site.
- In response, FJ Martin made a further submission dated 12 December 2003.
- The Council site inspection took place on 13 December 2003.

COMMENTS:

The issues raised at the site inspection are addressed in this report.

RECOMMENDATION:

Approval, subject to conditions.

Item 6

PURPOSE OF REPORT

To report on the issues raised at the Council site inspection and seek Council's determination of the development application.

BACKGROUND

- Application lodged 19 November 2002.
- Applicant requested to submit additional information.
- Amended plans lodged 28 April 2003.
- Late submission received from FJ Martin, which became the subject of a Question Without Notice from Councillor Janine Kitson.
- Council considered a report at its meeting on 2 December 2003.
- Consideration deferred pending site inspection.
- Colin Wood & Associates Pty Limited provided comments in relation to bushfire requirements for the proposed dwelling, dated 11 December 2003, after conducting an inspection of the site.
- In response, FJ Martin made a further submission dated 12 December 2003.
- The Council site inspection took place on 13 December 2003.

ISSUES RAISED AT THE SITE INSPECTION

The issues raised at the site inspection are outlined as follows and comments are provided in response to each issue:

Clarify definition of built-upon area and, in relation to this site, what is the percentage and are pools included?

Clause 60C(4) of KPSO defines built-upon area as:

“The area of a site containing any built structure (whether covered or uncovered), any building, carport, terrace, pergola, hard-surface recreation area, swimming pool, tennis court, driveway, parking area or any like structure, but excluding minor landscape features”.

The development plans indicate that the built-upon area of the development, based on the Ku-ring-gai Planning Scheme Ordinance definition is 49.3%. The built-upon area development standard established by clause 60C is 60% and the development complies with this requirement.

Clause 5.2.7 of DCP 38 states that, for a site area of 800-899sqm, a 2 storey dwelling should have a maximum built-upon area of 56% and the development also complies with this requirement.

Clause 5.6.3 of DCP 38 establishes a maximum 30% cumulative built-upon area on sites not conducive to on-site dispersal of stormwater, in which case a hydrological report is to be submitted. Council's Development Control Engineer advised that, through further information that was

Item 6

received and discussions with the applicant, the built-upon area figure was revised from around 50% (as per the Statement of Environmental Effects) down to 34%.

The Development Control Engineer confirmed that the pool surface area does not contribute to the hard surface runoff, given that the pool skimmer box would be connected to the sewer. The Development Control Engineer also advised that the driveway is to be constructed of semi-pervious paving material, allowing for some infiltration of stormwater and reduction in runoff.

The Development Control Engineer advised that these circumstances resulted in the reduction of the built-upon area figure for stormwater runoff calculation purposes and a stormwater dispersal system was considered acceptable by the Development Control, subject to compliance with the recommended conditions.

Clarification as to whether the proposed development is in the flame zone. Have the distance, slope and vegetation been taken into consideration?

The advice from Colin Wood & Associates Pty Limited, Environmental Health and Building Surveyor, dated 11 December 2003 (copy attached) indicates that the proposed dwelling is not within a flame zone. The advice from Colin Wood & Associates Pty Ltd confirms that site attributes such as slope, cleared areas on-site and downhill, the existing swimming pool, vegetation types and adjoining land uses have been taken into consideration.

Is an OSD and dispersal system proposed, whether it is adequate and whether any water can drain to the street?

The advice from Council's Development Control Engineer is that the subject property cannot drain to the public road by gravity and that there is no easement from the site through the bushland reserve.

The Development Control Engineer stated that any dwelling constructed on this property will be required to convey its roof water to an on site dispersal system and that the current development maintains an area of some 10 metres set back from the rear boundary for such a dispersal system. The Development Control Engineer stated that this development will most likely be the first in this block which complies with the intent of DCP 38 in this regard. **Condition 39** is recommended by the Development Control Engineer which requires the provision of an on-site detention system.

Could the dispersal system, asset protection zone and landscaping be correlated in relation to bush fire hazard?

Condition 41 requires the provision of a dispersal trench positioned at the highest practicable level. The Development Control Engineer advises that this condition is recommended to achieve compliance with the following requirements of Section 5.6.3 of DCP 38:

- Direct discharge of stormwater to bushland is not permitted without Council consent.
- Low level properties must minimise stormwater runoff to bushland reserves.
- Stormwater runoff should be absorbed on the site and not be detrimental to lower adjoining properties or trees.

Item 6

- Stormwater dispersal is to be into suitably sized and located absorption trenches.
- The effect on existing trees must be considered in the placement of these trenches.

The subject property cannot drain to the public road by gravity and there is no drainage easement from the site through the bushland reserve. Any dwelling constructed on this property will be required to convey its roof water to an on site dispersal system. The Development Control Engineer confirmed that the proposed development maintains an area of some 10 metres set back from the rear boundary for such a dispersal system.

Neither the NSW Rural Fire Service nor Colin Wood & Associates Pty Limited require or recommend that this development site be provided with an asset protection zone which is usually required when sites are proposed to be subdivided. The proposed development is considered to be infill development and development should be designed within the constraints of the site, hence the recommendation of the Rural Fire Service for level 3 construction (See recommended Condition No.42). The recommended conditions from the Rural Fire Service require the provision of leafless guttering and Level 3 construction of the dwelling under AS 3959-1999 but not an asset protection zone.

In order to meet its obligations under section 79BA of the Environmental Planning and Assessment Act 1979, Council is only required to either be satisfied that the development conforms to *Planning for Bushfire Protection* or to consult with the NSW Rural Fire Service. Council has fulfilled its obligations by consulting with the NSW Rural Fire Service and the conditions recommended by that authority have been included in the recommendation of this report.

The NSW Rural Fire Service has specifically advised that it raises no objections to the proposal, subject to it meeting the conditions recommended by that authority. On this basis, the development does not require the provision of an asset protection zone.

The required dispersal system is not affected by and will not contribute to or affect any bushfire hazard characteristic of this site or the surrounds. The experts have not recommended that the development be provided with an asset protection zone.

The landscape plan needs to be at the meeting.

A landscape plan has been submitted for the proposed development (copy attached). The Landscape Plan has been considered by Council's Landscape Development Officer who has recommended changes to be made to the previously recommended Landscape conditions. These recommended changes are reflected in the list of recommended conditions. The previously recommended Condition No.31 has been replaced with new Condition No.31; previously recommended Condition No's 32, 48, 49 and 50 have been deleted.

COMMENTS MADE BY COLIN WOOD & ASSOCIATES PTY LIMITED

Colin Wood & Associates Pty Limited made the following comments in response to the original submission by FJ Martin:

Item 6

Reference is made to your request for brief comments concerning the above mentioned proposal.

Please be advised I have read the content of the email from Councillor Janine Kitson concerning the representation made by Mrs Freddi Martin. In my opinion, Council followed the correct procedure by referring the matter to the RFS. This should have been referred to the Local RFS and not head office but I understand that this procedure has since been rectified.

When Council receives a response from the RFS under Section 79BA, it can choose to include the requirements without change, include the requirements with change or not include the requirements. The choice is entirely Council's. I therefore do not agree with most of the issues raised by Mrs Martin. It is certainly not mandatory to include the requirements as Council can make the call.

For the record, I inspected the site on 11/12/2003. Whilst the hazard is downslope, there is quite a bit of clearing in the form of a playing field at the rear. There is also a lot of weed invasion and the construction of a swimming pool and neighbouring buildings which all lessen the threat (Note:- whilst succulents will burn, they are generally not as hazardous). You will no doubt see these attributes during your site visit on Saturday.

Personally, I would dispute that this dwelling is within a flame zone. Additionally, the full requirement for Level 3 construction on all sides of the building is not appropriate and quite excessive. Standards Australia and the RFS are aware of the problem for requiring a blanket cover for Level 3. We are currently working with the RFS to educate their local people on the construction issues. The new Australian Standard will also reflect these changes allowing a lessening of the requirements on the shielded sides (Note:- they will still need to provide a minimal level of protection - Level 1).

FURTHER SUBMISSION BY FJ MARTIN

A further submission has been made by FJ Martin in relation to the above advice provided by Colin Wood & Associates Pty Limited. The issues raised in the submission are summarised in brief and comments are provided in response, as follows:

Emergency Evacuation

This site has not been identified by either the NSW Rural Fire Service or Colin Wood & Associates Pty Limited as being unsuitable for development owing to an inability of occupants of the proposed dwelling to be evacuated. This is normally a major issue in the assessment of development applications in dead end streets, "finger" subdivisions into bushland areas and for special fire protection purposes (eg. Schools, housing for older people and people with a disability, etc).

Integrity of advice provided by Colin Wood in relation to flame zone

The submission identifies a judgment of the Land and Environment Court where the evidence of another bushfire expert was preferred to that provided by Colin Wood & Associates Pty Limited. This is not a relevant consideration to the assessment of the current development application, given that both the NSW Rural Fire Service and Colin Wood & Associates Pty Limited raise no

Item 6

objections to the proposal. Furthermore, Colin Wood & Associates Pty Limited is of the opinion that the requirement of the NSW Rural Fire Service for the development to comply with Level 3 construction under AS 3959 is "not appropriate and quite excessive". This application has been reviewed by an expert in the area of bushfire protection and it is not recommended that Council require further review of the development application.

Consent authority must undertake an assessment under Planning for Bushfire Protection

As previously stated, Council has fulfilled its obligations under section 79BA of the Environmental Planning and Assessment Act 1979 by consulting with the NSW Rural Fire Service. The conditions recommended by that authority have been included in the recommendation of this report.

Use of timber

The development plans considered by the NSW Rural Fire Service and Colin Wood & Associates Pty Limited indicate that the proposed decking around the existing swimming pool will be constructed of timber. The NSW Rural Fire Service raised no objection to the proposal, subject to compliance with AS 3959 Level 3 construction.

SUMMARY

This development application has been considered by the NSW Rural Fire Service and Colin Wood & Associates Pty Limited, neither of which raised objection to the proposal on the basis of bushfire issues.

Their recommended conditions are included in the recommendation of this report.

The Landscape Development Officer and Development Control Engineer raised no objection to the proposal, subject to conditions.

The development application has been considered against the relevant matters for consideration listed under section 79C(1) of the Environmental Planning and Assessment Act, 1979 and is recommended for approval, subject to the conditions listed below.

RECOMMENDATION

That Development Application No 1601/02 for a dwelling-house and front fence, being Lot 5, DP 242905 (No 17) Redfield Road, Killara be approved for two years, subject to the following conditions:

GENERAL CONDITIONS

1. That Development Application No 1601/02 and Development Application plans prepared by Rob Crump Design Pty Ltd reference 1690/01 and 1690/02 dated 10 April 2003 and lodged with Council on 28 April 2003.

Item 6

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 works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.
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 a 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. To ensure compliance with the relevant standards, an effective and approved safety fence with self closing gate complying with the minimum requirements of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools" shall be provided to the Principal Certifying Authority's satisfaction prior to any water being placed in the pool.
8. For safety purposes, prior to the pool being filled a weather resistant poster detailing expired air resuscitation (mouth to mouth) methods shall be affixed within plain sight of the pool. A sign/notice with the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" shall be erected in clear view and in close proximity to the pool.
9. To ensure compliance with the Swimming Pools Act, 1992, the existing boundary fence, forming part of the safety fencing to enclose the pool shall be upgraded or otherwise so altered or reconstructed so as to comply with the provisions of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools". The overall height of the dividing fence is not to exceed 1.8 metres in height above the natural ground level. Attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owners which may arise in respect of this matter and enquiries in this regard may be made at the nearest Local Court.
10. 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.
11. 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.

Item 6

12. 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.

