



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 26 JULY 2005 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A

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

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 19 July 2005

Minutes to be circulated separately

MINUTES FROM THE MAYOR

PETITIONS

- PT.1 **Barton Crescent, Wahroonga - Objection to Process of Street Tree Removals (Forty-Four [44] Signatures)** 1

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File: 88/05113/04

"We object to the process outlined in the letter dated 27 June 2005 from Council concerning the street tree removals planned for Barton Crescent. The removal of many of the mature trees in the street will significantly and negatively affect the entire appearance and aspect of the street. The beauty of the local trees is a significant neighbourhood asset and their removal will, in our opinion, immediately degrade local property values.

At the minimum, we request that the projected street tree removals be put on hold pending further consultation with local residents and allowing for alternatives to be considered."

GENERAL BUSINESS

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

- GB.1 **Investment Cash Flow & Loan Liability June 2005** 2

.
File: S02722

To present to Council the Investment allocation and the performance of funds, monthly cash flow and details of loan liability for June 2005.

Recommendation:

That the summary of investments, daily cash flows and loan liability for June 2005 be received and noted.

- GB.2 **Consideration of Various Heritage Matters** 11

.
File: P51789 P53370 P63399

For Council to consider the removal of 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga from Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme

Ordinance (KPSO) and that Council retain 2 Wirra Close, St Ives in Schedule 7 (Heritage Items) of the KPSO.

Recommendation:

That Council prepares an amending draft Local Environmental Plan to remove the properties 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga from Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance and that 2 Wirra Close, St Ives remains listed as a property of heritage significance in Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance.

GB.3 Exhibition of Fees and Charges 96

File: S03918

To allow Council to consider the exhibition of additional fees and charges for inclusion as an amendment to the 2005-2006 Management Plan.

Recommendation:

That Council exhibit revised and additional fees and charges as set out in this report.

GB.4 Parks, Sport & Recreation Reference Group - Minutes of Meeting held Thursday, 23 June 2005 101

File: S03447

To bring to the attention of the Ordinary Meeting of Council the Minutes from the Parks, Sport and Recreation Reference Group meeting held Thursday 23 June 2005.

Recommendation:

That the minutes of the Parks, Sport and Recreation Reference Group be received and noted.

GB.5 Progress Report on Stormwater Analysis and Planning for Lane Cove Catchment 122

File: S03875

To report on the progress and findings of the analysis and planning for Lane Cove Catchment.

Recommendation:

That Council receives and notes the report.

GB.6 134 to 138 Eastern Road, Wahroonga - Alterations and Additions to a Heritage Building and the Construction of Sixteen (16) New Dwellings 131

.
File: DA0992/04

Ward: Wahroonga
Applicant: Mirvac Projects Pty Ltd
Owner: Mirvac Projects Pty Ltd

To determine Development Application No. 0992/04 which seeks consent for additions and alterations to a heritage building and the construction of sixteen (16) new dwellings.

Recommendation:

Refusal

GB.7 49 Telegraph Road, Pymble - Additions and Alterations plus Carport and Driveway 219

.
File: 642/05

Ward: St Ives
Applicant: Mrs Marilena Allan
Owner: Mrs Marilena Allan

To consider DA 1417/05 for alterations and additions to a dwelling and construction of a detached double carport and new gravel driveway.

Recommendation:

Approval.

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

NM.1 Kokoda Trail Memorial Project 258

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File: S02092

Notice of Motion from Councillor N Ebbeck dated 13 July 2005.

I am in receipt of a letter from the Chair of the Kokoda Trail Memorial Project Committee.

The proposed siting of the memorial is to be located in Kokoda Avenue Wahroonga near the intersection with Clissold Road. Council approved the siting of the memorial in October 2004 and consultation has taken place with directly affected residents.

A design of the sandstone memorial has been completed and the Committee is seeking assistance with funding the construction of the memorial.

The Committee has requested that Council provide assistance by constructing the concrete slab for the seating of the memorial, assistance with work on the verge and any financial assistance.

Attached is a copy of the letter from Mr Hodgson who is the Chair of the Kokoda Trail Memorial Project Committee.

I am advised by the Director of Technical Services that the construction of the concrete slab is estimated to cost approximately \$500 based on Council's contract rates. There is likely to be minimal works on returfing the verge area after the works are complete. Also, the Director Community Services has advised that the Committee could apply for funding under the Community Assistance Grants Program.

I move that:

"Council approve the construction of the concrete slab and the work on the verge area and that funding be provided from Council's recurrent budgets for Technical Services and Open Space."

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

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Environmental Planning & Assessment Act 1979 (as amended)

Section 79C

1. Matters for consideration - general

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

a. The provisions of:

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

that apply to the land to which the development application relates,

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

MAYORAL MINUTE

SIR FREDERICK CHILTON

Councillors, Ladies and Gentlemen,

This is to honour Sir Fredrick Chilton CBE, DSO and Bar, BA, LLB Sydney.

Sir Fredrick Chilton was born on the 23 July 1905 and last Saturday celebrated his 100th birthday. Sir Fredrick Chilton was born in the Turramurra Warrawee region and his family had orchards that are now known as Knox Grammar School.

Sir Fredrick Chilton was educated at the Gordon Public School and later went to Chatswood Intermediate High School finishing education at North Sydney Boys High. Sir Fredrick attended Sydney University where he obtained a Bachelor of Arts and a Law degree.

Sir Fredrick's army career began as a drink waiter in the Sydney University Regiment. At the outbreak of war in 1939 Sir Fredrick joined the Second Australian Infantry Forces (AIF). He obtained the rank of Major and served initially in North Africa, Bardia and Tobruk with the famous Seventh Division.

Sir Fredrick also was involved in the battle of Crete in 1942 and finding himself behind enemy lines escaped through Turkey with the assistance of the Turks dressed as a woman to get to Egypt and regain his regiment.

Sir Fredrick later fought in the Battle of Milne Bay, 1st Allied/Australian victory in the Pacific.

Later as the Brigadier of the 18th Brigade, 7th Division, second AIF he was in command of the Bloody Beach Head battles of Buna, Gona and Sanananda before moving on to Borneo.

As Commander of the 18th Brigade in 1943 he was responsible for reforming that brigade and at this stage it is reported that out of the original 1,000 men from the 18th Brigade only 29 remained.

Following World War II Sir Fredrick moved into Federal Public Service ending up as repatriation Secretary (now Veteran Affairs).

On Sir Fredrick's retirement he undertook considerable voluntary work assisting the re-organisation of the Red Cross and the Boys Scouts of Australia.

Sir Fredrick Chilton had a great love for the men under his control and ensured that their safety was paramount in all their military conflicts.

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S02380
26 July 2005

Sir Fredrick is an old fashioned Gentleman who has devoted his life to service to his country both in war and in peace and has distinguished himself in both arenas.

As Mayor of Ku-ring-gai, I invite Councillors, Senior Staff and those present in the gallery to join with me wishing Sir Fredrick Chilton all the best for the future and sincerely hope that he had a very enjoyable one hundredth birthday last Saturday.

I move that

"A copy of this Mayoral Minute together with a letter of congratulations be forwarded to Sir Fredrick Chilton."

Note: Councillors you may be interested to know that the information obtained for this Mayoral Minute was given to Council by the Reverend Roy Wotton who is a former rector of St Johns Church Gordon and was the Anglican Chaplain to the 18th Brigade during the New Guinea Campaign.

RECOMMENDATION

A copy of this Mayoral Minute together with a letter of congratulations be forwarded to Sir Fredrick Chilton.

Cr Adrienne Ryan
Mayor

PETITION

BARTON CRESCENT, WAHROONGA - OBJECTION TO PROCESS OF STREET TREE REMOVALS (FORTY-FOUR [44] SIGNATURES)

"We object to the process outlined in the letter dated 27 June 2005 from Council concerning the street tree removals planned for Barton Crescent. The removal of many of the mature trees in the street will significantly and negatively affect the entire appearance and aspect of the street. The beauty of the local trees is a significant neighbourhood asset and their removal will, in our opinion, immediately degrade local property values.

At the minimum, we request that the projected street tree removals be put on hold pending further consultation with local residents and allowing for alternatives to be considered."

RECOMMENDATION

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

INVESTMENT CASH FLOW & LOAN LIABILITY JUNE 2005

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To present to Council the Investment allocation and the performance of funds, monthly cash flow and details of loan liability for June 2005.

BACKGROUND:

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (Financial Management) Regulation (1999) and Council's Investment Policy which was adopted by Council on 12 December 2004 (Minute No.480).

COMMENTS:

The Reserve Bank of Australia (RBA) left the official cash rate unchanged at 5.50% during June.

RECOMMENDATION:

That the summary of investments, daily cash flows and loan liability for June 2005 be received and noted.

PURPOSE OF REPORT

To present to Council the Investment allocation and the performance of funds, monthly cash flow and details of loan liability for June 2005.

BACKGROUND

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (Financial Management) Regulation (1999) and Council's Investment Policy which was adopted by Council on 12 December 2004 (Minute No. 480).

This policy allows Council to utilise the expertise of external fund managers for the investment of Council's short term surplus funds. This is done, as for many other Council's, with the advice of Grove Research & Advisory Pty Limited.

COMMENTS

During the month of June Council's cash decreased by \$2,250,000 and gross capital appreciation on Council's investments was \$99,000.

Council's total investment portfolio at the end of June 2005 is \$18,539,000. This compares to an opening balance of \$17,271,200 as at 1 July 2004.

Council's General Fund interest on investments for 2004/2005 financial year totalled \$1,029,800. This compares favourably to the full year budget of \$925,000.

Council's total debt as at 30 June 2005 is \$11,295,900. This compares to a total debt of \$11,850,000 as at 1 July 2004.

PERFORMANCE MEASUREMENT

Council's investment portfolio is monitored and assessed based on the following criteria:

- **Management of General Fund Bank Balance**

The aim is to keep the general fund bank balance as low as possible and hence maximise the amount invested on a daily basis.

- **Performance against the UBS Bank Bill Index**

This measures the annualized yield (net of fees and charges) for each of Council's portfolios. The weighted average return for the total portfolio of funds is compared to the industry benchmark of the UBS Bank Bill Index.

- **Allocation of Surplus Funds**

This represents the mix or allocation of surplus funds with each of Council's Fund Managers.

Council's investment policy requires that not more than 45% of funds are to be with any one Fund Manager. All funds are kept below this required level of 45%.

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1 July 2005

▪ **Summary of Borrowings**

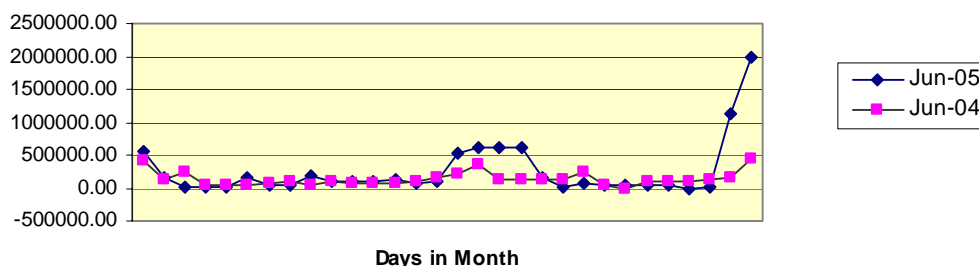
This is a summary of Council’s borrowings. It lists each of Council’s loans, original amounts borrowed, principal repayments made, outstanding balances, interest rates and maturity dates.

June 2005

Management of General Fund Bank Balance

During June, Council had an outflow of funds of \$2,250,000. Funds were received from the overflow of the fourth rate instalment that fell due on 31 May 2005 and the new loan of \$1,600,000 taken up on 29 June 2005. This was fully offset by the increased level of expenditure for the end of financial year.

Management of General Fund Bank Balance



Funds Performance against the UBS Bank Bill Index

The weighted average return for the total portfolio of managed funds during June was 6.25% compared to the benchmark of the UBS Bank Bill Index of 5.79%.

A summary of each funds performance is shown in the following table.

Fund Manager	Terms	Opening Balance	Cash flow Movement	Income Earned (net of fees)	Closing Balance	Interest Rate
BT Institutional Managed Cash	At Call	\$1,568,141	(\$1,250,000)	\$4,962	\$323,104	5.87%
Deutsche Income Fund	At Call	\$5,776,858		\$27,617	\$5,804,476	6.64%
Macquarie Income Plus Fund	At Call	\$5,081,194	(\$1,000,000)	\$25,906	\$4,107,100	6.53%
Perpetual Credit Enhanced Cash	At Call	\$5,439,627		\$24,698	\$5,464,326	5.87%
Turrumurra Community Bank	Term Deposit	\$500,000		\$2,358	\$500,000	5.66%
CBA Loan Offset No 1	Offset	\$1,040,000		\$4,889	\$1,040,000	5.72%
CBA Loan Offset No 2	Offset	\$1,300,000		\$6,111	\$1,300,000	5.72%
TOTALS		\$20,705,821	(\$2,250,000)	\$96,541	\$18,539,006	

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1 July 2005

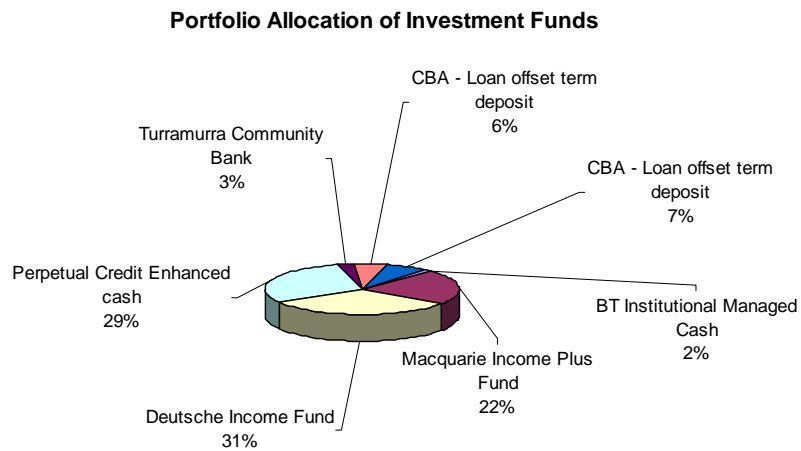
2004/2005 Funds Performance against the UBS Bank Bill Index

The following table provides a year-to-date analysis of each fund's performance against the industry benchmark for the 2004/2005 financial year.

Fund Manager	Performance Annualised for July 2004 –June 2005	UBS Bank Bill Index Annualised for July 2004 –June 2005
BT Institutional Managed Cash	5.71%	5.64%
Deutsche Income Fund	6.54%	
Macquarie Income Plus Fund	6.45%	
Perpetual Credit Enhanced Cash	6.44%	
Turrumurra Community Bank	5.66%	
CBA Offset No.1	5.42%	
CBA Offset No.2	5.42%	

Allocation of Investment Funds:

Council’s funds during June were allocated as follows:



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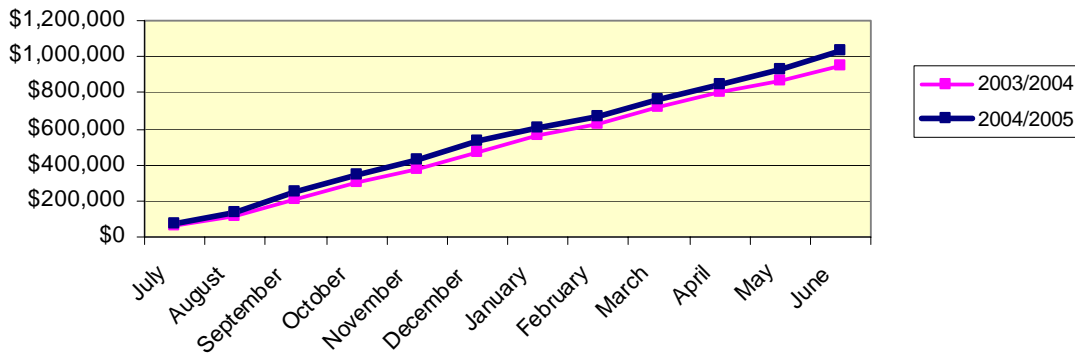
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1 July 2005

2003/2004 versus 2004/2005

Accumulative Interest

The following graph compares the interest earned on an accumulative monthly basis for financial years 2003/2004 and 2004/2005. Interest for the financial year totalled \$1,029,800. This compares to \$954,000 in 2003/2004, an increase of \$75,800.

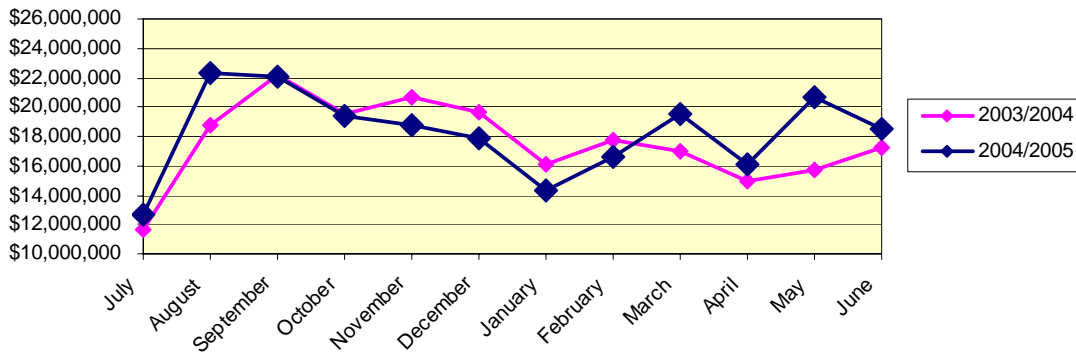
Accumulative Interest 2003/2004 V's 2004/2005



Total Investment Portfolio

The following graph tracks the monthly investment portfolio balances for 2004/2005 in comparison to 2003/2004.

Total Investment Portfolio 2003/2004 v's 2004/2005



During June 2005 Council's investment portfolio decreased by \$2,250,000. In comparison, during June 2004 Council's investments increased by \$1,500,000.

Council's closing investment portfolio of \$18,539,000 in June 2005 is \$1,267,800 higher than the June 2004 closing balance of \$17,271,200.

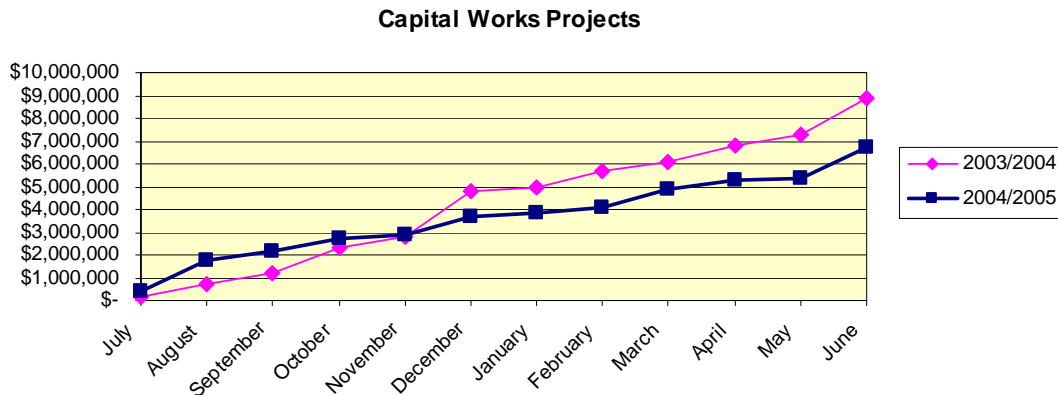
Capital Works Projects

At the end of June 2005 Council had a “net” expenditure of \$6,687,900 on capital works, which is \$2,171,500 lower than at the same time last year when \$8,859,400 had been expended.

During June 2005 Council expended \$1,342,400 on capital works, which compares to \$1,603,600 during June 2004, a decrease of \$261,200.

Council’s 2004/2005 total budget for capital works (excluding fleet replacement and purchase of the property at 48 St Johns Avenue, Gordon) was \$9,896,800. A balance of \$3,208,900 remains unexpended as at 30 June 2005.

The following graph compares the accumulative monthly expenditure totals for capital works for financial years 2003/2004 and 2004/2005. It should be noted that the above analysis of capital works is net of income and is only relevant as it relates to the effect on Councils cashflow. Gross expenditure on capital works will be reported separately as part of year end reporting.

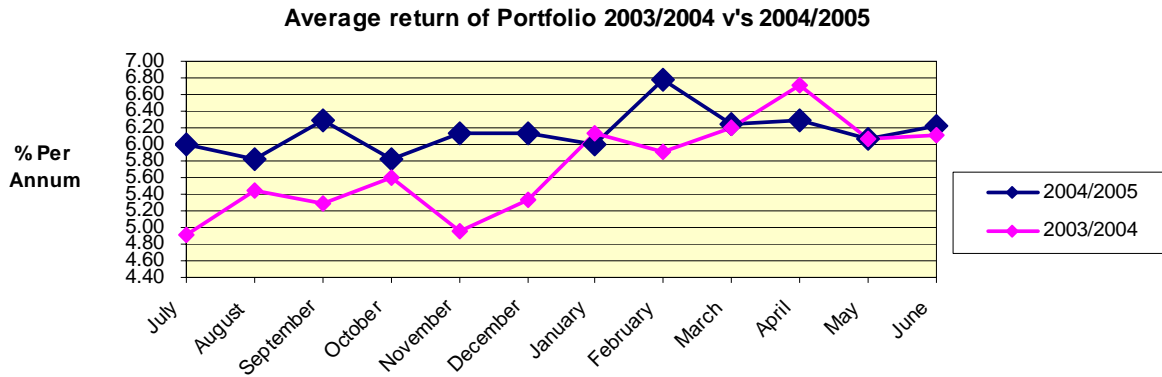


Portfolio Performance Average Return 2003/2004 versus 2004/2005

The following graph compares the monthly returns on Council’s portfolio for the financial years 2003/2004 and 2004/2005.

In June 2005 earnings before fees were 6.25%, this compares to 6.12% in June 2004.

In 2004/2005 Council’s average earnings before fees were 6.16%. This compares to 5.72% for the previous financial year.



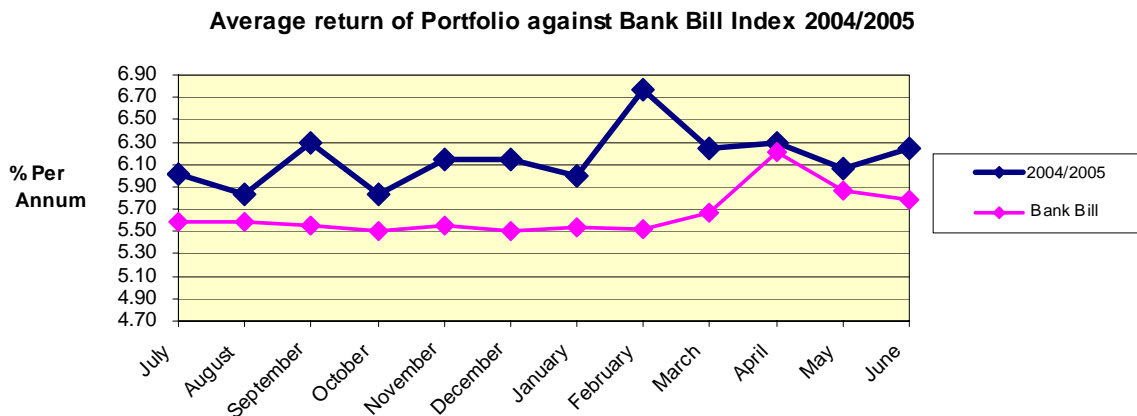
2004/2005 Portfolio Performance against the UBS Bank Bill Index

Council’s performance against the UBS Bank Bill Index in 2004/2005 reflects returns above benchmark in all months throughout the year.

