



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 28 JUNE 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 14 June 2005

Minutes numbered 207 to 235

MINUTES FROM THE MAYOR

MM.1 Queen's Birthday Honours 2005

1

File: S02767

I am proud to inform you of the many Ku-ring-gai citizens who, through their outstanding achievements and services to the community, have been recognized in the Queen's Birthday Honours 2005.

I would like to read to you the names of these special Ku-ring-gai citizens and the honours that have been bestowed upon them.

Mrs Helen BERSTEN: Medal of the Order of Australia (OAM). Awarded for service to the community as an historian, particularly through the Australian Jewish Historical Society.

Mr Gordon Timothy BRAY: Member of the Order of Australia (AM). Awarded for service to broadcasting as a sports commentator, to the promotion of Rugby Union football, and to the community.

Mr John Stirling CRAIG: Medal of the Order of Australia (OAM). Awarded for service to community health through the New South Wales branch of Alzheimers Australia, and to the community through the Rotary Club of Sydney.

Mrs Shirley June STACKHOUSE: Medal of the Order of Australia (OAM). Awarded for service to horticulture as a journalist, author, broadcaster and lecturer.

Mr Richard Egerton Warburton: Officer of the Order of Australia (AO). Awarded for service to business and commerce through contributions to a range of government and industry bodies and business enterprises, particularly in the areas of corporate governance and policy formulation, and to the community.

Dr Robert Theam YEOH: Member of the Order of Australia (AM). Awarded for service to the community as an advocate for the welfare of people living with Alzheimers disease and other forms of dementia, their carers and families and to the aged.

Ku-ring-gai should be proud that it has so many citizens being recognized at the highest levels for their selfless dedication, commitment and contribution to local, national and international communities.

PETITIONS

PT.1 **20 Warwick Street, Killara - Objection To Revised Development Application
417/05 (Four Hundred & Two [402] Signatures)**

3

File: DA0417/05

"We, the petitioners who have signed our names below are opposed to inappropriate medium/high density development in Warwick Street and surrounding streets.

We believe the revised application still does not address the concerns highlighted by the Land & Environment Court in its two previous judgements (June 2004 and March 2005). In short, the proposal does not contribute to an environment with clear character and identity.

We wish to register our concerns and implore Council to reject the application. It differs little from the prior rejected applications. It does not comply with SEPP53 and is inappropriate."

PT.2 Staddon Close, Wembury Street & Edgecombe Road, St Ives - Residents Oppose Listing On The State Heritage Register (Sixteen [16] Signatures) 4

File: S02223

"We, the undersigned residents of Staddon Close, Wembury Street and Edgecombe Road, St. Ives, respectfully:

1. Note that, without prior notice to or consultation with any of us, the Royal Australian Institute of Architects has seen fit to nominate "Pettit & Sevitt Display Village No. 2" (which apparently includes the homes in which we live) for listing on the State Heritage Register.
2. Note that, notwithstanding the nomination was made prior to 10 May 2005, the NSW Heritage Council has not notified any of us of that event, let alone requested our views. Instead, we have had to make contact with the Heritage Council ourselves and request information.
3. Advise that we are each strongly opposed to the listing of our respective homes on the State Heritage Register.
4. Advise that we will take whatever steps are lawfully available to us to resist the listing of our respective homes on the State Heritage Register.
5. Wish to inform you that our respective homes represent our most significant asset and the prospect that their value will or may be reduced without our consent is a matter about which we are very concerned and anxious.
6. Wish to inform you that some of us purchased our homes with the intention of extending them (subject to the usual development approval process) as our families grew, which extensions may be precluded by a listing on the State Heritage Register.
7. Note that, on 2 June 2004, the NSW Heritage Council made a recommendation to the Minister (pursuant to s.33 of the *Heritage Act* 1977) that the Minister not list "Pettit & Sevitt Exhibition Centre No. 1 Precinct (Richmond Avenue, St. Ives)" on the State Heritage Register. In that regard, the NSW Heritage Council said that it could not "reach any definitive conclusion that the group is of State heritage significance"
8. Note that, on 5 April 2005, Ku-ring-gai Council decided to discontinue the Local Heritage Listings of 27 Richmond Avenue and 400 Mona Vale Road, St. Ives (both part of the "Pettit & Sevitt Exhibition Centre No.1 Precinct") (DLEP29).
9. Further note that, prior to that decision, Ku-ring-gai Council incurred considerable costs in the preparation, exhibition and resolution of DLEP29 and in relation to the defence of a Class 1 Appeal concerning 27 Richmond Avenue.
10. Would be surprised indeed, having regard to the history outlined in paragraphs 7 to 9 above, if:

- (a) The NSW Heritage Council came to a contrary view as regards the heritage significance of our homes;
 - (b) Ku-ring-gai Council supported the heritage listing of our homes; and
 - (c) Ku-ring-gai Council was prepared to incur additional costs in support of the heritage listing of our homes contrary to our wishes.
11. Consider it significant that the Royal Australian Institute of Architects chose to nominate the "Pettit & Sevitt Exhibition Centre No.1 Precinct" for listing on the State Heritage Register before nominating our homes, and has only nominated our homes following the rejection of its first choice.
 12. Consider it anomalous, having regard to the history outlined in paragraphs 7 to 9 above, that No.2 Staddon Close is listed as a heritage item in Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance, and request that such listing be rescinded or cancelled.
 13. Advise that none of us intends to demolish our home, and each of us intends to maintain a high standard of maintenance and care.
 14. Advise that a number of the homes *have* been extended and/or altered since their construction.
 15. Kindly request that you, our local elected representatives:
 - (a) support our stance against the listing of our homes on the State Heritage Register;
 - (b) keep us informed of any further developments regarding the nomination and any consideration or recommendation by Ku-ring-gai Council or the NSW Heritage Council; and
 - (c) at the appropriate time, make submissions pursuant to s.33(1) of the *Heritage Act* opposing the listing."

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 **8, 10 & 12 Nola Road, Roseville - Demolition of Existing Structures and Construction of a Residential Flat Building Comprising 32 Units, 58 Basement Car Spaces and Landscaping**

6

File: DA1333/04

Ward: Roseville

Applicant: Grant Rickey

Owner: Nola Road Properties Pty Ltd

To determine Development Application No.1333/04 which seeks consent for the demolition of existing structures, the construction of a residential flat building providing 32 dwellings, including basement parking and landscaping.

Recommendation:

Approval

- GB.2 **1580 to 1596 Pacific Highway, Wahroonga** **105**
.
File: DA1081/04

To refer the application back to Council following the site meeting and seek Council's determination of the development application.

Recommendation:

Approval

- GB.3 **21 Handley Avenue, Turrumurra - Option to Renew Lease** **284**
.
File: P45278

To advise Council that the Pymble Turrumurra Kindergarten Inc. have exercised its option to renew the lease for the premises at 21 Handley Avenue, Turrumurra.

Recommendation:

That Council authorise the exercise of the option by the Pymble Turrumurra Kindergarten Inc. for the premises at 21 Handley Avenue, Turrumurra to continue to operate the pre-school centre.

- GB.4 **Draft Ku-ring-gai Community Plan 2005 to 2009** **287**
.
File: S03313

To present to Council the draft Ku-ring-gai Community Plan 2005 to 2009.

Recommendation:

That the draft Ku-ring-gai Community Plan 2005 to 2009 be placed on public exhibition for a period of 28 days then reported back to Council.

GB.5 West Pymble Pool Refurbishment Stage 4 Tender 466

File: S03829

For Council to authorise a selective tender process for Stage 4 works for the refurbishment of West Pymble Pool in accordance with the facility condition audit and five year asset management plan.

Recommendation:

That Council authorise a tender for Stage 4 refurbishment works to upgrade the 50 metre pool plant room and water treatment plant.

GB.6 Bushland Catchments and Natural Areas Reference Group - Meeting of 9 May 2005 471

File: S03448

To bring to the attention of Council the proceedings from the Bushland Catchments and Natural Areas Reference Group meeting held on Monday 9 May 2005.

Recommendation:

That the Minutes of the Bushland Catchments and Natural Areas Reference Group meeting held on 9 May 2005 be received and noted.

GB.7 Draft (Heritage Conservation) Local Environmental Plans No 31, 134 to 138 Eastern Road, Wahroonga And 32, "The Oaks", 517 Pacific Highway, Killara 478

File: S04156 S04074

For Council to consider the abandonment of Draft (Heritage Conservation) Local Environmental Plans No 31 (DHLEP31), 134-138 Eastern Road, Wahroonga and consider DHLEP32 "The Oaks", 517 Pacific Highway, Killara (DHLEP32) following exhibition.

Recommendation:

That Council abandon Draft LEP31 (134-138 Eastern Road, Wahroonga). That Council adopt Draft (Heritage Conservation) Local Environmental Plan No 32 "The Oaks" and submit the Draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act 1979 with a request that the Plan be made.