13. 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.
14. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
15. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
16. To maintain existing ground levels all excavated material shall be removed from the site.
17. 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.
18. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
- a. The type and size of machinery proposed.
 - b. The routes of all trucks to convey material to and from the site.
 - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.
19. 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.

Item 6

20. The Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
21. 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.
22. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
23. Under no circumstances shall building materials, demolition waste, fill, soil or any other material from any source be placed or stored within any public reserve.
24. Sites shall not be re-shaped, re-contoured, excavated nor the levels on any part of the site altered without the Consent of the Council being obtained beforehand.
25. To preserve and enhance the natural environment, sediment removed from erosion and sediment control structures shall be disposed of to an approved sediment dump.
26. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
27. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.
28. To prevent pollution, all disturbed areas which are not to be built upon or otherwise developed within 14 days shall be stabilised with mulch, woodchip or other rehabilitation methods to provide permanent protection from soil erosion.
29. Topsoil shall be stripped from areas to be developed and stock-piled within the site. Stock-piled topsoil on the site shall be located outside drainage lines and be protected from run-on water by suitably positioned diversion banks. Where the period of storage will exceed 14 days stock-piles are to be sprayed with an appropriate emulsion solution or seeded to minimise particle movement.
30. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.

Item 6

31. Landscape works shall be carried out in accordance with Landscape Drawing No 04006 L01 prepared by PATIO and dated January 2004 submitted with the Development Application. The landscape works shall be completed prior to issue of the final Certificate of Compliance and be maintained in a satisfactory condition at all times.
32. Any imported fill material shall be restricted to material from the local soil landscape on which the site is located or be derived from sandstone geology sites.
33. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
34. 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.
35. On completion of the landscape works/tree planting and screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
36. The following noxious and/or undesirable plant species shall be removed from the property prior to completion of the proposed building works. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to the release of the final Compliance Certificate:

Plant Species

Ageratina sp. (Crofton/Mist Weed)

Hedera sp. (Ivy)

Ligustrum lucidum (Large-leaved Privet)

Ligustrum sinense (Small-leaved Privet)

Senna pendula (Cassia)

Lantana camara (Lantana - Pink Flower)

Ipomoea indica (Morning Glory)

37. 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.
38. To maintain capacity of the Public drainage system, an On-site Stormwater Detention System must be provided in accordance with Council's Stormwater Management Manual. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

The system is to be cleaned regularly and maintained to the satisfaction of Council.

Item 6

NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.

NOTE 4: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.

NOTE 5: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings. This is available from Council upon request.

39. 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 minimise and/or 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, with all silt being removed from the site, or to an approved location within the site.
40. Stormwater runoff from all hard surfaces, or landscaped areas, which are not at natural ground level, shall be piped to a dispersal trench positioned parallel to the contours of the site **at the highest practicable level.**

NOTE 1: The dispersal trenches shall be 700mm wide x 700mm deep x 1.0 metre run/10m² of area to be drained. Trenches shall be fitted with half round PVC (450mm diameter) dome sections backfilled with crushed or round river gravel to within 150mm of surface level, surrounded with suitable geofabric and finished with topsoil. Alternatively, a level spreader/ dispersion arrangement such as shown on Boyden & Partners Drawing 3342/1, dated 15.05.03 may be adopted.

NOTE 2: Trenches are to be at least 5 metres from downstream boundaries and 3 metres from the footings of any structure, unless a structural engineer's certificate is provided to the effect that the presence of the trenches will not compromise the integrity of the footings.

Item 6

NOTE 3: A suitably designed litter and coarse sediment 450mm square grated arrestor pit is to be provided immediately upstream of the dispersal trench.

NOTE 4: The trench is not to require excavation underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 5: A certificate from the installer is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied.

41. New timber decking is to have minimum 5mm spacing between timbers to allow the tree passage of rainwater through the deck.
42. Construction should comply with Australian Standard 3939-1999 Level 3 construction.
43. Inclusion of 'leafless guttering' (gutter guard) or other mechanical means to be installed on the structure to prevent build up of flammable material within the gutters.

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

44. 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.
45. 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).
46. 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

Item 6

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.

47. A *CASH BOND/BANK GUARANTEE* of \$1000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of the this bond will be refunded upon issue of the final Certificate of Compliance, where landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after issue of the building certificate, where landscape works has 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.

48. 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.

49. To preserve health and condition of existing trees on site, a survey of the trees located in the lower area of the site is to be undertaken to enable assessment of impact of proposed stormwater dispersion facility. Tree survey is to include species, trunk location and diameter at 1.5m above natural ground level, height, canopy spread and spot levels at base, both on the site and within 10m of the boundaries on adjoining properties. Survey to be submitted to Council for assessment by Landscape Assessment Officer prior to release of Construction Certificate.
50. No work shall commence until a program of bush regeneration/weed removal in the retained bushland is prepared by a qualified and experienced bush regenerator and a copy submitted to the Council's Landscape Development Officer, prior to the issue of the Construction Certificate.
51. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater

Item 6

Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.

NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

52. Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention and all supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council requirements. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.
53. DRIVEWAYS AND FOOTPATHS: Approval of this Development Application is for works wholly within the property and 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.

Footpath and driveway levels at the property boundary/road alignment are to be obtained from Council prior to release of the Construction Certificate. All footpaths and driveways are to be constructed strictly in accordance with Council's specifications "Construction of Gutter Crossings and Footpath Crossings". This is issued with alignment levels after completing the necessary application form at Customer Services and payment of the appropriate fee.

The grading of such footpaths or driveways outside the property are to 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 this may be affected by the alignment levels fixed by Council.

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 (if applicable) of the proposed

Item 6

driveway at the boundary alignment. Failure to submit this information may delay processing.

54. For stormwater retention and quality control, provision of a five (5) metre long first-flush absorption trench within the subject property designed to capture and retain the first-flush stormwater runoff from the subject property after which runoff bypasses the trench and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced civil/hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The first-flush system may be achieved by the use of a separate low-level outlet from a pit located on the main drainage system.

NOTE 2: Where practicable, runoff from driveway and landscaped areas is to be directed to the retention system in preference to roof runoff.

NOTE 3: The trench shall be 700mm wide x 700mm deep and fitted with half round PVC (230mm radius) dome sections backfilled with crushed or round river gravel to within 150mm of surface level, surrounded with suitable geofabric and finished with topsoil.

NOTE 4: The trench is to be at least 5 metres from private property boundaries and 3 metres from the footings of any structure.

NOTE 5: A suitably designed litter and coarse sediment 450mm square grated arrestor pit is to be provided immediately upstream of the trench.

NOTE 6: The trench is not to require excavation underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 7: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied.

NOTE 8: This requirement does not apply where the Applicant considers installation to be impractical.

OR

For stormwater retention, provision of a 2000 litre rainwater tank within the subject property designed to capture and retain runoff from at least one roof downpipe after which runoff bypasses the tank and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced civil/hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The tank is to be located at or above existing natural ground level.

Item 6

- NOTE 2: If abutting a wall of the dwelling, the tank must be below the eaves line.
- NOTE 3: The tank must not be located on the front façade of a dwelling.
- NOTE 4: If the tank is to be attached to a structure then a structural engineer is to certify the adequacy of the design of the structure to carry the tank.
- NOTE 5: Maximum height of the tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.
- NOTE 6: The tank is to be a commercially manufactured tank designed for the use of water supply and to be installed in accordance with manufacturers specifications.
- NOTE 7: The tank is to be located above an available landscaped area so that the tank may be readily used for watering purposes.
- NOTE 8: The tank is to be fitted with a standard garden tap or similar which is to be clearly marked as not to be used for drinking purposes.
- NOTE 9: The tank is to be fitted with measures to prevent mosquito breeding.
- NOTE 10: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied
- NOTE 11: This requirement does not apply where the Applicant considers installation to be impractical.

55. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.
56. The proposed driveway is to be constructed of a pervious material such as gravel, pervious pavers or open graded asphalt. Details are to be provided to the Principal Certifying Authority prior to issue of the Construction Certificate.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

57. 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.
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:

Item 6

- 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. 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.
60. 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.
61. To preserve the existing trees during construction, no work shall commence until the area 2m south of the proposed timber deck, is fenced off to prevent any activities, storage or the disposal of materials within the fenced area. The fence shall be maintained intact until the completion of all building work on site.
62. 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.
63. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. 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

64. 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.
65. To collect stormwater overflow from the swimming pool surface only, a high level overflow pipe is to be provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. A certificate from the installer indicating compliance with this condition must be submitted

Item 6

to, and approved by, the Principal Certifying Authority (PCA), prior to issue of the final Compliance Certificate.

66. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified person that the works were carried out in accordance with the approved plans. Certification must be provided to the Principal Certifying Authority Prior to issue of the Final Compliance Certificate.
67. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to issue of the Final Compliance Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must to also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

- Compatibility of the drainage system with the approved plans
- The soundness of the structure.
- The adequacy of the outlet control mechanism to achieve the discharge as specified.
- The capacity of the detention storage as specified.
- The size of the orifice or pipe control fitted.
- The maximum depth of storage over the outlet control.
- The adequate provision of a debris screen.
- The inclusion of weepholes in the base of the outlet control pit.
- The provision of an emergency overflow path.
- All enclosed floor areas, including habitable and garage floor levels, being safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The Works-as-Executed drawing(s) are to include all relevant levels including:

- invert levels
 - surface or pavement levels
 - floor levels including adjacent property floor levels
 - maximum water surface level to be achieved in the storage zone
 - dimensions of basin(s), tank(s), pit(s), etc.
 - location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
 - storage volume(s) provided and supporting calculations
 - size of orifice(s)
68. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to issue of the Final Compliance Certificate or issue of a Subdivision Certificate. The terms of the

Item 6

instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) 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.

69. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to issue of the Final Compliance Certificate or issue of a Subdivision Certificate.
70. Prior to issue of the Final Compliance Certificate or the issue of a Subdivision Certificate, all disused driveway crossings, pipe crossing and/or kerb laybacks are to be reinstated as footway and kerb and/or gutter to the satisfaction of Council's Development Engineer. Reinstatement works to generally match surrounding infrastructure. Any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer, at the Applicants cost.

BUILDING CONDITIONS

71. 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.
 - c. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
72. Any mechanical ventilation installed in a dwelling shall comply with the requirements of Part 3.8.5.0 of the Building Code of Australia Housing Provisions. Documentary evidence of compliance is to be obtained from a suitably qualified person and submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
73. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:

Item 6

- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
- b. Any pier holes and/or foundation material.
- c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
- d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
- e. Any stormwater drainage works prior to covering.
- f. The completed landscape works in accordance with the approved plans.
- g. The completed structure prior to occupation.

The required inspection fees (which also covers the issue of the Compliance Certificate) are to be paid to the Council before the issue of a Construction Certificate for this development.

If inspections are to be carried out by Council, 24 hours notice is required by Council's Department of Environmental and Regulatory Services, by telephoning Customer Service on 9424 0888 during business hours (8.30am to 4.30pm) or by facsimile on 9418 1117.

Note: Inspections of work which is found to be defective or not ready will attract a reinspection fee. Please cancel bookings which will not be ready for inspection.

74. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
75. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

Risers:	Maximum 190mm	Minimum 115mm
Going (Treads):	Maximum 355mm	Minimum 240mm

Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.

76. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
 - b. Smoke alarms which:

Item 6

- i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
- ii. are connected to the mains and have a standby power supply; and
- iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

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.

77. 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.