Returns above benchmark have been achieved by careful selection and a combination of quality fund managers resulting in a positive result for Council .

The investment portfolio benefited from switching its funds mid year to Duetsche Income Fund and Perpetual Credit Enhanced Cash. All fund managers used by Council have proved to be consistent during the last twelve months.

The average return of the organisations portfolio against the Bank Bill is displayed in the following graph.



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1 July 2005**Summary of Borrowings**

During June Council repaid \$430,100 in borrowings, and obtained a new loan for \$1,600,000 taken up with Westpac Bank at 6.05%, increasing the total level of debt at month end to \$11,295,900. This compares to a total debt at 1 July 2004 of \$11,850,000, and represents a repayment of net debt of \$554,100 during 2004/2005.

Lender	Loan Number	Original Principal	Principal Repayments	Balance Outstanding	Interest Rate	Draw Down Date	Maturity Date
Westpac	124	\$4,000,000	\$4,000,000	\$0	10.95%	02-Feb-95	02-Feb-05
	125	\$1,000,000	\$1,000,000	\$0	6.27%	02-Feb-95	02-Feb-05
Westpac	127	\$1,000,000	\$632,423	\$367,577	6.32%	29-Jun-98	29-Jun-08
CBA Offset No 1	128	\$2,600,000	\$1,560,000	\$1,040,000	5.87%	29-Jun-99	13-Jun-09
CBA Offset No 2	129	\$2,600,000	\$1,300,000	\$1,300,000	5.87%	13-Jun-00	14-Jun-10
CBA	130	\$2,600,000	\$851,338	\$1,748,662	6.32%	26-Jun-01	28-Jun-11
NAB	131	\$2,600,000	\$605,123	\$1,994,877	6.85%	27-Jun-02	27-Jun-12
Westpac	132	\$1,882,000	\$303,556	\$1,578,444	5.16%	27-Jun-03	27-Jun-13
CBA	133	\$1,800,000	\$133,690	\$1,666,310	6.36%	23-Jun-04	23-Jun-14
Westpac	134	\$1,600,000		\$1,600,000	6.05%	29-Jun-05	30-Jun-15
TOTAL		\$21,682,000	\$10,386,100	\$11,295,900			

CONSULTATION

Not applicable

FINANCIAL CONSIDERATIONS

The Reserve Bank of Australia (RBA) left the official cash rate unchanged at 5.50% during June.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

As at 30 June 2005:

- Council's total investment portfolio is \$18,539,000. This compares to an opening balance of \$17,271,200 as at 1 July 2004, an increase of \$1,267,800.

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1 July 2005

- Council's General Fund interest on investments totals \$1,029,800. This compares favourably to the full year revised budget of \$925,000.
- Council's total debt is \$11,295,900. This compares to a total debt of \$11,850,000 as at 1 July 2004, a net debt repayment of \$554,100 during 2004/2005.

RECOMMENDATION

That the summary of investments, daily cash flows and loan liability for June 2005 is received and noted.

John McKee
Director Finance and Business

CONSIDERATION OF VARIOUS HERITAGE MATTERS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider the removal of 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga from Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance (KPSO) and that Council retain 2 Wirra Close, St Ives in Schedule 7 (Heritage Items) of the KPSO.

BACKGROUND:

In 1998 fire destroyed the heritage listed cottage at 23 Memorial Avenue, St Ives and the owners have requested that the property be removed from Schedule 7 (Heritage Items) of the KPSO. In 2004 Council resolved to grant consent to the Development Application for demolition of the existing building and structures at 4 Munderah Street, Wahroonga. In 2003 Council received an application to have 2 Wirra Close, St Ives removed from Schedule 7 of the KPSO. Council engaged Glen Cowell Heritage Services to conduct an assessment of significance for the property to determine whether the presently listed heritage item should remain listed under Schedule 7 of the KPSO.

COMMENTS:

23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga should be removed from Schedule 7 of the KPSO and 2 Wirra Close, St Ives retains the heritage values that originally warranted its individual listing on Schedule 7 of the KPSO and should remain a heritage list.

RECOMMENDATION:

That Council prepares an amending draft Local Environmental Plan to remove the properties 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga from Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance and that 2 Wirra Close, St Ives remains listed as a property of heritage significance in Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance.

PURPOSE OF REPORT

For Council to consider the removal of 23 Memorial Avenue, St Ives and 4 Munderah Street, Wahroonga from Schedule 7 (Heritage Items) of the Ku-ring-gai Planning Scheme Ordinance (KPSO) and that Council retain 2 Wirra Close, St Ives in Schedule 7 (Heritage Items) of the KPSO.

BACKGROUND

Several heritage amendments have arisen that require action by Council. The subject properties are 23 Memorial Avenue St Ives, 4 Munderah Street, Wahroonga and 2 Wirra Close St Ives.

23 Memorial Avenue, St Ives

23 Memorial Avenue is located on the corner of Memorial Avenue and Killeaton Street, St Ives and is identified as Lot 2 of DP 654552. The 1987 Ku-ring-gai Heritage Study identified the property known as "Linden Cottage" as being of significance for its historic, social, architectural and rarity value.

In 1998 a fire destroyed Linden cottage the remains of which were consequently removed from the property. Since 1998 a number of trees occupying the site have been damaged by storms and removed. Today the property consists of lawn where the cottage was previously located prior to the 1998, the only obvious remains of the former built structures are a garage (possibly 1940s) and a fence (**ATTACHMENT 1**).

4 Munderah Street, Wahroonga

Since its inclusion in Schedule 7 (Heritage items) of the KPSO, the land at 4 Munderah Street, Wahroonga has been subdivided twice and with this has lost some of its historic value. In 2003 a development application was lodged proposing the demolition of the heritage listed property at 4 Munderah Street. In August 2004, the Officer assessing the development application recommended approval for the demolition. The matter went before Council on 27 July 2004 (**ATTACHMENT 2**) Council resolved:

That Development Application No.1699/03 for demolition of the existing building and associated structures at 4 Munderah Street Wahroonga, being Lot 61, DP 819554, be approved for a period of two years from the date of the Notice of Determination...

The demolition of the property will remove any heritage significance that the property once demonstrated.

2 Wirra close, St Ives

2 Wirra Close, St Ives is listed in Schedule 7 (Heritage items) of the KPSO has an item of local significance. On 20th April 2003 Council received an application made by NBR&P Heritage Consultants (**ATTACHMENT 3**) on behalf of the owner of No.2 Wirra close St Ives to have the property removed from Schedule 7 (Heritage items) of the KPSO. NBR&P stated the reason for

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P51789 P53370 P63399
18 July 2005

the application was that the property was not appropriately identified in the original Heritage Study and has subsequently been modified with Council consent. In response to the request, Council engaged Glen Cowell Heritage Services to conduct an independent assessment of the properties significance to determine whether or not the presently listed heritage item should remain listed under Schedule 7 of the KPSO. The assessment of heritage significance concludes that 2 Wirra Close to be of historical and aesthetic significance and of some technical/ research and social significance (**ATTACHMENTS 4 & 5**).

COMMENTS

23 Memorial Avenue, St Ives

On 5 March 2005, Council received a request from NBR&P Heritage Consultants on behalf of the Trustee of the owner of 23 Memorial Avenue, St Ives for Council to consider the removal of the property from Schedule 7 (Heritage items) of the Ku-ring-gai Planning Scheme Ordinance (KPSO) and prepare the necessary amending Local Environmental Plan (LEP).

History of site

23 Memorial Avenue, St Ives was originally part of a land Grant made to John Ayres on 7 April 1836 of 320 acres and the site of an original orchard farmhouse. The property was identified as an item of heritage significance in 1978 and included in Schedule 7 (Heritage items) of the KPSO. The 1987 Ku-ring-gai Heritage Study identified "Linden Cottage" (23 Memorial Avenue) as being significant for its demonstrated historic, social, archaeological and rarity value as a remnant farmhouse. In the heritage statement undertaken by NBR&P Heritage Consultants (**ATTACHMENT 1**) it is noted:

The heritage values of the site were limited to historic associations and the evolution in demonstrating the early rural character of the area, its subsequent subdivision and the changing patterns of urban development. The building was a rare surviving example of an early orchard cottage in the Ku-ring-gai area, though it was typical of many such cottages throughout the State. The level of archaeological significance of the site is low due to the relocation of the house in the 1920s and the loss of all connection with other rural activity after the turn of the 20th Century.

In 1998 a fire destroyed 'Linden Cottage' leaving only minor remains of the building which have since been removed. Despite the presence of the inter-war garage, chicken yard, 1920s chain wire fence and some original vegetation on the site, NBR&P Heritage Consultants believe that 23 Memorial Avenue does not support the continued listing of the land in the absence of the cottage structure in Schedule 7 (Heritage items) of the KPSO.

Having reviewed the Consultants Heritage Statement (**ATTACHMENT 1**) for the site Council is of the opinion that 23 Memorial Avenue no longer displays the historic, social, archaeological and rarity value that had once warranted its listing in Schedule 7 of the KPSO. The property is no longer of 'heritage significance' as defined by the KPSO and should be removed from Schedule 7.

Item 2

P51789 P53370 P63399
18 July 2005**4 Munderah Street, Wahroonga**

4 Munderah Street was originally listed in Schedule 7 (Heritage Items) of the KPSO in 1989 as being of significance for its demonstrated architectural values. Given that Council granted approval for the demolition of the existing building and associated structures at 4 Munderah Street Wahroonga, being Lot 61, DP 819554, subject to conditions (refer to **ATTACHMENT 2**) in 2004 the property should be removed from the KPSO.

2 Wirra Close St Ives

Council has received a request from NBR&P Heritage Consultants on behalf of the owner of No 2 Wirra Close St Ives to have the property removed from Schedule 7 (Heritage items) of the Ku-ring-gai Planning Scheme Ordinance (KPSO).

History of site

The site of 2 Wirra Close, St Ives was originally part of a 47 acre Crown Grant in 1877 and was later subdivided into 14 and 15 acre allotments in 1882. Lot 2 was purchased in 1949 and further subdivided into two allotments in 1951. Torokina Avenue was formed in this subdivision and a narrow 'Right of Way' was formed along the northern edge of the subject site to give access to the remained of the site to the east. In 1961 the land was divided into 16 allotments and Wirra Close was constructed. Today Lot 9 of this subdivision is known as No. 2 Wirra Close. In 1962 the subject property was purchased by William George Sherington, the owner of Ford Sherington Pty Ltd (a luggage company). In 1969 Torokina Avenue was extended to the east and the main Torokina Avenue Estate was subdivided with allotments surrounding a central reserve. At the time of this subdivision 2 Wirra Close was amalgamated into the new lot pattern with the addition of a small triangular section of land fronting Torokina Avenue thus the site became part of the Torokina Avenue Estate subdivision. The house itself was designed by Bruce Robertson in 1962.

The property was identified in the Ku-ring-gai Heritage Study 1987 as being part of the "Torokina Avenue Group" which was identified as significant for its social, aesthetic and group value and potentially of State level significance. The Torokina Avenue Group is a distinctive collection of large mid to late 1960s houses of varying styles representing the taste of the emerging Nouveau riche middle class in St Ives in the boom years following Post War consolidation of the area. The subject site was built in 1962 with other homes built in Torokina Avenue in later years.

The subject site & buildings

The residence at 2 Wirra Close was originally designed in a style closely modelled on the "Prairie Style" of the American architect Frank Lloyd Wright. The site is described as Lot 2 in DP 543666 and is bounded on the north by a right of carriage way and an easement fronting Torokina Avenue, on the west by Wirra close and also on the South by Wirra Close which has a dog leg form. On the eastern site of the site, it is bounded by No.4 Wirra close. Located on the site is a single storey painted brick and timber house with an asbestos shingle roof, surrounding a paved courtyard and an in-ground swimming pool. The house was designed by Bruce Robertson of Robertson & Hindmarsh Architects. The plan is linear in form and creates an 'L' shape around a north east facing courtyard. The open side of the courtyard is screened by a timber pergola and screen wall.

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The building layout of 2 Wirra Close closely resembles Wright's stylistic planning with an internal layout which turns its back on the street and addresses an interior courtyard through floor and ceiling glazed walls. The design of the residence attempted to integrate the house with nature. The design presents two long, low wings which reach out in opposite direction from the main pyramidal roofed pavilion which houses the living and dining areas. The style of the exterior facades resembles those of Wright's Prairie house design.

Application to remove property from Schedule 7 KPSO

An application has been made by NBR&P Heritage Consultants on behalf of the owner of No.2 Wirra close St Ives to have the property removed from Schedule 7 (Heritage items) of the KPSO. In the heritage Statement produced in support of the deletion of the heritage item by NBR&P Heritage Consultants (**ATTACHMENT 3**) it was stated that:

The existing place does not have significance for any value that would warrant its retention as a heritage item for the benefit of the Municipality of Ku-ring-gai...I would therefore strongly suggest that the item be removed from Schedule 7 of the KPSO by means of an amending LEP.

A meeting between Council staff and the owners was held to discuss their concerns. In response to the request to remove the property from Schedule 7 of the KPSO, Council engaged Glen Cowell Heritage Services to conduct an independent heritage assessment for the property to determine whether the presently listed heritage item should remain listed under Schedule 7 of the KPSO (**ATTACHMENTS 4 & 5**). The assessment like that conducted by NBR&P Heritage Consultants recognised that 2 Wirra Close is listed on Schedule 7 of the KPSO as an individual heritage item and that the subject property has some connection with the Torokina Avenue Estate Group however, even with this link "the Sherington House is obviously an individual item of significance which was designed and constructed well in advance of the building construction of the adjoining subdivision".

The assessment of significance found that:

The listing of 2 Wirra Close, as an interesting local interpretation of the style favoured by the America Architect, Frank Lloyd Wright, at the entrance to the Torokina Estate Group appears therefore, to be a very appropriate and local decision... 'The Sherington House' along with Bruce Robertson's later commission at 29 Womerah Street Turramurra, are important examples of the architect's interpretation of Wright's 'Prairie Style' in Australia. These two houses in Ku-ring-gai municipality provide an insight into the philosophical as well as the economic direction of housing and the stylistic development of the Sydney architects of the mid nineteenth century leading up to the "Sydney School" of the 1960s. the two houses are important elements in understanding the residential development of the period.

The assessment of significance found 2 Wirra Close, St Ives to be of historical and aesthetic significance and of some technical/ research and social significance and recommended:

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- “The Sherington House” should be retained as an item of significance within the suburb of St. Ives. The extant building should be retained largely in its original form and detail as a single storey dwelling addressing this corner of Wirra Close
- “The Sherington House” should be retained as a largely intact external example of a simple mid century suburban house strongly influenced by the Prairie Style made famous in the early 1900s by the North American Architect, Frank Lloyd Wright.
- “The Sherington House” should be retained as an isolated building on its original corner allotment with any modifications or upper floor additions restricted to the far (garage) end of the eastern wing of the extant house.
- “The Sherington House” should be retained as a significant landmark element in its own right.
- First floor additions may be possible in areas that will not have a negative impact on the overall character of the building and that consideration should be given to allowing alterations at the far eastern end of the garage wing. Consideration should be given to allowing an upper floor addition of sympathetic design and complementary fabric located over the existing garage pavilion and an additional wing to further enclose the courtyard.
- The quality of design and original fabric of the interior, particularly the large open plan living /dining area with high vaulted timber clad ceiling and the focus of the interior towards the internal courtyard, appears to have remained largely intact if modified. As it has been indicated in the NBR&P Report that the original timber ceiling is intact under the later plasterboard ceiling lining, reinstatement of this significant element would add greatly to the integrity and intactness of the building. A heritage assessment of the interior should be made prior to any decision on the type and extent of redevelopment that the building could sustain

Having reviewed the NBR&P Heritage Consultant Heritage Statement (**ATTACHMENT 3**) for the site in conjunction with the heritage assessment produced by Glen Cowell Heritage Services (**ATTACHMENTS 4 & 5**), 2 Wirra Close, St Ives still displays the heritage values that originally warranted its individual listing on Schedule 7 of the KPSO and should remain a heritage listed item.

CONSULTATION

Consultation with the relevant owners has taken place in preparing the supporting documents for this report. Any draft LEPs if exhibited would involve formal consultation.

FINANCIAL CONSIDERATIONS

All financial costs associated with the removal of the properties from the KPSO through an amending LEP are covered by the Urban Planning budget.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

There has been consultation with Council's Heritage Advisor in relation to each of the subject properties, in the preparation of this report.

SUMMARY

Several necessary heritage amendments have arisen that require action by Council. The subject properties are 23 Memorial Avenue, St Ives, 4 Munderah Street, Wahroonga and 2 Wirra Close, St Ives.

Council has received a request that it consider the removal of 23 Memorial Avenue, St Ives from Schedule 7 (Heritage items) of the KPSO. Having reviewed the heritage assessment prepared by NBR&P Heritage and having visited the property, the property no longer has heritage significance and should be removed from Schedule 7 of the KPSO.

4 Munderah Street was originally listed in Schedule 7 of the KPSO in 1989 as being of significance for its architectural value. In 2004 Council granted approval for the demolition of the existing building and associated structures at 4 Munderah Street Wahroonga and should be removed from Schedule 7 of the KPSO.

Council has received a request from NBR&P Heritage Consultants on behalf of the owner of No 2 Wirra Close St Ives to have the property removed from Schedule 7 of the KPSO. Council engaged Glen Cowell Heritage Services to conduct an independent heritage assessment for the property to determine whether the presently listed heritage item should remain listed under Schedule 7 of the KPSO. The assessment of significance recommended that the property be retained as an item of significance within the suburb of St. Ives.

Having reviewed the NBR&P Heritage Consultant Heritage Statement and the independent heritage assessment. The site still displays the heritage values that originally warranted its individual listing on Schedule 7 of the KPSO and should remain a heritage listed item.

RECOMMENDATION

- A. That Council prepare a Draft Local Environmental Plan to remove No. 23 Memorial Avenue, St Ives and No. 4 Munderah Street from Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance.
- B. That the Department of Infrastructure, Planning and Natural Resources be advised of Council's decision in accordance with Section 54 of the Environmental Planning and Assessment Act.
- C. That the Draft LEP be publicly exhibited in accordance with the requirements of the EP & A Act.

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- D. That a report be brought back to Council at the end of the exhibition period.
- E. That the property at No. 2 Wirra Close, St Ives remains listed as a property of Heritage Significance in Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance.

Louise O'Flynn
Heritage Planner

Antony Fabbro
Manager Urban Planning

Leta Webb
Director Planning &
Environment

Attachments:

- Attachment 1 - NBRS & P Heritage Consultants Assessments of Significance- 23 Memorial Avenue, St Ives**
- Attachment 2 - Resolution of Council - 27 July 2004, 4 Munderah Street, Wahroonga.**
- Attachment 3 - NBRS & P Heritage Consultants Assessment of Significance - 2 Wirra Close, St Ives.**
- Attachment 4 - Glen Cowell Heritage Services Assessment of Significance - 2 Wirra Close, St Ives.**
- Attachment 5 - Glen Cowell Heritage Services - 2 Wirra Close, St Ives - Heritage Inventory Statement.**

EXHIBITION OF FEES AND CHARGES

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To allow Council to consider the exhibition of additional fees and charges for inclusion as an amendment to the 2005-2006 Management Plan.

BACKGROUND:

The Fees and Charges schedule included in 2005-2006 Management Plan contains two fees for amendments to KPSO. The fees apply to rezoning requests and the level fee relates to the size of the site and therefore the complexity of the analysis that is required to assess an application. Council has no fee for preparation of or amendments to a DCP.

COMMENTS:

There is justification for review of the fees for amendments to KPSO and for inclusion of a lower fee for minor applications to amend KPSO or an LEP for example for the purposes of either adding or removing a heritage item. Council does not list a fee for application to prepare or amend a DCP. There are likely to be circumstances where there is a need for a new DCP or when amendments are justified. »

RECOMMENDATION:

That Council exhibit revised and additional fees and charges as set out in this report.

PURPOSE OF REPORT

To allow Council to consider the exhibition of additional fees and charges for inclusion as an amendment to the 2005-2006 Management Plan.

BACKGROUND

When Council adopted the Management Plan for 2005-2006 it also adopted a schedule of fees and charges. The schedule shows two fees for amendment of KPSO, being a general fee of \$16,364 and a fee of \$34,545 which applies to large sites (over 1 ha) and institutional sites.

It is anticipated that most future planning done by Council will be as chapters or sections of a new LEP using the State government's standard template. Any amendment to the fees and charges should anticipate that Council will also receive applications for amendments to an LEP.

COMMENTS

Amendments to KPSO or an LEP

There is justification for reviewing the fees charged for amendments of KPSO or an LEP in order to set a scale of fees that relates more closely to the likely complexity of an application and therefore the staff and consultancy resources that are required to assess the application.

The current fees structure underestimates the time taken to assess a large rezoning application and is excessive for minor changes, which may not involve a rezoning: eg addition or removal of a heritage item or amendment of a clause or development standard within an LEP.

When an applicant is charged a fee for amendment to KPSO or an LEP, the applicant must also pay an advertising fee and pay GST.

In order to have a scale of charges that more accurately reflects the complexity of the assessment process the following scale is proposed:

Minor amendment to a LEP.

This would include amendments to KPSO or an LEP for the purposes of adding or removing a heritage item, changing the wording of a clause, adding or removing a use to a zoning table that does not require complex assessment or changing development standards that apply to land. The costs involved for Council in such an application would be staff time, may involve the need to get a legal opinion or have an expert assess an expert's report submitted by the applicant. In such cases, the applicant would still be required to submit, as part of their application and at their cost, an expert's report justifying the proposed amendment. For example an application to remove a heritage item would be required to include a report prepared by a suitably qualified heritage consultant. Council would then assess this material and prepare a report with a recommendation to Council.

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It is recommended that the fee for a minor amendment be \$7,500 plus advertising cost plus GST.

Minor rezoning application (total site area less than 1ha) or major amendment to KSPO or an LEP. Such applications involve many staff across Council and may require additional advice from one or more external consultants. The current fee for this is \$16,364. This fee underestimates the extent of assessment required and is not sufficient to cover the costs of more than one consultant. It is recommended that this fee be increased to \$20,000. The same fee should be charged for an application for a major amendment of the KPSO or an LEP ie. one that requires complex assessment.

Major rezoning application

This fee would apply to institutional sites and sites over 1 ha in area. Recent experience in assessing the UTS site indicates that an application of that complexity requires major resources and staff time across Council and requires considerable liaison with relevant agencies and is demanding on staff time in relation to dealing with the public. The current fee for such an application is \$34,545. In view of the resources required to assess such an application and to conduct an appropriate level of consultation it is proposed that this fee be increased to \$45,000.

Fees for preparation or amendment of a DCP.