GB.8 Draft Development Control Plan No 56 - Notification 524

File: S03673

To present to Council Draft Development Control Plan No 56 for consideration and adoption.

Recommendation:

That draft Development Control Plan No 56 be adopted.

GB.9 UTS Rezoning Proposal 554

File: S03621

To present to Council an assessment of the proposal to rezone the UTS Ku-ring-gai campus and to obtain a resolution from Council on the procedure for the next stage of the project.

Recommendation:

That the rezoning proposal not be formally exhibited in its present form and that Council staff work with the UTS to determine a more feasible and appropriate development opportunity for the site.

GB.10 Acceptance of RTA Funding for 2004/2005 601

File: S02388

The purpose of this report is to seek Council's endorsement to accept funding from the Roads and Traffic Authority for roadworks to be completed by 2004/2005.

Recommendation:

That Council endorses the action taken by the Director Technical Services to accept the \$275,000 grant for road works on regional roads for 2004/05 and the re-allocation of funds to provide Council's share of the funds.

GB.11 Investment Cash Flow & Loan Liability May 2005 607

File: S02722

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

Recommendation:

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

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

**BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING
REGULATION**

QUESTIONS WITHOUT NOTICE

** ** *

**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

QUEEN'S BIRTHDAY HONOURS 2005

I am proud to inform you of the many Ku-ring-gai citizens who, through their outstanding achievements and services to the community, have been recognized in the Queen's Birthday Honours 2005.

I would like to read to you the names of these special Ku-ring-gai citizens and the honours that have been bestowed upon them.

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Ku-ring-gai should be proud that it has so many citizens being recognized at the highest levels for their selfless dedication, commitment and contribution to local, national and international communities.

RECOMMENDATION

- A. That Council acknowledge the outstanding contribution made by these recipients of the Queen's Birthday Honours to the Ku-ring-gai community and to the wellbeing of our society.

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S02767
16 June 2005

- B. That the Mayor writes to each of the recipients on behalf of Council and the people of Ku-ring-gai congratulating them on their awards.

Cr Adrienne Ryan
Mayor

PETITION

20 WARWICK STREET, KILLARA - OBJECTION TO REVISED DEVELOPMENT APPLICATION 417/05 (FOUR HUNDRED & TWO [402] SIGNATURES)

"We, the petitioners who have signed our names below are opposed to inappropriate medium/high density development in Warwick Street and surrounding streets.

We believe the revised application still does not address the concerns highlighted by the Land & Environment Court in its two previous judgements (June 2004 and March 2005). In short, the proposal does not contribute to an environment with clear character and identity.

We wish to register our concerns and implore Council to reject the application. It differs little from the prior rejected applications. It does not comply with SEPP53 and is inappropriate."

RECOMMENDATION

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

PETITION

STADDON CLOSE, WEMBURY STREET & EDGECOMBE ROAD, ST IVES - RESIDENTS OPPOSE LISTING ON THE STATE HERITAGE REGISTER (SIXTEEN [16] SIGNATURES)

"We, the undersigned residents of Staddon Close, Wembury Street and Edgecombe Road, St. Ives, respectfully:

1. Note that, without prior notice to or consultation with any of us, the Royal Australian Institute of Architects has seen fit to nominate "Pettit & Sevitt Display Village No. 2" (which apparently includes the homes in which we live) for listing on the State Heritage Register.
2. Note that, notwithstanding the nomination was made prior to 10 May 2005, the NSW Heritage Council has not notified any of us of that event, let alone requested our views. Instead, we have had to make contact with the Heritage Council ourselves and request information.
3. Advise that we are each strongly opposed to the listing of our respective homes on the State Heritage Register.
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9. Further note that, prior to that decision, Ku-ring-gai Council incurred considerable costs in the preparation, exhibition and resolution of DLEP29 and in relation to the

Item 2

S02223
20 June 2005

defence of a Class 1 Appeal concerning 27 Richmond Avenue.

10. Would be surprised indeed, having regard to the history outlined in paragraphs 7 to 9 above, if:
 - (a) The NSW Heritage Council came to a contrary view as regards the heritage significance of our homes;
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 - (a) support our stance against the listing of our homes on the State Heritage Register;
 - (b) keep us informed of any further developments regarding the nomination and any consideration or recommendation by Ku-ring-gai Council or the NSW Heritage Council; and
 - (c) at the appropriate time, make submissions pursuant to s.33(1) of the *Heritage Act* opposing the listing."

RECOMMENDATION

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

PETITION

REQUEST COUNCIL TO PURCHASE 100 TO 102 ROSEDALE ROAD - TO ENSURE LONG-TERM PRESERVATION OF ST IVES BLUE GUM HIGH FOREST (THREE HUNDRED & SEVENTY-ONE [371] SIGNATURES)

Councillor Hall presented the following Petition to Council:

"We, the undersigned, urge Ku-ring-gai Council to commit to the immediate purchase of 100 -102 Rosedale Road to ensure the long term preservation of the St Ives Blue Gum High Forest.

- The St Ives Blue Gum High Forest is the largest best-preserved and most intact forest of its kind left in Australia. It is listed as an 'endangered ecological community' and it is currently being assessed for State Heritage Listing as it has proven outstanding historical, cultural and ecological significance.
- 100-102 Rosedale Road, St Ives, which forms part of the core habitat of this forest, is privately owned land. Any development on the site will have detrimental effects on the surrounding forest, endangering its long-term survival.
- In 2002 the National Parks and Wildlife Service recognized the Blue Gum High Forest was in imminent danger of extinction.
- Results of recent Community Surveys (Ku-ring-gai and St Ives) clearly show conservation of biodiversity and habitat are the priorities of Ku-ring-gai residents.
- Ku-ring-gai Council recognized the importance of the Forest as early as in the 1930s when it purchased Browns Forest during the Depression.
- Council is currently considering spending tens of millions of dollars on building facilities.

It is time Ku-ring-gai Council accepted its responsibility in the purchase of this last important section for reserve to ensure the survival of the forest for future generations."

RECOMMENDATION

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

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	8, 10 & 12 NOLA ROAD, ROSEVILLE - DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING COMPRISING 32 UNITS, 58 BASEMENT CAR SPACES AND LANDSCAPING
WARD:	Roseville
DEVELOPMENT APPLICATION N^o:	1333/04
SUBJECT LAND:	8, 10 & 12 Nola Road, Roseville
APPLICANT:	Grant Rickey
OWNER:	Nola Road Properties Pty Ltd
DESIGNER:	Bates Smart Pty Ltd
PRESENT USE:	Residential dwellings
ZONING:	Residential 2(d3)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	KPSO, DCP40, DCP 43, DCP 47 and DCP 55 and Council's Riparian Policy
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP 55, SEPP 65
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	14 December 2004
40 DAY PERIOD EXPIRED:	23 January 2005
PROPOSAL:	Demolition of existing structures and construction of a residential flat building comprising 32 units, 58 basement car spaces and landscaping
RECOMMENDATION:	Approval

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DEVELOPMENT APPLICATION N^o 1333/04
PREMISES: 8, 10 & 12 NOLA ROAD, ROSEVILLE
PROPOSAL: DEMOLITION OF EXISTING STRUCTURES
AND CONSTRUCTION OF A RESIDENTIAL
FLAT BUILDING COMPRISING 32 UNITS,
58 BASEMENT CAR SPACES AND
LANDSCAPING
APPLICANT: GRANT RICKEY
OWNER: NOLA ROAD PROPERTIES PTY LTD
DESIGNER BATES SMART PTY LTD

PURPOSE FOR REPORT

To determine Development Application No.1333/04 which seeks consent for the demolition of existing structures, the construction of a residential flat building providing 32 dwellings, including basement parking and landscaping.

EXECUTIVE SUMMARY

Issues: Setbacks, visual privacy, traffic impacts.
Submissions: 58 submissions received.
Pre-DA Consultation: Yes.
Recommendation: Approval.

THE SITE AND SURROUNDING DEVELOPMENT

Zoning: Residential 2(d3)
Visual Character Study Category: 1920 - 1945
Lot Numbers: 4, 5 & 6
DP Number: 9864
Area: 3270m²
Side of Street: Eastern
Cross Fall: 22%
Stormwater Drainage: To Nola Road
Heritage Affected: No. The property and adjoining properties are not listed on the Register of the National Estate nor subject to any conservation instrument under the provisions of the NSW Heritage Act 1977. The site is located within a heritage conservation area identified by the National Trust of Australia (NSW).
Required Setback: 10 to 12 metres
Integrated Development: No

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Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

Dimensions and topography

The site is irregular in shape and has a total area of 3270m². Frontages to Nola Road and the pedestrian walkway leading to Corona Avenue measure 18.3 metres and 40.3 metres, respectively. The northern boundary is irregular and has a total length of 43.8 metres. The eastern boundary measures approximately 81.7 metres and the southern boundary 28.7 metres.