78. The following are required details and must be submitted to the Council on completion of the works. 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. Wet area waterproofing details complying with the Building Code of Australia.
- b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.
- c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- d. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

G Smith
Team Leader, Gordon Ward

M Miocic
Director
Environment & Regulatory Services

Ordinary Meeting of Council - 17 February 2004

6 / 22

17 Redfield Road, Killara

1601/02

11 February 2004

Item 6

Attachments: **Previous Report to Council**
 Landscape Plan
 Advice from Colin Wood & Associates Pty Ltd

29 DUMARESQ STREET, GORDON

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To advise Council of the outcome of an independent investigation undertaken by Hughes Trueman Pty Ltd in relation to the impact of the development on the watercourses, the water table and the Blue Gum High Forest in Special Area 4.

BACKGROUND:

- Consideration of the application was deferred on 28 October 2003 pending a site inspection.
- Consideration of the application was deferred on 2 December 2003 pending an independent assessment of the impact of the development on the watercourses or the water table and upon the Blue Gum High Forest in Special Area 4.
- Hughes Trueman Pty Ltd engaged to assess the significance of the impact of the development on these environmental characteristics.
- Hughes Trueman have undertaken an assessment and prepared a report for Council's consideration.

COMMENTS:

The Hughes Trueman assessment concludes that the proposed development will have no significant impact on the watercourse, the water table or the Blue Gum High Forest in Special Area 4.

RECOMMENDATION:

Approval, subject to conditions.

PURPOSE OF REPORT

To advise Council of the outcome of an independent investigation undertaken by Hughes Trueman Pty Ltd in relation to the impact of the development on the watercourses, the water table and the Blue Gum High Forest in Special Area 4.

To recommend that Council grant development consent to the application.

BACKGROUND

- Consideration of the application was deferred on 28 October 2003 pending a site inspection.
- Consideration of the application was deferred on 2 December 2003 pending an independent assessment of the impact of the development on the watercourses, the water table and upon the Blue Gum High Forest in Special Area 4.
- Hughes Trueman Pty Ltd engaged to assess the significance of the impact of the development on these environmental characteristics.
- Hughes Trueman have undertaken an assessment and prepared a report for Council's consideration.

CONSIDERATION

At its meeting on 2 December 2003, Council resolved as follows:

“That the matter be deferred for an independent assessment as to whether the development can demonstrate it will have no significant impact on the watercourses, the water table and upon the Blue Gum High Forest in Special Area 4”.

The development application was referred to Hughes Trueman Pty Ltd Civil Engineers. Fiona Christiansen, Senior Engineer with Hughes Trueman Pty Ltd provided an assessment (attached) dated January 2004, which concluded that the proposed development will have no significant impact on the watercourse, the water table or the Blue Gum High Forest in Special Area 4.

The assessment recommends that the stormwater outlet structure which is proposed to be located at the watercourse at the western boundary of the property be given adequate scour protection around and downstream of the structure to satisfy the requirements of the Department of Infrastructure, Planning and Natural Resources and requirements under the Rivers and Foreshores Improvements Act.

Recommended Condition No. 32 requires the construction of a headwall and energy dissipator at the discharge point of the stormwater pipe.

SUMMARY

Item 7

DA 438/03
11 February 2004

The Hughes Trueman assessment concludes that the proposed development will have no significant impact on the watercourse, the water table or the Blue Gum High Forest in Special Area 4. This report therefore recommends that the development application be approved, subject to the previously recommended conditions.

RECOMMENDATION

THAT Development Application No 438/03 for alterations and additions to the existing dwelling and construction of a new dwelling at rear of lot to create a detached dual occupancy on Lot 1, DP973595, being 29 Dumaresq Street, Gordon, be approved subject to the following conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No 438/03 and Development Application plans prepared by All Walls Pty Ltd reference number 03024-1 B dated 8 October 2003 & 03024-2 A dated 14 July 2003.
2. All building works shall comply with the Building Code of Australia.
3. The works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.
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 an Occupation Certificate has been issued.
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.

Item 7

DA 438/03
11 February 2004

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. To maintain existing ground levels all excavated material shall be removed from the site.
13. 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.
14. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
15. 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.
16. Compliance with the general terms of approval (ERM2003/003237) issued by the Department of Sustainable Natural Resources.
17. If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Item 7

DA 438/03
11 February 2004

Any such hoarding, fence or awning is to be removed when the work has been completed.

18. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
19. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
20. 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.
21. 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.
22. 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.

23. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
24. 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

Item 7

DA 438/03
11 February 2004

or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.

25. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
26. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
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. 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.
30. For stormwater control all paved areas are to be drained to the main drainage system.
31. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the watercourse within the site. A headwall and energy dissipater structure shall be constructed at the discharge point. Unless specified by plans approved with the Development Consent or other Conditions of this Consent, this structure is to be solidly constructed from mortared sandstone bushrock so that it has a low impact on local landscape and vegetation. It must not impede flows along the watercourse nor or lead to ongoing erosion of the watercourse.
32. A pit is to be constructed just upstream of the headwall to the watercourse. This is to be constructed so that the "inflow and outflow" pipes do not line up. In this way the pit will act as an energy dissipater.

The headwall structure at the watercourse is to be solidly constructed from mortared sandstone bushrock such that it has a low impact on local landscape and vegetation and does not impede flows along the watercourse nor will lead to ongoing erosion of the watercourse.

33. For stormwater control, an On-site Stormwater Detention System is to be provided in accordance with Council's Stormwater Management Manual. OSD systems are to be provided for both residences in the development.

Separate detention systems are to be provided for each residence.

An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

The system is to be cleaned regularly and maintained to the satisfaction of Council.

Item 7

DA 438/03
11 February 2004

- NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).
- NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.
- NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.
- NOTE 4: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.
- NOTE 5: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings.

34. During construction of the crossing the contractor is to make provision for safety of pedestrians and passing vehicles. As a minimum traffic control measures must be provided in accordance with Figure 1 "Closing a footpath", (being on Page 20 & 21), of SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1.

The traffic management measures shall be implemented prior to the commencement of any works on-site including excavation.

35. Apart from the section past the existing residence the accessway is to be a minimum width of 3.7 m. Past the house the width shall be the full available width.
36. If the proposed works are configured such that they will disrupt or disturb currently laid services for the existing dwelling, the applicant is to provide an alternative route for the effected services.
37. 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 minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities are to be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps are to be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.

Item 7

DA 438/03
11 February 2004

38. The relocation or adjustment of any utility service facilities are to be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
39. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works.
40. The dual occupancy development approved under this Consent, (DA 438/03) is to be completed to "lock-up" stage (being that stage where the building has the following components: external walls, cladding roofing, and all doors and windows with locks, installed, erected or constructed in their approved completed form) prior to a Subdivision Certificate being released by Council under any separate subdivision application.
41. For the purpose of Council inspections, the appropriate fees set out in Councils adopted Schedule of Fees and Charges are payable to Council, prior to the release of the approved plans. A re-inspection fee per visit may be charged where remedial work is unprepared at the requested time of inspection or where remedial work is unsatisfactory and a further inspection is requested. Engineering fees must be paid prior to the final approval of the works.
42. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
43. Sites shall not be re-shaped, re-contoured, excavated nor the levels on any part of the site altered without the Consent of the Council being obtained beforehand.
44. To preserve and enhance the natural environment, sediment removed from erosion and sediment control structures shall be disposed of to an approved sediment dump.
45. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
46. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.
47. To prevent pollution, all disturbed areas which are not to be built upon or otherwise developed within 14 days shall be stabilised with mulch, woodchip or other rehabilitation methods to provide permanent protection from soil erosion.
48. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied

Item 7

DA 438/03
11 February 2004

by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.

49. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
50. The screen planting shall be completed prior to the issue of the final Certificate of Compliance and be maintained in a satisfactory condition at all times.
51. Tree planting to satisfy tree retention/replenishment requirements shall be completed prior to the issue of the final Certificate of Compliance
52. 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.
53. On completion of the LANDSCAPE WORKS/TREE PLANTING OR SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
54. The following noxious and/or undesirable plant species shall be removed from the property prior to completion of the proposed building works. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to the release of the final Compliance Certificate:

Plant Species

Ageratina adenophora (Crofton Weed)
Asparagus densiflorus (Asparagus Fern)
Cinnamomum camphora (Camphor laurel)
Celtis sp. (Nettle Tree) seedlings
Hedera helix (English Ivy)
Impatiens balsamina (Impatiens)
Jasminum polyanthum (Jasminum)
Lantana camara (Lantana - Pink Flower)
Ligustrum lucidum (Large-leaved Privet)
Ligustrum sinense (Small-leaved Privet)
Macfadyena unguis-cati (Cat's-claw Creeper)
Nephrolepis cordifolia (Fishbone fern)
Ochna serrulata (Ochna)
Phyllostachys sp. (Rhizomatous Bamboo)
Senna pendula (Cassia)
Tradescantia albiflora (Wandering Jew)
Wisteria sp. (Wisteria Vine)

Item 7

DA 438/03
11 February 2004

55. 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.

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

56. 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.

57. 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).
58. 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.
59. 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.

Item 7

DA 438/03
11 February 2004

- 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.
60. To ensure structural stability, engineer's details (in duplicate) of retaining walls, prepared by a qualified practising structural engineer, shall be submitted to the Principal Certifying Authority for consideration prior to the issue of the Construction Certificate.
61. The Construction Certificate shall not be issued until a copy of the Part 3A Permit, issued by the Department of Infrastructure, Planning and Natural Resources has been provided to Council.
62. To protect the amenity of the adjoining property, all fill under the slab is to be contained by dropped edge beams. Engineers details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.
63. The drainage concept design, by Boyden and Partners Drawing No. 2350, sheet 1 dated August 2002, is generally satisfactory, however the following issues are to be addressed prior to the issue of the Construction Certificate:-
- i) The roof gutter, down pipe and drainage system of the dwelling is to be sized to catch and convey the 50 year ARI storm event to the OSD system. An engineer is to provide certification the Construction Certificate plans, that this has been achieved.
OR
Suitable kerbs or other approved "cut off" systems are to be provided in the OSD design to ensure the overland flow is directed to the OSD system. These kerbs etc, are to be sized for all storms up to the 50 year ARI storm event. An engineer is to provide certification the Construction Certificate plans, that this has been achieved.
 - ii) Trees to be retained are to be drawn to scale.
 - iii) At the western end of the frontage, extend the kerb to reinstate the piece of missing kerb and gutter.
 - iv) The drawings are not to show pits, walls and pipelines constructed under tree canopies, (of trees to be retained).
 - v) Drainage design details are to be compatible with the landscaping plans.
 - vi) Councils landscape officer is to consider the final location of all drainage infrastructure including (a) drainage lines, (b) OSD tanks, and (c) OSD basin walls. Only after the Council's landscape officer approval, can the Construction Certificate be issued.
 - vii) Where OSD storage is by way of underground storage,
 - A Stormwater inflow pipes are to be located below inspection grates.
 - B If soil and turf are to cover the tank, then a minimum depth of soil to be 350mm.

Item 7

DA 438/03
11 February 2004

- viii) The access grate above the control chamber is to be a grate of 600mm x 900mm or greater. Apart from the grate above the control chamber, other grates to have the following minimum sizes, depending on the pit depth as follows:-

Depth of Chamber below grate	Min grate and Pit size
Less than 300mm	300square
Less than 450mm	450square
Equal to or Less than 600mm	600square
Greater than 600mm	600 x 900

- 64. For stormwater retention and quality control, provision of a five (5) metre long first-flush absorption trench *for each dwelling*, designed to capture and retain the first-flush stormwater runoff from the subject property after which runoff bypasses the trench and reverts to the main drainage system. Design drawings shall be submitted and approved by the Principal Certifying Authority with the Construction Certificate.

NOTE 1: The first-flush system may be achieved by the use of a separate low-level outlet from a pit located on the main drainage system.

NOTE 2: Where practicable, runoff from driveway and landscaped areas is to be directed to the retention system in preference to roof runoff.