Council currently does not have adopted fees that apply to either preparation of or amendment of a DCP. The need for preparation of a DCP or amendment of a DCP is likely once an area of land is rezoned. For example, if Council rezones land, it may wish to ensure that there are appropriate site specific controls that apply in a DCP to provide more detailed provisions in support of the LEP. For example, if Council approves rezoning of a site, Council may wish to develop a site specific DCP to guide the future development of that site.

In addition, because Council now has a DCP which applies to multiunit development and will soon have DCP for retail and commercial centres, there is likely to be circumstances when an applicant would seek amendment of the DCP.

This is particularly more likely in the light of recent indications that the Land and Environment Court is likely to give more weight to a DCP if Council applies the document consistently. An applicant may have a reasonable proposal which may not comply with a DCP and which, because of the extent to which it does not comply, would place Council in a position where it would appear to be applying the DCP inconsistently. In some cases, this may be due to the fact that a particular type of retail or commercial use generates design requirements which could not have been anticipated by Council.

The complexity of preparation of amendment or preparation of a new DCP is likely to vary depending on the circumstances. It is therefore proposed that Council adopt a fee with a range and that staff recommend an appropriate fee as each case is considered.

It is proposed that the fee for amendment of existing DCP provisions be set at \$10,000 plus advertising and GST and the fee for preparation of a new DCP or new site specific provisions within an LEP be within the range of \$10,000 to \$50,000, depending on the estimated resources that

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will be required to prepare the document. The Management Plan should indicate that the intending applicant contact the Planning Department to obtain an estimate.

Council would currently have to prepare DCP amendments or a new DCP at Council's expense in the absence of an advertised fee.

CONSULTATION

The Act requires that amendments to the Fees and Charges schedule be advertised.

FINANCIAL CONSIDERATIONS

The proposals above provide for a realistic scale of charges that recognise the level of staff, consultant and legal resources that are required to deal with unscheduled work that arises from applications for amendments to KPSO, an LEP, a DCP or to prepare a new DCP for the benefit of the applicant. The fees will enable Council to engage appropriate temporary staff or consultants, if required, to deal with the additional workload generated in a timely manner.

The fees listed may generate a corresponding demand for additional expenditure to deal with applications. It is not possible to determine what the overall impact on the budget will be as applications for amendments, rezonings and for a new DCP arise in an ad hoc way.

Consultation With Other Council Departments

This report has been reviewed by the Director of Business and Finance.

SUMMARY

Applications for amendments to an LEP or a DCP arise in an ad hoc way and thus are not part of the planned workload of the Planning Section. Such requests are generally for the benefit of an applicant. The current fees and charges do not provide for a scale of charges sufficiently related to the complexity of the work required and thus the likely demand on resources of applications. The current fees do not take account applications that are not complex or resource intensive, such as applications to list a heritage item or to remove an item from the list.

Council does not currently have any fee for the preparation or amendment of a DCP and yet it is likely that the need for preparation or amendment of a DCP may well arise now that Council is dealing with complex multiunit development and will soon be dealing with complex mixed use developments in town centres and cannot possibly anticipate all the potential requirements or issues that arise from specific uses or in relation to specific sites.

RECOMMENDATION

- A. That Council exhibit the following fees and charges for a period of 28 days in accordance with the requirements of the Local Government Act, 1993:
 - 1. Minor amendment to KPSO or an LEP: \$7,500.
 - 2. Minor rezoning application (total site area less than 1 ha) or major amendment to KPSO: \$20,000
 - 3. Major rezoning application (institutional sites or sites 1 ha or larger): \$45,000.
 - 4. Amendment to an existing DCP: \$10,000
 - 5. Preparation of a new DCP: \$10,000 to \$50,000, depending on complexity (contact Council's Planning section for an estimate).

- B. In the event that no substantial objection is received, that the fees be adopted at the conclusion of the exhibition period.

Leta Webb
Director
Planning and Environment

PARKS, SPORT & RECREATION REFERENCE GROUP - MINUTES OF 23 JUNE 2005

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To bring to the attention of the Ordinary Meeting of Council the Minutes from the Parks, Sport and Recreation Reference Group meeting held Thursday 23 June 2005.

BACKGROUND:

The role of the Parks, Sport and Recreation Reference Group (PSRRG) is to provide resident, user groups and industry expert advice to Council on matters relevant to the types and standards of service and the content of Council's strategic plans, policies and Plans of Management in relation to parks, sport and recreation.

COMMENTS:

Seven (7) items of business were discussed (PSRRG 26 - PSRRG 32). Comments have been provided on items relevant to Council and items not referred relate to general business of the Reference Group.

RECOMMENDATION:

That the minutes of the Parks, Sport and Recreation Reference Group be received and noted.

PURPOSE OF REPORT

To bring to the attention of the Ordinary Meeting of Council the Minutes from the Parks, Sport and Recreation Reference Group meeting held Thursday, 23 June 2005.

BACKGROUND

The role of the Parks, Sport and Recreation Reference Group (PSRRG) is to provide resident, user groups and industry expert advice to Council on matters relevant to the types and standards of service and the content of Council's strategic plans, policies and Plan of Management in relation to parks, sport and recreation.

COMMENTS

At the meeting held 23 June 2005, several items of business were discussed. Comments have been provided on the items relevant to Council. Items not referred, relate to matters requiring further consideration prior to recommendation to Council or were items directed towards the sharing of information. In general terms, members were presented information regarding the Draft Allocation, Licensing and Leasing policy, Strategy for Street care / Park care and updates on the Open Space subgroup working parties.

Specifically, the reference group considered in detail the Sportsground Capital works prioritisation process and a review of the completed 2004/2005 capital works projects.

The main agenda item at the meeting (PSRRG27) was the revised proposed Open Space Capital Works Program for 2005/2006 which included further detail regarding the different sources of funding (Sportsfield Reserve, Section 94 Plans and the Environmental Levy) and the timing of such funding becoming available. This specifically relates to the Sportsground Programme.

Feedback from the Reference Group was the construction programme should follow as closely as possible to identified priorities from the prioritisation process. A review of the draft programme was presented to the Reference Group who subsequently recommended endorsement of the reviewed programme. A report to Council on 19 July considered this matter, including the recommendation of the Reference Group.

In addition to the above items, the Reference Group was briefed on the outcomes from the Autumn Sports Forum and advised of the date for the next Forum, received feedback from the Festival on the Green – Active Zone initiative, supported a change in the PSRRG meeting dates and were updated on level 3 water restrictions.

The next meeting of the Reference Group is scheduled for Thursday 1 September 2005, 6:30-8:30pm, Level 3 Ante Room.

CONSULTATION

The Reference Group is a consultative forum representing the interest of residents, user groups and industry professionals.

FINANCIAL CONSIDERATIONS

There are no direct financial considerations related to this report.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation with other departments has not taken place in the preparation of this report.

SUMMARY

The meeting held on 23 June 2005, gave the Group members present the opportunity to review and discuss in detail the Sportsground Capital works process, the re-prioritised Works Program for 2005/06 and 2006/07, including funding sources/opportunities and timing of such funding to achieve these outcomes.

Seven items of business were discussed at the June meeting, one item PSRRG26 was considered significant, with the remaining six items relating to general matters as detailed in this report and the attached Minutes (Refer Attachment 1).

The Reference Group endorsed the re-prioritised sportsground prioritisation process and supported the future Capital Works Program including forward design as detailed in the Sportsground Capital works handout (Refer Attachment 2).

RECOMMENDATION

That the minutes of the Parks, Sport and Recreation Reference Group be received and noted.

Amanda Colbey
Manager Parks, Sports & Recreation

Steven Head
Director Open Space

Attachments:

- 1. Parks, Sport & Recreation Reference Group - Minutes of meeting held Thursday, 23 June 2005**
- 2. Sportsfield Capital Works Funding, Prioritisation and Future Works Program**

PROGRESS REPORT ON STORMWATER ANALYSIS & PLANNING FOR LANE COVE CATCHMENT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To report on the progress and findings of the analysis and planning for Lane Cove Catchment.

BACKGROUND:

A requirement of the 2004-2008 Management Plan was to undertake a catchment analysis and report to Council by March 2005.

Lane Cove catchment was divided into two regions, northern and southern, each containing six sub-catchments. A consultant was appointed for each region to undertake modelling for analysis and planning.

COMMENTS:

Whilst Consultants, advanced the development of comprehensive drainage system models, difficulties in model complexity were encountered.

Process outcomes from the Middle Harbour and Cowan Local Catchment Plans were used to enable consistent input parameters and methodology.

RECOMMENDATION:

That Council receives and notes the report.

PURPOSE OF REPORT

To report on the progress and findings of the analysis and planning for Lane Cove Catchment.

BACKGROUND

On 9 November 2004, a report on catchment management for assessment of Tenders for Lane Cove Catchment was presented at a meeting in which Council resolved:

- A. *That the tender submitted by Cardno Willing Pty Ltd for the northern region and URS Australia Pty Ltd for the southern region for the stormwater analysis and planning of the Lane Cove catchment analysis be accepted.*
- B. *That the unsuccessful tenderers be informed of Council's decision.*
- C. *That the Mayor and General Manager be delegated authority to sign the contract forms and affix the seal of Council.*
- D. *That authority be delegated to the General Manager for any variations to the Contract and negotiations.*
- E. *That a further report be brought back to Council by December on the preliminary findings for the Northern and Southern region of the Lane Cove Catchment.*

Cardno Willing Pty Ltd and URS Australia Pty Ltd were each formally engaged on 16 November 2004 pursuant to council's resolution. Unsuccessful tenderers were informed of the decision and also provided feedback on their submission as made in provisions under the Tender.

For the Lane Cove catchments a total of five key tasks were set:

- To model, analyse and assess the hydrological and hydraulic capacity of the existing stormwater drainage system using Drains.
- Model, analyse and assess the quality of stormwater runoff from the catchment, using Music.
- Develop an integrated catchment management program that draws on the elements of water sensitive urban design.
- Develop a prioritised works program that includes conceptual designs for projects demonstrating the least cost and greatest benefit.

A total of seven planned meetings were required in order to assess progress and act as hold points for quality control purposes, as compared with Middle Harbour and Cowan project having only four.

COMMENTS

The first of seven meetings was held on 17 November 2004 with consultants for Council to provide data and discuss the methodology and timetable. A revised timetable was requested from consultants as the commencement date was anticipated in mid October based on close of tenders on 14 September. Revised timetables submitted indicated a completion dates of late April by URS and early May by Cardno that were considered acceptable given the difference in commencement date.

Since then, both Consultants have focused on project planning and the development of efficient procedures for GIS data import and DRAINS modelling. Monthly reports have been provided in accordance with the brief, confined to two pages detailing milestones, a breakdown of progress tasks and completion rates, significant issues and variations (where applicable). This format size was requested to enable information to be succinct and not require significant resources of the consultant nor of council in reviewing as compared to the Middle Harbour and Cowan studies.

Sub-catchments were divided into two regions to distribute workload. Table 1.0 below shows the total of the estimated quantity of pit and pipe reaches within each region. A breakdown of estimated quantities for each sub-catchment is shown on Table 2.0 as **Attachment 2**.

Table 1.0 Estimated quantity of pit and pipe reaches within each sub-catchment

Region	Number of Pits/Nodes	Number of pipe sections	Catchment Area (ha)
Total in Northern	2314	1990	1387
Total in Southern	2592	2200	1200

Progress on the Northern Catchments

Cardno have found the establishment of DRAINS models for the six catchments to be a very large task, taking longer than anticipated. In particular, difficulties were experienced with sub-catchment delineation for the large Avondale and Fox Valley areas which consequently delayed modelling progress.

A preliminary draft report was submitted on 6 May 2005. However a review by Technical Services and Open Space revealed several anomalies, and as a consequence results could not be relied upon and therefore reported. A meeting was held with the consultant and written details provided. Key anomalies included:

- Incorrect overland flow path connectivity. Correct connection of flow paths to downstream pits or nodes is essential for overall pipe and surface flow quantities in order to determine appropriate remedies.
- Need for performance –based outcomes on pollution reduction.
- Need for modelling of swales and informal connections.
- Further development of an integrated catchment review.

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An alternative ranking system was further suggested, the merits of which are to be considered towards the completion of the project. The approach was designed to enable the use of automated process to speed up the large amounts of data analysis required.

Based on advice from the consultant, all DRAINS models have now been reviewed, checked and re-run with results compiled, while MUSIC modelling is also fully completed.

Council is advised that overall progress as of 30 June, the following tasks and completion rates are;

- Project Management 85%
- Hydrological and Hydraulic Modelling 100%
- Catchment water quality modelling 100%
- Integrated catchment management program 85%
- Meeting and reporting 70%

In respect to the integrated catchment management program, problem areas and capacity improvement options have been identified in all six catchments, and the ranking method examined.

Progress on the Southern Catchments

URS also found the establishment of DRAINS models to be a very large task, and in particular, difficulties with Blackbutt Creek were experienced which delayed modelling progress.

URS has provided a Preliminary Draft Report (PDR) dated 1 July 2005 comprising all six sub-catchments considered in the southern region. Problem areas are not shown by sub-catchment and although the PDR makes reference to a consolidated list of all problem areas and indicative solutions in section 13, it was found not populated with data.

Reference is therefore made to the Inspection report, Appendix F of the PDR and relevant sections of the overview of existing drainage system performance as well as the water quality, to provide a snapshot of modelling results

For Lane Cove Creek 4 sub-catchment

- Total modelled conduit length of 1,716 metres and channel length of 843metres.
- Results indicate 89% - 93% (of 61 possible) of inlet pits are “constrained” for all ARI storm events analysed.
- There are no incidences of overland flow that occur on roads or property above the lower limit of 1.0m³/s adopted for this study. Higher overland flows are presented, and occur within the undeveloped valley of Rudder Creek and therefore do not present hazards. This will be subject to clarification based no the Table presented in the report.
- The major sources of stormwater pollutants are the formal urban areas.

“Inlet capacity constrained” is defined in the modelling as those inlet pits that are not capable of accepting the full peak flow directed to the pit due to insufficient inlet dimensions. It means that a portion of the approach flow is forced to bypass the pit and travel overland to the next pit via the designated overland flow route.

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- Total modelled conduit length of 5,418 metres and channel length of 445metres.
- 78% - 81% (of 162 possible) inlet pits are “constrained” for all ARI storm events analysed.
- There are only 2 locations of overland flow on roads indicated as having low hazard rating (depth * velocity>0.5).
- There are 12 incidences of overland flow in a 5 year ARI storm event that occur on property above the lower limit of 1.0m³/s adopted.
- A total of five nodes (or 29%) achieved the highest weighted score of 5 indicating that they convey the highest pollutant loads.

For Blue Gum Creek sub-catchment

- Total modelled conduit length of 6,119 metres and channel length of 2,665metres.
- 76% - 81% (of 189 possible) inlet pits are “constrained” for all ARI storm event analysed.
- There are 2 locations of overland flow that on roads indicated with a low hazard rating.
- There are 20 incidences of overland flow in a 5 year ARI storm event that occur on property above the lower limit of 1.0m³/s adopted for this study.
- Based upon water quality data (EAST laboratories, 2000), water quality in Lady Game Creek catchment is poor when compared to the ANZECC 2000 guidelines.
- A total of six nodes (or 46%) achieved the highest weighted score of 5.

For Lofberg Quarry Creek sub-catchment

- Total modelled conduit length of 7,837 metres and channel length of 1,703metres.
- 69% - 76% (of 235 possible) inlet pits are “constrained” for all ARI storm events analysed.
- There are 3 roads assessed to have a high hazard rating for a 5 year ARI event.
- There are 33 incidences of overland flow in a 5 year ARI storm event that occur on property above the lower limit of 1.5m³/s.
- Based upon water quality data (EAST laboratories, 2000), water quality in Lofberg Creek Catchment is generally good when compared to the ANZECC 2000 guidelines.
- A total of five nodes (or 16%) achieved the highest weighted score of 5.

For Lady Game Creek sub-catchment

- Total modelled conduit length of 12,341 metres and channel length of 4,166 metres.
- About 65% (of 328 possible) inlet pits are “constrained” for all ARI storm events analysed.
- There are 10 roads assessed to have a high hazard rating for any of the ARI events.
- There are 28 incidences of overland flow of more than 2m³/s in a 5 year ARI storm event that occur on property.
- Water quality in Lady Game Creek Catchment is generally good when compared to the ANZECC 2000 guidelines.
- Total of seven nodes (or 28%) achieved the highest weighted score of 5.

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S03875
28 June 2005

For Blackbutt Creek sub-catchment

- Total modelled conduit length of 23,479 metres and channel length of 9,696 metres.
- 79% - 84 (of 636 possible) inlet pits are “constrained” for all ARI storm events analysed.
- There are 20 roads assessed to have a high hazard rating for any of the ARI events.
- There are 53 incidences of overland flow of more than 2m³/s in a 5 year ARI storm event that occur on property.
- Water quality in this catchment is generally good compared with ANZECC 2000 guidelines.
- Total of fourteen nodes (or 38%) achieved the highest weighted score of 5.

Whilst the report discusses generic opportunities for reducing stormwater impacts, in terms of non-structural and structural measures, the Inspection Report accompanying the PDR identifies specific locations and possible treatments to address overland flows. Specific locations mentioned:

- Bradfield Road, in Lane Cove 5 catchment. High flows modelled along gutter. Redefinition of the drainage easement between 83 and 85 Bradfield recommended allowing flows to discharge to the Lane Cove River.
- In Blue Gum Creek catchment, one area of concern at intersection of Westbourne Street and Abingdon Road, with a modelled high overland flow. Recommended reshaping driveway of 14 Abingdon Road to divert flows into the channel.
- In Lofberg Quarry Creek catchment, the two major drainage lines converging in Bicentennial Park are identified as problematic.
- At two road sags in the vicinity of 130 and 98 Provincial Road with high overland flows.

For both northern and southern regions the remaining works include:

- Council staff to review and comment on the PDR. Consultants and Council officers to then identify key opportunities for the development of concept plans as part of the preparation of the Draft Report.
- Presentation of Draft Report to Council officers identifying findings, interpretation, concepts and prioritisation.
- Briefing to Councillors on Draft Report of key aspects and implications

The expected completion time for the final report is late August. Following this, the Drainage Capital Works Program will be updated and reported to Council.

CONSULTATION

Staff from Technical Services and Open Space have held planned meetings with both consultants

FINANCIAL CONSIDERATIONS

Not applicable

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Technical Services and Open space have mutually worked on this project.

SUMMARY

In November 2004, Cardno Willing Pty Ltd and URS Australia Pty Ltd were engaged for the stormwater analysis and planning of the Lane Cove catchment analysis for the northern and southern region respectively.

Both consultants have focussed on project planning and the development of efficient procedures for GIS data import and DRAINS modelling. However, they have both found the establishment of DRAINS models to be a very large task which has delayed modelling progress

Overall, the modelling of the hydrological and hydraulic conditions for the Lane Cove Creek sub-catchments are completed and a preliminary draft report submitted by URS for the southern region. This report is however subject to review and evaluation. Progress on the Northern region catchments is less advanced in terms of an updated report, although it is expected to be completed shortly. Consultants will then prepare the local catchment plans that will address both stormwater quantity and quality to assist Council in its asset, environmental and development processes.

The DRAINS models, defining the pipe and open channel system reveal flooding risks for the current system. These can be modified to estimate future situations and to assess remedial measures for flooding problems. Outputs can be linked to Council's GIS as tool for evaluation, planning and assessment.

The MUSIC models, have been used to determine the generation of pollutants in stormwater.

Key remaining tasks for this project comprise, review and comment on the PDR including identifying opportunities for the development of concept plans, and briefing to Councillors on Draft Report of key aspects and implications.

RECOMMENDATION

That Council receives and notes the report.

Ian Taylor
Manager Support Services

Greg Piconi
Director Technical Services

Peter Davies
Manager Sustainability & Catchments

Steven Head
Director Open Space

Attachments:

- 1. Sub-catchments plan**
- 2. Estimated Quantity of Pit & Pipe Reaches within each Sub-Catchment**

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DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	134 TO 138 EASTERN ROAD, WAHROONGA - ALTERATIONS AND ADDITIONS TO A HERITAGE BUILDING AND THE CONSTRUCTION OF SIXTEEN (16) NEW DWELLINGS
WARD:	Wahroonga
DEVELOPMENT APPLICATION N^o:	DA 0992/04
SUBJECT LAND:	134 to 138 Eastern Road, Wahroonga
APPLICANT:	Mirvac Projects Pty Ltd
OWNER:	Mirvac Projects Pty Ltd
DESIGNER:	HPA Architects and Tanner Architects
PRESENT USE:	Vacant
ZONING:	Residential 2c
HERITAGE:	Yes
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	KPSO, DCP38, DCP47.
COMPLIANCE WITH CODES/POLICIES:	No (DCP38 and KPSO)
GOVERNMENT POLICIES APPLICABLE:	SEPP55
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	27 September 2004
40 DAY PERIOD EXPIRED:	6 November 2004
PROPOSAL:	Alterations and additions to a heritage building and the construction of sixteen (16) new dwellings.
RECOMMENDATION:	Refusal

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DEVELOPMENT APPLICATION N^o DA 0992/04
PREMISES: 134-138 EASTERN ROAD, WAHROONGA
PROPOSAL: ALTERATIONS AND ADDITIONS TO A
HERITAGE BUILDING AND THE
CONSTRUCTION OF SIXTEEN (16) NEW
DWELLINGS
APPLICANT: MIRVAC PROJECTS PTY LTD
OWNER: MIRVAC PROJECTS PTY LTD
DESIGNER HPA ARCHITECTS AND TANNER
ARCHITECTS

PURPOSE FOR REPORT

To determine Development Application No. 0992/04 which seeks consent for additions and alterations to a heritage building and the construction of sixteen (16) new dwellings.

EXECUTIVE SUMMARY

Issues:

- SEPP1
- Streetscape (front setbacks)
- Bulk and scale

Submissions:

Fifty-two (52) objections received.

Land & Environment Court Appeal: A deemed refusal application was lodged with the Land & Environment Court on 8 December 2004. The hearing for this matter has been set down for 4-8 August 2005.

Recommendation:

Refusal.

HISTORY

In 2004, four concurrent development applications for the 'Holy Cross' site at 134-138 Eastern Road, Wahroonga were lodged. The four applications involved two new development applications (DA 991/04 & DA 992/04) and two section 96 modifications of already approved developments (DA 480/99A & DA 1163/03A). All four applications were inter-related and all four applications together result in the redevelopment of the site for 16 dwellings plus the restoration of the existing heritage item with access from an internal roadway off Eastern Road. The relationship of these applications to the site and to each other is as follows:

Development application 991/04 – demolition of the interwar building and chapel

Development application 991/04 sought consent for the demolition of the existing inter-war building and chapel. The application was approved by the Land and Environment Court on 21 April 2005. This building has been demolished.

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Development application 480/99 – subdivision of the site

On 27 March 2001, Council approved Development Application 480/99, which proposed an eighteen (18) lot community title subdivision of the site. A subsequent section 96 application was lodged with Council. This application sought:

- Reconfiguration of the approved lot boundaries;
- Modification to the design of the internal road;
- Conversion of the title of approved Lot 7 to torrens title. The remaining 17 lots would remain as community title lots.

The s.96 application was approved by the Land and Environment Court on 4 May 2005.