The site slopes from the east to the west (Nola Road) at a grade of 22%. The topography was modified substantially to accommodate the existing structures which include numerous terraced areas, driveways and a tennis court.

Improvements

The site comprises three lots, improved with one double storey dwelling and two single storey dwellings and associated structures, including a tennis court, carports and outbuildings.

Vegetation

The site is characterised by an established landscaped setting with mature trees and shrubs. Adjoining the site frontage are a mature Date Palm and Blue Gum located centrally located on Council's nature strip. Although the vegetation association for the site is Blue Gum High Forest only one of these species, a *Eucalyptus saligna* (Sydney Blue Gum) is located on the front boundary. To the rear of the site are dense shrubs and undergrowth.

Easements

The site is benefitted by a right of way, 3.05 metres wide, over No. 4 MacLaurin Parade. Two drainage easements, each 1.5 metres wide, burden the site along its northern and southern boundaries. Council records indicate that the easements may not be utilised as they are no longer contiguous to the lots they benefit (No. 's 26 and 36 Pacific Highway).

The drainage depression across Nola Road is not considered a watercourse by the Department of Infrastructure Planning and Natural Resources nor is it identified in Council's recently approved Riparian Policy.

Zoning and surrounding land uses

A zoning map is attached to this report. The site is zoned Residential 2(d3) and all boundaries except part of the eastern boundary is shared with properties similarly zoned. No. 4 MacLaurin Parade and 26a Pacific Highway are zoned Residential 2(d) and constitute approximately 55 metres

Item 1

of the eastern boundary. These properties are developed with two apartment buildings, four storeys in height.

The northern boundary is abutted by No's 4A and 6 Maclaurin Parade. The latter is developed with a three storey attached dual occupancy that was approved in 1995. No. 5 Corona Avenue is developed with four town houses which forms the southern boundary. No. 7 Nola Road is situated across Nola Road and the pedestrian walkway to the west. This property is comprises four three storey town houses (approved in 1992) and zoned Residential 2(d3).

Diagonally opposite the site, No. 5 Nola Road is zoned Residential 2 (d3) and developed with a detached dwelling house.

Development proposals in the vicinity of the site

The development proposed at No's 9-15 Kings Avenue (DA 1285/04) comprises 23 units and is located approximately 80 metres to the west. Its location is shown on the attached location sketch.

THE PROPOSAL

The application proposes the following:

- Demolition of existing dwellings and associated structures on site;
- Construction of a 5 storey residential flat building of 32 units configured in three staggered and connected pavilions, comprising 14 x 2 bedroom apartments and 18 x 3-bedroom apartments.
- A total of 58 parking spaces, consisting of the 47 resident spaces, 3 disabled and 8 visitor spaces over 2 basement levels.
- Vehicular access from Nola Road in the north-western corner of the site.
- Disposal of stormwater to Nola Road incorporating a retention and detention system with water re-use for toilet flushing, irrigation and laundries.

The structures above ground setback to Nola Road is generally in excess of 15 metres. Its setback to the pedestrian walkway steps back from 6 metres to 14 metres. The vehicle entry and part of the basement car park are set back approximately 9.5 metres. The remainder of the car park is set back between 6 metres and 15 metres from the pedestrian walkway.

The basement is set back a minimum of 5 metres to the north western (side) boundary but tapers to more than 10 metres. The façade of the building is set back in excess of 6 metres from that boundary.

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The setback to the north eastern (rear) boundary varies between 6 metres and 19 metres. The southern (side) boundary is in excess of 6 metres. Some of the private courtyards project into these setback areas.

The building comprises 3 attached pavilions that share a basement car park. All units are accessible by three lift cores that are serviced by three entry foyers located at RL 88.5. The floor levels are as follows:

Level 1	RL 90.0
Level 2	RL 93.0
Level 3	RL 96.0
Level 4	RL 99.0
Level 5	RL 102.0

More than 500m² of communal open space is provided to the rear and north-east of the building.

CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, adjoining owners were given notice of the application. In response, submissions from the following were received:

- | | | |
|-----|-------------------------|--|
| 1. | D & D Grosvenor | 1 Nola Road |
| 2. | B & V Narula | 5 Nola Road |
| 3. | The Body Corporate | 7 Nola Road |
| 4. | J & G Richardson | 1/7 Nola Road |
| 5. | M Stuckey | 2/7 Nola Road |
| 6. | G Wood | 3/7 Nola Road |
| 7. | MacLaurin Court Pty Ltd | 26a Pacific Highway |
| 8. | J Fake | 15/26a Pacific Highway |
| 9. | E Y Medina-Malaver | 1/4 MacLaurin Parade |
| 10. | N Openshaw | 131 Artarmon Rd, Artarmon (4/4 MacLaurin Parade) |
| 11. | A Carroll | 5/4 MacLaurin Parade |
| 12. | R & B Gunn | 6 MacLaurin Parade |
| 13. | B Kricker | 6a MacLaurin Parade |
| 14. | P & P White | 8 MacLaurin Parade |
| 15. | S & A Gunns | 16-18 Findlay Avenue |
| 16. | M Evans | 17 Findlay Avenue |
| 17. | A Jarvis | 22 Findlay Avenue |
| 18. | F & S Keaveny | 31 Findlay Avenue |
| 19. | A Cheng | 34 Findlay Avenue |
| 20. | J & M Benson | 37 Findlay Avenue |
| 21. | M & A Hudson | 38 Findlay Avenue |
| 22. | JWH Matthews | 39 Findlay Avenue |

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|-----|-------------------------|---|
| 23. | G & J Watman | 45 Findlay Avenue |
| 24. | PR & SM Gill | 47 Findlay Avenue |
| 25. | D Allen & A MacGibbon | 64 Findlay Avenue |
| 26. | D van der Klaauw | 80 Findlay Avenue |
| 27. | E Mitchell | 10/8 Larkin Street |
| 28. | A Minnaard & E Thomson | 2/19-21 Larkin Street |
| 29. | H & J Badger | 4 Kings Avenue |
| 30. | P Ewen | 6 Kings Avenue |
| 31. | A & I Inall | 1 Pockley Avenue |
| 32. | T Johnson | 3 Pockley Avenue |
| 33. | S Tredinnick | 3 Pockley Avenue |
| 34. | AJ Borger | 6 Pockley Avenue |
| 35. | MM Borger | 6 Pockley Avenue |
| 36. | S Waters | 7 Pockley Avenue |
| 37. | H Woon & L Harn | 8 Pockley Avenue |
| 38. | K & L Sansome | 9 Pockley Avenue |
| 39. | H & R Pottie | 12 Pockley Avenue |
| 40. | N & S & I Ryan | 16 Pockley Avenue |
| 41. | J & H Drexler | 17 Pockley Avenue |
| 42. | M & A Love | 3 Alexander Parade |
| 43. | F Walker | 4 Alexander Parade |
| 44. | H Larcombe | 6 Alexander Parade |
| 45. | K Raine | 7 Alexander Parade |
| 46. | CW Raine | 7 Alexander Parade |
| 47. | MA Hill (2 submissions) | 10 Alexander Parade |
| 48. | ME & CA Fitjer | 15 Alexander Parade |
| 49. | P & P Verdich | 22 Alexander Parade |
| 50. | A Woodhouse | 24 Alexander Parade |
| 51. | P Kenny | 24 Alexander Parade |
| 52. | S Drull | 29 Alexander Parade |
| 53. | K & A Tunnicliffe | 30 Alexander Parade |
| 54. | D & D Putica | 4 Corona Avenue |
| 55. | J Walker | 15/175 Herring Road, Nth Ryde (5 Corona Avenue) |
| 56. | Nexus Design Pty Ltd | 680 Pacific Highway (5 Corona Avenue) |
| 57. | S Miller | 14 Corona Avenue |
| 58. | M & G Winnick | 17 Corona Avenue |

The submissions raised the following issues:

Cumulative effect of the development on traffic

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The rezoning of this site under LEP 194 to permit medium density development confers a development potential pursuant to the development standards and controls set out in LEP 194 and DCP 55. In accordance with these statutory planning and policy controls, sites within the Residential 2(d3) zone have the potential to be developed for the purposes of residential flat buildings to a maximum height of five-storeys (with a limited six storey element) and a footprint of 35% of the site area. The intent of rezoning for multi-unit development is to establish medium density living in proximity to transport nodes, educational and health facilities and local business centres.

At Council's meeting of 25 November 2003, a report (prepared by the Director – Technical Services) was considered on the traffic implications associated with the proposed rezoning of this part of Roseville. The report found that high density development along the Pacific Highway associated with the Targeted Sites under SEPP 53 and the Stage 1 Residential Development Strategy associated with LEP194 will place additional pressure and demand on the Pacific Highway during peak traffic conditions.