NOTE 3: The trench shall be 700mm wide x 700mm deep and fitted with half round PVC (230mm radius) dome sections backfilled with crushed or round river gravel to within 150mm of surface level, surrounded with suitable geofabric and finished with topsoil.

NOTE 4: The trench is to be at least 5 metres from private property boundaries and 3 metres from the footings of any structure.

NOTE 5: A suitably designed litter and coarse sediment 450mm square grated arrestor pit is to be provided immediately upstream of the trench.

NOTE 6: The trench is not to require excavation underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 7: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied.

NOTE 8: This requirement does not apply where the Applicant considers installation to be impractical.

OR

For stormwater retention, provision of a 2000 litre rainwater tank *for each dwelling*, designed to capture and retain runoff from at least one roof downpipe after which runoff bypasses the tank and reverts to the main drainage system. Design drawings shall be submitted and

Item 7

DA 438/03
11 February 2004

approved by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate.

NOTE 1: The tank is to be located at or above existing natural ground level.

NOTE 2: If abutting a wall of the dwelling, the tank must be below the eaves line.

NOTE 3: The tank must not be located on the front facade of a dwelling.

NOTE 4: If the tank is to be attached to a structure then a structural engineer is to certify the adequacy of the design of the structure to carry the tank.

NOTE 5: Maximum height of the tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.

NOTE 6: The tank is to be a commercially manufactured tank designed for the use of water supply and to be installed in accordance with manufacturers specifications.

NOTE 7: The tank is to be located above an available landscaped area so that the tank may be readily used for watering purposes.

NOTE 8: The tank is to be fitted with a standard garden tap or similar which is to be clearly marked as not to be used for drinking purposes.

NOTE 9: The tank is to be fitted with measures to prevent mosquito breeding.

NOTE 10: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied

NOTE 11: This requirement does not apply where the Applicant considers installation to be impractical.

65. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage. This requirement is to be demonstrated on submitted Construction Certificate drawings.
66. The property drainage system shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces and in accordance with Council's Stormwater Management Manual. Design drawings and calculations are to be prepared by a suitably qualified and experienced hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate.

Item 7

DA 438/03
11 February 2004

NOTE 1: The property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.

NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

67. Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention and supporting calculations are to be prepared by a suitably qualified and experienced hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate.

68. DRIVEWAYS AND FOOTPATHS: Approval of this Development Application is for works wholly within the property and does not imply approval of footpath or driveway levels, materials or location regardless of whether this information is shown on the Application.

Footpath and driveway levels at the property boundary/road alignment are to be obtained from Council's Technical Services Department prior to release of the Construction Certificate.

All footpaths and driveways are to be constructed strictly in accordance with Council's specifications, "Construction of Gutter Crossings and Footpath Crossings" which is issued with alignment levels after payment of the appropriate fee.

The grading of such footpaths or driveways outside the property are to 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 this may be affected by the alignment levels fixed by Council.

Note: 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.

At the time of pouring the new crossing, and new kerb and gutter, the missing section of kerb and gutter to the west of the proposed crossing, is to be replaced. This missing section is about 1m long.

Unless the Council Crossing inspector directs otherwise, the missing section of upright kerb is to be reinstated in the following manner.

- A The bitumen pavement is to be saw cut parallel to the lip of kerb.
- B The existing concrete gutter is to be removed.
- C Any remains of the kerb are to be removed.

Item 7

DA 438/03
11 February 2004

D New “cast in situ” integral K&G is to be poured and connected to the adjoining sections of upright kerb with suitable bitumen jointing.

69. Prior to the issue of the Construction Certificate, longitudinal sections are to be provided along both sides of the proposed driveway from the centreline of the street to the proposed garage/carport, demonstrating that vehicular access can be obtained using grades of 20% (25% maximum) or less without scraping the underside of a car. All changes in grade are to comply with AS 2890.1-1993. If a new driveway crossing is proposed then the longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application to Council’s Technical Services Department.

Construction Certificate Plans to demonstrate that driveway and accessway gradients will be such that they permit the B99 Vehicle to enter and exit all car spaces on the site without scraping. The clearances for this vehicle are defined in AS 2890.1.

70. Submission for approval with the Construction Certificate of a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document “Managing Urban Stormwater – Soils and Construction” (1998) by a suitably qualified and experienced engineer or surveyor. Such controls should include but not be limited to appropriately sized sediment basins, diversion systems, appropriate controls for each stage of works identified and barrier fencing which maximises and protects areas which are not to be disturbed. The plan must also specify inspection and maintenance regimes and responsibilities and rehabilitation measures.

71. The applicant is to provide Plans with the Construction Certificate application from a suitably qualified and experienced engineer or surveyor, detailing the following works :-

- 1) Internal Accessway with 150mm high kerb long the downstream side.
- 2) Provide a new wide crossing, ({5.5m wide with length 6.0m, and 2.5 m transitions}, or {equivalent passing bay just inside the boundary}), to allow two cars to pass on the accessway.

A suitably qualified and experienced engineer or surveyor, is to provide calculations and plans, (indicating the design satisfies this condition). The Calculations and plans are to be approved by the PCA prior to issue of the Construction Certificate.

72. 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 1 ADDITIONAL DWELLING IS CURRENTLY \$25 973.53. 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.

Item 7

DA 438/03
11 February 2004

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 20 December 2000, calculated for additional person as follows:

1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New child care centre (including land acquisition and construction of facility)	\$252.13
4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Acquisition of Open Space - Gordon	\$7,851.00
8.	Koola Park upgrade and reconfiguration	\$143.09
9.	North Turrumurra Sportsfield development	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

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)	1.25 persons
Medium dwelling (75 - under 110 sqm)	1.75 persons
Large dwelling (110 – under 150sqm)	2.75 persons
Very Large dwelling (150sqm or more)	3.5 persons
New Lot	3.5 persons

73. The Construction Certificate shall not be released until a Site Management Plan is submitted to the Principal Certifying Authority and approved by a suitably qualified professional.

The plan shall indicate the planned phases of the construction work, erosion and drainage management, tree protection measures, areas nominated for storing materials, site access and where vehicle parking is proposed, during construction.

74. An amended plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works. A Landscape Assessment fee will be payable on lodgement of the required landscape plan, in accordance with Council's adopted Schedule of Fees and Charges.
75. To protect and enhance native vegetation to conserve and promote biodiversity the subject site shall incorporate at least 25% of tree and shrub plantings that are derived from the Sydney

Item 7

DA 438/03
11 February 2004

Turpentine/Ironbark Forest assemblage of species (see attachment) as the site is located more than 300 metres from bushland. This detail shall be included on the amended landscape plan to be submitted to Council prior to release of the Construction Certificate.

76. For the provision of screen planting and to minimise damage to the root system of 1 *Brachychiton acerifolius* (Flame Tree) located within 31 Dumaresq Street, a planting strip of 990 mm width, including a retaining wall, shall extend the full length of the driveway adjacent to the site's western boundary. This detail shall be included on the amended landscape plan to be submitted to Council prior to release of the Construction Certificate.
77. A plan detailing screen planting of the site's eastern and western (side) boundaries shall be submitted to Council prior to the release of the Construction Certificate and approved by Council's Landscape Development Officer, prior to completion of building works. The plan shall incorporate species capable of attaining a height of 3 metres.
78. The property shall support a minimum number of 7 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commence of work.
79. The 6 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 Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.
80. A CASH BOND/BANK GUARANTEE of \$4,000 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of the this bond will be refunded upon issue of the final Certificate of Compliance, where landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after issue of the building certificate, where landscape works has 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.

81. Details of the proposed garbage storage areas, and a Waste Management Plan complying with the provisions of Council's Development Control Plan No 40 shall be submitted to and approved by the Principle Certifying Authority prior to the issue of the Construction Certificate.

Item 7

DA 438/03
11 February 2004

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

- 82. 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.
- 83. 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.
- 84. To reduce or eliminate the transport of sediment from the construction site onto public roads, a temporary construction exit, together with necessary associated temporary fencing, shall be established prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.
- 85. For stormwater control and to preserve and enhance the natural and built environment, a Sediment and Erosion Control Plan relating to all areas of the site to be disturbed or affected by earthworks or construction works shall be submitted and approved with the application for a Construction Certificate. The Control Plan shall include all details of measures and methods of sediment and erosion control to be adopted, implemented and methods of sediment and erosion control to be adopted, implemented and maintained during the course of development of the site. The Control Plan shall incorporate and disclose:
 - a. All details of drainage to protect and drain the site during the construction processes;
 - b. All sediment control devices, barriers and the like;
 - c. Sedimentation tanks, ponds or the like;
 - d. Covering materials and methods;
 - e. A schedule and program of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- 86. 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.
- 87. 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 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>Eucalyptus cinerea</i> (Argyle Apple) Close to the site's Dumaresq Street boundary.	5 metres
<i>Jacaranda mimosifolia</i> (Jacaranda) Close to the site's Dumaresq Street boundary.	3 metres

Item 7

DA 438/03
11 February 2004

88. 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.
89. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. 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

90. 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.
91. The construction of all engineering works, not limited to but including:- (a) the accessway handle, (b) passing bay at boundary and (c) missing section of kerb and gutter, prior to issue of an Occupation Certificate. The works are to be supervised by the designing engineer or surveyor and certified upon completion that the as-constructed works comply with the approved design documentation and relevant Council Specifications. The designing engineer or surveyor is to also submit a works-as-executed drawing of the as-constructed works. A registered surveyor is to certify that works are wholly contained within the relevant allocations.
92. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced hydraulic engineer or surveyor, prior to Occupation, that:
 - a. The works were carried out and completed in accordance with the approved plans.
 - b. 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.

A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier prior to Occupation.

93. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed drawing issued by a suitably qualified and experienced engineer or surveyor is to be submitted to the Principal Certifying Authority prior to occupation or issue of an Occupation Certificate.

NOTE 1: The Certificate is to be with respect to compliance with:

Item 7

DA 438/03
11 February 2004

- a. The soundness of the structure.
- b. The adequacy of the outlet control mechanism to achieve the discharge as specified.
- c. The capacity of the detention storage as specified.
- d. The size of the orifice or pipe control fitted.
- e. The maximum depth of storage over the outlet control.
- f. The adequate provision of a debris screen.
- g. The inclusion of weepholes in the base of the outlet control pit.
- h. The provision of an emergency overflow path.

NOTE 2: The certifying engineer and surveyor is to also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

NOTE 3: The Works-as-Executed drawing(s) are to include all relevant levels including:

- Invert levels
- surface or pavement levels
- floor levels including adjacent property floor levels
- maximum water surface level to be achieved in the storage zone
- dimensions of basin(s), tank(s), pit(s), etc.
- location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
- storage volume(s) provided and supporting calculations
- size of orifice(s)

94. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property prior to occupation or the issue of an occupation or subdivision certificate. 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" 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.
95. Provision of permanent visible signage at creek denoting:
 - a. This area is subject to the rapid rise of flood waters.
96. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to occupation, the issue of the Occupation Certificate or the issue of a subdivision certificate.
97. Prior to occupation, the issue of an Occupation Certificate or the issue of a Subdivision Certificate, all disused driveway crossings, pipe crossing and/or kerb laybacks are to be reinstated as footway and kerb and/or gutter to the satisfaction of Council's Development Engineer.

Item 7

DA 438/03
11 February 2004

Any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer.

98. For any of the legal instruments created as a requirement of this determination, Ku-ring-gai Council is to be named as the only authority empowered to release, vary or modify such instruments.
99. Creation of a Restriction-on-Use on the title of the rear lot prior to occupation, or the issue of an Occupation Certificate, or Subdivision Certificate. The Restriction-on-Use on the title is to apply to that land in the 100 Year ARI flood zone.

The terms of the legal instrument are to be such that no structures, (walls, fences, fill or other works), are to be placed in that area which may impede the 100 year ARI flood.