Development application 1163/03 – bulk earthworks

On 8 July 2004, The Land and Environment Court approved Development Application 1163/03, which proposed bulk earthworks associated with the remediation and stabilisation of land for the creation of the eighteen (18) lot community title subdivision.

The subsequently lodged s.96 modification to this consent (1163/03A), sought the following modifications:

- To carry out additional earthworks on the site, consistent with the revised earthworks plan prepared by Craig and Rhodes. The revised earthworks are also a product of the changes to the lot boundaries as sought in the s.96 application (**DA480/99A**);
- To remove two existing Sydney Blue Gums;
- To modify Conditions Nos. 14 and 21 so as to remove referencing of the above mentioned Sydney Blue Gums.

The s.96 application was approved by the Land and Environment Court on 4 May 2005, subject to conditions including the retention of two Sydney Blue Gums.

Development application 992/04 – construction of 16 dwellings and restoration of the heritage item

Development application 992/04, the application the subject of this report, seeks consent for the erection of sixteen (16) houses upon the approved land allotments and restoration of the existing heritage item upon the site.

THE SITE

Zoning:	Residential 2c
Visual Character Study Category:	Various
Lot Number:	Lot 1 in DP186622 and Lots 13, 14 and 15 in DP12810
Area:	19,693.4m ²
Side of Street:	Western
Cross Fall:	Falls to Water Street, Eastern Road and Burns Road

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Heritage Affected:	Yes
Integrated Development:	No
Bush Fire Prone Land:	Yes
Endangered Species:	Yes
Urban Bushland:	No
Contaminated Land:	Yes
Section 94 Contributions	No

The site is known as 134-138 Eastern Road Wahroonga, being Lot 1 in DP186622 and Lots 13, 14 and 15 in DP 12810. The site is located on the western side of Eastern Road, at its south-western intersection of Burns Road. The property is large and rectangular shaped, on a north-south alignment. The site has a total area of 19,693.4m² and has a frontage of 202.3m to Eastern Road and 91.6m to Burns Road. The site's western boundary adjoins a public reserve and has a length of 202.1m, while the southern boundary adjoins a road reserve forming part of Water Street. This southern boundary has a length of 91.6m.

The site is currently occupied by Glenwood House, which was built around 1910 and which is listed as a local heritage item on Council's Heritage Register.

The site is located partially within the Bushfire Prone Vegetation Category 1, which runs along the western boundary of the site. Otherwise, the site lies within the Bushfire Prone Vegetation Buffer.

The landform of the site is characterised by a flat ridge spur that extends southerly into the site from Burns Road. The western, southern, and eastern sides of the ridge are characterised by relatively steep slopes, falling 5-14 metres from the ridge level to the respective boundaries. An earth mound, approximately 2 metres in height, has been developed along part of the Burns Road frontage of the site. There is evidence of previous filling and levelling on this portion.

Surrounding development

Surrounding development is primarily comprised of low density residential dwellings on large landscaped lots.

To the west of the site, separated by residential dwellings and a reserve, is the Wahroonga Public School.

THE PROPOSAL

The proposal is for the erection of 16 one and two storey detached dwelling houses upon each of the allotments approved within the subdivision and alterations and additions to the heritage building known as Glenwood House.

The proposed dwellings are described as follows. Lot 1 is not described as this is the access lot (i.e. the internal road):

Lot 2: Glenwood house

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It is proposed to restore the exterior of the house and demolish a 1960s rear wing to provide a gable two storey addition in its place. It is also proposed to restore elements of the dwelling back to their original form i.e. the northern wing is to have the 'sleepout' style casement windows restored. Landscape works surrounding the house are also proposed in the form of an Edwardian character garden.

Lot 3

Lot 3 is sited to the north of Glenwood House and fronts both Eastern Road as well as the internal access road. The lot area is 1033m² and is proposed to accommodate a two storey, four-bedroom dwelling which is cut into the slope of the site.

Lot 4

Lot 4 is sited on the corner of Eastern Avenue and the access lot, and totals 1174m². The proposed dwelling is two storey, has a basement garage accessed from Eastern Road and is otherwise situated at one level. The dwelling would accommodate four bedrooms and has a floor area of 314m².

Lot 5

Lot 5 is located to the south of the internal access road and adjoins Water Street. The lot totals 1040m² and is proposed to accommodate a two storey, four bedroom dwelling of 320m² in floor area.

Lot 6

Lot 6 fronts both Water Street and the internal access road and is of 1187m² in size. The lot is proposed to accommodate a two storey four bedroom dwelling, 329m² in floor area.

Lot 7

Lot 7 is the only lot of the entire development which is to be under 'Torrens Title'. It has separate access from Water Street and is sited considerably lower than the other dwellings, at RL180.48, as opposed to Lot 6's RL186.83. The dwelling is two storeys and contains four bedrooms and measures 344m² in floor area.

Lot 8

Lot 8 fronts the internal access road, and is 1058m² in area. The proposed dwelling is two storeys, contains four bedrooms and is 305m² in floor area.

Lot 9

Lot 9 is 1086m² in area and is located on the western side of the internal access road. The dwelling is two storeys in height but appears as a single storey dwelling due to the slope of the land away from the access road. The dwelling contains four bedrooms and is 306m² in floor area.

Lot 10

Lot 10 is 843m² in area. The site is a regular shaped allotment, located on the western side of the internal access road. The proposed two storey dwelling is 321m² in floor area and contains a total of 5 bedrooms.

Lot 11

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Lot 11 measures 888.1m² in area. The site is located on the western side of the internal access road. The proposed dwelling is 'u-shaped' and single level with courtyard area oriented to the north. The dwelling is proposed to accommodate four bedrooms and has a floor area of 278m².

Lot 12

Lot 12 measures 891.8m² in area. The site is located on the western side of the internal access road. The proposed dwelling is two-storey and contains four bedrooms. The dwelling is 320m² in floor area.

Lot 13

Lot 13 measures 1022m² and is a battleaxe allotment, with access from the access strip and frontage to Burns Road. It is proposed that the site accommodate a two storey dwelling of four bedrooms and a total floor area of 309m².

Lot 14

Lot 14 measures 877m² in area and is sited at the northern part of the site, with frontage to both the access lot and Burns Road. It is proposed that the site accommodate a two storey dwelling of four bedrooms and 309m².

Lot 15

Lot 15 is another battleaxe allotment, with access from the central access lot and frontages to both Burns and Eastern Road. The site is of 966.2m² in area. It is proposed that the site accommodate a two storey dwelling of four bedrooms measuring a total of 301m².

Lot 16

Lot 16 is an irregular shaped allotment on the eastern side of the access lot, which slopes down to Eastern Road. It is proposed that the site accommodate a two storey dwelling of four bedrooms and a total floor space of 313m².

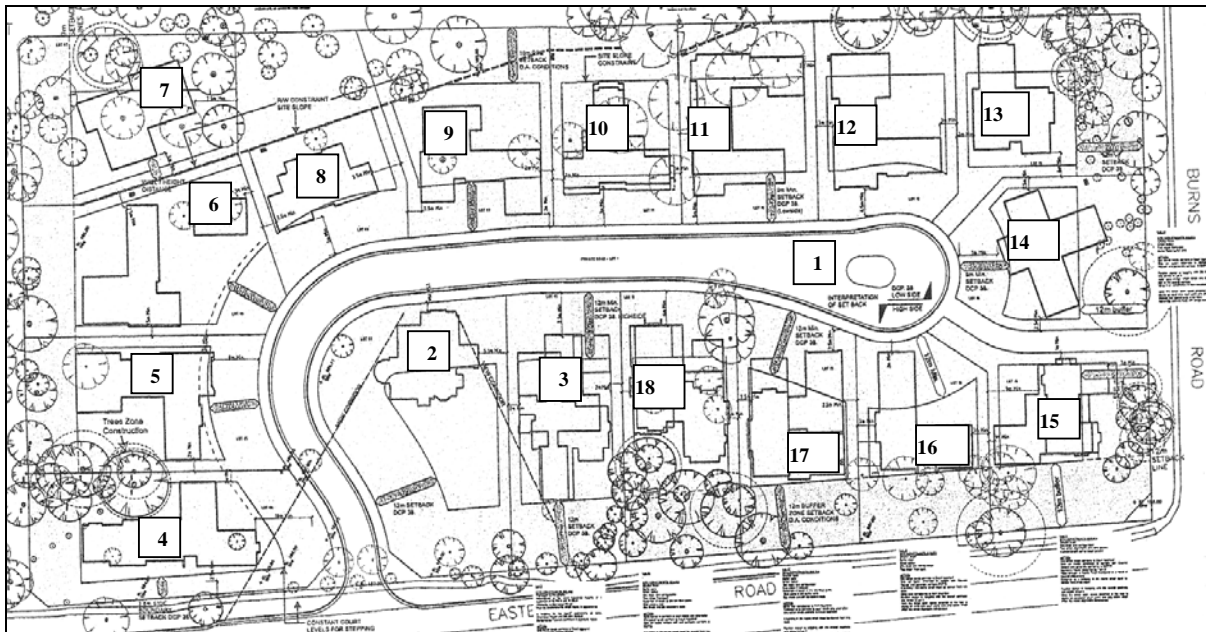
Lot 17

Lot 17 is an irregular shaped allotment on the eastern side of the access lot, with frontage to Eastern Road. It is proposed that the site accommodate a two storey dwelling of four bedrooms which again 'steps down' the lot. The total floor space is 362m².

Lot 18

Lot 18 is located to the east of the access lot, with frontage to Eastern Road. It is proposed that the site accommodate a two storey dwelling of three bedrooms, with a total floor space of 296m².

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CONSULTATION - COMMUNITY

The proposal was advertised and notified in accordance with the Ku-ring-gai Notification Policy between 3 November 2004 and 5 December 2004. A petition, signed by 70 individuals, was received from the Ku-ring-gai Society. A total of 52 submissions were also received from the following:

	Name	Address
1.	L. Hampel	64 Roland Avenue
2.	Brian North	6 Heydon Avenue
3.	Mr/Ms Brawn	120 The Comenarra Parkway
4.	Keith Forsyth	105A Boundary Road
5.	Robert Boxhall	38 Buckra Street
6.	V. Boxhall	38 Buckra Street
7.	Jill Rowe	38 Macquarie Road
8.	Heather Smith	6 Wirreanda Close
9.	Ashley Yelds	6 Wirreanda Close

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|-----|---------------------------|---------------------|
| 10. | B. Greene | 1 Wirreanda Close |
| 11. | Harry Greenland | 2 Wirreanda Close |
| 12. | Simon and Anne Olding | 16 Mona Street |
| 13. | Christopher Clark | 26 Braeside Street |
| 14. | John Lockard | 13 Roland Avenue |
| 15. | Dennis Morgan | 15 Chunooma Road |
| 16. | G.R.S. Evans | 48A Burns Road |
| 17. | Stewart and Carol Tonks | 7 Yosefa Avenue |
| 18. | James and Raymond Lowring | 19 Timaru Street |
| 19. | Jennifer McFadden | 74 Killeaton Street |
| 20. | Paul Notting | 14 Berilda Avenue |
| 21. | Elizabeth Notting | 14 Berilda Avenue |
| 22. | Linda Maurine Hillier | 23 Killeaton Street |
| 23. | Gwen Johnson | 34 Heydon Avenue |
| 24. | Judith Bowman | 14 Everett Way |
| 25. | David Lane | 70 Woodbury Road |
| 26. | Bruce Pardey | 4 Yosefa Avenue |
| 27. | Margaret Pardey | 4 Yosefa Avenue |
| 28. | Jeanette Browne | 3 Glendale Road |
| 29. | Albert George Browne | 3 Glendale Road |
| 30. | B. Monks | 18 Haydon Avenue |
| 31. | Alan Parr | 42 Water Street |
| 32. | Peter Castine | 40 Water Street |
| 33. | B.M. Hipwell | 29 Cleveland Street |
| 34. | Don Brew | 86 Braeside Street |

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|-----|-----------------------------|---------------------------|
| 35. | Graham Young | 73 Water Street |
| 36. | L.K. Petersen | 7 Burns Road |
| 37. | J.K. Parish | 4 Monk Street |
| 38. | Charles and Margaret Sharpe | 24 Water Street |
| 39. | B.A. and P.M. Pointon | 45 Braeside Street |
| 40. | John and Janet Gissing | 9A Water Street |
| 41. | B.E. Sanders | 2 Mona Street |
| 42. | Brian and Robin Bolton | 4 Braeside Street |
| 43. | Walter Brabant | 6/128 Eastern Road |
| 44. | H.J. Percival | 5 Swindon Close |
| 45. | Bruce Geary | 10 Marshall Avenue |
| 46. | Donna Davey | 10 Marshall Avenue |
| 47. | Elizabeth Luca | 9 Barton Crescent |
| 48. | R.J. and B. Burke | 6A Alma Street, Pymble |
| 49. | Alan Hislop | 7 Water Street, Wahroonga |
| 50. | John and Paulette Hardy | 82A Burns Road, Wahroonga |
| 51. | David C.W. Hill | 8 Kintore Street |
| 52. | The Ku-ring-gai Society | PO Box 69, Wahroonga |

The objections raised the following issues in relation to this application:

The amendments do not include changes to the height and extent of retaining walls. The retaining walls for the entrance to the site were a feature of the original application, where the commissioner considered that 'the new vehicular entrance to the land would present well to Eastern Road, provide safe access and maintain views of the heritage building on the land'.

The retaining walls and structures are not a feature of this application. Condition 3 of the consent to DA1163/03 (LEC11556) requires the provision of details for the retaining structures and these have been submitted.

Adverse effect on the values of adjoining properties.

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Financial impact upon adjoining properties is not a valid planning consideration under the terms of s79C of the Environmental Planning and Assessment Act.

The dwellings will create a sense of overcrowding and detract from the established character of the area. The building proposes to increase the size of the new buildings beyond the limits set out in DCP38.

The character of the area and 'sense of overcrowding' is to a large extent controlled by compliance with the provisions of DCP38. An assessment against the controls of DCP38 is provided within the body of this report.

Single storey buildings are now to become two-storey buildings having a much more deleterious effect on the surrounding environment. Single storey dwellings should only be permissible on Lots 3 and 4.

It is assumed that the single storey buildings which are referred to were those to be sited on Lots 3 and 4. The dwelling height on Lot 3, which is sited immediately next to Glenwood House, has been dictated by the Land and Environment Court in its consideration of application DA0991/04 for the demolition of the interwar building. The ridge height is therefore a maximum of RL195.50, which is greatly lower than the ridge height of Glenwood House at RL200.64.

The required supplementary geotechnical reports for Lots 6, 7, 8, 9, and 10 appears not to have been done. All plans from the developer should be rejected until this report is provided.

The supplementary geotechnical report was not required to be submitted to Council until the Construction Certificate was issued for the earthworks consent to DA1163/03. Provision of the geotechnical report is unrelated to the consideration of this current Development Application. Nevertheless, a geotechnical report has been provided to Council to satisfy this condition.

The required report, checking for possible contamination on Lots 7, 8, 9 and 10, appears not to have been done. All plans from the developer should be rejected until this report is provided.

A contamination report for Lots 7, 8, 9, and 10 was required prior to issue of the Construction Certificate for the consent to DA1163/03. Provision of the remediation report is unrelated to the consideration of this current Development Application. Nevertheless, a remediation report has been provided to Council to satisfy this condition.

The required plan for the bush regeneration works on Lots 7, 8, 9 and 10 appears not to have been done. All plans from the developer should be rejected until this report is provided.

The plan for bush regeneration works was required within 30 days of the final land shaping of lots 7, 8, 9, and 10. It is not required prior to determination of this Development Application.

The Landscaping and planting plans do not comply with the requirements of DCP38 sections 5.3.6 – Tree Replenishment and 5.3.9 – Biodiversity. Fourteen of the eighteen lots do not comply with the need for 13m high tree plantings.

The application and planting for each individual lot has been assessed against the requirements of DCP38. Council's Landscape Officer considers the proposed landscaping and tree replenishment satisfactory, subject to minor revisions to the landscape plan (refer to the Landscape Officer's comments below).

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The impact upon the Blue Gum High Forest is unacceptable. On each occasion as a revision is made, more of the forest disappears. This appears as destruction by stealth. Trees are to be removed. The mature lemon scented gum trees on the front of Lots 15 and 16 should be retained. The current application does not involve the removal of any additional trees. The trees which will be removed have been approved for removal under the previous Land and Environment Court decisions.

The developer has not considered other building methods that would minimise the requirement for stabilisation works on the site. Currently, the applications require the removal of a number of protected and/or significant trees because of the cut and fill methodology adopted by the applicant.

The stabilisation and fill treatments of the site were considered within the earthworks application, and subsequently approved by the Land and Environment Court. Additional earthworks are not proposed within this application.

The land is subject to bushfire restrictions.

Comment has been received from the New South Wales Rural Fire Service, who are satisfied with the proposed development. Refer to their comments within the body of the report.

Amended plans

Amended plans have been received as follows:

- 13/05/05 Amended plans received:

- DA200 Issue A Lot 9 & 14 Example of Built Upon Areas
- DA201 Issue A Boundary Fences Site Masterplan
- DA202 Issue A Boundary Fences Elevations
- DA201 Issue B Lot 2 Floor Plans, Elevations and Section
- DA022 Issue B Lot 2 Site /Roof Plan, Elevations and Design Analysis
- DA101 Issue B Lot 10 Floor Plan, Elevations and Section
- DA102 Issue B Lot 10 Site/Roof Plan, Elevations and Design Analysis
- DA151 Issue B Lot 15 Floor Plans, Elevations & Section
- DA152 Issue B Lot 15 Site/Roof Plan, Elevations & Design Analysis
- DA171 Issue B Lot 17 Floor Plans, Elevations and Section
- DA172 Issue B Lot 17 Site/Roof Plan, Elevations & Design Analysis
- DA181 Issue B Lot 18 Floor Plans, Elevations and Section
- DA182 Issue B Lot 18 Site/Roof Plan, Elevations & Design Analysis

These amended and additional plans sought to illustrate the proposed fencing around the site.

The Lot 2 changes, to Glenwood House, included the rebuilding of the upper north wing in original 'sleepout style' with casement windows, as requested by Council's Heritage Advisor.

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The changes to Lot 10 consisted of the reduction of a chimney on the northern elevation, to provide for an increased side setback and reduction in the non-compliance with the building height plane.

The changes to Lot 15 consisted of increased setback from Burns Road (7 metres).

Modifications to Lot 17 were required as a result of the retention of the two Sydney Blue gums (s.96 application). The house design has essentially been 'flipped'. The amendment has resulted in a reduction in height.

Modifications to Lot 18 were again submitted in order to accommodate the two Sydney Blue gums to the front of this Lot. The modifications have pushed the dwelling further to the south away from the Blue Gums.

The amended plans were not re-notified as they do not constitute a greater or different detrimental impact upon surrounding properties than the original scheme.

- 07/07/05 Additional information received:

DA203 Issue A Site Constraints and Conditions
DA204 Issue A Footprint of Original DA consent and submitted DA

These plans (attached) have been provided for illustrative purposes only. This information demonstrates the constraints imposed on the sites because of the setbacks, bushfire zones, topography and trees. Plan DA204 illustrates the building footprints identified in the approved subdivision DA 0480/99.

The amended plans were not re-notified as they do not constitute a greater or different impact upon surrounding affected properties than the original scheme.

- 08/07/05 Amended plans received:

DA031B Issue A Lot 3 Floor Plans, Elevations and Section
DA032B Issue A Lot 3 Site/Roof Plan, Elevations & Design Analysis

These plans amend Lot 3 in accordance with Condition 12a of The Land and Environment Court consent of 23 May 2005, which sought a lower ridge height so as to provide for views to Glenwood House. The ridge heights were constrained by the Court decision to a maximum of RL195.5 and RL194.5.

The amended plans were not re-notified as they do not constitute a greater or different impact upon surrounding affected properties than the original scheme.

CONSULTATION - WITHIN COUNCIL

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Engineering

Council's Development Engineer has reviewed the proposal and has commented as follows:

There are no engineering issues associated with the application which cannot be resolved by conditions.

Any consent issued would be a deferred commencement consent pending registration of the subdivision approved under DA480/99 and completion of the site stabilisation and remediation approved under DA1163/03 (LEC 11556 of 2003).

Lot 1, the internal road, is to be a private road, so an easement for waste collection will be required.

There are no engineering objections to the proposed development.

Landscaping

Council's Landscape Officer has reviewed the proposal and has commented as follows:

This application is supported, subject to conditions.

Impact upon trees and landscape plan.

Lot 1 - Access Road and pedestrian entry

The access road is to intersect Eastern Road towards the southern end of the site. As most of the access road reserve will be excavated (to varying depths) it is unclear as to the soil horizon/rock strata that will be found, and the soil preparation and tree species that will be required for the prevailing conditions. Shrub and groundcover plantings proposed along the verge of the access road adjacent to Lot 2, could be vulnerable due to the shaded conditions they will be growing in. Shade tolerant species should be used. The Phoenix canariensis (Canary Island Palm) at the centre of the northern end of the access road is to be replaced by Livistona australis (Cabbage Tree Palm) as the former palm is invasive to the adjoining bushland.

Proposed planting along the pedestrian entry is excessive. Trachelospermum jasminoides (Star Jasmine) between the screening rows of shrubs and the fence is superfluous and should be deleted. Acmena smithii 'Minor' (Small leaved Lilly pilly) appears to be excessive at the Burns Road end of the pathway and should be amended to a variety attaining a maximum height of 2.5 – 3 metres. Maintaining Murraya paniculata (Orange Jessamine) at 600 x 600 mm along a public walkway appears arduous as the plant naturally attains 4 metres height. It could be replaced by the variety 'Min-a Min'.

An amended landscape plan including the following items is required:

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- *Magnolia grandiflora* (Bull-bay Magnolia) is to be amended to another species for planting within the access road verge as it has a slow growth rate and a low natural canopy that would require frequent pruning. The species also has a robust root system that is likely to damage nearby light structures and infrastructures. The street trees are to compliment the scale of the adjoining 2 storey dwellings, ie: of approximately 9 metres height in accordance with item 3 of the 'Landscape Character Precincts' section of the Landscape Design report approved by Council on 27.2.04.
- *Phoenix canariensis* (Canary Island Palm) at the centre of the northern end of the access road is to be replaced by *Livistona australis* (Cabbage Tree Palm) as the former palm is invasive to the adjoining bushland.
- *Trachelospermum jasminoides* (Star Jasmine) is to be deleted between the screening rows of shrubs and the fence
- *Acmena smithii* 'Minor' (Small leaved Lilly pilly) is to be replaced to a variety attaining a maximum height of 2.5 – 3 metres at the Burns Road entrance of the pathway.
- *Murraya paniculata* (Orange Jessamine) at 600 x 600 mm is to be replaced by the variety 'Min-a Min' along the walkway.

Lot 2

The majority of this lot is to be retained at existing levels. A uniform, moderate slope extends from the heritage building to the Eastern Road boundary. The southern perimeter strip is to be graded/retained to the access road boundary and north-western corner is to be excavated for the proposed garage. One mature *Pinus patula* (Mexican Pine), of 11 metres height and healthy condition, located adjacent to the southern boundary, will require removal due to the excavation of the verge for the access road. This tree is also located within the site of the entry path to the dwelling. None of the existing *Camellia japonica* (Japanese Camellia) and other large shrubs/small trees are retained in the proposed landscape works. Most are in poor condition.