On 16 January 2004, Council advised the Department of Infrastructure, Planning and Natural Resources (DIPNR) on the findings of the study and suggested that DIPNR assess the level of improvements required to meet the expected traffic growth from urban consolidation. LEP 194 was subsequently gazetted by DIPNR on 28 May 2004.

Any cumulative impacts on residential character and density resultant from development of the subject site and similarly zoned allotments in accordance with LEP194 and DCP 55 provisions were therefore anticipated and have been provided for in the zoning.

The proposal is consistent with the objectives of SEPP 65, The Residential Flat Design Code, LEP194 and DCP 55 and will not result in a cumulative impact beyond that which is provided for under the zoning and associated controls that apply to the site.

Effect on Blue Gum Creek and the riparian zone

The drainage depression across Nola Road is not considered a watercourse by the Department of Infrastructure Planning and Natural Resources nor is it identified as such in Council's recently approved Riparian Policy. The proposal is situated well outside of the 15 metres zone identified in Clause 7.1.6 of DCP 55. Council's Landscape Officer is satisfied that the proposed landscape theme envisaged by the proposal will satisfy the objectives which are to *enhance and reinforce the forest character* of the locality.

An independent study undertaken by Eco Logical Australia Pty Ltd in June 2005 concluded the following:

The watercourse in Nola Road is not mapped as a watercourse nor requires consideration under the Ku-ring-gai Riparian Policy. The closest mapped watercourse is the tributary of Blue Gum Creek west of Kings Avenue, into which the watercourse in Nola Road drains.

It is considered likely that the DA proposal would have negligible impact on the habitat values within Nola Road given that the proposed stormwater, sediment and erosion controls are

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implemented. It is considered that these measures would meet some of the management objectives of Category 3 and are not likely to negatively impact any future management of the Category 3 watercourse located west of Kings Avenue.

Overall, the watercourse in the Nola Road drain provides minimal habitat for a small number of common native species. Any potential impacts on this habitat are not likely to impact significantly upon any native aquatic or terrestrial flora and/or fauna.

Impact on flora and fauna

This is addressed by Council's Landscape Development Officer, Robyn Askew, who raised no concerns on these grounds.

Whilst a few trees typical of the Blue Gum High Forest (BGHF) are present on the site, the vegetation does not possess a natural bushland structure and does not constitute a BGHF community.

No evidence of any threatened fauna species was recorded in the Flora and Fauna Assessment prepared by *Gunninah Environmental Consultants*. The study undertaken by Eco Logical Australia Pty Ltd also found that *the water course does not contain any natural vegetation communities and would not provide important habitat for any threatened species populations or communities listed under the Threatened Species Conservation Act 1995. Some highly mobile threatened birds or bats may visit the site on a transitory basis but given the lack of suitable habitat, it is considered that the proposed development in 8-12 Nola Road would not impact these species.* (A copy of this study is attached to this report.)

Given the already modified nature of the subject site and its urban context, the proposed development will not impose significant adverse impacts upon the natural environment at this location.

Electricity supply is inadequate

The application was referred to Energy Australia who raised no objections. A condition is recommended requiring the applicant to liaise with Energy Australia regarding their power supply requirements and to allocate space for a small 'kiosk' type substation. These requirements must be obtained prior to Construction Certificate issue and compliance prior to the issue of the Occupation Certificate (*See Condition No 64*).

Noise from exhaust fans, air-conditioning and entrance gate

A condition is recommended that requires an acoustic report to be prepared by a suitably qualified person detailing the devices to be fitted, and ongoing maintenance required, in relation to the automatic gate of the garage, air-conditioning, and car park ventilation system to ensure their operation does not result in the emission of noise in excess of 5dB(A) above background measured at the nearest residential property boundary. The report is to be provided for approval with the Construction Certificate.

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Impact of excavation on adjoining properties

Based on the preliminary geotechnical report and location of excavations on this site, Council's Development Engineers are satisfied that the geotechnical and excavation construction aspects of this proposal can be addressed through suitable conditions of consent. These conditions will require geotechnical and hydro-geological monitoring, excavation, construction and further professional geotechnical input as warranted. A condition is also recommended which will require ongoing investigation by a consulting geotechnical engineer, with action as appropriate. Dilapidation reports are to be completed on neighbouring properties and infrastructure (***See Conditions No 94, 95 & 109***).

Disruption during construction works (Impact of construction vehicles and noise)

A detailed construction and traffic management plan is required via a condition of consent, for review and approval by Council Engineers prior to the commencement of any works on site (**refer Condition No 96**).

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 (**refer Condition No.6**):

Mondays to Fridays inclusive: 7.00am to 5.30pm.

Saturdays: 8.00am to 12.00 noon. 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.

Sundays and Public Holidays: Not permitted.

Character, style and scale of development is not appropriate and should be referred to the Urban Design Review Panel

In the absence of a Design Review Panel provided by SEPP 65, the application was referred to Council's Urban design Consultant, Russell Olssen. Mr Olssen finds that the development proposal satisfactorily addresses all ten SEPP 65 Design Principles and he considers the design to be of an exemplary standard.

Evacuation of the area during a bushfire

The application is not within a bushfire prone area and an assessment in terms of Section 79 BA of the Environmental Planning and Assessment Act is not required.

Garbage truck access to Nola Road

Concern was raised with regard to the size and manoeuvrability of the garbage truck that would be required to service the development. A waste and recycling storage facility is provided in the basement of the development that enables these vehicles to exit the building in a forward direction.

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Access to the on-site garbage facility limits the size of the garbage truck to a smaller, more manoeuvrable 6 tonnes truck (5.5 metres long, 1.8 metres wide and 2.26 metres high).

The slope of the site is less than 15°, the height and storey variation is therefore not warranted.

This is incorrect. The application complies with the provisions of LEP194, which allows a height and storey variation where the slope of the site is greater than 15% (not 15°). The slope of the site is approximately 22%; the sixth storey element is limited to less than 5% of the building footprint and is considered acceptable in the circumstances.

Excessive building length and length; general non-compliance with development standards and controls

The site is classified as a nominated area in Part 7 of DCP 55 which provides specific design objectives and controls for such areas in addition to the general controls found elsewhere in the DCP. The proposal satisfies the specific objectives and design controls for the Nola Road Precinct. The development complies with all development standards in LEP194 and complies with the majority of the controls DCP 55. Where the development does depart from DCP 55 numeric standards, it is considered that the development still satisfies the objectives of these DCP controls, with the departures being minor in nature and indiscernible in the context. Areas of non-compliance are indicated in the DCP 55 compliance table and discussed in detail in Parts 4.3, 4.4 and 4.8 of this report below.

Overshadowing

A concern was raised with regard to solar access to Townhouse No. 3 in the adjacent development at No. 5 Corona Avenue. In this regard, DCP 55 makes a distinction between solar access requirements for single detached dwellings and other types of development. Clause 4.5 C-6 only refers to single detached homes (i.e. 3 hours direct sunlight on 21 June to habitable rooms and outdoor living areas of adjoining houses in Residential 2(c1) and 2 (c2) zones) and is silent on the amount of sunlight acceptable to other types of development.

The application is made under the KPSO and LEP 194, which include only the requirement that Council should take into account the amount of overshadowing likely to be caused by the proposal and ensure sunlight access to neighbours (Clauses 25D(k) and 25I(b)).

The Australia-wide resource document for residential development, AMCORD, suggests that a development should not reduce the sunlight received by the north-facing windows of living areas of neighbouring properties to less than 3 hours between 9am and 5pm at the winter solstice. The NSW-specific *Residential Flat Design Code*, which applies only to apartment buildings of three storeys and over, recommends 3 hours of sunlight to the living rooms and private open spaces of 70% of apartments between 9am and 3pm, reducing it to 2 hours in dense urban areas. The Code does not specifically deal with the impact on sunlight received by neighbouring buildings, though one may assume that the same criteria should apply.

The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its

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open space will retain its existing sunlight. At higher densities sunlight is harder to protect and the claim to retain it to the same level as low density development is not as strong. It is considered that no unreasonable overshadowing will occur to the adjoining property as it will receive approximately 2.5 hours of direct sunlight. During the equinox, the amount of solar access provided to this unit is further increased.

Overlooking

This concern is adequately addressed through minimising fenestration and through screening measures to the north-western and south-eastern facades. Louvres on the dining room windows and balconies shown in **Diagram No. 1** reduce overlooking to adjoining properties. The only clear windows on these elevations are to study nooks and **Condition No. 69a** requires that these windows be re-configured to be translucent and fixed up to 1.7 metres above floor level. The top floor units are equipped with sliding louvre screens and substantial planter boxes to reduce overlooking. **Condition No. 69a** also requires that the roof terrace areas adjacent to the north-western and south-eastern boundaries are non-trafficable and that 1.8 metres high privacy louvres are fitted as indicated in **Diagram No. 2**.