Ku-ring-gai Council is to be named as the authority empowered to release, vary or modify the restriction.

The applicant's engineer is to provide calculations, cross sections and plans to determine the affected area.

100. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please 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.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/ release of the plan of subdivision.

BUILDING CONDITIONS

101. 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.
102. Any mechanical ventilation installed in a dwelling shall comply with the requirements of Part 3.8.5.0 of the Building Code of Australia Housing Provisions. Documentary evidence of

Item 7

DA 438/03
11 February 2004

compliance is to be obtained from a suitably qualified person and submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

103. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any pier holes and/or foundation material.
 - c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
 - d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - e. Any stormwater drainage works prior to covering.
 - f. The completed landscape works in accordance with the approved plans.
 - g. The completed structure prior to occupation.

The required inspection fees (which also covers the issue of the Compliance Certificate) are to be paid to the Council before the issue of a Construction Certificate for this development.

If inspections are to be carried out by Council, 24 hours notice is required by Council's Department of Environmental and Regulatory Services, by telephoning Customer Service on 9424 0888 during business hours (8.30am to 4.30pm) or by facsimile on 9418 1117.

Note: Inspections of work which is found to be defective or not ready will attract a reinspection fee. Please cancel bookings which will not be ready for inspection.

104. 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.
105. To ensure compliance with this determination a Registered Surveyor's Report confirming reduced levels as shown on the approved plans with particular regard to the future finished level of the GROUND OR FIRST floor shall be submitted to the Principal Certifying Authority on completion of that floor.
106. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
107. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

Item 7

DA 438/03
11 February 2004

Risers:	Maximum 190mm	Minimum 115mm
Going (Treads):	Maximum 355mm	Minimum 240mm

Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.

108. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:

- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
- b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
 - ii. are connected to the mains and have a standby power supply; and
 - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

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.

109. 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.

110. The following are required details and must be submitted to the Council on completion of the works. 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. Wet area waterproofing details complying with the Building Code of Australia.

Item 7

DA 438/03
11 February 2004

- b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.
- c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- d. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.

G Smith
TEAM LEADER
GORDON WARD

M Miocic
DIRECTOR
ENVIRONMENTAL & REGULATORY
SERVICES

**Attachments: Previous Council Report
Report prepared by Hughes Trueman**

BUSINESS CENTRES IMPROVEMENT PROGRAM

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	The purpose of this report is to seek Council's endorsement of the Business Centres Improvement Program for 2004 to 2009.
BACKGROUND:	In 2001, Council adopted a three year Business Centres Footpath Improvement Program which was mainly aimed repairs to broken and damaged footpaths. However, as a consequence of undertaking footpath repairs, it was considered appropriate to improve the appearance of the Business Centres to incorporate landscaping and street furniture improvements.
COMMENTS:	The proposed program is to ensure that all of the major centres have their footpaths enhanced with a footpath paving treatment, landscaping and new street furniture to ensure consistency across the Council area.
RECOMMENDATION:	That Council adopts the draft 2004 to 2009 Business Centres Improvement Program for consultation with the Business Centres Advisory Committee.

PURPOSE OF REPORT

The purpose of this report is to seek Council's endorsement of the Business Centres Improvement Program for 2004 to 2009.

BACKGROUND

In 2001, Council adopted a three year Business Centres Footpath Improvement Program which was mainly aimed repairs to broken and damaged footpaths. However, as a consequence of undertaking footpath repairs, it was considered appropriate to improve the appearance of the Business Centres to incorporate landscaping and street furniture improvements.

The previous program was considered to be piece-meal and funds were allocate to the worst sections of footpath. Some sections of the program were extended in order to provide a uniform approach to the works. Works carried out were at the following locations:

- Gordon Shopping Centre along the northern side footpath
- Lindfield Shopping Centre between Balfour and Bent Streets and 295 to 317 Pacific Highway on the northern side footpath
- Redleaf Avenue at Wahroonga
- Grandview Street Pymble from 55 Grandview Street to Alma Street.

Works proposed for 2003/04 include Rohini Street, Turramurra from Eastern Road to the Pacific Highway which is scheduled to commence in March 2004 and for the Wahroonga Shopping Centre.

COMMENTS

An inspection of all the major business centres was carried out to determine the extent of work carried out to date and the condition of the existing footpaths in each of the centres. While there were some cracked and broken concrete slabs in some of the centres, none of the footpaths were considered to be unsafe and therefore did not constitute a priority.

Some centres have had portions of the footpath completed with new treatments while others have had no work carried out. The purpose of the proposed program is to ensure that all of the footpaths through the major business centres are completed and a similar theme is created throughout the Council area. It is proposed to install landscaping beds and street furniture similar to the type installed at both Gordon and Pymble shopping centres. The colour schemes will be selected to match the colour palettes previously adopted by Council and the work will be done in consultation with the Open Space and Planning and Environment Sections of Council.

Attached is a copy of the proposed 2004 to 2009 Business Centres Improvement program based on the annual allocation of \$185,000 and likely additional funding from Section 94 funds.

Item 8

S02962
3 February 2004

With regard to the potential future changes and planning for the business centres, it is intended that the plans for the centres be prepared to ensure that these works be incorporated in any conditions of consent.

CONSULTATION

Consultation has taken place with the representatives of the Chamber of Commerce for the various centres where works are proposed. However, it is proposed that Council adopt the draft program and refer the program back to the Business Centres Advisory Committee for comment and consultation.

FINANCIAL CONSIDERATIONS

Council allocates \$185,000 per annum to improvement works in the business centres and approximately \$10,000 per annum will be made available from the new Section 94 plan.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has taken place with staff from Planning and Environment and also Open Space with regard to any previous schemes for the business centres and incorporation of colour schemes into the proposed works..

SUMMARY

Council previously adopted a 3 year program for footpath improvement works in the major business centres. However, the previous program was aimed at short sections of damaged footpaths.

While some of the works have been completed there needs to be a program for completing the whole of the major shopping centres with footpath paving, landscaping and street furniture.

Attached is a draft proposed program which is aimed at completing all the footpaths in the major and some of the neighbourhood shopping centres.

RECOMMENDATION

That Council adopts the draft 2004 to 2009 Business Centres Improvement Program for consultation with the Business Centres Advisory Committee.

Greg Piconi
Director Technical Services

Attachments: Draft Business Centres Improvement Program 2004 to 2009

POLICY AND PROCEDURES FOR ROAD MAINTENANCE AND REPAIR

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To seek Council's approval of the Road Maintenance and Repair policy and procedures.
BACKGROUND:	On 21 May 2003 Council considered a report on the abolition of non-feasance and Council's liability. The High Court handed down a decision on 31 May 2001 abolishing the rule of non-feasance and Councils are now required to defend claims on the basis of 'normal' duty of care.
COMMENTS:	Given the abolition of the immunity rule and the Civil Liability Act, Council should develop a procedure for managing risk and allocate funding on a priority basis.
RECOMMENDATION:	That Council adopts the Road Maintenance and Repair policy and procedures.

PURPOSE OF REPORT

To seek Council's approval of the Road Maintenance and Repair policy and procedures.

BACKGROUND

At Council's meeting of 21 May 2003, Council considered a report on the abolition of non-feasance and Council's liability.

On 31 May 2001, the High Court handed down its decision on Ghantons versus Hawkesbury City Council and Brodie versus Singleton Shire Council. As such, the decision eradicated the rule of non-feasance.

In the past, a road authority would not be liable because of a road or footpath fell into disrepair and Council was not aware of any failure of hazard.

As a result of the High Court's decision, Councils and other Road Authorities are required to defend claims on the basis of 'normal' duty of care.

In defending a claim, Council is required to demonstrate to the Court's satisfaction that:

1. it has a structured inspection and maintenance policy, including the prioritising of work.
2. it has adequate resources allocated to inspection and maintenance, that is, the amount allocated to inspection and maintenance is reasonable, given the interests competing for allocation of Council's finances.

On 18 June 2002 the Civil Liability (Responsibility Act 2002) received Royal Assent.

The Civil Liability Act places restrictions on awarding of damages relating to the death of or injury to a person caused by the fault of another person, except for damages covered by other specified laws.

The important changes to the common law regarding negligence, limits a plaintiff's capacity to argue that a Council should have allocated its resources in a particular way, so as to avoid injury to the plaintiff, and confirms that a Court must look at the particular situation in the wider picture of a Council's resources and commitments.

Councils and other public authorities must demonstrate a duty of care. This is to be assessed by:

S5B(1) – No negligence unless:

- (a) Risk was foreseeable
- (b) Risk was not insignificant
- (c) Reasonable person in the defendant's position would have taken these precautions.

Item 9

S03152
3 February 2004

S5B(2) – In determining (c) of the above, Courts are to consider:

- (a) probability of harm
- (b) likely seriousness of harm
- (c) burden of taking precautions
- (d) social utility of activity

COMMENTS

Given the abolition of the immunity rule and the introduction of the Civil Liability Act, it is important that Councils develop a procedure for managing risk and allocate funding on a priority basis.

Therefore, it is necessary for Councils to develop a policy and program for managing its assets in order to minimise the risk and allocate resources on a program basis taking into account the severity and likelihood of the risk.

In September 2003, Council adopted a policy for footpath repairs and maintenance procedures.

Council undertakes a survey of 20% of the road network each year for the updating of information in the Pavement Management System. The condition of Council's road network was also entered into a Maintenance Management System, which records the road defects.

Also, road patrols are undertaken to carry out temporary repairs until the road is either heavy patched or reconstructed.

Of the road network, approximately 200 kilometres of the 472 kilometres of Council maintained road has been assessed as being in failed to poor condition. While Council has increased the level of funding to upgrading its roads, there is still a lot of work outstanding.

Therefore, in order to proactively maintain Council's road network, inspections and repairs will concentrate on those roads rated as failed or poor condition.

The inspection and repair cycle will be greater for regional and collector roads because they carry more traffic and Council is likely to receive more claims for vehicle damage for these roads.

Council receives approximately \$160,000 per year from the Roads and Traffic Authority for maintenance and repair of regional roads. Council allocates approximately \$600,000 for road maintenance from its recurrent budget for maintenance and patching of collector and local roads.

This level of funding does not allow for a significant amount of heavy patching and consequently most of the repairs are considered to be temporary. However, hot mix asphalt is used in most places to allow for a longer life than conventional road patching treatments.

Attached is the draft Road Maintenance and Repair policy and procedures including the schedule of all roads rated as poor or failed condition.

CONSULTATION

Consultation has taken place with Council's insurer on these matters with regard to developing a policy and procedures for managing risks.

FINANCIAL CONSIDERATIONS

Council allocates approximately \$600,000 for road maintenance and repair work and receives \$160,000 per annum from the Roads and Traffic Authority for maintenance of regional roads.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Finance and Business Section has been consulted in the preparation of this report.

SUMMARY

In 2001, the High Court abolished the non-feasance provisions that previously applied to Councils and road authorities.

On 18 June 2002, the State Government introduced the Civil Liabilities Act relating to the awarding of damages against Councils. This Act placed an onus on Councils to allocate resources according to available funding to address known risks.

For Council's roads, there are numerous risks and therefore, the identification of these risks need to be identified and prioritised.

A policy has been developed to assess the severity and likelihood of the risks and allocate available funding under a program. While the program will assist Council with claims for damages, the policy is designed to pro-actively address existing hazards in order to provide a safe environment for Council's residents and other members of the public.

RECOMMENDATION

That Council adopts the Policy and Procedures for Road Maintenance and Repair as attached.