Only the 3 proposed *Pyrus calleryana* (Chinese Wild Pear) would meet the required 13 metres height for trees at the site, pending they are permitted to attain their potential height. *Brachychiton acerifolius* (Flame Tree) is invasive within the local bushland and *Jacaranda mimosifolia* (Jacaranda) are most unlikely to attain the required height at the site. The plan for lot 2 is to include a minimum number of 7 canopy trees. Some of the canopy trees are to be species from the Blue Gum High Forest vegetation association to link the site with the Clive Evatt Reserve.

An amended landscape plan including the following items is required:

- All 8 proposed *Populus nigra* 'Italica' (Lombardy Poplar) are to be replaced by a non-exempt species.
- Species codes 'Ahe', 'Hvi' and 'Mfi' require identification and inclusion in the plant schedule.
- *Howea forsteriana* (Kentia Palm) is included in the plant schedule although does not appear on the plan.

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- *The proposed turf and 'woodland bulb mix' species are to be included in the plant schedule.*
- *Steps are required between the southern end of the verandah and the path leading from it.*
- *The semi-circular path around the southern end of the building should be moved out by at least 0.5 metre from the building to give some separation garden between the two.*
- *Spot levels are required at the top and base of proposed retaining walls, the pool terrace and paths.*
- *3 massed planting areas require species identification – at the southern side of the pool terrace and south of the entry path.*
- *Brachychiton acerifolius (Flame Tree) and Jacaranda mimosifolia (Jacaranda) are to be amended to species that are non invasive and that will attain 13 metres height at the site.*

Lot 3

The eastern half of this lot is to be retained at existing levels while the western half is to be benched at RL 188.79 according to the subdivision plan Dwg No. 311-02 prepared by Craig & Rhodes and dated 2.8.04. The floor level of the proposed dining/living wing should be dropped to RL188.00 to reduce the height of the retaining wall at its eastern end, balance the cut and fill and reduce the amount of fill for the northern terrace.

The architectural cross section indicates the dining/living wing floor slab to step down and extend out to the retaining wall, however, the landscape plan shows turf. Proposed paving and pergolas on the architectural plan are not indicated on the landscape plan. A partitioned area adjacent to the northern side of the pedestrian entry path designated 'service' on the architectural site plan is shown to be planted and shaded area on the landscape plan.

The landscape arrangement for the lot retains several semi-mature locally occurring canopy trees at its north-eastern (lower) corner at existing grade. The lot is to support a minimum number of 6 trees. Two additional canopy trees proposed for the lot's Eastern Road frontage are derived from the Blue Gum High Forest assemblage of species. The lower portion of the lot is designated 'regeneration area', however, the greater majority of the vegetation is exotic, noxious plant and environmental weed species. A planting plan is required for this area. Four Lagerstroemia indica (Crepe Myrtle) proposed on the northern side of the dining/living wing appear to be on levelled ground.

An amended landscape plan including the following items is required:

- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- *Show the method of retaining the lawn terrace to the north of the dining/living wing and the method of accessing the informal path from the lawn terrace.*

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- *Pandorea pandorana (Wonga Wonga Vine) is to be amended to a suitable groundcover species as it is a strong climbing vine.*
- *A planting plan is required for the lower portion of the lot is designated 'regeneration area' as the greater majority of the vegetation is exotic, noxious plant and environmental weed species.*
- *The proposed turf species is to be included in the plant schedule.*

Lot 4

The northern half of this lot is to be benched at RL 186.29 according to the subdivision plan while it's southern half, except for the area beneath the canopies of 4 Eucalyptus saligna (Sydney Blue Gum): Nos 91, 92, 95 and 96 that is to remain at existing levels, is to be benched at RL 183.59. The proposed landscape arrangement reads as a level site, except for the Eastern Road and the access road perimeter retaining walls. The service court off the garage level is not shown on the plan. Proposed paving adjacent to the western side of bedroom 1 is not included on the architectural plan and will be inaccessible from both the dwelling and the lawn. The landscape plan does not show level changes within the southern half of the moderately sloping lot.

A double line shown 750 mm from the lot's southern boundary on the architectural site plan appears to indicate a fence. Two double lines appear on the landscape plan: on the rear boundary and 750 mm off. The fence should be moved to the southern boundary. This lot is to support a minimum number of 6 canopy trees attaining 13 metre height. As 4 Eucalyptus saligna (Sydney Blue Gum) exist, a minimum of 2 additional trees are required.

The existing access point, at the south-eastern corner of the site, could be retained for this lot.

An amended landscape plan including the following items is required:

- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- *Species codes: 'Abl', 'Ahe', 'Bmu', 'CRu', 'Req', 'Tas' and 'Vma' require identification and inclusion in the plant schedule.*
- *Dicksonia antarctica (Soft Tree Fern) should be replaced by the local tree fern Cyathea australis (Rough Treefern) and Brachychiton acerifolius (Flame Tree) should be replaced by another species due to its invasive characteristics.*
- *Canopy species from the Blue Gum High Forest assemblage of species are to be used along the Eastern Road frontage (including the nature strip), at the access road intersection and across the rear of the lot.*
- *The proposed turf species is to be included in the plant schedule.*

The boundary between Lots 4 and 5 differs between the subdivision plan and the site plans. This is pertinent regarding location and ownership of Trees 92, 94 and tree at RL 183.65.

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Lot 5

This lot, apart from the southern slope, is to be benched at RL 186.39 and RL 185.71 according to the subdivision plan. The conflict between a proposed level path within the moderate to steeply sloping, 'regeneration area' adjacent to the lot's southern (rear) boundary is to be resolved by amending the path's levels to conform to the existing grade. The area designated 'regeneration area' is steeply sloping, weed infested fill containing negligible native plants. In addition, the fence or wall shown 750 mm from the lot's rear boundary on the architectural site plan is to be deleted if a wall or moved to the rear boundary if a fence. This structure is not shown on the landscape plan.

This lot requires a minimum number of 6 canopy trees attaining 13 metres height. Proposed canopy trees across the rear of this lot are to be selected from the Blue Gum High Forest assemblage of species.

An amended landscape plan including the following items is required:

- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- *Proposed canopy trees across the rear of this lot are to be selected from the Blue Gum High Forest assemblage of species.*
- *A planting plan is to be prepared for the area designated 'regeneration area' as the greater majority of the vegetation is exotic, noxious plant and environmental weed species.*
- *The proposed turf species is to be included in the plant schedule.*
- *Dichondra repens (Kidney Weed) should be replaced by a more vertical species such as Dianella caerulea (Blue Flax Lily) against the retaining wall.*
- *Pandorea pandorana (Wonga Wonga Vine) is to be replaced by a suitable groundcover species it is a strong climber that will inevitably scale and envelope any nearby structures such as fences, shrubs or trees.*

Lot 6

This lot, apart from the southern slope, is to be benched at RL 186.59 and RL 185.05 according to the subdivision plan. The fence or wall shown 750 mm from the lot's rear boundary on the architectural site plan is to be deleted if a wall or moved to the rear boundary if a fence. This lot requires a minimum number of 6 canopy trees attaining 13 metres height. 1 Eucalyptus saligna (Sydney Blue Gum) exists close to its south-eastern corner and 2 Angophora floribunda (Rough barked Apple) is proposed. None of the other proposed trees are capable of attaining the required height.

An amended landscape plan including the following items is required:

- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*

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- *A planting plan is to be prepared for the area designated 'regeneration area' as the greater majority of the vegetation is exotic, noxious plant and environmental weed species.*
- *The proposed turf species is to be included in the plant schedule.*
- *3 additional canopy trees are required for the lot to comply with Council's Tree replenishment policy. Trees proposed for the rear of the lot are to be selected from the Blue Gum High Forest assemblage of species.*

Lot 7

The dwelling site of this lot is to be benched at RL 177.35 for the lower ground floor level and RL 180.35 for the ground floor level according to the subdivision plan. This lot requires a minimum number of 6 canopy trees attaining 13 metres height. Proposed species code 'Leg' has been omitted from the plant schedule. Proposed levels and the number of garden retaining walls shown along the north-eastern boundary on the landscape plan do not agree with the section for retaining walls on the north elevation of the architectural plans.

An amended landscape plan including the following items is required:

- *Vine) is to be replaced by a suitable groundcover species as it is a strong climber.*
- *Proposed Eucalyptus haemastoma (Scribbly Gum) is to be replaced by a species that is suitable for growing in clay based soils.*
- *The proposed turf species is to be included in the plant schedule. Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- *Two Angophora costata (Sydney Red Gum) proposed within lawn close to the north-eastern side of the dwelling's ground floor level are to be relocated to the downslope side of the dwelling to reduce their scale to the dwelling.*
- *Any additional canopy trees for the lot are to be selected from the Blue Gum High Forest assemblage of species.*
- *Species codes 'Leg' require identification and inclusion in the plant schedule.*
- *A planting plan is to be prepared for the area designated 'regeneration area' as the greater majority of the vegetation is exotic, noxious plant and environmental weed species.*
- *Pandorea pandorana (Wonga Wonga Vine) is to be replaced by a suitable groundcover species as it is a strong climber.*
- *The proposed turf species is to be included in the plant schedule.*

Lot 8

The eastern (level) portion of this lot is to be benched at RL 187.09 and RL 185.55 for the dwelling according to the subdivision plan. The western fill slope is to remain at existing levels. It requires a minimum number of 6 canopy trees attaining 13 metres height. The amended staircase, against the retaining wall and between the rear of the dwelling to the regeneration area, is supported.

An amended landscape plan including the following items is required:

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- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- *The proposed Eucalyptus pilularis (Blackbutt) should be relocated from the north-western corner of the dwelling to the rear of the lot, within the 'regeneration area' due to its large potential height and spread.*
- *Any additional canopy trees proposed at the rear of the lot are to be selected from the Blue Gum High Forest assemblage of species.*
- *A planting plan is to be prepared for the area designated 'regeneration area' as the greater majority of the vegetation is exotic, noxious plant and environmental weed species.*
- *Pandorea pandorana (Wonga Wonga) is to be amended to a ground cover species within the narrow planting spaces.*

Lot 9

The level portion and the upper half of the fill slope of this lot are to be benched at RL 188.29 and RL 186.89 for the proposed dwelling according to the subdivision plan. The lower half of the fill slope is to remain at existing levels. This lot requires a minimum number of 6 canopy trees attaining 13 metres height. As 3 trees exist and 1 tree is proposed, 2 additional trees are required. The amended staircase, against the retaining wall and between the rear of the dwelling to the regeneration area, is supported.

An amended landscape plan including the following items is required:

- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- *Any of the 2 additional canopy trees proposed at the rear of the lot are to be selected from the Blue Gum High Forest assemblage of species.*
- *Proposed Eucalyptus salignus (Sydney Blue Gum) should be relocated from the southern side of the dwelling to the rear of the lot, within the 'regeneration area' due to its large potential height and spread.*
- *A planting plan is to be prepared for the area designated 'regeneration area' as the greater majority of the vegetation is exotic, noxious plant and environmental weed species.*
- *Proposed planting of Acmena smithii 'Minor' (Lilly pilly) and Rothmannia globosa (Bell-flowered Gardenia) in front of the living room is to be replaced by lower growing plants that will not obliterate the windows.*
- *Pandorea pandorana (Wonga Wonga Vine) is to be replaced by a suitable groundcover species as it is a strong climber.*
- *The proposed turf species is to be included in the plant schedule.*

Lot 10

This lot is to be benched at RL 189.49, except for its extreme south-western corner, according to the subdivision plan. No level is given for an apparent stepped retaining wall along portion of the lot's southern side. This lot requires a minimum number of 3 canopy trees attaining 13 metres height. Four Eucalyptus saligna (Sydney Blue Gum) are appropriately proposed across the rear of the lot.

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An amended landscape plan including the following items is required:

- *Dicksonia antarctica (Soft Tree Fern) should be replaced by the local tree fern Cyathea australis (Rough Treefern).*
- *4 Phoenix canariensis (Canary Island Palm) should be amended to Livistona australis (Cabbage Tree Palm) as the former palm species is invasive.*
- *Pandorea pandorana (Wonga Wonga Vine) is to be replaced by a suitable groundcover species as it is a strong climber.*
- *Species code 'Pac' - Plumeria acutifolia (Frangipani) is indicated as ground cover planting at the north-western corner of the lot. The proposed species is to be amended.*

Lot 11

Lot 11 is situated above contour line 192.00 although is to be benched at RL 190.69 according to the subdivision plan. No retaining wall appears on either the architectural or landscape plans.

To increase the available space for canopy and amenity tree establishment by reducing the sum built upon area (especially driveway area) of the site, the living/dining wing could be turned 90° and the garage brought forward beside them. Masonry screen wall and pergola details differ between the architectural and landscape plans and conflict with proposed plantings.

The proposed dwelling for Lot 11 is unduly expansive and the only space available for canopy tree replenishment is close to the front and rear boundaries. This lot requires a minimum number of 4 canopy trees attaining 13 metres height.

An amended landscape plan including the following items is required:

- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- *A planting plan is to be prepared for the area designated 'regeneration area' as the greater majority of the vegetation is exotic, noxious plant and environmental weed species.*
- *The following proposed trees are to be relocated more than 3 metres from the dwelling's external walls to ensure their long-term survival as they would be exempt under Council's Tree Preservation Order: 2 Corymbia gummifera (Red Bloodwood) – also to be amended to species from the Blue Gum High Forest assemblage of species, 1 of 2 Nyssa sylvatica (Tupelo) and 7 smaller trees.*
- *Any additional canopy trees proposed for the rear of the lot are to be selected from the Blue Gum High Forest assemblage of species.*

Lot 12

Lot 12 is situated around contour line 193.00 although it is to be benched at RL 191.89 according to the subdivision plan. No retaining wall appears on either the

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architectural or landscape plans. These issues need to be addressed by the applicant. No ground level changes are permitted within 6 metres radius of the trunk of Tree 8 – Eucalyptus saligna (Sydney Blue Gum) that abuts the lot's rear boundary, in accordance with the subdivision plan, or the bush regeneration area. Steps are to be included between the benched and existing grades to be preserved at the rear of the site.

The rear wall of the dwelling will need to be moved 1 metre to the east to allow a retaining wall to be constructed along the line of the rear wall of the dwelling as proposed and to accommodate an access path. The dining/family room will need to be reduced in length to accommodate the protection zone to the eastern side of the Eucalyptus saligna (Sydney Blue Gum).

This lot requires a minimum number of 4 canopy trees attaining 13 metres height. One Eucalyptus saligna (Sydney Blue Gum) exists and 2 Angophora costata (Sydney Red Gum) are proposed. One additional tree is required. The proposed 4 Elaeocarpus reticulatus (Blueberry Ash) are highly unlikely to attain 13 metres height in the growing conditions pending benching of the site. Pandorea pandorana (Wonga Wonga Vine) proposed for the screen wall towards the rear of the lot is appropriate. A climbing frame such as horizontal wires or mesh would be required to permit this strong climber to scale the walls.

An amended landscape plan including the following items is required:

- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- *One additional tree that will attain 13 metres height at the site is required for the site.*
- *All 5 trees, proposed within 3 metres of the dwelling, are to be relocated beyond its 3 metre exemption zone. The Angophora costata (Sydney Red Gum) proposed close to the dwelling's north-eastern corner is to be relocated close to the lot's north-eastern (front) corner.*

Lot 13

It is proposed to bench the levelled portion of Lot 13 at RL 193.09 according to the subdivision plan. No ground level changes are permitted within 6 metres radius of the trunk of Tree 12 – Eucalyptus saligna (Sydney Blue Gum) that is located within the adjoining bushland reserve, in accordance with the subdivision plan. To achieve this aim, only the feature window at the western end of the family/dining room would need to be set back to the general line of the dwelling's western wall to permit space for access and construction of a low retaining wall.

The proposed removal of several semi-mature self sown trees, comprising a mix of Angophora costata (Sydney Red Gum), Eucalyptus pilularis (Blackbutt), Eucalyptus sp. (Stringybark) and Syncarpia glomulifera (Turpentine) growing along the toe of the embankment, is supported. Some roots across the south-eastern side of Tree 16 –

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Eucalyptus sp. (Stringybark) growing in the regeneration area were severed during earthworks at the site some years ago.

This lot will support in excess of the minimum required number of 6 canopy trees attaining 13 metres height following its development. The proposed regeneration area is almost weed free as it is situated at the high point of the site.

*The footing for the setback, screen wall along the Burns Road frontage, on DWG No.: DA201 (issue A) prepared by Tanner Architects for Mirvac and dated May 2005, within 5 metres radius of 2 *Angophora costata* (Sydney Red Gum), is to be set on or above ground level. This wall is not included on the landscape plan.*

An amended landscape plan including the following items is required:

- *The setback, screen wall along the Burns Road frontage.*
- *A retaining wall, of approximately 500 mm height, will be required along the cut line between the benched area and the slope of the regeneration area.*
- *The informal maintenance path within the regeneration area should be surfaced with compacted leaf litter.*
- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- **Pandorea pandorana* (Wonga Wonga Vine) is to be replaced by a suitable ground cover species as it is a strong vertical climber.*

Lot 14

*It is proposed that the levelled portion of Lot 14 be benched at RL 192.59 according to the subdivision plan. No ground level changes are permitted within 8 metres radius of the trunk of Tree 21 – *Eucalyptus paniculata* (Grey Ironbark) that is located within the bush regeneration area close to the Burns Road boundary. The portion of the terrace off the dining/family room that intrudes within the tree's 8 metres restriction zone is to be constructed on existing grade. The footing for the setback, screen wall along the Burns Road frontage, on DWG No.: DA201 (issue A) prepared by Tanner Architects for Mirvac and dated May 2005 within the *Eucalyptus paniculata* (Grey Ironbark) tree's 8 metre radial protection zone, is to be set on or above ground level.*

*A 700 mm high retaining wall is required to support the regeneration area slope and separate it from the paving surrounding the dwelling. The regeneration area is relatively weed free except at its eastern end around the *Eucalyptus paniculata* (Grey Ironbark).*

*This lot requires a minimum number of 4 canopy trees attaining 13 metres height. Three proposed *Liquidambar styraciflua* (Liquidambar) are to be amended to a non-exempt species and the centre tree is to be located in excess of 3 metres from the external wall of the dwelling. *Franklinia axillaris* (Gordonia) proposed for screen planting along the eastern side boundary is to be amended to a smaller growing species.*

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An amended landscape plan including the following items is required:

- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- *The setback, screen wall along the Burns Road frontage.*
- *The footing for the setback, screen wall along the Burns Road frontage, on DWG No.: DA201 (issue A) prepared by Tanner Architects for Mirvac and dated May 2005 is not supported as excavation for it will extend through the protection zones of Trees 22 - 27. The beam of the pier and beam footing is to sit upon or above ground.*
- *Screening detail is required along the Burns Road side of the northern boundary fence to ameliorate its visual impact from Burns Road.*
- *A planting plan is to be prepared for the eastern end of the area designated 'regeneration area' as the greater majority of the vegetation is exotic, noxious plant and environmental weed species.*
- *3 proposed Liquidambar styraciflua (Liquidambar) are to be amended to a non-exempt species and the centre tree is to be located beyond the dwelling's 3 metres exemption zone.*
- *Franklinia axillaris (Gordonia) proposed for screen planting along the eastern side boundary is to be amended to a smaller growing species.*

Lot 15

It is proposed that the levelled portion of Lot 15 be benched at RL 191.57 according to the subdivision plan. The dwelling has been satisfactorily set back further from the 4 metres radial protection zones around 6 trees: Trees 22, 23, 24 and 27 - 4 Corymbia citriodora (Lemon Scented Gum) and Trees 25 and 26 - 2 Eucalyptus saligna (Sydney Blue Gum) located close to and abutting the lot's Burns Road boundary and within the Burns Road nature strip as shown on DWG No.: DA152 (issue B) prepared by Tanner Architects for Mirvac and dated September 2004. The area beneath the trees' canopies is designated 'regeneration area' although the area is entirely weed infested.

The set back 1800 mm high rendered brick fence along the Burns Road frontage is supported subject to its pier and beam footing being set on or above ground level. Great care must be taken to ensure no damage is incurred to the group of trees by, and during its construction, especially the footings. The boundary fences are not indicated on the landscape plan.

The proposed Eastern Road boundary retaining wall is to be constructed on pier and beam footings in accordance with condition 3c of Land & Environment Court 11556 of 2003 within the 8 metre radial protection zone of Tree 33: Eucalyptus saligna (Sydney Blue Gum). No details: heights, RL's and materials, have been provided for the retaining wall and screen wall/s (the positions for which vary between the subdivision, architectural and landscape plans) along the Eastern Road frontage and pathway boundaries.

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This lot requires a minimum number of 5 canopy trees attaining 13 metres height. The 6 Eucalyptus saligna (Sydney Blue Gum) proposed along the Eastern Road frontage are appropriate to reinforce the locally occurring tree canopy and form a link with the Clive Evatt Reserve to the east.

An amended landscape plan including the following items is required:

- *The setback, screen wall along the Burns Road frontage.*
- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- *The proposed indent in the Eastern Road boundary retaining wall is to be constructed on pier and beam footings in accordance with condition 3c of Land & Environment Court 11556 of 2003 within the 8 metre radial protection zone of Tree 33: Eucalyptus saligna (Sydney Blue Gum).*
- *A planting plan is to be prepared for the area designated 'regeneration area' as the greater majority of the vegetation is exotic, noxious plant and environmental weed species.*
- *4 Liquidambar styraciflua (Liquidambar) are to be amended to non-exempt species and no trees are to be located within the dwelling's 3 metre exemption zone.*
- *Franklinia axillaris (Gordonia) proposed for screen planting along the western side boundary is to be amended to a smaller growing species.*
- *Screen planting detail is required along the Burns Road side of the northern frontage fence to ameliorate its visual impact from Burns Road and the Eastern Road intersection.*
- *Pandorea pandorana (Wonga Wonga Vine) is to be replaced by a suitable ground cover species as it is a strong vertical climber.*

Lot 16

It is proposed that the levelled portion of Lot 16 be benched at RL 191.57 according to the subdivision plan. No ground level changes are permitted within 8 metres radius of the trunk of Tree 33 - Eucalyptus saligna (Sydney Blue Gum) located on the Eastern Road boundary of Lot 15. The proposed indent in the Eastern Road boundary retaining wall is to be located beyond the tree's 8 metre radial protection zone.

The proposed Eastern Road boundary retaining wall is to be constructed on pier and beam footings in accordance with condition 3c of Land & Environment Court 11556 of 2003 within the 8 metre radial protection zone of Tree 33: Eucalyptus saligna (Sydney Blue Gum). Proposed finished ground levels are required between the Eastern Road boundary and the dwelling. In addition, a retaining wall is required along the southern boundary to support the site.

The landscape plan does not reflect the architectural plan regarding the size of the service court between dwelling and the southern boundary. This lot requires a minimum number of 3 canopy trees attaining 13 metres height. None of the proposed replenishment canopy trees has the capacity to attain 13 metres height at the site. The

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area designated 'regeneration area' is entirely composed of noxious plant and environmental weed understorey species. Planting details are required for this portion of the lot.