Energy efficiency

The environmental performance of the development is acceptable considering the awkward orientation of the site. The proposal has, through careful unit arrangement, stepping of the building and by limiting building depth, achieved a good climatic responsive outcome. All units achieve a NatHERS rating of 3.5 stars. More than 85% of the units achieve 4 stars or above.

Isolation of adjacent sites

This is incorrect. The preferred lot amalgamation for the site as specified in DCP 55 has been achieved and will not result in any isolated lots smaller than 1200m². To the north, No.'s 4a, 6, 6a, 8 and 10 Maclaurin Parade combined measure 2700m² and to the east, No.'s 1-5 Nola Road measure more than 3100m² combined. No.5 Corona Avenue measures approximately 1250m².

Stormwater impacts

Council's Development Engineer is satisfied that the stormwater Management Plan proposed is satisfactory, complies with DCP 47 and will not result in adverse drainage impacts.

CONSULTATION - WITHIN COUNCIL**Urban Design Consultant**

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

Principle 1 - Context

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

The context is a steep sided small valley, which is well wooded, with large trees in the public domain of Nola Street and the private yards of houses and apartment buildings. The proposed design relates well to the topography, as it is built across the contours. The building negotiates the steep slope with the ground floor residential projecting substantially out of the ground. A series of stone faced retaining walls conceal the car park and provide a stepped building base.

The existing tall tree canopies in the immediate context create a strong sense of enclosure within a predominantly natural environment. The proposed building is substantially taller and bulkier than the existing houses on these lots. The proposed palette of stone, timber and bronze aluminium finished complement this natural environment, and assist in relating this larger building to its context.

Principle 2 - Scale

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

The building projects substantially above the natural ground level on the street side, however this is due to the need to avoid excavating the eastern ground level apartments too far below ground level. The scale of the building is acceptable, due to the stone walls being stepped into a series of smaller walls maximum 2m high, rather than one 4m wall.

Principle 3 - Built Form

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

The building setbacks are acceptable. The building is stepped into 3 pavilions with the steps creating a vertical proportion to the buildings. This proportion is further emphasised in the bronze coloured vertical balcony frames, which relate to the vertical trunks of the surrounding trees.

Principle 4 - Density

SEPP 65 : Good design has a density appropriate to its site and its context, in terms of floor

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space yields (or numbers of units or residents).

The density is acceptable.

Principle 5 - Resources, energy and water efficiency

SEPP 65 : Sustainability is integral to the design process. Aspects include layouts and built form, passive solar design principles, soil zones for vegetation and re-use of water. The environmental performance of these buildings is acceptable, due mostly to their orientation, the building steps, the building depth and the number of cross through apartments. The NatHERS rating is good given the amount of glazing and no insulation.

Principle 6 - Landscape

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

The landscape design is appropriate to the existing context.

Principle 7 - Amenity

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

The apartments are well planned. The adaption plan for the disabled unit should be checked to ensure that the change is not too great, especially the bathroom size and hallway widths.

Principle 8 - Safety and security

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

The BCA compliance should be checked regarding the fire rating of the stairs around the lifts. Otherwise safety and security is acceptable.

Note: BCA compliance is ensured through **Condition No 13.**

Principle 9 - Social dimensions

SEPP 65 : Good design responds to the social context and needs of the local community in

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terms of lifestyles, affordability and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood, or, in the case of precincts undergoing transition, provide for the desired future community. The proposed apartments are appropriate to the area.

Principle 10 - Aesthetics

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

The aesthetics of this building are appropriate to its context due to its vertical facade proportions and steps, which relate it to the surrounding trees and its palette of natural materials and colours, including stone, timber and bronze coloured aluminium.

Recommendations

This is an exemplary design. The BCA compliance of the stairs around the lifts and the adaption plan for disabled units should be confirmed before approval.

Comment:

Conditions No. 13 and 68 address the only concerns raised by Council's Urban Design Consultant and ensure compliance with the BCA.

Landscaping

Council's Landscape and Tree Assessment Officer, Robyn Askew, commented on the proposal as follows:

The proposal

The proposed development involves the amalgamation of 3 lots and the construction of a 32 unit residential building. The site has a south westerly aspect with a slope of 22% falling from the rear to the front boundary. The site is part of an area known as Nola Road Precinct, Roseville in Council's DCP 55 whereby the proposed development has to comply with specific design objectives and controls.

The vegetation association for the site is Blue Gum High Forest however, the locally occurring species on the site are not evident except for one Eucalyptus saligna (Sydney Blue Gum) located on the front boundary.

Amended plans

Amended plans were submitted following a meeting with the applicants regarding the following landscape issues.

Deep soil landscaping (DSL)

The amended plan by Aspect Sydney Landscape Architecture, Drawing no. DA 05, Rev. B, dated April 2005 indicates the areas nominated as deep soil zones. According to LEP194 a site with an area > 1800 square metres is to have DSL for at least 50% of the site area. The subject plan indicates that 52.2 % of the site is designated for this purpose.

The amended plan complies with LEP194 in relation to DSL.

DCP 55

Clause 7.1.7 of DCP 55 states that the Blue Gum forest is a significant feature of this area. The design controls are that the Blue Gum forest be continued into the lots with 80% of the plants occurring naturally within the area.

The applicant has included sufficient additional species that are locally occurring. Large portions of the remaining species to be planted are indigenous to the Sydney area. It should be noted that a lot of locally occurring species are not commercially available.

The amended landscape plan by Aspect Sydney Architecture, drawing no. DA 02, Revision B, dated April 2004 complies with the DCP 55 guidelines.

Streetscape

The area forward of the units has been broken up into a series of walled terraces which has increased the amount of hard surfaces, impacts on 2 trees and reduced the available area for deep soil landscaping.

As requested by Council some of the retaining walls have been deleted or shortened in length as requested thereby reducing the impact on the streetscape.

Stormwater proposal

The stormwater proposal by ARUP, dated 14th January 2005 is considered satisfactory in relation to landscape issues however, the plan is to be amended to reflect the recent changes to retaining walls etc.

Landscape proposal

The landscape plan by Aspect Sydney Landscape Architecture, Drawing no. DA 02, Revision B, dated April 2004 is considered satisfactory. Additional screen planting has been included as well as the relocation and redesign of retaining walls to protect significant trees. A total of

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14 locally occurring tree species with substantial understorey species characteristic of Blue Gum High Forest are to be planted.

Impact on trees

Tree 33 – Eucalyptus saligna (Sydney Blue Gum)

Tree 33 is considered significant in the landscape, it is 20 metres high in good condition. As requested by Council proposed retaining walls and the front path were amended to preserve Tree 33.

Tree 49 – Ulmus parvifolia (Chinese Elm)

Tree 49 is considered to be significant in the landscape, it is 15 metres high with a 15 metre canopy spread. The proposed retaining wall located 0.8 metre along the eastern side of the tree will have a detrimental impact on the trees root system. As requested by Council a proposed retaining wall was amended to preserve Tree 49.

Tree removal

The tree removal plan no. DA 06, indicates the removal of 19 shrubs and weed species and the removal of 10 trees. The trees to be removed are comprised of exotic and indigenous species, none of which are considered to be significant. No locally occurring species are to be removed.

The Landscape Section finds the proposal acceptable in relation to landscape issues provided conditions are imposed. (Refer Conditions No's 56 to 57, 71 to 73, 88 to 92 and 111 to 112).

Engineering

Council's Engineering Assessment Officer, Kathy Hawken, has commented on the proposal as follows:

A pre-DA meeting was held for this site at which the applicant was presented with assessment criteria related to the engineering aspects. Generally the Applicant has had regard to the engineering issues raised at this pre-DA meeting, and has submitted the requested information.

The documentation considered consists of:

- *Statement of Environmental Effects (SEE) and Environmental Site Management Plan prepared by Colston Budd Hunt & Kafes;*
- *A3 size architectural drawings BatesSmart DA set November 2004;*
- *Stormwater Management Plan by ARUP, dated November 2004;*

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- Title and instrument documentation forwarded by Pyramid Pacific
- Transport Report, Colston Budd Hunt & Kafes, 3998/1, dated November 2004;
- Coffey Geosciences Report S22012.1-AD, dated 23 November 2004;

The application is for a residential flat building comprising 32 units (14 x 2 bedroom and 18 x 3 bedroom). Two levels of basement car parking are proposed, with a single vehicular entrance from Nola Road.

At my request, the applicant submitted the documentation relating to the drainage easements over Lot 4 and Lot 6. It appears that these easements are vestigial, and that the lots benefited are not contiguous with the easements. They do not have large catchments although the pipes within the easements are identified on the storm water plan as a 700mm x 500mm box section and 600mm diameter pipe, which are relatively large. It is considered that if construction is carried out clear of the easements and building loads are not imposed upon the pipes within the easements then the terms of the easements will be satisfied and no further action or investigation will be required. If however during construction it becomes apparent that the pipes are in use (it is not clear how runoff from 4 Maclaurin Parade could be drained if not through the easement within Lot 4), then the applicant will have to demonstrate that the development will not impact on them to the detriment of upstream properties or the future occupants of the subject development.