Greg Piconi
DIRECTOR TECHNICAL SERVICES

Attachments: Proposed Road Maintenance and Repair Policy and Procedures

MINUTES OF THE TULKIYAN MANAGEMENT ADVISORY COMMITTEE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	That Council receive and note the minutes of the Tulkiyan Management Advisory Committee meeting held 29 October 2003 and consider the appointment of a new Tulkiyan Management Advisory Committee member.
BACKGROUND:	The October Tulkiyan Management Advisory Committee meeting was held on 29 October 2003. Five (5) community representatives attended the meeting.
COMMENTS:	The Committee has asked Council to consider several issues about management of the house. Since the resignation of Zeny Edwards from the Committee in July 2003, contact with a potential new member was made. At the meeting of 29 October 2003, the committee accepted an application from a new member and requests that Council agree to the appointment of Ms K Rieth as the new member of the committee (see attached resume). Ms Rieth is a member of the Ku-ring-gai Historical Society. The next meeting of the committee will be held on 18 February 2004.
RECOMMENDATION:	That Council receive and note the minutes of the Tulkiyan Management Advisory Committee meeting held on 29 October 2003. That Council agrees to the appointment of Ms Kathleen Rieth as the new Tulkiyan Management Advisory Committee member to replace Ms Edwards following her resignation.

PURPOSE OF REPORT

That Council receive and note the minutes of the Tulkiyan Management Advisory Committee meeting held 29 October 2003 and consider the appointment of a new Tulkiyan Management Advisory Committee member.

BACKGROUND

The Tulkiyan Management Advisory Committee is an advisory committee comprising of five community members and one Councillor. Their role is to advise Council on issues relating to management of Council's heritage property "Tulkiyan" at 707 Pacific Highway. The committee was formed as an outcome of the Plan of Management for Tulkiyan adopted on 6 February 2001.

COMMENTS

The minutes from the 29 October 2003 meetings were confirmed at the meeting held on 26 November 2003 – see **Attachment A**. The next meeting will be held on Wednesday 18 February 2004.

CONSULTATION

Consultation with other heritage authorities is ongoing.

FINANCIAL CONSIDERATIONS

Grant funding from the Heritage Office of NSW and Council's contribution was fully spent by July 2003. Council agreed at its meeting of 4 November 2003 to provide additional funding of \$14,480 for upgrading of the house to enable occupation by a Caretaker. The funds are to be drawn from Council's property reserve and fully repaid from subsequent income. A small budget of approximately \$2,000 is available to the Committee for activities. In November 2003, Council made an application to the Commonwealth Department of Heritage and Environment for funding of about \$45,000.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation with Council's Property Manager and Council's Finance Officer in relation to preparation of a lease and maintenance issues.

SUMMARY

29 October 2003 Tulkiyan Management Advisory Committee.

A range of issues were discussed and agreement made on several matters. A number of issues were identified for future discussion.

7.1 Replacement for Zeny Edwards following her resignation from the Committee

K Rieth has provided her CV to Council and is present as an observer, pending formal acceptance of her position on this Committee.

7.4 Front Fence Reconstruction/Driveway Gates

Recommendation:

During any maintenance or any other work on site, Council's nominated representative to this committee should be present throughout.

7.7 Resident Custodian - Lease Preparation

Recommendation:

That Council request Abbott Tout to provide a draft re 'provision of care taking services' as suggested, as soon as possible.

7.9 Report/Recommendation to Council

The draft report that is due to go to Council shortly was discussed at the meeting.

Recommendation:

that Council establish a dedicated cost centre for Tulkiyan, for the purpose of reporting and monitoring income and expenditure for the property. Statements to be furnished regularly to the Committee.

Comments

The following comments are made in relation to specific recommendations of the Committee:

7.4 While this is desirable, it may not always be practical to have someone on site. This will depend on the availability of staff.

7.7 Legal drafting work has already been undertaken. It is not appropriate for the Committee to nominate from whom Council should seek legal services.

7.9 This matter has been considered by Council previously. Council's staff do not support the creation of a separate dedicated cost centre but do support that the Committee should have access to information on income and expenditure related to Tulkiyan.

RECOMMENDATION

- A. That Council receive and note the minutes of the Tulkiyan Management Committee meeting held on 29 October 2003.
- B. That Council endorse the appointment of Ms Kathleen Rieth as the new Tulkiyan Management Advisory Committee member to replace Ms Edwards following her resignation.

Paul Dignam
Heritage Conservation Planner

Leta Webb
**Director
Planning & Environment**

Attachments: Minutes of the Tulkiyan Management Advisory Committee dated 29 October 2003.

DEVELOPMENT APPLICATION

SUMMARY

<i>REPORT TITLE:</i>	12 PORTERS LANE, ST IVES – DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A DETACHED DUAL OCCUPANCY
<i>WARD:</i>	St Ives
<i>DEVELOPMENT APPLICATION N^o:</i>	DA 927/03
<i>SUBJECT LAND:</i>	12 Porters Lane, St Ives
<i>APPLICANT:</i>	Mr David Upton c/-Glendinning Minto & Assoc
<i>OWNER:</i>	Fernecho Pty Ltd
<i>DESIGNER:</i>	Lindsay Little & Associates Pty Ltd
<i>PRESENT USE:</i>	Residential
<i>ZONING:</i>	Residential 2 C
<i>HERITAGE:</i>	No
<i>PERMISSIBLE UNDER:</i>	State Environmental Planning Policy 53
<i>COUNCIL'S POLICIES APPLICABLE:</i>	Dual Occupancy Code
<i>COMPLIANCE WITH CODES/POLICIES:</i>	No
<i>GOVERNMENT POLICIES APPLICABLE:</i>	State Environmental Planning Policy 53
<i>COMPLIANCE WITH GOVERNMENT POLICIES:</i>	Yes
<i>DATE LODGED:</i>	25 July 200325 July 2003
<i>40 DAY PERIOD EXPIRED:</i>	3 September 2003
<i>PROPOSAL:</i>	Demolish existing structure and construction of a detached dual occupancy
<i>RECOMMENDATION:</i>	Approval

Item 11

The site currently supports a single storey dwelling. This dwelling does not have any heritage significance.

THE PROPOSAL

Is a new front fence part of the proposed development? No

Is a new swimming pool part of the proposed development? No

The proposal involves the demolition of existing structures on the site and construction of a two storey detached dual occupancy development.

Dwelling One is to contain a kitchen, family room, dining room, living room, study, WC, laundry, bedroom (with ensuite) and double garage on the ground floor. The first floor of Dwelling One will contain three bedrooms, a bathroom and a gallery.

Dwelling Two is to contain a kitchen, family room, dining room, living room, study, laundry, bedroom (with ensuite), WC, and double garage on the ground floor. The first floor of Dwelling Two will contain two bedrooms, a storeroom, bathroom and gallery.

CONSULTATION - COMMUNITY

In accordance with Council's policy, adjoining owners were given notice of the application. Following the notification of the application comments were received from the following residents:

Mr and Mrs Nalder - 6 Stanley Close, St Ives
Mr and Mrs Hudson - 10 Stanley Close, St Ives
Ms Nancy Cummins - 5 Lynbarra Avenue, St Ives
R Gregory - 8 Stanley Close, St Ives

Privacy

Consideration has been given to the privacy of neighbours and residents in the design of the proposed development. The proposal has been designed appropriately with regard to the location of windows and balconies and the use of screening devices and landscaping. As well as maintaining a number of trees on the site, screen planting is proposed along each of the boundaries. This planting will act a visual barrier reducing the potential for overlooking into adjoining properties.

Concern has been raised over the potential for overlooking from windows on the first floor. These windows are proposed to service either bedrooms or bathrooms. These rooms are low usage areas and therefore the potential for unreasonable levels of overlooking of adjoining properties would be remote.

Accuracy of built-upon area

The built-upon area calculations of 41.75% have been checked and are correct.

Overshadowing

Item 11

The shadow diagrams prepared by Lindsay Little & Associates Pty Ltd indicate that adjoining properties will not be adversely affected by overshadowing. The shadows resulting from the development will be largely contained within the boundaries of the site. The shadows will not affect the windows or private open space areas of adjoining properties.

Increase in traffic

Council's Development Control Engineer concludes that the additional dwelling proposed as part of the development will have minimal impact on local traffic conditions.

CONSULTATION - WITHIN COUNCIL:

Council's Development Control Engineer

Revised drainage plans ("Hydraulic details at 12 Porters Lane, St Ives", by Civil and Structural Engineering Design Services, drawing U-03-16210/B dated 18/11/2003) have been received which address the initial concerns expressed by engineers over the above ground storage basin (refer to TRIM document 323065).

The revised details now show below ground On-Site Detention systems, under the driveway. The latest drainage proposal is acceptable as a concept, and should satisfy previous landscaping concerns regarding conflict with the original On-Site Detention design and the significant trees on the site. The submission of construction drawings for drainage will be conditioned, with details to be provided prior to issue of the Construction Certificate.

The Applicant shall be required to construct a new concrete footpath over the full site frontage in Porters Lane. A new double width layback and driveway crossing will be required. The driveway location off Porters Lane is acceptable.

There are no engineering objections to the proposal and conditions of consent have been recommended.

Council's Landscape Development Officer

The amended stormwater detention proposal has removed the detention basin from under the two significant trees, however, a retaining wall along the north west boundary will require the removal of two good screening trees outside the living room of House 1. Why is this wall necessary – is it simply to raise the ground level for the new house? If this is the case the wall can be deleted in this section and any fill can be contained within the footprint of the building with a drop edge beam or suspended. Access from the bedroom to the garden will require about two steps to reach ground level.

A batter is shown on the stormwater plan behind the back terrace to each house. Again I assume that this is required to raise the ground level of the house. This batter is not shown on the landscape plan and will be rather unattractive. It would be better to retain the fill with a retaining wall at the edge of each terrace or a combination of retaining walls and planted banks which are not too steep.

Item 11

Where the batter joins the retaining wall along the NE boundary is a tree which requires removal, however, it could be retained if the retaining wall were angled across to the boundary.

*An amended landscape plan is required to show the relocated detention basin, retaining walls and the treatment of the area where the batter is proposed. More canopy trees are required as two of the trees included in the calculation are *Acer negundo* (Box Elder) which are exempt under Council's Tree Preservation Order. House 2 requires another canopy tree which can attain 13 metres in height.*

The application can be approved and conditions have been recommended.

Council's Heritage and Urban Design Consultant

I raise no objection to this proposal. It is in keeping with the street and seems a good design. My only criticism is that cars reversing out of the left hand garage will come close to the entrance of the right hand house. This should be addressed if possible.

Comment:

Council's Engineer has raised no concern with the functionality of the proposed method of vehicle access. The proposed method of vehicle access this therefore considered acceptable.

PROVISIONS OF RELEVANT LEGISLATION

**The Environmental Planning & Assessment Amendment Act 1979
Section 79C**

1. Environmental Planning Instruments

- State Environmental Planning Policy No 53 (SEPP 53)
- The Ku-ring-gai Planning Scheme Ordinance, 1979 (KPSO)
- Development Control Plan 43
- Development Control Plan 40
- Council's Dual Occupancy Control Code

This application requires development consent under SEPP 53.

State Environmental Planning Policy No 53

SEPP 53 aims to encourage the provision of housing in metropolitan areas that will:

- (a) *broaden the housing choice of building types and locations available in the housing market, and*
- (b) *make more efficient use of existing infrastructure and services, and*
- (c) *reduce the consumption of land for housing and associated urban development on the urban fringe, and*
- (d) *be of good design.*

Item 11

Clause 3 of the SEPP states that these aims will be achieved by:

- (a) *by establishing planning controls that will provide opportunities for a variety of housing types to be developed in areas the councils of which have not adopted development strategies, and*
- (b) *by setting out design principals that, if followed, will achieve built form that responds to the characteristics of its site and location*
- (c) *by encouraging councils to prepare and adopt residential development strategies an supporting local environment plans and policies that will achieve those aims, and by allowing local government areas to be exempted from the whole or parts of this policy when those strategies are in place.*

Clause 18 of the SEPP permits with Council’s consent the creation of a dual occupancy development.