An amended landscape plan including the following items is required:

- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- *3 locally occurring trees are required to link with the Clive Evatt Reserve in accordance with Item 5 of the approved Landscape Design report.*
- *4 trees proposed within the dwelling's 3 metre exemption zone, require relocating beyond it.*
- *A planting plan is to be prepared for the area designated 'regeneration area' as the greater majority of the vegetation is exotic, noxious plant and environmental weed species.*

Lot 17

It is proposed that the levelled portion of Lot 17 be benched at RL 190.39. According to the subdivision plan, the south-eastern portion of the lot including the driveway is to be retained at existing levels. The terrace forward of the rumpus room at RL 187.80 is not included on the landscape plan.

The dwelling for Lot 17 is satisfactorily located beyond the 8 metre tree protection zones of Trees 42 & 43: 2 Eucalyptus saligna (Sydney Blue Gum) located within Lot 18. The dwelling's slight intrusion into the 7 metres radial protection zone of Tree 50 – Eucalyptus pilularis (Blackbutt) located within Lot 18, as shown on DWG No.: DA171 (issue B) prepared by Tanner Architects for Mirvac and dated September 2004, is acceptable.

The area designated 'regeneration area', including the existing driveway that requires planting following its demolition, contains negligible remnant native understorey plants. Most of species are noxious plants and environmental weeds. Planting details are required for this portion of the lot.

This lot requires a minimum number of 4 canopy trees attaining 13 metres height. Two northerly leaning Eucalyptus pilularis (Blackbutt), existing adjacent to the Eastern Road boundary, are most likely candidates for removal – particularly the smaller tree, therefore 4 trees are required as it is highly unlikely than none of the proposed species will attain the required height the plans are to be amended. Two Elaeocarpus reticulatus (Blueberry Ash) proposed close to the northern side of the dwelling, are to be relocated more than 3 metres from its external walls.

It is unclear whether the Pandorea pandorana (Wonga Wonga Vine) is to be used as a ground cover to the northern end of the terrace trained to climb and cover the pergola as it is a strong vertical climber. The fence of the service courtyard at the southern side of the dwelling will permit the Pandorea pandorana (Wonga Wonga Vine) to climb.

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The Landscape plan includes a paved terrace across the eastern side of the living/dining room. Some form of pedestrian access should be provided around the northern side of the dwelling for maintenance purposes.

An amended landscape plan including the following items is required:

- *The path returning to the northern side of the driveway is to align with the pergola and double gates on the architectural plan.*
- *Canopy species from the Blue Gum High Forest assemblage of species are to be used along the Eastern Road frontage to link the site with the Clive Evatt Reserve.*
- *A planting plan is to be prepared for the area designated 'regeneration area' as the greater majority of the vegetation is exotic, noxious plant and environmental weed species.*
- *The Pandorea pandorana (Wonga Wonga Vine) at the northern end of the terrace is to be trained to climb the pergola or be replaced by a suitable groundcover.*

Lot 18

It is proposed that the levelled portion of Lot 18 be benched at RL 189.22 according to the subdivision plan. Four mature exotic trees: 1 Cedrus deodara (Himalayan Cedar), 1 Liquidambar styraciflua (Liquidambar) and 2 Ulmus parvifolia (Chinese Elm) will require removal for construction of the proposed dwelling. The service courtyard at the southern side of the dwelling on the landscape plan does not accord with that on the architectural plan. In addition, the screen wall shown on the southern elevation of the architectural drawings differs from the architectural plan.

A notation against a light green graphic symbol at the bottom of Tree Plan: Dwg file 31102L19 prepared by Craig & Rhodes and dated 2/8/04 refers to 'trees identified under DA1156/03 with nominated protection radius. 'DA1156/03 relates to 67 Warrangi Street, Turramurra. DA1163/03 relates to bulk earthworks at the subject site. Trees 42 & 43: 2 large Eucalyptus saligna (Sydney Blue Gum) shown on the plan have nominated 8 metre protection zones. The dining room on DWG No.: DA181 (issue B) prepared by Tanner Architects for Mirvac and dated September 2004 intrudes up to 2 metres into the tree protection zone. The dining room is to be located beyond both trees protection zones.

No soil level changes are to occur within the 7, 5 and 6 metres radius of the trunks of Trees 50, 52 and 56: 3 Eucalyptus pilularis (Blackbutt) located within the 'regeneration area' of Lot 18. A notation against a dark green graphic symbol at the bottom of Tree Plan: Dwg file 31102L19 prepared by Craig & Rhodes and dated 2/8/04 refers to 'nominated protected tree with number and species with protection radius as per cond.16 of DA480/99' relates to these trees. The bay window of bedroom 1, on DWG No.: DA181 (issue B) prepared by Tanner Architects for Mirvac and dated September 2004, should be cantilevered beyond the eastern wall so as not to intrude within the tree protection zone at ground level.

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As this lot supports more than the required minimum number of 6 canopy trees attaining 13 metres height no additional canopy trees are required .

An amended landscape plan including the following items is required:

- *2 Eucalyptus saligna (Sydney Blue Gum) located close to the lot's north-western corner.*
- *Spot levels are required at the top and base of proposed retaining walls, lawn terraces and paths.*
- *Access is to be included along northern side of the dwelling.*
- *Canopy species from the Blue Gum High Forest assemblage of species are to be used along the Eastern Road frontage to link the site with the Clive Evatt Reserve.*
- *Proposed Pandorea pandorana (Wonga Wonga Vine) is to be replaced by a suitable ground cover species adjacent to the eastern side of the dwelling as it is a strong vertical climber.*
- *Planting details are required for the area designated 'regeneration area', including the existing driveway that requires demolition, is entirely composed of noxious plant and environmental weed understorey species.*

Stormwater drainage proposal

Stormwater from the dwellings is to be directed to an on-site detention tank within each lot, then to the main tank located beneath the access road and on to the drainage line beneath Eastern Road.

Bushfire considerations

Category 1 Bushfire-prone vegetation is located within 2 bushland reserves: Council's Land Management Units (LMU) No.49 named Clive Evatt Reserve, No.51 named Turiban Reserve, adjoining properties and a narrow strip within the site's western side. The remainder of the site is located within the designated 100 metre wide bushfire buffer zone adjoining both areas of bushfire-prone vegetation. The 2 areas of bushfire-prone vegetation are rectangular and L-shape and isolated from larger areas of bushland.

The 2 required Asset Protection Zones (APZ) for dwellings within the site is 50 metres as the vegetation type is Group 1 and the slope is 5 - 10°. At least 30 metres separates dwellings facing Eastern Road from Clive Evatt Reserve and 5 metres separates those dwellings backing onto bushfire-prone vegetation to the west – mostly down a steep embankment. The bushfire threat from both bushfire sources is assessed as very low due to their isolation and 0.14 and 0.175 hectares areas.

Heritage

Council's Heritage Advisor has reviewed the proposal and has commented as follows:

Proposed new buildings

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The new dwellings are relatively large family houses, mostly with several levels, responding to the site contours. The architecture features strong axial planning and are characterised by dominant horizontal lines with large eave overhangs. They have some connection to the organic houses from the American Prairie School and some connection to the Sydney School. Finishes are a mix of stone, masonry and timber. I feel they are an appropriate response to the site and its location next to bushland. I agree that the new buildings would have some architectural unity and would fit well with Glenwood House.

DCP 16

DCP 16 was prepared with the intention of “encouraging development of the site that is of a form and nature which ensures the conservation of the natural landscape, cultural and historic elements”. The DCP defines the heritage item as the Federation House and sets a generous curtilage around it. Councils approval in 2001 breached curtilage and view corridors set in DCP 16.

It appears that in preparing DCP 16 the proposed heritage curtilage was not based on a thorough understanding of the heritage significance of the site and has only considered conservation of Glenwood House as important. I believe the primary heritage value of the site is its use by the Church since 1929, both for its historical value and social values to the local community. It also had connections to the whole State as it became the main training college for the Patrician Brothers in NSW.

Detail conservation of Glenwood House

The revised drawings show masonry infill to widow sill level and timber framed glazing above to three sides of the verandah. The plan shows the room as a bedroom but refers to the windows as “sleepout type”.

As indicated, sleepouts were veranda spaces open on one or more sides. They were used on hot summer nights to ‘sleep out’ to take advantage of cool breezes. Canvas blinds were rolled down to provide privacy or protection from insects and rain. Houses from the Arts & Crafts Federation period often have sleep outs from every bedroom.

The majority of works proposed to refurbish Glenwood House are satisfactory. However given the accepted heritage significance of Glenwood House I recommend that the northern veranda be returned to its earlier form as an open veranda. Missing timber balustrades should be reconstructed from evidence in early photographs.

CONSULTATION – OUTSIDE COUNCIL

New South Wales Rural Fire Service

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Initial comments from the RFS on 28 January 2005 recommended a 10 metres defendable space be provided to Lots 7-13 inclusive along the western boundary. Subsequently, the applicant met with the Rural Fire Service to resolve issues.

Comments were received on 5 July 2005 confirming the revised Rural Fire Services position. The RFS agreed that a concession could be considered to Lot 13 due to its access from an arterial road (Burns Road) and Lots No. 11 and 12 due to the use of retaining walls which would afford some protection in the event of a fire.

Further comments were received on 8 July 2005, at which time the Rural Fire Service agreed that it is prepared to accept a radiant heat shield of not less than 1.8 metres along the western boundary in lieu of the 10 metres setback/defendable space.

The Rural Fire Service is now satisfied with the current application.

Department of Infrastructure Planning and Natural Resources

The Department has determined that a Part 3A permit is required, as the proposal will cause works to occur within 40m of a foreshore, or top of bank or a "river", as defined under the Rivers and Foreshores Improvement Act. The Department has provided general terms of approval for the application as required under the Environmental Planning and Assessment Regulations Division 3.

STATUTORY PROVISIONS

State Environmental Planning Policy No.55 – Remediation of Land

The provisions of SEPP55 require Council to consider the potential for a site to be contaminated. The site has previously been subject to fill, that has resulted in un-retained embankments of up to 5 metres in height to the west and south-west of the site. These embankments, together with the subject fill, have been identified as unstable and containing contaminated soil. As such, they require remediation and stabilisation prior to any future residential development being able to occur. Remediation and stabilisation works were approved for the site under the development consent 1163/03.

Further investigation is not warranted within the assessment of this development application.

State Environmental Planning Policy No.19 – Urban Bushland

The provisions of SEPP19 require Council to consider the potential impact of the development upon adjoining bushland. The site adjoins the Turiban Reserve to the west. The vegetation within Turiban Reserve has been identified as Blue Gum High Forest, which is listed as an Endangered Ecological Community in the NSW Threatened Species Conservation Act 1995.

An 'eight part test' has therefore been provided with the application. The eight part test concluded that the development would not have impact upon the adjoining Blue Gum High Forest provided that:

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- *‘Stormwater/nutrient runoff is not directed into the reserve;*
- *Sediment control fencing is maintained along the western boundary of the site, as proposed;*
- *Fuel reduction for Asset Protection Zones is not undertaken within the Blue Gum High Forest in the adjoining Turiban Reserve;*
- *The vegetation within the lots adjoining Turiban Reserve is bush regenerated to remove the weeds which currently exist and eliminate the currently ongoing source of weed seed to the downslope vegetation in the Reserve, as proposed and requested in the Conditions of Consent; and*
- *Landscaping on the properties adjoining Turiban Reserve should use local native species of local provenance (sic provenance’).*

Comments have been received from Council’s Ecological Advisor, who advises that the recommendations as provided within the eight part test are acceptable.

Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River

The site is within the catchment of the Hawkesbury River and, as such, is subject to the provisions of this environmental planning instrument. The aim of the SREP 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, water quantity, 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 where possible. Accordingly, rainwater tanks or similar should be incorporated in the proposed development to enable the reuse of stormwater for irrigation purposes. An appropriate condition could be imposed upon any consent to ensure this provision.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

COMPLIANCE TABLE				
	Minimum size allotments: 929m ² (regular shaped lot); 1300m ² (battleaxe)	Minimum Site Width: 18m (min) frontage to regular lot; minimum access width of 4.6m (battleaxe lot)	Building height 8m (max)	Built-upon areas 60% (max)
Lot 1	ACCESS LOT			
Lot 2	1394m ² YES	>18m YES	7.2m YES	33% YES
Lot 3	1033m ² YES	21m YES	6.5m YES	40% YES
Lot 4	1174m ² YES	22.1-24.5m YES	5.8 YES	33% YES
Lot 5	1040m ² YES	24.7m YES	6m YES	40% YES
Lot 6	1187m ² YES	24-37.8m YES	6m YES	46% YES
Lot 7	1046m ² YES	30m YES	6m YES	32% YES

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Lot 8	1058m ² YES	24m plus YES	7.4m YES	27% YES
Lot 9	1086m ² YES	26.4m YES	6m YES	33% YES
Lot 10	843.8m ² (non-compliance)	23.5m YES	5.9m YES	35% YES
Lot 11	888m ² NO	24.7m YES	5.1m YES	45% YES
Lot 12	891m ² NO	25.3m YES	5.9m YES	46% YES
Lot 13	1022m ² NO	Access width 4.0 NO	5.9m YES	30% YES
Lot 14	877m ² NO	22m YES	5.8m YES	39% YES
Lot 15	966m ² NO	Access width 4.0m NO	6m YES	42% YES
Lot 16	830m ² NO	23.6m YES	6.1m YES	34% YES
Lot 17	917m ² NO	21.8m YES	6.2m	39% YES
Lot 18	1010m ² YES NO	21m YES	6.4m YES	28% YES

Minimum size allotments (c.58B(c))

The application proposes a number of dwellings upon minimum sized allotments or allotments where the minimum access width for a battle-axe allotment has not been achieved. The application proposes a non-compliance with the minimum requirements of clause 43(3):

43 Minimum size of allotments

- (3) *A dwelling-house shall not be erected in Zone No 2(c) -*
- (a) *on any allotment which has an area of less than 929 square metres;*
 - (b) *on any rectangular shaped allotment which has a width of less than 18 metres;*
 - (c) *on any irregularly shaped allotment, other than a hatchet-shaped allotment, which has a width of less than 18 metres at a distance of 12.2 metres from the street alignment;*
 - (d) *on any hatchet-shaped allotment which has an area of less than 1,300 square metres exclusive of the area of the access corridor which shall have a width of not less than 4.6 metres;*
 - (e) *on any allotment, other than a hatchet-shaped allotment, having a frontage to a main road or a county road which allotment has a width of less than 27.4 metres at a distance of 12.2 metres from the street alignment.*

An objection pursuant to the provisions of Clause 6 of State Environmental Planning Policy No.1 (SEPP No. 1) has been lodged in respect of Lots 11-15 and 17. No SEPP 1 has been lodged with respect to Lots 10 and 16.

As no SEPP No. 1 objection to the non-compliance with Lots 10 and 16 has been lodged, Council has no legal power to approve the development application even if it were minded to do so.

Residential zone objectives

The development is unsatisfactory having regard to the following aims and objectives for residential development as outlined by Schedule 9:

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The development fails to provide for residential development which is compatible with the locality and has a harmonious relationship with adjoining development. This is predominantly due to the lack of suitable setbacks to the internal road, the predominance of garaging within the front setbacks provided, the minimal side setbacks and the large first floor floorspace ratios with consequent impact upon the building height planes. The development is thus contrary to the aims of the KPSO 1(b) which seeks to ensure that new dwellings are compatible with the existing environmental character of the locality and objective Schedule 9(2)(e) which seeks to ensure that buildings are of a bulk, scale, and design which is characteristic of the area.

POLICY PROVISIONS

Development Control Plan No. 38 – The Ku-ring-gai Residential Design Manual

COMPLIANCE TABLE

(NOTE: Lot 1 is an access lot and not included)

Development Control	Lot 2	Lot 3	Lot 4	Lot 5	Lot 6	Lot 7	Lot 8	Lot 9	Lot 10	Lot 11	Lot 12	Lot 13	Lot 14	Lot 15	Lot 16	Lot 17	Lot 18
Area	1394 m ²	1033 m ²	1174 m ²	1040 m ²	1187 m ²	1046 m ²	1058 m ²	1086 m ²	843 m ²	888 m ²	891 m ²	1022 m ²	877m ²	966m ²	830m ²	917m ²	1010 m ²
5.1 Streetscape:																	
Building setbacks (s.5.1.3)																	
• Front setback: 11m/14m (Ave) -75% front elevation/ 9m/12 (min) – 25% front elevation	N/A	13.6m ave/ 7.6m min NO	N/A NO	10.8m/ 8-8.5m NO	>11m/ 13.5- 15.7m YES	13.3m/ 10- 16m NO	<11m/7 .7m- 10.1m NO	<11m/2. 2-2.6m (garage) NO	<11m/6 m NO	<14m/5 .2m NO	<11m/5 .6m NO	>14m/ >12m YES	<14m/7 .8m NO	>11m/ >9m YES	<11m/2 m NO	>11m/9 -10.8m YES	8.5m/6. 5m NO
Corner site street frontage setback: 3.8m(min) 4.5m(ave)	1.5m min/8 m ave. YES	N/A	4.8min 7m plus ave YES	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	10m and 12.5m YES	N/A	N/A	N/A
• Side setback: Ground floor: Variable	5m(n) YES	2m(s) 4.1m(n) YES	2m(w) 4.7- 7.7(e) NO	3m(w) 2.2m(e))	2.8m (kitchen) YES	6.5- 12.4(w) 4.4- 10m(e) YES	2.5m(s)); 5.4m(n)) YES	2.5m(s)); 2.1m(n)) NO	1.8m NO	2.2m(s))/5.9m(n) YES	3m(s), 3m(n), 2.3m(n) to chimney 3m(s) YES	3m(s), 15.0m(n) YES	2.5- 3.1m(w)/2.34. 3m(e) NO	12.3m(e)/1.1- 2.2m(w) NO	3.3m(N)/3.0m(S) YES	1.6m- 2.5m(s)/2.5m(n) NO	1.5(s)/ 2.7m(n) NO
1 st floor: 2.5m or 15% site width (min)	5m(n) YES	6.9m(s) 5.4m(n) YES	8.8m, 7.5m YES	3m(w)1 3.6m(e)) YES	2.3m(e)) NO	6.5- 12m(w) 4.4- 10m(e) YES	2.7m(s)) NO	5-7.2m NO	2.2m(s))/3.8m NO	N/A		3m(s), 15.0m(n) NO	16.4(w)/11.6(e) YES	12.3m(e)/1.1- 2.2m(w) NO	3.3m/4. 0m YES	1.8m- 2.2m(s)/2.7m(n) YES	8m(s)/ 1.7m(n) NO
• Rear setback: 12m(min) < 48m deep or 25% >48m deep	N/A	17.4m YES	9.1m NO	9m NO	10.4m NO	7.8- 9.9m NO	21m NO	13.5m YES	11.2m NO	5.6m NO	6.1m NO	4.9m NO	7.7- 9.3m NO	9.2m NO	12.4m YES	13- 14m YES	16.6m YES

COMPLIANCE TABLE

(NOTE: Lot 1 is an access lot and not included)

Development Control	Lot 2	Lot 3	Lot 4	Lot 5	Lot 6	Lot 7	Lot 8	Lot 9	Lot 10	Lot 11	Lot 12	Lot 13	Lot 14	Lot 15	Lot 16	Lot 17	Lot 18
Battle-axe block setbacks (s.5.1.4)																	
• Rear setback:	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	14.6m	N/A	N/A	N/A	N/A	N/A
5.2 Building Form:																	
FSR (s.5.2.1) Varies	0.29:1 YES	0.3:1 YES	0.27:1 YES	0.3:1 YES	0.28:1 YES	0.33:1 YES	0.29:1 YES	0.28:1 YES	0.38:1 YES	0.31:1 YES	0.36:1 YES	0.33:1 YES	0.35:1 YES	0.32:1 YES	0.37:1 YES	0.39:1 YES	0.29:1 YES
Height of building (s.5.2.2)																	
• 2 storey (max) and 8m (site >20° slope) or • 7m (site <20° slope) Building height plane (s.5.2.3) 45° from horizontal at any point 3m above boundary	2 storey, 7.4m NO	2 storey <7m YES	2 storey< 7m YES	2 storey <7m YES	2 storey, 6m YES	2 storey <7m YES	2 storey, <5m YES	2 storey, 6m YES	2 storey, 5.9m YES	1 storey <7m YES	2 storey, 5.9m YES	2 storey, 5.9m YES	2 storey, 5.8m YES	2 storey, 6m YES	2 storey, 6.1m YES	2 storey and 6m YES	2 storey, 5.9m YES
	1.0m(n) -eaves NO	Complies	Complies	Complies	2.3m (1 st fl, east) NO	Complies	1.2m(s)) NO	Chimney NO	1.7m (S-N) NO	Complies	0.5m(s))to eaves NO	0.6m (eaves south) NO	Complies	3.6m (chimney west)/0 .4m (eaves) NO	Complies	2.9m (s) YES	0.4m (n), 1.4m eaves(n) YES
First floor (s.5.2.4)																	
• FSR: < 40% total FSR	41% NO	59% NO	62% NO	30% NO	41% NO	162% NO	122% NO	287% NO	94% NO	N/A	30% YES	88% NO	64% NO	80% NO	66% NO	35% YES	86% NO
Roof Line (s.5.2.6)																	
• Roof height (5m – single storey) (3m – two ⁺ storey)	<3m YES	<3m YES	<3m YES	<3m YES	<3m YES	<3m YES	<3m YES	<3m YES	<3m YES	<5m YES	<3m YES	<3m YES	<3m YES	<3m YES	<3m YES	<3m YES	<5m YES
• Roof pitch <35° (max)	<35% YES	<35% YES	<35° YES	<35° YES	<35° YES	<35° YES	<35° YES	<35° YES	<35° YES	<35° YES	<35° YES	<35° YES	<35° YES	<35° YES	<35° YES	<35° YES	<35° YES
Built-upon area (s.5.2.7) Varies	33.7% YES	40% YES	33% YES	40% YES	47% YES	32% YES	27% YES	33% YES	35% YES	45% YES	46% YES	31% YES	39% YES	41% YES	34% YES	36% YES	27% YES

COMPLIANCE TABLE

(NOTE: Lot 1 is an access lot and not included)

Development Control	Lot 2	Lot 3	Lot 4	Lot 5	Lot 6	Lot 7	Lot 8	Lot 9	Lot 10	Lot 11	Lot 12	Lot 13	Lot 14	Lot 15	Lot 16	Lot 17	Lot 18
Unrelieved wall length (s.5.2.8) 8m (max- 2 storey dw.) 12m (max – s/s dw.)	Complies	Complies	10.8m max YES	Complies	9.8m max YES	Complies	Complies	9.1m (s) NO	8m YES	11m YES	7.8m YES	Complies	9.5m YES	Complies	Complies	Complies	8.2m (N) NO
Solar access (5.2.11) 4h solar access to adjoining properties between 9am to 3pm	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES	4 hours achieved YES
Cut & fill (s.5.2.15)																	
5.3 Open space & landscaping:																	
Soft landscaping area (5.3.3) Minimum requirement varies	66% YES	60% YES	66% YES	60% YES	53% YES	68% YES	73% YES	67% YES	65% YES	54% YES	54% YES	69% YES	61% YES	59% YES	66% YES	64% YES	73% YES
Useable open space (s.5.3.8) Min depth 5m and min area 50m ²	9m ² / 90m ² YES	9m ² , 189m ² YES	7m ² / 168m ² YES	7m ² / 77m ² YES	7m ² / 70m ² YES	6m ² / 72m ² YES	8m ² / 64m ² YES	8m ² / 110m ² YES	9.5m ² / 114m ² YES	10m ² / 59m ² YES	11m ² / 154m ² YES	7m ² / 50m ² YES	7m ² / 70m ² YES	8m ² / 160m ² YES	9m ² / 90m ² YES	8m ² / 96m ² YES	10m ² / 110m ² YES
5.4 Privacy & Security:																	
	Refer discussion																
5.5 Access & parking:																	
No. of car parking spaces (s.5.5.1) 2 spaces behind building line	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Forward NO	Yes	Yes	Yes	Yes	Yes	Yes	Forward NO	Forward NO	Forward NO
5.6 Water Management:																	
	Refer discussion																

COMPLIANCE TABLE

(NOTE: Lot 1 is an access lot and not included)

Development Control	Lot 2	Lot 3	Lot 4	Lot 5	Lot 6	Lot 7	Lot 8	Lot 9	Lot 10	Lot 11	Lot 12	Lot 13	Lot 14	Lot 15	Lot 16	Lot 17	Lot 18
5.7 Ancillary facilities:																	
Swimming pools (s.5.7.1)																	
• Setback from boundary: 2m	1.5m NO	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
• Pool coping <500mm above ground level	Unclear	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
• Pool excavation not below the canopy of trees	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

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5.1 Streetscape

The application contains several non-compliances in regard to building setbacks. In particular, there are a number of non-compliances with respect to the front setbacks and setbacks to garages. Eleven of the sixteen lots have their minimum front setbacks infringed and four of the lots have garages sited forward of the dwelling, in conflict with the objectives of DCP38 part 5.5.4.