Subdivision

The Application form indicates that subdivision is not proposed under this DA, hence no subdivision conditions are recommended. So that the building is not constructed across lot boundaries, the Applicant will be required to consolidate all the lots prior to issue of the Construction Certificate.

Construction management

An environmental site management plan has been prepared by Pyramid Pacific Pty Ltd.

Section 3.4.5 states that construction traffic is to use Maclaurin Parade and Kings Avenue only. This is considered the most desirable route. Because of the narrow roadway (see discussion below), I have included a requirement for a traffic controller to direct construction vehicle movements at the corner of Maclaurin Parade and Nola Road.

The submission of a detailed Construction and Traffic Management Plan is included as a condition to be complied with before works commence.

Traffic generation

The applicant has submitted a Traffic Report, prepared by Colston Budd Hunt & Kafes, 3998/1, November 2004. The report is generally satisfactory.

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The anticipated increase in traffic due to the subject development would be 10 to 15 trips per peak hour, an increase of approximately 10% over the counted peak hour traffic in Maclaurin Parade. Although this is a more significant increase over the likely volumes in Nola Road, it is unlikely to increase traffic in Nola Road above environmental capacity.

Many submissions refer to traffic in Nola Road. Constraints of the road itself are: narrow pavement, steep embankment on southern side, with large trees at the top, steep rise on northern side, again with trees at the base. Any works to widen Nola Road would entail major earthworks, a redesign of the whole road and may not even be physically possible. There is not considered to be sufficient anchorage length for any guardrail on the southern side. It is therefore not possible to directly link the subject development with any feasible works in Nola Road, and Development Engineers are not able to recommend any conditions requiring such works.

In terms of the impact of the development on the wider road network, this was determined by modeling the affected intersections at existing and post-developed use, using the INTANAL program. The results contained within the traffic report show that the surrounding road network would continue to operate at a 'good' level of service post development.

This analysis was done without taking into account the effect of traffic flow on the Pacific Highway and the Boundary Street and Clanville Road intersections either side. A traffic study prepared by Council for Special Area 1 in 2003 concludes instead that in the afternoon peak the Maclaurin Parade intersection is actually functioning at level of service F (unsatisfactory) because of these constraints.

However, no measures are in place to offset the effects of development in this area, since major improvements to the Highway would be required, which is the responsibility of the Roads & Traffic Authority. No additional conditions are applicable.

Vehicular access

Based on LEP 194, the proposal requires a minimum of 50 resident spaces and 8 visitor spaces. The proposal provides 58 spaces and therefore complies.

Proposed vehicle access and accommodation arrangements have been assessed in the traffic report against the Australian Standard 2890.1 2004 – "Off street Car Parking", and comply.

Waste collection

The architectural drawing BatesSmart DA2-01 shows RSD at entry, which I assume represents a roller shutter door. The most recent letter from BatesSmart also states that a security gate will be provided between the street and the waste collection area. Council's Waste Services Manager will not accept this arrangement. The recommended conditions prohibit doors or gates at the entry.

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A waste storage and collection area is provided in the lower basement parking area and there is adequate provision for Council's waste collection vehicle to enter the subject site, collect the garbage and then exit the site in a forward direction.

Impacts on Council Infrastructure and associated works – comments

Dilapidation surveys of the road pavement and nearby infrastructure will be required before and after the works, with full restoration of any damage by the developer prior to the issue of an Occupation Certificate.

A \$50,000 bond to cover restoration of such damage (or completion of incomplete works by Council) is to be applied.

Flooding and overland flow comments

The two drainage easements identified contain significant infrastructure but it is not clear if this is in use. Overland flow along the easements would be impossible to quantify unless the contributing areas were known. It is not considered that overland flow is an issue in relation to the proposed development.

Geotechnical conditions

A geotechnical investigation has been carried out, Coffey Geosciences Report No. S22012.1-AD, dated 23 November 2004.

The site is underlain by relatively shallow soils, variably weathered shale and then medium to high strength sandstone. The report does not contain specific recommendations for excavation trials and vibration monitoring, apart from the statement "Dilapidation surveys and vibration monitoring should be considered if vibration sensitive structures lie within close proximity to excavations".

The closest buildings to the excavation are 6 and 6a Maclaurin Parade, and 26a Pacific Highway ("Maclaurin Court"). Although they are between 10 and 16 metres away, the depth of excavation will be between 5 and 14 metres. The geotechnical report gives the potential extent of horizontal movement behind the excavation face as between 1.5 and 3 times the excavated height.

I consider that dilapidation surveys on the above properties will be necessary. It will also be in the developer's interest to have the surveys carried out. The recommended conditions allow for this.

Summary

The application can be supported by Development Engineers, subject to the imposition of the recommended engineering conditions of consent. (Refer Conditions No. 39 to 55, 63 to 65, 74 to 85, 93 to 98 and 101 to 110).

PROVISIONS OF RELEVANT LEGISLATION

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

The application includes a design verification statement by the project architect, Guy Lake of Bates Smart Architects. Mr Lake has verified that he is a qualified designer and member of the NSW Architects Registration Board and has designed the proposal in accordance with the Design Quality Principles set out in Part 2 of SEPP 65.

The application has been assessed in terms of the Design Quality Principles set out in SEPP65. The design quality principles do not generate design solutions, but provide a guide to achieving good design and the means of evaluating the merit of the proposal. The assessment is as follows:

Context:

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

The development is permissible and complies with the prescribed requirements of LEP194, including maximum height, site coverage, number of storeys and deep soil landscaping. The building setbacks to Nola Road are also acceptable on merit.

The pavilion configuration of the structure is sympathetic to the existing site contours, while a reasonable building footprint (32%) and FSR (1.23:1) have ensured that more than 50% of the site remains deep soil planting. The landscape setting is maintained as the significant existing trees are to be retained and the indigenous landscape regimen will serve to enhance the existing character.

The natural environment, forming a major part of the context for this development, consists of high canopy trees, including blue gums, which are to be retained; creating a strong sense of the natural environment as a setting for the development.

Scale:

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

Within the vicinity of the site, there are a variety of building types comprising various heights. Immediately adjacent to the site, are existing residential flat buildings of four storeys and town houses of three storeys. Another development application for a residential flat building in Kings

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Street, of similar scale to the subject application is under assessment. Across the road to the south-west, are two and three storey dwelling houses.

The development, given the slope of the land and the appropriate scale and setbacks provided, represents a considered response to the scale of neighbouring existing development. Further, the proposed building is of a scale (five storeys) identified as appropriate for the area.

Built form:

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

The built form is acceptable in terms of its height and setbacks. The proposal will have the appearance of an appropriately proportioned building set in a well landscaped context, due to a reasonable density, acceptable building configuration, generous setbacks and the substantial landscaping proposed.

Density:

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

The FSR of 1.23:1 is below the DCP 55 maximum of 1.3:1. The unit yield of the development is less than 100 units per hectare which will result in development of an acceptable environmental quality.

Resource, energy and water efficiency:

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

The proposal is satisfactory in this regard. The environmental design of the proposal complies with SEPP 65 and Residential Flat Design Code guidelines. There is, however, a minor variation in respect of the minimum NatHERS thermal requirements specified in DCP 55 which is considered acceptable in the circumstances.

Landscape:

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

The proposal provides for more than 50% of the site being a deep soil zone which is compliant with the minimum requirement of 50%. The primary deep soil zone is provided to the rear of the site and measures more than 490m². This deep soil area is common open space within the development and its ability to accommodate large canopy trees will not be restricted in the future.

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The amount of landscaping provided is consistent with the desired future character of the area, which seeks canopy trees to soften the buildings and contribute to the streetscape. The deep soil zone will be able to accommodate sufficient canopy trees to the satisfaction of Council's Landscape Assessment Officer.

Amenity:

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

The development provides for two and three bedroom dwellings, all of which attain a rating of 3.5 NatHERS stars or better. The units are all provided with good visual privacy, having good side and rear setbacks. Balconies and windows to the north and south are positioned so as to minimise overlooking to adjoining properties.

A minimum floor to ceiling height of 2.7 metres has been proposed, consistent with Council's requirement. Furthermore, the units are all of generous proportions, satisfying DCP 55 requirements.

The application provides large amounts of private open space to each of the units. Terraces and balconies generally exceed the requirements of DCP 55 and the Residential Flat Design Code.

The proposal provides acceptable levels of amenity to its future occupants and allows for reasonable levels of amenity to surrounding properties.

Safety and security:

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

There are no safety and security issues. The proposal provides for good levels of safety and security through:

- Maximising opportunities for surveillance of public spaces on the site;
- The provision of a number of public access ways which are clearly visible from the street;
- The provision of a secure car park which is secured from external access;
- Lift and stair access being directly from the basement car parks to apartment levels.