Clauses 19 and 20 specify standards that must be complied with. A summary of compliance is as follows:

Clause	Standard	Proposal	Compliance
Lot size	400sqm	1133.6sqm	Yes
Floor-space ratio	0.5:1	0.34:1	Yes
Car parking	4 car spaces	4 car spaces	Yes

Clause 31 states that a consent authority cannot approve a development unless it has taken into consideration a Site Analysis prepared in accordance with the SEPP. The documentation submitted with the application is considered satisfactory in terms of this Clause and Schedule 5 of SEPP 53.

Clause 32 states that consent must not be granted unless Council is satisfied that adequate regard has been given to the following design principles:

a. Streetscape

Porters Lane is characterised by a mixture of single and two storey developments with varied setbacks from the street. The streetscape is undergoing transition from older single storey dwellings to newer single and two storey dwellings. Eden Brae, a medium density development, adjoins the subject property to the north east.

The proposal has been designed to be sympathetic to the existing streetscape character. The proposed building line setback and building bulk are consistent with those that exist in the street. The landscaping proposed as part of the development will further ensure that the development contributes to an attractive streetscape character.

b. Visual and Acoustic Privacy

Item 11

Consideration has been given to the privacy of neighbours and residents in the design of the proposed development. The proposal has been designed appropriately with regard to the location of windows and balconies and the use of screening devices and landscaping.

The concept landscape plan shows extensive screen planting along the each boundary and at the rear between the two dwellings. This will further contribute to ensuring acceptable privacy levels.

c. Solar Access and Design for Climate

The proposed development has been designed to ensure adequate daylight to the main living areas of neighbours. The shadow diagrams prepared by Lindsay Little & Associates Pty Ltd indicate that adjoining properties will not be adversely affected by overshadowing. The shadows resulting from the development will be largely contained within the boundaries of the site. The shadows will not affect the windows or private open space areas of adjoining properties.

Each of the proposed dwellings have been designed to ensure natural ventilation, solar heating and lighting are maximised. Each dwelling has been designed with north-facing living and private open space areas.

d. Stormwater

Council's Development Control Engineer has indicated no objection to the proposed development in relation to stormwater disposal.

e. Crime Prevention

Both dwellings have pedestrian and vehicular access from Porters Lane. Residents of each dwelling will be able to observe who approaches their dwelling without the need to open the front door.

f. Accessibility

Council's Engineer has recommended a condition requiring that a new concrete footpath over the full site frontage in Porters Lane be constructed. Safe pedestrian and bicycle links will be available to local facilities from the subject property once this footpath is constructed. Parking is available for future residents of the development in Porters Lane.

g. Waste Management

The proposed development can be provided with standard waste management facilities in accordance with Council's requirements.

h. Visual Bulk

The proposed development incorporates the first floor within the roof space resulting in the development appearing largely as two single storey dwellings when viewed from the street, with the exception of a dormer window. The proposed development will maintain reasonable neighbour amenity and residential character by providing building setbacks that increase with height, the use of building form and siting, adopting heights consistent with those that currently exist in the street.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

The Ku-ring-gai Planning Scheme Ordinance does not contain any specific controls in relation to Dual Occupancy developments. However, the aims and objectives of the Ordinance as outlined in Schedule 9 are applicable to this application.

The proposed development is of a height, size and bulk that is in keeping with that of neighbouring properties. Therefore, the development will harmonise with the surrounding environment. The proposal is consistent with the aims and objectives relating to residential zones.

Clause 60c (2) of the KPSO generally applies a maximum built-upon area of 60%. The proposed built-upon area is 41.75%, and therefore complies.

Development Control Plan 43 - Carparking

Development Control Plan No 43 requires the following provisions:

Minimum 1 car space per dwelling under 125 m².

Minimum 2 car spaces per dwelling in excess of 125 m².

Both of the dwellings proposed are in excess of 125 square metres. Two car spaces are required for each dwelling. Car parking has been provided for the dual occupancy in accordance with DCP 43.

Development Control Plan No 40 - Construction and Demolitions Waste Management

The site is of a sufficient size to accommodate waste storage and recycling facilities associated with the proposed use in accordance with DCP 40.

Council's Dual Occupancy Code

Council has prepared a Development Control Code consistent with the requirements of Section 72 of the Environmental Planning and Assessment Act 1979. The code is intended to complement the statutory requirements of State Environmental Planning Policy No 53 in relation to dual occupancy development.

In the case of any inconsistency between this code and the provisions of State Environmental Planning Policy No 53, the provisions of State Environmental Planning Policy No 53 shall

Item 11

prevail. The aims and objectives of this Code should be read in conjunction with Schedule 9 of the KPSO, “Aims and Objectives for Residential Zones”.

A summary of compliance against the policy standard is as follows:

Standard	Requirement	Compliance
Streetscape	Single storey. Two storey, mixed, building scale, setback, height, landscape, etc.	Yes
Visual character	Consistent with surrounds when viewed from the street or public domain. Integrates built form and soft landscaping.	Yes
Architectural design.	Reinforce existing streetscape character, roof forms, building height, colour, material, etc.	Yes
Roof pitch.	Compatible with streetscape character. Consider heritage, building bulk, overshadowing.	Yes
Fences.	Consider visual character study, existing fences, and landscape character.	Not applicable.
Visual privacy.	Use of distance or slope, dwelling layout, screen planting fencing, screening devices, window screens courtyard walls.	Yes
Acoustic privacy.	Minimise noise transmission, relationship to major roads.	Yes
Solar access.	Maximise north facing windows of living rooms and outdoor areas. Consider adjoining areas, overshadowing of public reserve and bushland.	Yes
Energy efficiency	Designed to reduce energy use, consider thermal properties of construction materials.	Yes
Watercourses and drainage systems.	Retain ecological integrity. 100 year flood, riparian zone, etc.	Yes
Stormwater disposal.	Site detention, reuses, and effect on vegetation.	Yes
On site detention.	Should be considered.	Yes
Water conservation.	Particular plumbing fittings.	Yes
Rainwater tanks	Should be considered.	Not proposed.
Site and building design.	Crime prevention measures, observation of street and public areas, dwelling entries. Reduce opportunity for illegal access,	Yes

Item 11

	restrict side and rear access, consider landscaping obstructing observation.	
Lighting.	Provide lighting to paths, etc., parking, building entries. Enhance safety.	Yes
Vehicle access.	Functional, safe, limit hard surface run-off. Reduce conflict with traffic, pedestrians, and safety. Heritage significance, existing trees.	Council's Engineer has raised no concern with the functionality of the proposed method of vehicle access
Car parking.	Numbers, size, location, sympathetic to development.	Yes
Disabled access.	Travel paths, etc.	Yes
Waste storage facilities.	Space for garbage, recyclables, compost. Comply with policy. Ease of access to Council collection point.	Yes
Building setbacks	Regard existing and pattern of street. Setback between occupancies is 7 metres. Side and rear to allow for landscaping. Upper level setbacks. Single storey setbacks.	No
Building form.	Improve and enhance visual aspect. Not to dominate, provide architectural relief and modulation. Avoid a bulky appearance. Allow for soft landscaping. Provide for sunlight, ventilation, daylight both within and outside the site.	Yes
Built upon area.	Comply with standard for development.(40% permitted)	No (41.75 provided)
Floor space ratio.	Comply with standard for development.(0.5:1 permitted)	Yes
Building height.	Maintain relative scale, solar access, minimise overshadowing, adequate separation between building and boundary.	Yes
Building envelope.	Comply with standard for development	Minor non-compliance
Cut and fill.	Maximum 1800mm.	Yes
Views.	Protect significant views.	Yes

Item 11

Private open space.	Comply with standard for development	Yes
Protection of bushland.	Consider wildlife corridors and vegetation links, endangered species habitats, bushland and scenic views.	Yes
Heritage.	Consider heritage impacts both within and outside the site.	Not applicable
Site and waste management.	Prepare site management plan.	This is not considered necessary given the scope of works
Pollution control.	Comply with Draft DCP No.47	Yes

2. 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 not within a wilderness area nor 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.

3. Suitability of The Site

The land is of a satisfactory shape and size to accommodate the proposed development and to enable a dual occupancy development to integrate with the surrounding development and provide a suitable level of amenity for future occupants. Utility services are available to the site and there are not any site hazards such as flooding, landslip or contamination etc. The site is therefore suitable for the proposed development.

4. Any Submissions

The four submissions received have been discussed throughout the report.

5. Public Interest

There are no other matters of public interest which have not been previously addressed.

Any other Relevant Matters Considerations Not Already Addressed

There are no other relevant matters.

CONCLUSION

Item 11

The proposed development seeks to intensify the use of a residential allotment by constructing an detached dual occupancy. The design is sympathetic to the privacy of adjoining properties and will not impact adversely on the streetscape.

The proposal meets the provisions of SEPP 53 and the KPSO and aims to made more efficient use of the land, as envisaged by SEPP 53.

The proposal is compatible with the bulk and scale of the surrounding dwellings.

The application has been considered in accordance with the heads of consideration as contained within the Environmental Planning and Assessment Act 1979 and there are no matters for concern that would warrant refusal. The application is recommended for approval, subject to conditions.

RECOMMENDATION

That Development Application No 927/03 for consent for demolition of existing structures and construction of a detached dual occupancy at 12 Porters Lane, St Ives be approved for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

1. The development to be in accordance with Development Application No 927/03 and Development Application plans prepared by Lindsay Little and Associates Pty Ltd, reference number 2815/03 1 of 3, 2 of 3 and 3 of 3, dated 9 June 2003 and lodged with Council on 25 July 2003.
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 works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.
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 a Occupation Certificate has been issued.
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.

Item 11

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. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
11. 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.
12. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
13. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
14. 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.
15. 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.
16. 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.

Item 11

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

17. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
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. 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.
20. 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.
21. 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.
22. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
23. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
24. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
25. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.

Item 11

26. A traffic management plan shall be submitted to and approved by the Principal Certifying Authority, where major demolitions are likely to impact on arterial or main roads.
27. 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.
28. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
29. External finishes and colours are to be sympathetic to the surrounding environment.
30. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the street drainage system via the site On-Site Detention system. Drainage line connections to the kerb shall conform and comply with the detailed requirements contained within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe"). Drainage crossings of the footway area shall be a single 100mm diameter sewer grade uPVC pipe with kerb adaptor, where the total design flows from the property are within the capacity of such a pipe and a minimum pipe cover of 300mm can be provided, otherwise suitably sized galvanised RHS shall be used. To ensure compliance with this condition, a Certificate from the installer is to be submitted to the Principal Certifying Authority prior to issue of the Final Compliance Certificate.
31. To maintain capacity of the public drainage system, an on-site stormwater detention system must be provided in accordance with Council's Stormwater Management Manual and generally in accordance with the "Hydraulic details at 12 Porters Lane, St Ives", by Civil and Structural Engineering Design Services Pty Ltd, drawing U-03-16210/B dated 18/11/2003. Separate detention systems are to be provided for each residence. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

The system is to be cleaned regularly and maintained to the satisfaction of Council.

NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface

Item 11

are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.

NOTE 4: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings. This is available from Council upon request.

32. For stormwater control a 200mm wide grated drain with heavy duty removable galvanised grates is to be located within the property at the intersection of the driveway and Council's footway to collect all surface water from the driveway. The drainage line shall be connected to the street system.
33. The relocation or adjustment of any utility service facilities must be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
34. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers. Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Aust 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.
35. 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 minimise and/or 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, with all silt being removed from the site, or to an approved location within the site.
36. Driveways and 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 Australian Standard AS 2890.1 – "Off-Street car parking".
37. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please 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.
38. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground

Item 11

level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.

39. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council’s Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council’s Tree Preservation Order.

40. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.

41. No cut or fill for House 2 shall occur within 3.5 metres (northern side) of the eastern *Corymbia maculata* (Spotted Gum). A drop edge beam and pier and beam footings will be required along the southern side of the building.

42. No tree roots of 50mm 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
2 <i>Corymbia maculata</i> (Spotted Gum)/ Front garden, south of House 2	5m

43. 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
2 x <i>Corymbia maculata</i> (Spotted Gum)/ Front garden, south of House 2	5m
<i>Franklinia axillaris</i> (Gordonia) <i>Camellia sasanqua</i> (Chinese Camellia)/ NW boundary adjacent to Living Room	3m

44. 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.

Item 11

45. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Porters Lane. The tree/s used shall be 25 litre container size specimen/s:

Tree Species

3 x *Syzygium luehmannii* (Small-leaved Lillypilly)

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

46. 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.
47. 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).
48. 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.
49. 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.

Item 11

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE (1) ADDITIONAL DWELLING IS CURRENTLY \$33,057.22. 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 20 December 2000, calculated for additional person as follows:

1. Preparation of New Residents Kit	\$10.98
2. New Resident Survey	\$9.87
3. New child care centre (including land acquisition and construction of facility)	\$252.13
4. Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5. New Library bookstock	\$17.95
6. New Public Art	\$2.93
7. Acquisition of Open Space -	\$7,851.00
8. Koola Park upgrade and reconfiguration	\$143.09
9. North Turramurra Sportsfield development	\$986.80
10. Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11. Section 94 Officer for period of Plan 2000-2003	\$118.42

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)	1.25 persons
Medium dwelling (75 - under 110 sqm)	1.75 persons
Large dwelling (110 – under 150sqm)	2.75 persons
Very Large dwelling (150sqm or more)	3.5 persons
New Lot	3.5 persons

50. 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. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
- c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
- d. Retaining walls and associated drainage.
- e. Wet area waterproofing details complying with the Building Code of Australia.

Item 11

- f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
- g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

51. DRIVEWAYS AND FOOTPATHS: Approval of this Development Application is for works wholly within the property and 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.

Footpath and driveway levels at the property boundary/road alignment are to be obtained from Council prior to release of the Construction Certificate. All footpaths and driveways are to be constructed strictly in accordance with Council's specifications "Construction of Gutter Crossings and Footpath Crossings". This is issued with alignment levels after completing the necessary application form at Customer Services and payment of the appropriate fee.

The grading of such footpaths or driveways outside the property are to 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 this may be affected by the alignment levels fixed by Council.

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 (if applicable) of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

52. Submission, for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate, of a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater – Soils and Construction" (1998) by a suitably qualified and experienced engineer or surveyor. Such controls should include but not be limited to appropriately sized sediment basins, diversion systems, appropriate controls for each stage of works identified and barrier fencing which maximises and protects areas which are not to be disturbed. The plan must also specify inspection and maintenance regimes and responsibilities and rehabilitation measures.
53. Full construction drawings of the proposed method of achieving the requirements for on-site stormwater detention and all supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council requirements. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

Item 11

54. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the national Plumbing and Drainage Code (AS3500). These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.

NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

55. The following changes shall be made to the plans submitted with the Construction Certificate:

- The retaining wall along the north west boundary shall be deleted outside the living room of House 1. The western wall of the Living Room can be extended north to the boundary to meet the proposed retaining wall. Fill under Bedroom 1 and the Living Room can be contained within the footprint of the building with a drop edge beam or suspended
- The northern end of the retaining wall along the north east boundary shall be deleted to retain an existing tree. A retaining wall, rather than a batter can be angled from the end of the patio of House 2 across to the boundary to maintain the existing ground level around the base of the tree.
- A landscape treatment of the batter area behind the patio shall be shown on the landscape plan
- The stormwater pipe located close to the north west boundary adjacent to the Living Room and Bedroom 1 of House 1 shall be relocated to run beside the house so that existing trees can be retained. All excavation in this area shall be done by hand.

56. Landscape works shall be carried out in accordance with Landscape Drawing No 67/03 prepared by Sally Bourne Landscapes and dated 23 July 2003 submitted with the Development Application, except as amended by the following:

- One additional canopy tree (which can grow to 13 metres in height) is required in the garden of House 2

Item 11

- The batter at the rear of both houses needs to be reconsidered. A combination of retaining walls and less steep banks with planting should be incorporated into the landscape works.
- The stormwater detention tank shall be located in the new location.
- Retaining walls associated with the development shall be located in accordance with the above conditions.

The amended plan shall be submitted with the Construction Certificate

57. A CASH BOND/BANK GUARANTEE of \$4,000 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of the this bond will be refunded upon issue of the final Certificate of Compliance, where landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after issue of the building certificate, where landscape works has 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.

58. 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 final Certificate of Compliance, 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

2 x *Corymbia maculata* (Spotted Gum)/ Front garden, south of House 2

59. 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.

Item 11

60. To preserve the following tree/s, footings of the proposed shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 50mm shall be severed or injured in the process of any site works during the construction period. The beam shall be located on or above existing soil levels.

The location and details of the footings shall be submitted to Council’s Landscape Development Officer and be approved prior to release of the Construction Certificate.

Tree/Location	Radius in Metres
2 x <i>Corymbia maculata</i> (Spotted Gum)/ Front garden, south of House 2	5m

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

61. 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.
62. 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.
63. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s, excluding that area of proposed House 2 and 1 metre inside the kerb, shall be fenced off for the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. Where the building encroaches into the protection zone the fence shall be located 1.5 metres outside the line of the building and the area between the fence and the building shall be mulched to a depth of 75mm. The fence/s shall be maintained intact until the completion of all demolition/building work on site:

Tree/Location	Radius From Trunk
2 x <i>Corymbia maculata</i> (Spotted Gum)/ Front garden, south of House 2	5m

64. 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 to prevent any

Item 11

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>Jacaranda mimosifolia</i> (Jacaranda) South of Bedroom 1, House 1	3m
<i>Syzygium Sp</i> (Lilly Pilly)/ NW boundary Front garden	2m
<i>Franklinia axillaris</i> (Gordonia) <i>Camellia sasanqua</i> (Chinese Camellia)/ NW boundary adjacent to Living Room	2m
<i>Ficus rubiginosa</i> (Port Jackson Fig)/ NW boundary back garden	4m

65. 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.
66. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. 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

67. The Applicant must carry out the following works on Council Infrastructure, prior to occupation or issue of the Occupation Certificate:
 - a. Construction of a new double width (6.0 metres) concrete layback and driveway crossing.
 - b. Construction of a fully new concrete footpath over the full frontage of the development site in Porters Lane. The footpath shall be constructed to a minimum width of 1.2 metres, in 100mm thick concrete, and in accordance with Councils “Specification for Road and Drainage Works”.
68. Prior to occupation or issue of the Occupation Certificate, any redundant driveway crossings, pipe crossing and/or kerb laybacks are to be reinstated as footway and kerb and/or gutter to the satisfaction of Council’s Development Engineer. Reinstatement works to generally match surrounding infrastructure. Any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council’s Development Engineer, at the Applicants cost.

Item 11

69. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to occupation or issue of the Occupation Certificate. 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" (available from Council on request) and to the satisfaction of Council.

Note: 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.

70. The Section 73 Sydney Water compliance certificate must be obtained and submitted prior to occupation or issue of the Occupation Certificate.
71. Construction of the property stormwater drainage works (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) is to be supervised and upon completion certified by a suitably qualified and experienced civil/hydraulic engineer, prior to occupation or issue of the Occupation Certificate, that:
- a. The works were carried out and completed in accordance with the approved plans.
 - b. 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.

A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier Prior to issue of the Final Compliance Certificate.

72. Construction of the On-site Stormwater Detention Systems is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to issue of the Final Compliance Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must to also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

- Compatibility of the drainage system with the approved plans
- The soundness of the structure.
- The adequacy of the outlet control mechanism to achieve the discharge as specified.
- The capacity of the detention storage as specified.
- The size of the orifice or pipe control fitted.
- The maximum depth of storage over the outlet control.
- The adequate provision of a debris screen.
- The inclusion of weepholes in the base of the outlet control pit.
- The provision of an emergency overflow path.

Item 11

- All enclosed floor areas, including habitable and garage floor levels, being safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The Works-as-Executed drawing(s) are to include all relevant levels including:

- invert levels
- surface or pavement levels
- floor levels including adjacent property floor levels
- maximum water surface level to be achieved in the storage zone
- dimensions of basin(s), tank(s), pit(s), etc.
- location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
- storage volume(s) provided and supporting calculations
- size of orifice(s)

BUILDING CONDITIONS

73. Any mechanical ventilation installed in a dwelling shall comply with the requirements of Part 3.8.5.0 of the Building Code of Australia Housing Provisions. Documentary evidence of compliance is to be obtained from a suitably qualified person and submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
74. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any pier holes and/or foundation material.
 - c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
 - d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - e. Any stormwater drainage works prior to covering.
 - f. The completed landscape works in accordance with the approved plans.
 - g. The completed structure prior to occupation.

The required inspection fees (which also covers the issue of the Compliance Certificate) are to be paid to the Council before the issue of a Construction Certificate for this development.

If inspections are to be carried out by Council, 24 hours notice is required by Council's Department of Environmental and Regulatory Services, by telephoning Customer Service on 9424 0888 during business hours (8.30am to 4.30pm) or by facsimile on 9418 1117.

Note: Inspections of work which is found to be defective or not ready will attract a reinspection fee. Please cancel bookings which will not be ready for inspection.

Item 11

75. All structural timber members subject to weather exposure shall have a durability class rating of 2 or better in accordance with Australian Standard 1684.2-1999 (National Timber Framing Code), or be preservative treated in accordance with Australian Standard 1604-1980 (Preservative Treatment for Sawn Timbers, Veneers and Plywood).
76. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
77. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:
- | | | |
|-----------------|---------------|---------------|
| Risers: | Maximum 190mm | Minimum 115mm |
| Going (Treads): | Maximum 355mm | Minimum 240mm |
- Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.
78. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
 - b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
 - ii. are connected to the mains and have a standby power supply; and
 - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

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.

79. 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.

Item 11

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.

80. The following are required details and must be submitted to the Council on completion of the works. 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. Wet area waterproofing details complying with the Building Code of Australia.
 - b. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.

S Winnacott
**Development Control
Officer**

G Bolton
**Team Leader, St Ives
Ward**

M Miocic
**Director
Environment &
Regulatory Services**

Attachments: **Site Location Plan**
 Site Analysis Plan
 Elevations
 Landscape Plan

NOTICE OF MOTION

HERITAGE ADVISORY COMMITTEE

Notice of Motion from Councillor E Keays dated 11 February 2004.

I move:

"In light of the letters from Councillor Hall to the General Manager of January 27th & 28th 2004, regarding the Heritage Advisory Committee, and from the Chair of the Heritage Advisory Committee to the General Manager and all Councillors dated February 2nd, 2004, and the requirements of the Code of Conduct and the S430 Report of September 2000 that:

Councillor Hall

- A. Unreservedly retract in writing his ill founded statements, in particular that the (Heritage Advisory Committee)

“has become a shadow council with Star Chamber implications” and that “the present committee seems to spend more of its time on individual DA’s, some of which should not have been referred to in the first place such as 71 Arnold, but has no really achievable goals to show at this late stage of Council’s term.”

- B. Offer an apology in writing to the Committee and that
- C. Council formally dissociates itself from these statements.

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Elise Keays
Councillor for Roseville Ward