The applicant claims that the design of the dwellings has been dictated by the orientation of the site and the desire to form living spaces around the northern axis; commenting as follows:

‘1. The proposed footprints and orientations are superior, in terms of built form, resident amenity and integrated urban design principles, to those previously approved by Council (DA480/99). This drawing contrasts the lack of usable private open space and unarticulated building form of the originally approved dwelling footprints with the carefully orientated interior and exterior spaces intended to complement the architectural design intent of each dwelling.

2. Dwelling platforms were established by the Land and Environment Court Order (dated 23 May 2005) issued with respect of our subdivision development application (DA490/04). These platforms do not comply with the strict parameters of DCP38, thereby demonstrating that strict compliance with the code would produce inferior built forms. The majority of the proposed dwellings comply with these court-imposed approved “building platforms” as depicted by the red outlines on (attached drawing DA203, dated Jul 2005). The five lots which depart from these court-approved platforms do so at the specific request and agreement of Council pursuant to the meeting held in Council’s offices in May 2005.

3. Generally, superior built outcomes are facilitated by maximizing north-facing interior and private outdoor space and minimizing cross-viewing. Strict compliance with DCP38 would restrict the achievement of these desirable amenity-related outcomes, would additionally result in inferior built forms bereft of articulation and inter-lot relationships, and would result in generally bland street frontages.’

With respect to the final sentence of paragraph 2, it is unclear as to what ‘agreement’ the applicant refers to. It is the opinion of staff that agreement to non-compliance with DCP38 has never been granted.

The proposed house designs optimise the northern aspect, however, it is questionable as to whether the dwellings still need to be so close set to the road and thereby have such an overbearing impact upon the street. The diagram DA203 is intended to illustrate that the sites are unduly constrained by topographical features, required setbacks and rural fire service restrictions. Nevertheless, they illustrate that the sites can still accommodate sizeable dwellings – even with the constraints imposed.

The applicant has further sought to justify the footprints through reference to the originally approved subdivision DA0480/99. The footprints which were approved within this application were, in many instances, closer to the allotment boundaries than presently proposed. Mirvac has stated:

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- The current Mirvac Proposal demonstrates an improved relationship to the street alignments;
- The current Mirvac proposal demonstrates better site to site relationships in the residual space around the footprint and side set backs;
- The current road alignment better exposes and protects Glenwood house on the southern, most-viewed side.

The subdivision development application did identify building platforms, however, its relevance to this application is questionable. The subdivision application dates from 1999, and was approved on 27 March 2001. This pre-dates the operation of DCP38, which came into effect on the 4 February 2002. The footprints may have been acceptable at that stage, however, they are not appropriate now in light of DCP38 and what that policy document seeks to achieve.

Adequate justification has not been provided in this instance, and the proposed dwellings are contrary to the streetscape objectives of DCP38, which intend that new developments provide high visual quality and that the tree dominated streetscape and character of Ku-ring-gai is reinforced.

5.2 Building form

The application contains several non-compliances in respect to the building form, in particular the building height plane and floor space ratio of the first floor.

All of the proposed dwellings comply with the built-upon-area requirements and floor-space ratio, which would demonstrate that the sites themselves are not necessarily over-developed. However, the dwellings have maximized their footprint by having large first floors with minimal first floor setback. This has resulted in building height plane and floor space ratio (first floor) non-compliances.

The intent of the building form controls is to ensure that the bulk, scale and height of the works do not dominate the landscape or existing streetscape to encourage the sharing of views (whilst not restricting the reasonable development potential of the site) and to encourage well designed, attractive and site responsive buildings.

The proposed dwellings fail to address the bulk and scale controls of DCP38 through the provision of minimal setbacks, high floor space ratio of the first floor, and building height plane non-compliances. The dwellings are unduly bulky and have a particularly adverse impact upon the streetscape.

5.3 Open Space and Landscaping

The application has provided satisfactory open space in accordance with the requirements of DCP38 subject to amendments being made to the landscape plans prior to the Construction Certificate being released.

5.4 Privacy and security

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The dwellings have been provided with rumpus areas or bedrooms at first floor levels. These rooms will not have an adverse privacy impact on proposed neighbouring dwellings. The dwellings are also well-removed from existing adjoining residences, with no impact upon their visual and acoustic privacy.

Each of the dwellings have been provided with satisfactory security, with direct overlooking of the entrance to each house.

5.5 Access and parking

The application contains several instances where the garage parking is provided forward of the dwelling, in particular Lots 9, 16, 17, and 18.

The intent of Part 5.5.3 of DCP38 'Design of Carports and Garages' which seeks all parking behind the front building line, is to ensure that *'carport and garage structures should be sympathetic to existing development on-site and consider adjacent building as well as proximity to drainage systems. Carport and garage structures should not dominate the site of the streetscape'*.

The garages, which are located forward of the building line, are unacceptable in that they dominate the streetscape and fail to integrate with the proposed dwellings. They are also in many instances the sites which have been provided with the least front setbacks. The dwellings on Lot 9 and 16 for instance have only been provided with setbacks of 2 metres. The non-compliance with this important policy control will have direct impact upon the quality of the streetscape and no solid justification has been provided which would justify such significant departure from DCP38.

5.6 Water management

Each of the dwellings could, by condition, be provided with a mandatory rainwater re-use tank system, in addition to on-site stormwater detention/retention requirements as set out in Chapter 6 of Council's Water Management Development Control Plan 47 (DCP47).

With these provisions, the application may be acceptable in terms of DCP part 5.6 Water Management.

5.7 Ancillary facilities

Only one of the dwellings, the restored heritage item on Lot 3, will be provided with a swimming pool. No details have been provided of the pool coping levels, as required for assessment under Council's DCP 38 part 5.7.1. Further, the pool is proposed to be sited at a distance of only 1.5 metres from the site boundary, as opposed to the requirement of 2.0 metres. The swimming pool will have an adverse impact upon the landform through required cut and have an unreasonable impact upon the visual privacy and amenity of the adjoining lot 3.

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Development Control Plan 16 – 134-138 Eastern Road, Wahroonga (27 March 1992)

This site specific Development Control Plan aims to ensure that future development on the site is of a form and nature which ensures the conservation of the natural landscape, cultural and historic elements, to ensure the protection of adjoining bushland reserves and existing trees, to promote safe vehicular access to the site, and to promote development which is compatible with the character of surrounding residential areas.

The objective of most relevance is as follows:

6. *To ensure that development of the site for residential purposes is compatible and consistent with the environmental character of the locality and municipality.*

Residential development of the site is to be undertaken in accordance with “Development Control Plan No 6 and Council Policy Development in Residential Zones” irrespective of whether development consent is required.

DCP38 is now the controlling policy document to low density residential development within Ku-ring-gai. The assessment provided above indicates that the proposed design is not consistent with the environmental character of the locality or municipality. Specifically, the dwellings lack sufficient setbacks and have adverse impact upon the character of the new access road. Sufficient justification has not been provided to merit such limited setbacks as proposed within this application. The application is therefore contrary to objective 6 of the site specific DCP16.

The other pertinent objective is with regard to the heritage item:

14. *To ensure the conservation of the identified heritage item and maintenance of a reasonable curtilage to ensure the conservation of the context of the house and its vistas.*

Plan DA203 (attached) demonstrates the view corridor which will be provided to Glenwood House. The limited height of the dwellings on Lots 3 and 4 and the siting of the dwellings upon these lots, will ensure that views through to Glenwood House will be maintained and that Glenwood House will be the dominant building as perceived from Eastern Road.

All other matters for assessment under DCP16 have been taken into account in the assessment of this application against DCP 38.

Development Control Plan 31 – Access

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against DCP 38.

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Development Control Plan 40 – Construction and Demolition Waste Management

Matters for assessment under DCP 40 have been taken into account in the assessment of this application against DCP 38.

Development Control Plan No. 43 – Car Parking

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

Development Control Plan 47 – Water Management

Matters for assessment under DCP 47 have been taken into account in the assessment of this application and the proposal is satisfactory in this regard.

Section 94 Plan

Contributions for the additional lots were levied on the initial subdivision consent. The development therefore does not attract section 94 financial contribution.

LIKELY IMPACTS

All likely impacts of the proposal have been assessed elsewhere in this report.

SUITABILITY OF THE SITE

The site is not considered suitable for the proposed development.

ANY SUBMISSIONS

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

PUBLIC INTEREST

The approval of the application is not considered to be in the in the public interest.

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for consideration.

CONCLUSION

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

RECOMMENDATION:

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

THAT the Council, as the consent authority, refuse development consent to DA0992/04 for the alterations and additions to a heritage building and the construction of 16 new dwellings with associated access and landscaping on land at 134-138 Eastern Road, Wahroonga, for the following reasons:

1. Streetscape

The development fails to have regard to the aims and objectives of DCP38 and DCP16 in regard to streetscape, resulting in adverse visual impact upon the new access road, and a streetscape of limited visual quality. In particular, the dwellings lack sufficient front setbacks and have garages sited well forward of the dwellings. Eleven of the sixteen lots have their minimum front setbacks infringed house, and four of the lots have garages sited forward of the dwelling.

2. Bulk and Scale

The development fails to have regard to the aims and objectives of the DCP38 in regards to building bulk and scale, resulting in adverse impact upon the streetscape. In particular, the dwellings have several non-compliances with first floor ratio and building height plane.

3. State Environmental Planning Policy 1

The SEPP1 objection provided is not complete as it does not provide justification for the undersized Lots 10 and 16.

4. Detail

No details have been provided of the pool coping level for Lot 2 as required under 5.7.1 of DCP38. Should the swimming pool be considerably elevated, adverse visual impact may result upon the heritage dwelling 'Glenwood House'.

Kerrin Lithgow
Executive Assessment Officer

Mark Leotta
Team Leader
Development Assessment - North

Matthew Prendergast
Manager
Development Assessment Services

Michael Miocic
Director
Development & Regulation

Attachments:
Site Location Plan
Site Plans
Floor Plans
Elevation Plans
Landscape Plans

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	49 TELEGRAPH ROAD, PYMBLE - ADDITIONS AND ALTERATIONS PLUS CARPORT AND DRIVEWAY.
WARD:	St Ives
DEVELOPMENT APPLICATION N^o:	642/05
SUBJECT LAND:	49 Telegraph Road, Pymble
APPLICANT:	Mrs Marilena Allan
OWNER:	Mrs Marilena Allan
DESIGNER:	Fiona Mitchell Architects
PRESENT USE:	Residential
ZONING:	Residential 2(c)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Ku-ring-gai Planning Scheme Ordinance, Development Control Plan No. 38, Development Control Plan No. 43 and Development Control Plan No. 47
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP 55
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	23 June 2005
40 DAY PERIOD EXPIRED:	2 August 2005
PROPOSAL:	Additions and alterations to the existing dwelling, construction of a carport and driveway.
RECOMMENDATION:	Approval

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DEVELOPMENT APPLICATION N^o 642/05
PREMISES: 49 TELEGRAPH ROAD, PYMBLE
PROPOSAL: ADDITIONS AND ALTERATIONS TO THE
EXISTING DWELLING PLUS CARPORT
AND DRIVEWAY
APPLICANT: MRS MARILENA ALLAN
OWNER: MRS MARILENA ALLAN
DESIGNER FIONA MITCHELL ARCHITECTS

PURPOSE FOR REPORT

To consider DA 1417/05 for alterations and additions to a dwelling and construction of a detached double carport and new gravel driveway.

EXECUTIVE SUMMARY

Permissible Under:	Ku-ring-gai Planning Scheme Ordinance
Integrated Development:	No
Bushfire Prone Land:	No
Heritage Item:	No
In the vicinity of a Heritage Item	YES (No. 51 Telegraph Road)
Conservation Area:	No
Issues:	Streetscape, setbacks, visual impact, privacy, landscaping
Submissions	Two (2) submissions
Recommendation	Approval

HISTORY

Previous Application - DA 1417/04

This matter was previously considered (DA 1417/04). The previous development application was approved under delegated authority, subject to conditions which required the relocation of the carport to be set back a minimum of 1.5m from the eastern (side) boundary, the deletion of one side-facing window and additional screen planting.

The consent to DA 1417/04 issued on 6 June 2005 is the subject of Class 4 proceedings in the Land and Environment Court commenced by the owners of the adjoining property (No. 51 Telegraph Road).

Current Application - DA 642/05

This matter has been called to Council by Councillors Bennett and Hall who have requested the development application be referred to full Council for determination.

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THE SITE AND SURROUNDING AREA

Zoning:	Residential 2(c)
Visual Character Study Category:	1945-68
Lot & DP Number:	Lot 13 and Lot A DP 337947
Area:	1093.9m ²
Side of Street:	Southern
Stormwater Drainage:	To the street
Required Setback:	12m (min), 14m(avg)
Heritage Affected:	No
Integrated Development:	No
Bush Fire Prone Land:	No

The site is comprised of two allotments, being Lot 13 and Lot A of DP 337947. The existing dwelling is situated towards the rear of Lot 13, approximately 27 metres back from Telegraph Road. The rear of the site includes a small irregular piece of land identified as Lot A within the subdivision. The existing pool and rear gardens are situated at the rear of the site on Lot A.

The site has a frontage of approximately 18.8m to Telegraph Road and a depth of 48.9m. It has a total area of 1093.9m². The site is situated above street level, with a slight slope away from the street boundary to the front of the dwelling and a 10% grade from the front of the dwelling to the rear boundary. A substantial ridge runs across the rear of the site, with the adjoining property to the rear (No. 41 Hope Street) situated approximately 4m below the level of the rear of the subject site.

Surrounding development

The area is characterised by large, two storey, detached dwellings in an assortment of styles, situated on large lots and having setbacks from Telegraph Road, which significantly vary between properties. A large detached dwelling (No. 51 Telegraph Road) adjoins to the east of the site. No. 51 Telegraph Road is identified as being a local heritage item. It is set approximately 27 metres back from the street and situated in a formal garden setting. The adjoining dwelling (No. 47) is a large, two storey, dwelling that is set approximately 10 metres back from the Telegraph Road and well forward of the dwelling on the subject site. Dwellings to the south of the site in Hope Street are situated well below the site due to the natural topography of the locality, with a substantial ridge running along the rear of properties in this part of Telegraph Road. The rear of dwellings in Hope Street are readily visible from the rear of dwellings in Telegraph Road, although privacy is generally retained through significant boundary landscaping.

THE PROPOSAL

Dwelling additions

The proposed dwelling additions involves the construction of a new ground floor extension and elevated terrace to the rear of the dwelling. The proposed structure comprises a new meals room and is to be constructed of rendered brick work. It has a pitched roof with a maximum height of 6.5m to the ridge and dimensions of 4.76m x 4.5m.

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The proposed meals room would open onto a new elevated terrace which runs across the rear elevation of the dwelling, having dimensions 4.5m x 9.8m (allowing for stairs to be integrated along its western edge). The meals room and terrace are to be constructed over an existing concrete paved area at the rear of the dwelling. This area is to be retained as a large undercroft area below the terrace and new extensions.

Other changes to the dwelling include minor internal changes, the removal of an existing kitchen window and laundry door, installation of new windows to the existing garage at the front of the dwelling and its conversion into a family room.

Carport

The application involves the erection of a new double carport in front of the dwelling over part of the existing driveway and parking area and a small area of garden. The proposed carport is to be erected in front of the existing single car garage. The proposed structure is to have a hipped roof to match the existing dwelling, has dimensions 5.55m x 5.55m and is set back 1.0m from the side boundary with the adjoining property No. 51 Telegraph Road. The proposed carport is to be constructed of rendered brick and tile to match the existing dwelling and is situated 2.1m from the front of the dwelling. The carport is to be accessed by a 'T' shaped driveway. The northern elevation of the structure facing the street will be open to the street with the exception of the brick pillars. The site design has made allowance for gardens between the carport and the street boundary.

Driveway

The existing strip driveway is to be removed and a new driveway constructed. The proposed driveway has a width of 2.8m at the front boundary and a large 'T' shaped turning area in front of the dwelling measuring 9.0m x 4.85m. The proposed new driveway is to be constructed using a permeable gravel surface.

CONSULTATION - COMMUNITY

DA 642/05

The proposal was advertised and notified in accordance with the Ku-ring-gai Notification Policy. Submissions have been made by on or behalf of the following property owners:

- Mr. D and Mrs R McGovern, 51 Telegraph Road
- Miss G Russell, 39 Hope Street

Issues raised in the above submissions are as follows:

Privacy as a result of proposed windows in the eastern and southern elevation of the proposed rear additions.

Having had regard to the objections raised in response to this issue, and the location of the proposed window above the height of the rear of No. 51 Telegraph Road, it is appropriate to delete the side-facing window to the proposed meals room additions (refer **Condition No. 28**). This window is

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unnecessary and would overlook the rear deck and rear garden of the adjoining property to an unsatisfactory level. Other rear-facing windows have a lesser impact because of their orientation towards the rear of the property, the distances from the rear of other properties in Hope Street and existing screen planting along the boundaries of the site. The existing screen planting has not yet fully grown in places and, as such, additional trees are indicated on the landscape plans to replace trees which have died or have been removed along the rear and side boundaries of the property.

Privacy as a result of the proposed rear terrace overlooking adjoining private areas.

Concerns have been raised that the proposed rear terrace would overlook the rear of the adjoining properties, in particular No. 51 Telegraph Road. The provisions of Council's DCP state that:

“first floor decks, balconies and roof top terraces are not permitted where they overlook... habitable rooms or private open space”.

The proposed rear additions and new elevated terrace are not a first floor element but rather are ground floor elements which are elevated due to the fall of the site at the rear of the property. It is agreed that there would be some overlooking as a result of one particular side-facing window, however, this window is to be deleted (refer **Condition No. 28**).

Other impacts as a result of the proposed works are more a function of the orientation of the lots in this part of Telegraph Road and Hope Street and the greatest impact would be to the very rear gardens of No. 51 and the rear gardens of No. 47. Such impact is not so significant so as to warrant refusal of the proposed additions, as sufficient screening exists along the boundaries of the site and new screening is proposed to levels which will substantially reduce any privacy impact. It should be noted that additional screen planting is to be provided in conjunction with the deletion of the side window to mitigate the greatest impacts.

Privacy impacts resulting from the proposed swimming pool deck.

The applicant has removed this element from the plans in response to the objections raised.

Issues in relation to an existing spa pool and cabana. Specifically noise from this area of the site and lighting of the area.

This matter does not relate to the subject DA. It has been investigated by Council's Compliance Officers to a satisfactory conclusion. It is noted that Council has engaged an acoustic consultant to assess the noise impacts as a result of the pool pump and spa unit and that noise attenuation measures may be required as a result. Issues relating to external lighting are currently being reviewed by Council's Compliance team.

Survey plan details are inadequate.

Sufficient survey information has been provided to enable Council to make a full assessment.

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A valid heritage impact statement has not been provided

A heritage impact statement has been provided which addresses the impact of proposed works on the adjoining heritage item (No. 51 Telegraph Rd). The statement is in support of the proposed additions and argues that the proposed works would have a satisfactory impact on the adjoining heritage item having regard for the setback of the carport from the street, the extent of existing landscaping and potential to establish further landscaping in front of the carport. The proposed rear extensions and terrace were not considered to have a detrimental impact on the heritage significance of the adjoining property.

The heritage impact statement reflects the original plans dated November 2004, submitted to Council under the previous application (DA 1417/04). The statement has not been reviewed to address changes made to the plans at the request of Council and following submissions from adjoining property owners. Changes made to the plans included the following:

- Deletion of the proposed deck to the south of the swimming pool and rear of the site.
- The eastern (side) elevations was amended to show the correct location of the existing kitchen window and to indicate a fixed obscure glass window in the south-eastern corner of the meal room where a previous clear glazed panel was previous shown.
- The floor plans were amended to show the conversion of the existing garage to a family room.

These changes are positive improvements which also correct minor discrepancies and address concerns raised by adjoining property owners. The proposed changes are not considered sufficient enough to warrant a revised heritage impact statement as the amendments would not constitute a greater impact to the adjoining heritage item.

The information provided in the heritage impact statement is sufficient enough to enable Council to make an informed decision on the proposed development application.

Inaccurate representation of the proposed FSR, built upon area and soft landscaping.

A comprehensive check of the quantum of FSR, built upon area and soft landscaping has been undertaken. This concludes that the quantum proposed in each respect is correct, compliant and satisfactory.

The proposed rear additions and terrace are to be constructed over existing hard paved surfaces and, as such, would not increase built upon areas at the rear and the new gravel driveway and double carport at the front of the site allows drainage to the street and would not have any effect on downstream properties. Soft landscaping is considered to be adequate to meet the provisions of Council's DCP and the increase to the FSR will not contribute to any additional building bulk when viewed from the street. Consequently, the proposed additions will not result in an overdevelopment of the site.

The details provided in the Statement of Environmental Effects is insufficient.

Sufficient information has been provided to enable Council to make a full assessment.

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Heritage impacts and the location and design of the proposed double carport.

Concerns have been raised that the proposed carport will have a detrimental impact on the existing adjoining heritage item at No 51 Telegraph Road. The heritage item is listed as having local, architectural and municipal significance and a significant curtilage including existing gardens, front fence and garden lights. The adjoining site (No. 51) is well screened along its side boundaries, with the most prominent views of the site being from directly in front of the site.

The proposed carport is to be constructed adjoining the side boundary of the site in front of the front façade of the subject dwelling and also forward of the building line from No. 51. The carport is to be situated 1.0m from the boundary and landscaping details show screen planting to be established along the common boundary. The design, bulk and location of the proposed structure has no detrimental impact on the adjoining heritage item, having regard to existing dense screening. Notwithstanding, it has been required that the proposed carport be set a minimum of 1.5m from the common boundary to allow adequate screen planting to be provided independent of the adjoining property. Subject to adequate screening, the design of the structure will have no material impact on the adjoining heritage item.