Social dimensions:

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

A reasonable mix of two (14) and three bedroom (18) apartments is provided to allow housing choice. The apartments are all of generous sizes, ranging from 102m² to 122m², and would provide high quality living environments for those residents within the local area who wish to “downsize” to an apartment.

Aesthetics:

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

The external appearance and composition of building elements, textures, materials and colours satisfactorily reflects the use, internal design and structure of the development. The proposal also respond adequately to the streetscape through the conservative use of natural colours.

In this way the proposal will contribute to the desired future aesthetic character of the area.

Residential Flat Design Code

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

Relating to the local context:

The proposal, sited over three separate allotments, will require their consolidation. This amalgamation will result in a site of 3,270 m² which is capable of accommodating the proposed density of five storeys (**see Condition No. 74**).

The proposal comprises three distinguishable building elements that step back further from the eastern boundary in the northern part of the site in order to improve solar access, private landscaped open space and privacy separation. Although essentially one building, the three pavilions present an acceptable bulk and scale above ground compared to the existing and proposed built form of the locality.

The building envelope, in terms of building height, floor area, depth and setbacks, is therefore satisfactory having regard to the desired future character of locality. This is discussed in more detail below.

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Site analysis:

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

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

The orientation of the development ensures adequate solar access to habitable areas and private open space, both internally and to adjoining residential development and also provides an appropriate frontage to Nola Road.

The merits of the application with respect to stormwater management, access and privacy are assessed below.

Building design:

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

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

State Environmental Planning Policy No 55 - Remediation of Land

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

Ku-ring-gai Planning Scheme Ordinance (KPSO) - LEP 194

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 2400m ²	3 270m ²	YES
Deep landscaping (min): 50%	50.2%	YES
Street frontage (min): 30m	67.415m	YES
Storeys and ceiling height (max) (not inclusive of top floor): 5 storeys and 16.4m	5 storeys and <15 metres	YES
Storeys and steep slope sites: 6 storeys or 3m over less than 25% of building footprint	6 storeys and <5%	YES

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Site coverage (max): 35%	32%	YES
Top floor area (max): 60% of level below	60%	YES
Car parking spaces (min): 50 x resident, 8 x visitor	50 x resident, 8 x visitor	YES
Zone Interface 3 rd and 4 th floors setback 9m from land not zoned 2(d3)	3 rd and 4 th floors set back 9m	YES
Manageable housing (min): 10% (4 units)	All units are adaptable	YES
Lift access: required if greater than three storeys	Provided to all three buildings	YES

Heritage /conservation areas (cl.25C(2)(e) and 61D - 61I):

Neither the subject site nor adjacent properties are listed on the *Register of the National Estate*, nor are they subject to any conservation instrument under the provisions of the NSW Heritage Act 1977. The properties are not listed as a heritage items nor located in a heritage conservation area identified under the provisions of the Ku-ring-gai Planning Scheme Ordinance. The site is located within a heritage conservation area identified by the National Trust of Australia (NSW), although such listing has no statutory weight. The proposal satisfies Clauses, 61D, 61F, 61G, 61H and 61I of the KPSO as these only relate to works proposed to heritage listed items or properties situated in gazetted conservation areas.

A condition is recommended requiring that recording of the existing buildings at No. 12 Nola Road be undertaken prior to demolition (**refer Condition No. 87**).

Clause 25C(2)(e) and 61E of the KPSO requires that development on land zoned Residential 2(d3) has regard to its impact on any heritage items in the vicinity of that development.

The closest heritage listed property is located at No. 1 MacLaurin Parade and is approximately 75 metres to the north-east and located more than 20 metres above the floor level of the subject building (RL 110 vs. RL 90). The proposal is acceptable and will not result in any significant adverse impacts on this heritage property.

Residential zone objectives

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

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

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 Local context:		

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COMPLIANCE TABLE		
Development control	Proposed	Complies
Development adjacent to a heritage item:	Structure no closer than 75 metres to any heritage item	YES
Part 4.1 Landscape design:		
Deep soil landscaping (min) 150m ² per 1000m ² of site area = 490m ²	> 490m ²	YES
No. of tall trees required (min): 11 trees	2 trees to be retained 17 trees of 13 metres to be planted	YES
Part 4.2 Density:		
Building footprint (max): 35% of total site area	32%	YES
Floor space ratio (max): 1.3:1	1.23:1 (4,022m ²)	YES
Part 4.3 Setbacks:		
Nola Road setback (min): 10 - 12 metres (<40% of the zone occupied by building footprint)	9.5 metres to basement entrance 15.6 metres to building facade	NO
Pedestrian walkway (min): 6 metres	6 metres	YES
Rear boundary setback (min): 6 to 13 metres	6 to 19 metres	YES
Side boundary setback (min): 6 metres	6 metres	YES
Setback of ground floor terraces/courtyards to street boundary (min): 8m/11m	Greater than 12 metres	YES
% of total area of front setback occupied by private courtyards (max): 15%	<15%	YES
Part 4.4 Built form and articulation:		
Façade articulation: • Wall plane depth >600mm	All wall plane depths >600mm	YES

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COMPLIANCE TABLE		
Development control	Proposed	Complies
<ul style="list-style-type: none"> Wall plane area <81m² 	96m ²	NO
Built form: <ul style="list-style-type: none"> Building width < 36m 	Satisfies controls for nominated areas (Special areas)	YES
<ul style="list-style-type: none"> Balcony projection < 1.2m 	<1.2m	YES
Part 4.5 Residential amenity		
Solar access: <ul style="list-style-type: none"> >70% of units receive 3+ hours direct sunlight in winter solstice 	>70%	YES
<ul style="list-style-type: none"> 3 hours sunlight to habitable rooms and outdoor living areas of adjoining houses in Residential 2(c1) and 2 (c2) zones 	Not adjoined by such zones but at least 2.5 hours solar access maintained to adjoining town house development	YES
<ul style="list-style-type: none"> >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice 	>50%	YES
<ul style="list-style-type: none"> <15% of the total units are single aspect with a western orientation 	None proposed with western orientation.	YES
Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: <ul style="list-style-type: none"> Storeys 1 to 4 <ul style="list-style-type: none"> - 12m b/w habitable rooms - 9m b/w habitable and non-habitable rooms - 6m b/w non-habitable rooms 	10 metres to town house No. 3 (5 Corona Ave) and 8 metres to dual occupancy at (6a Nola Road) No direct relationship No direct relationship	NO YES YES

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COMPLIANCE TABLE		
Development control	Proposed	Complies
<ul style="list-style-type: none"> 5th Storey <ul style="list-style-type: none"> 18m b/w habitable rooms 13m b/w habitable and non-habitable rooms 9m b/w non-habitable rooms 	<p>15 metres to town house No. 3 (5 Corona Ave) and 10 metres to dual occupancy at (6a Nola Road)</p> <p>No direct relationship</p> <p>No direct relationship</p>	<p>NO</p> <p>YES</p> <p>YES</p>
Internal amenity: <ul style="list-style-type: none"> Habitable rooms have a minimum floor to ceiling height of 2.7m Non-habitable rooms have a minimum floor to ceiling height of 2.4m 	<p>2.7m</p> <p>2.4m</p>	<p>YES</p> <p>YES</p>
<ul style="list-style-type: none"> 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms Single corridors: <ul style="list-style-type: none"> serve a maximum of 8 units >1.5m wide >1.8m wide at lift lobbies 	<p>All bedrooms >3.0m</p> <p>Maximum 3 units</p> <p>>1.8m</p> <p>>1.8m</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
Outdoor living: <ul style="list-style-type: none"> Ground floor apartments have a terrace or private courtyard greater than 25m² in area Balcony sizes: <ul style="list-style-type: none"> 12m² – 2 bedroom unit 15m² – 3 bedroom unit <p>NB. At least one space >10m²</p>	<p>Greater than 35m²</p> <p>12m²</p> <p>15m²</p>	<p>YES</p> <p>YES</p> <p>YES</p>

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COMPLIANCE TABLE		
Development control	Proposed	Complies
<ul style="list-style-type: none"> Primary outdoor space has a minimum dimension of 2.4m 	2.4m	YES
Part 4.7 Social dimensions:		
Visitable units (min): 70%	100% (32 units)	YES
Housing mix: Mix of sizes and types	2 and 3 bedroom units	YES
Part 4.8 Resource, energy and water efficiency:		
Energy efficiency: <ul style="list-style-type: none"> >65% of units are to have natural cross ventilation 	90% (29 units)	YES
<ul style="list-style-type: none"> single aspect units are to have a maximum depth of 10m 	8 metres	YES
<ul style="list-style-type: none"> 25% of kitchens are to have an external wall for natural ventilation and light 	32% (10)	YES
<ul style="list-style-type: none"> >90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating 	4 to 5 star rating = 85% 3.5 star rating = 12.5%	NO NO
Part 5 Parking and vehicular access:		
Car parking spaces (min): 50 x resident, 8 x visitor	50 x resident, 8 x visitor	YES

Part 4.3 Setbacks:

The stepped building configuration provides for a variety of front, side and rear setbacks in order to achieve good articulation and interest to the streetscape.