Previous development application - DA 1417/04

Submissions have previously been made in relation to the previous development application by the following property owner:

- Mr. H Jensen, 41 Hope Street

Whilst Mr. Jensen did not make a submission in relation to the current DA, the concerns he raised to the previous DA have been addressed in the current DA, including through conditions.

CONSULTATION - WITHIN COUNCIL

Engineering:

Council's Development Engineer has raised no objection to the proposed development and has made the following comments:

“The front of the site drains to the street and the rear of the site drains to the rear. To reduce the stormwater impact directed towards to the rear of the site, the applicant has proposed to:

- *direct a portion of the alterations and additions to the street (carport and driveway),*
- *install a high level overflow on the existing swimming pool,*
- *install a permeable timber deck, and*
- *reinstate the driveway and paths with a semi-pervious gravel material.*

Conditions to this effect have been included in the engineering conditions.

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A perusal of the submitted drawings reveals the following:

- *The doorway width of the proposed carport needs to be increased to comply with AS/NZS 2890.1 (2004) - "Off-street car parking".*
- *The turning bay needs minor modifications to ensure that vehicles can manoeuvre in accordance with AS/NZS 2890.1 (2004) - "Off-street car parking".*

Conditions to this effect have been included in the engineering conditions."

The proposal has been supported by Council's Engineers, subject to conditions (**refer Conditions Nos 15 to 23, 36, 38, 39, 42, 43 and 43**).

Landscape:

Council's Landscape Development Officer has raised no objection to the proposed development and has made the following comments:

"No objection is raised to the removal of 1 x Magnolia x soulangiana (Magnolia) - 3h x 3.5s located at the front of the existing dwelling."

The landscape plans submitted with the development application indicate screen planting between the proposed carport and the eastern side boundary and in front of the carport to the street. The screen planting in this location is identified as being 14 x *Camelia Sasanqua*, which are capable of attaining a height of 3m. To ensure this planting is in an advanced state of growth at planting, a condition has been recommended to require the proposed plants to have a minimum pot size of 45 litres and minimum height of 1.2m (**refer Condition No. 30**).

The provision of screen planting along the western boundary adjacent to the proposed rear deck is insufficient to address issues of over looking to No. 47 Telegraph Road, and it is appropriate that additional screening be provided in this location. A condition has therefore been recommended to require additional screen planting to be established along the boundaries of the site (**refer Condition No. 30**).

The landscape plans submitted with the development application include significant screen planting to be established along the common boundary with No. 51 Telegraph Road to the east of the site. The landscape plan specifies plant species capable of attaining 5m-6m in height which would be suitable for this part of the site.

The landscape details submitted with the application are acceptable. Landscape conditions have been recommended to require compliance with the submitted landscape plan and to ensure appropriate screen planting is established (**refer Conditions Nos 24, 25, 26, 27 and 30**).

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Heritage:

Council's Heritage Advisor has considered the proposal and has made the following comments:

"There are several problems with the proposed design:

- 1. No. 51 Telegraph Rd (adjoining) is a heritage item and the proposed carport would be situated forward [of the building line] and would cause some visual impacts.*
- 2. Streetscape – Telegraph Road is an important streetscape. Carports in front of the building line should not be considered appropriate.*

Recommended options

- 3. The existing garage could be extended sideways [in front of the dwelling] and the living spaces within the garage should be relocated to the rear of the site.*

No objection is raised to the proposed alterations and additions."

The primary impact as a result of the proposal, is the location of the proposed double carport in close proximity to the common boundary with No. 51 Telegraph Road. A statement of heritage impact has been submitted to address the impact of the proposed carport on the adjoining heritage item. The findings of that report are supported and the impact of the proposed carport considered to be acceptable for the following reasons:

- The proposed carport is situated well within the site, in excess of 16m from the street boundary. The position of the carport forward of the existing dwelling will not have a significant impact on the adjoining heritage item as dense screening along the common boundary already screens much of the adjoining dwelling and will also screen much of the proposed carport structure from view. The same dense boundary planting also obscures views of the heritage property from the street at present and serves as an important part of the curtilage to the heritage item.
- The location of the proposed carport a minimum of 1.0m from the common boundary restricts the ability to provide adequate landscaping within site between the side boundary and the carport structure. Should the vegetation on the adjoining property die or be removed, the roof and structure of the proposed carport would be visible from the adjoining property. It is therefore considered appropriate to require that the carport be set a minimum of 1.5m off the side boundary and to require that additional landscaping be provided between the carport and the side boundary. Such a set back would also be in accordance with Council's DCP requirements. **Condition No. 30** has been recommended to require details of the proposed landscaping to be provided prior to the release of the construction certificate.
- In relation to streetscape issues, the provision of a carport in front of the building would not normally be supported. However, in this case the proposed set back from the street is quiet generous, being greater than 16m and there is ample opportunity to provide a formal landscaped setting in keeping with the existing dwelling and similar to other dwellings in Telegraph Road. It should also be noted that the location of the carport is also significantly further away from the street than the adjoining dwelling on No. 47 Telegraph Road and that the structure would not be

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immediately visible from the street unless the passer-by looks directly into the site. For these reasons, the location of the proposed carport is not considered to be detrimental to the existing streetscape.

STATUTORY PROVISIONS

STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – CONTAMINATED LANDS

Given that the only known use of the site is for residential purposes, the land is unlikely to be contaminated and the provisions of SEPP 55 do not require any additional conditions to be imposed.

KU-RING-GAI PLANNING SCHEME ORDINANCE & LEP 194

Permissibility

The proposal is permissible within the Residential 2(c) zone.

Aims and objectives for residential zones

The development is considered to have satisfied the relevant aims and objectives for residential development as outlined by Schedule 9.

COMPLIANCE TABLE		
Development standard	Proposals numeric compliance	Complies
Site Area: 1093.9m ²		
Minimum size allotments • Height: 8m (max)	6.5m	YES
Built-upon areas 60%(656.3m ²)(max)	<51.6% (564.2m ²)	YES

Heritage /conservation areas (cl.61D – 61I):

The site is located adjacent to a heritage listed residential dwelling at 51 Telegraph Road. The application is accompanied by a heritage impact statement which addresses the impact of the proposed works upon this listed building.

The primary impact of the proposed works on the adjoining heritage item is the proposed location of the double carport in close proximity to the common boundary with the adjoining property. This area of the site is well screen by existing vegetation and it unlikely that the proposed carport will have any adverse impact on this vegetation. However, it is appropriate that the proposed carport be independently screened along this common boundary and additional screen planting be established between the carport and the side boundary. Given the location of the carport in front of the existing dwelling it is also appropriate that significant plantings be established in front of the proposed structure.

Conditions have been recommended to achieve this. **(refer Conditions 29 and 30).**

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Subject to compliance with the conditions of consent the application meets with the controls of 61D – 61I of the KPSO (as amended).

POLICY PROVISIONS

KU-RING-GAI RESIDENTIAL DESIGN MANUAL – DCP No. 38

COMPLIANCE TABLE
Site Characteristics
Site Area = 1093.9m ²
The site is on the low side of the road for drainage purposes
The site has a land slope more than 20° across the site = NO
The Visual Character category for the site is 1945-68

Section 5: Design Elements

Development control	Proposals numeric compliance	Complies
5.1 Streetscape:		
Building Setbacks (s.5.1.3)		
<ul style="list-style-type: none"> Front Setback: 14m (Ave) -75% front elevation 12m (min) – 25% front elevation Side Setback: Ground Floor: 1.5m(min) 	<p style="text-align: center;">16.2m (carport)</p> <p style="text-align: center;">East boundary: 2.0m (rear extension) West boundary: 2.1m (terrace) East boundary: 1.0m (carport)</p>	<p>YES</p> <p>YES YES NO</p>
5.2 Building Form:		
FSR (s.5.2.1) 0.4:1 (max)	0.36:1	YES
Height of Building (s.5.2.2)	2 storey & 6.5m (proposed works only)	YES YES
Building Height Plane (s.5.2.3) 45° from horizontal at any point 3m above boundary	<p style="text-align: center;"><i>Minor Intrusions in the building height plane along Eastern boundary as follows:</i></p> <p style="text-align: center;">Nil to 0.1m (Meals room eaves and upper wall)</p> <p style="text-align: center;"><i>The proposed intrusion into the Building Height Plane is minimal and does not result in any significant detrimental impact to adjoining properties.</i></p>	NO
Built-Upon Area (s.5.2.7) 52% (568.8m ²) (max)	<51.6% (564.2m ²)	YES

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Development control	Proposals numeric compliance	Complies
Solar Access (5.2.11) 4h solar access to adjoining properties between 9am to 3pm	<i>Shadow diagram identify minimal impacts to adjoining windows, open space and private areas as a result of the proposed works. The development will not result in significant additional overshadowing to adjoining properties given the location of the proposed works to the south of the existing dwelling and the works being situated well below the main ridge height.</i> >4hrs are available to living areas of adjoining dwellings	YES
5.5 Access & Parking:		
No. of Car Parking Spaces (s.5.5.1) 2 spaces behind building line	2 spaces in front of the building line	NO
Driveway Width (s.5.5.6) 3.5m (max)	2.8m 4.85m (turning area)	YES NO

The following is a detailed consideration of the areas in which the proposal is non-compliant:

Streetscape (Part 5.1)

Building Setbacks (s.5.1.3)

Side setback: Ground Floor 1.5 (min), First Floor 3.0m (min)

- The location of the proposed carport a minimum of 1.0m from the common boundary restricts the ability to provide adequate landscaping on the subject site, between the boundary and the carport structure. Should the existing dense vegetation on the adjoining property die or be removed, the location of the carport in front of the building line would be compromised. Consequently, it is appropriate to require the structure be set a minimum of 1.5m off the side boundary in order to comply with Council’s DCP requirements and to enable adequate screen planting to be established. Conditions have been recommended to require relocation of the proposed carport and details of the proposed landscaping to be provided prior to the release of the construction certificate.

Building Height Plane (s.5.2.3)

45° from horizontal at any point 3m above boundary

- The Building Height Plane requirements state that development should avoid the creation of an overbearing effect upon adjoining development in order to:
 - i. *Maintain the relative scale relationship between buildings;*
 - ii. *Ensure that daylight to habitable rooms in adjacent dwellings is not significantly reduced;*

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- iii. *Ensure that sunlight to the private open spaces of the subject property and adjacent properties is not significantly reduced;*
- iv. *Encourage increased setback with increased height.*

The proposed additions represent significant alterations the existing dwelling and result in minor non-compliances with the Building Height Plane along the eastern elevation at the rear of the property. The breaches to the building height plane are minor and are limited to upper wall and eaves of the proposed rear additions. These elements are designed to be incorporated within a new roof form in keeping with the original elements of the existing dwelling.

The new design incorporates a sympathetic roof form and a scale which is in keeping with the existing dwelling. Furthermore, the proposed alterations ensure reasonable separation between development and adjoining properties and will not result in any significant detrimental amenity impact for adjoining development. It is proposed to delete a proposed side window to preserve existing privacy at the adjoining property (No. 51). Accordingly, no living areas or private spaces will be significantly affected by the breaches to the building height plane.

Location of Parking Structures (s.5.5.4)

Garages and carports integrated into the dwelling and behind the building line.

- Clause 5.5.4 of DCP No.38 allows that where it is not possible to provide parking behind the building line, an open side carport may be considered, where the setback from the street alignment is maximised, and adequate regard has been given to adjacent structures and trees, adjoining heritage items and the prevailing streetscape.

The prevailing pattern of development in this part of Telegraph Road is one of mixed residential character, comprising large two storey dwellings set well within each site, but having varied setbacks along the street and many having high front walls.

The adjoining dwelling to the west (No. 47) is set well forward of the dwelling on the subject site and will be much closer to the street than the proposed carport. The adjoining dwelling to the east (No. 51) is a heritage item which is set well back from the street and remains one of the few properties in the street which does not have a high front fence or wall. The primary views of this property are from the north, directly from the street.

The proposed carport is an open structure located forward of the existing dwelling, set well back on the site, in excess of 16m, and well separated from adjoining dwellings. Allowing for an increased setback of 1.5m from the eastern side boundary as required by **Condition No. 29**, the location of carport is suitable in that adequate screening can be maintained between the structure and the side boundary.

The position of the dwelling on the site is such that it is well set back from the street and sufficiently landscaped to provide an open garden setting. The inclusion of a new open sided carport forward of the building line will have minimal impact to the existing streetscape as it is well landscaped and is set well back from the street. Furthermore, the existence of

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significant landscaping along the common boundary with No. 51, and the ability to achieve screen planting between the structure and the eastern boundary will ensure that proposed carport also has a minimal impact to the adjoining heritage item. For these reasons the proposed carport would be in keeping with the general pattern of development in the street and would be consistent with the objectives of the DCP Control.

Solar Access

- The proposed additions introduce new additions to the south of the existing dwelling first and a proposed new carport to the north. The proposed additions will result in minor increases in the amount of shadow cast by the dwelling. However the impact to adjoining properties is minimal owing to the orientation of the site and siting and orientation of the proposed additions and adjoining dwellings. The height of the existing dwelling means that the existing shadow will encompass any potential new shadow cast by the new rear additions. The shadow cast by the proposed carport to the north of the dwelling is not considered to affect any significant area or window for a lengthy period. Consequently the shadow impacts as a result of the proposed additions and carport are minimal and within reason. This is in accordance with Council's DCP requirements.

Privacy

- The submissions identified a number of areas of concern in relation to the location of the proposed rear additions. The proposed rear additions include a new meals room with windows in both side elevations and the rear elevation. The proposed east side window is unnecessary and would overlook the adjoining property. It is recommended that this window be deleted.

To ensure that the proposed new terrace will not result in significant overlooking of the adjoining property to the west, it is recommended that screen planting be established along the common boundary with that property. A condition has been recommended to require the landscape plans to include details of the proposed screen planting and to ensure the screen planting is maintained at all times.

OTHER DCPS, CODES AND POLICIES

The development is consistent with Development Control Plans 31, 43 and 47 relating to Access, Car Parking and Water Management.

APPLICABLE REGULATIONS

All relevant legislation has been addressed previously in the report and it is considered the proposal will be consistent with these.

THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been considered.

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THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

CONCLUSION

In respect of Cl.79C of the EP & A Act 1979, the proposed works are of an acceptable scale, bulk and form with no significant detrimental impacts on the surrounding built or natural environment. Accordingly it is recommended that the application be approved.

RECOMMENDATION

THAT the Council, as the consent authority, grant development consent to DA 642/05 for alterations and additions plus a carport to a dwelling on land at 49 Telegraph Road, Pymble, subject to the following conditions:

1. The development to be in accordance with Development Application 642/05 and Development Application plans prepared by *Fiona Mitchell - Architect*, reference number, *A01 (Rev A) to A08 (Rev A)*, dated *April 2005 as amended in Red (shown clouded)* and lodged with Council on *23 June 2005*.
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The approved building works 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,

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excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

8. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
9. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
10. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
11. For the protection of the health and safety of occupants, workers and the environment, any person renovating or demolishing any building built before the 1970's should be aware that surfaces may be coated with lead-based paint. Lead dust is a hazardous substance. Persons are required to follow the attached recommended guidelines to prevent personal and environmental contamination.
12. 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.
13. 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.
14. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
15. Stormwater runoff from the alterations and additions located at the front of the site (including the proposed carport and driveway) shall be piped to the street drainage system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
16. Stormwater runoff from the alterations and additions unable to drain to the street shall be piped to the existing site drainage system. No stormwater drainage system is to be connected to the Sydney Water sewer system. Where found, all illegal connections must be rectified to the satisfaction of Council and Sydney Water.

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17. For stormwater control all paved areas are to be drained to the main drainage system. This may require the installation of suitable cut-off structures and/or barriers that direct runoff to the formal drainage system.
18. 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 flowing down the driveway. The drainage line from the grated drain shall be connected to the street system, either separately or via the main site outlet.
19. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
20. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
21. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
22. 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 2890.1 – 2004 "Off-Street car parking".
23. The proposed rear timber deck is to be spaced to permit stormwater to pass through and permeate into the ground below. Apart from the piers below the deck the entire surface area under the deck is to be unsealed so that stormwater is able to soak into this area. Any existing paving or sealing below the proposed deck is to be removed from the site. At the completion of works and prior to issue of the Occupation Certificate, a Certificate from the builder/installer is to be submitted to the Principal Certifying Authority indicating compliance with this condition.

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24. 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.

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. 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.
27. The property shall support a minimum number of Seven (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 the Principal Certifying Authority prior to release of the Construction Certificate.
28. To maintain suitable levels of privacy and amenity to adjoining properties, the side window proposed in the eastern elevation at the rear of the proposed meals room extension shall be deleted and replaced with solid materials to match the existing dwelling. Details of such shall be provided to the Principal Certifying Authority prior to the release of the Construction Certificate.
29. In order to minimise impacts to the adjoining heritage item (No. 51 Telegraph Road) and to achieve compliance with Council's DCP No. 38, the proposed carport shall be relocated to have a minimum setback of 1.5m from the eastern (side) boundary of the site. The relocation of the proposed carport is to ensure adequate landscaping can be provided between the carport structure and the side boundary of the site.
30. Landscape works shall be carried out in accordance with Landscape Drawing No. 2A, prepared by Relle Mott Garden Design and dated April 2005 submitted with the Development Application, except as amended by the following:
- A. In order to minimise impacts to the adjoining heritage item (No. 51 Telegraph Road), and soften the appearance of the proposed carport, screen planting shall be established between the carport and the eastern side boundary of the site.

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- B. In order to prevent overlooking of adjoining properties, screen planting shall be established between the rear terrace and the western side boundary of the site, as shown clouded in red on the plans.
- C. The proposed *Camelia Sasanqua* shown to be installed between the carport and the eastern side boundary and in front of the carport, shall have a minimum pot size of 45 litres and minimum height of 1.2m at the time of planting.
- D. The screen planting required by A. and B. of this condition shall utilise suitable plant species contained with Appendix F of Council's DCP No 38, shall be capable of attaining a minimum height of 3.0m and shall provide dense screening.

Details of the required amendments shall be shown on the amended landscape plans and submitted and approved by the Principal Certifying Authority prior to the release of the Construction Certificate. 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.

- 31. External materials, finishes and colours are to match the existing dwelling and shall be sympathetic to the surrounding environment. Details of all external finishes and materials shall be provided to and approved by the Principal Certifying Authority, prior to the release of the Construction Certificate.

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

- 32. 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.

- 33. 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).
- 34. 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

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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.

35. 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.

36. Prior to issue of the Construction Certificate footpath and driveway levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.**

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. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing

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which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

37. Development consent to DA 1417/04 shall be surrendered to Council under the provisions of Section 80A(1)(b) of the Environmental Planning and Assessment Act 1979. The provisions of Clause 97 of the Environmental Planning & Assessment Regulation 2000 are to be met prior to a Construction Certificate being issued. This condition is imposed to facilitate the orderly development of the site.
38. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a plan of the new drainage system components required for the approved development. The plan shall be prepared by a qualified civil/hydraulic engineer or licensed plumber. The new components of the property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence). Any new connection points to the public drainage system (eg kerb, table drains, pits, pipes) must be shown accurately on the plan.
39. Prior to issue of the Construction Certificate, the Applicant shall submit for the approval of the appointed Principal Certifying Authority, revised details which demonstrate the following:
 - A clear entrance width of the proposed double carport to be increased to a minimum 5.2m (currently 4.8m). This condition is imposed to ensure compliance with Figure 5.4 from AS/NZS 2890.1 (2004) - "Off-street car parking" and thus provide better vehicle manoeuvrability.
 - Manoeuvring circles for the B85 design vehicle overlaid (drawn) on the site plans, which demonstrate that all vehicles using the carport can leave the site in a forward direction in a maximum of one (1) three-point turn. This condition has been imposed to ensure compliance with AS/NZS 2890.1 (2004) - "Off-street car parking", and may require some minor modifications to the driveway layout.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

40. 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.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

41. 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.

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42. Prior to issue of an Occupation Certificate, the following works must be completed:
- a. Construction of the new driveway crossing and layback in accordance with the levels and specifications issued by Council,
 - b. Removal of all redundant driveway crossings, pipe crossing and/or kerb laybacks. Full reinstatement of these areas to footway, and/or turfed verge and/or kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - c. Any sections of damaged grass verge are to be fully replaced with a non-friable turf of native variety to match existing.
Any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.
43. Prior to issue of an Occupation Certificate (and at the completion of works), the applicant shall submit certification from a consulting engineer or the installing plumbing contractor to the Principal Certifying Authority (PCA), that:
- a. The components of the new drainage system have been installed in accordance with the Plumbing and Drainage code AS3500.3.2 and by a licensed plumbing contractor, and
 - b. The stormwater drainage works have been carried out in accordance with the approved Construction Certificate drainage plan and Councils Water Management DCP 47.
44. Prior to issue of an Occupation Certificate, 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. This requirement is to collect stormwater overflow from the swimming pool surface only. A certificate from the installer, indicating compliance with this condition, must be submitted to the Principal Certifying Authority (PCA), prior to issue of an Occupation Certificate.

D Hoy
Development Assessment Officer

S Segall
Acting Team Leader
Development Assessment - Central

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development and Regulation

Attachments: **Plans**
 Site Photos

NOTICE OF MOTION

KOKODA TRAIL MEMORIAL PROJECT

Notice of Motion from Councillor N Ebbeck dated 13 July 2005.

I am in receipt of a letter from the Chair of the Kokoda Trail Memorial Project Committee.

The proposed siting of the memorial is to be located in Kokoda Avenue Wahroonga near the intersection with Clissold Road. Council approved the siting of the memorial in October 2004 and consultation has taken place with directly affected residents.

A design of the sandstone memorial has been completed and the Committee is seeking assistance with funding the construction of the memorial.

The Committee has requested that Council provide assistance by constructing the concrete slab for the seating of the memorial, assistance with work on the verge and any financial assistance.

Attached is a copy of the letter from Mr Hodgson who is the Chair of the Kokoda Trail Memorial Project Committee.

I am advised by the Director of Technical Services that the construction of the concrete slab is estimated to cost approximately \$500 based on Council's contract rates. There is likely to be minimal works on returfing the verge area after the works are complete. Also, the Director Community Services has advised that the Committee could apply for funding under the Community Assistance Grants Program.

I move that:

"Council approve the construction of the concrete slab and the work on the verge area and that funding be provided from Council's recurrent budgets for Technical Services and Open Space."

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Cr Nick Ebbeck
Councillor for Wahroonga Ward

Attachments: Letter from Kokoda Trail Committee

NOTICE OF RESCISSION

27 RICHMOND AVENUE & 400 MONA VALE ROAD, ST IVES

Notice of Rescission from Councillors T Hall, G Innes & M Lane dated 20 July 2005.

"We, the undersigned, move that the Council's decisions, in respect of (A) made under NM.1 (Refer to Minute No 289 of 19 July 2005) be and is hereby revoked and Council take no further action in relation to Draft LEP 29."

RECOMMENDATION

That the above Notice of Rescission as printed be adopted.

Tony Hall
Councillor for St Ives Ward

Michael Lane
Councillor for Gordon Ward

Graeme Innes
Councillor for Roseville Ward