The 9.5 metres front setback of the basement car park to Nola Road fails to comply with the DCP. The variation is minor and is a product of the steep slope of the site. It is supported as it is mainly contained below the existing natural ground level and will not impede the establishment of canopy trees in the front setback area. Part of the building in this area (north-western corner) will also

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project 2.8 to 3 metres above natural ground level due to the 22% slope of the site. This is well within the KPSO height and storey limits set down by Clause 25K. The building façade is, however, set back 15.6 metres from the Nola Road section of the front boundary.

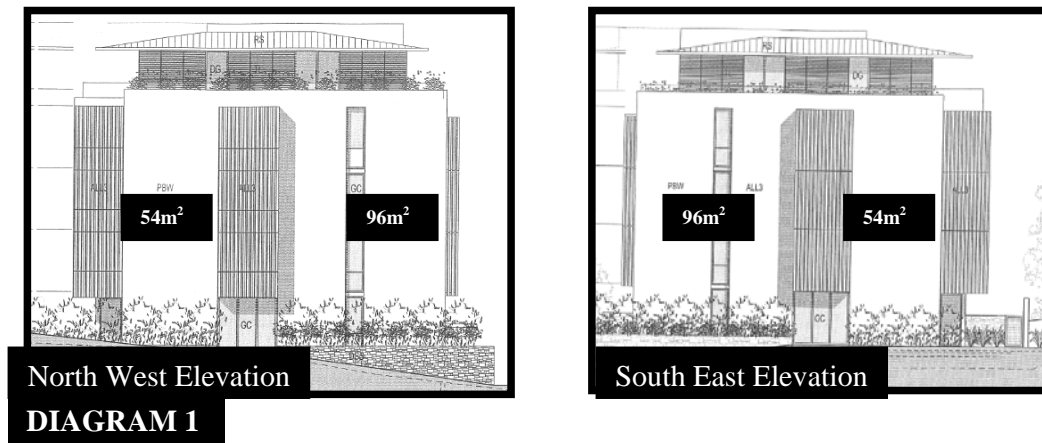
Setbacks to the development generally comply with the specific controls for Special Area 1 as shown in **Diagram No. 3**. The building orientation displays a minor variation in order to maximise solar access.

The upper floor will be recessed from the perimeter of the building and further set back from the Nola Road frontage by approximately 17 metres.

The excavated driveway (within the side setback) does not comply with Clause 4.1 C-3 of DCP 55 as it allows only a 2 metre setback to No. 6 MacLaurin Parade. However, the position of the driveway complies with the specific controls for the site as illustrated in **Diagram No. 3**. The site is constrained because of its awkward configuration and limited road accessible street frontage (only 18 metres to Nola Road). The driveway, in this location, is located below the adjacent property, does not directly affect any living areas and can be adequately screened. Conditions are recommended to ensure that the noise attenuation measures for the automatic gate to the car park are installed and maintained. (**Refer Conditions Nos 66 and 98a**).

Part 4.4 Façade articulation:

Clause 4.4 requires that no single wall plane exceeds 81m^2 in area. Non-compliances are evident on the north western and south eastern facades as indicated in **Diagram No. 1**.



These minor numerical breaches of 15m^2 (96m^2 vs. 81m^2) are supported for the following reasons:

- At 18 metres wide, these elevations are narrow and relative to the total length of the affected boundaries, will not result in undue bulk and scale impacts.

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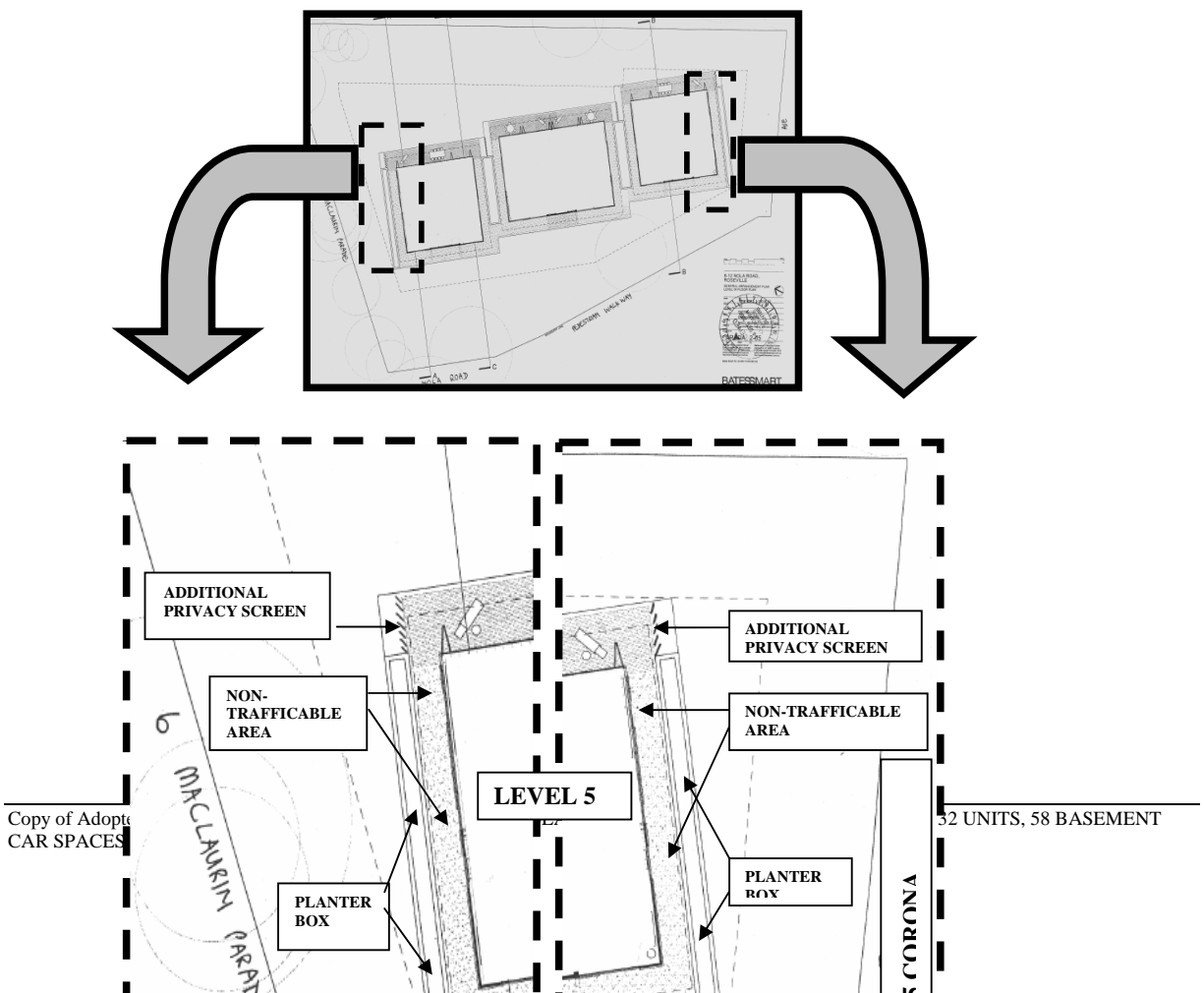
- The setbacks along the affected boundaries exceed 6 metres and are, in parts, more than 10 metres. This will provide generous deep soil landscape areas that will ensure a predominance of soft landscape features.
- The louvred screens and narrow vertical fenestration elements provide for some articulation and, although these do not strictly meet the minimum numerical requirements, they contribute to varying the articulation and introduce a degree of modulation to the structure.

It should also be noted that Council's Urban Design Consultant, Russell Ollsen, did not raise any concerns in this regard.

Part 4.5 Visual privacy:

This numerical variation is addressed by minimising fenestration to the northern and southern facades. Louvres on the dining room windows and balconies shown in **Diagram No. 1** reduce overlooking to adjoining properties. The only clear views from windows on these elevations are from study nooks and **Condition 69a** requires that these windows be translucent and fixed up to 1.7 metres above floor level. The top floor units are equipped with sliding louvre screens and substantial planter boxes to reduce overlooking. **Condition No. 69a** also requires that the roof terrace areas adjacent to the north-western and south-eastern boundaries be non-trafficable and that 1.8 metres high privacy louvres be erected as indicated in **Diagram No. 2**.

These measures will minimise the opportunity for direct overlooking and ensure a reasonable degree of privacy is maintained, commensurate with a medium density environment.



Part 4.8 Resource, energy and water efficiency:

DCP55 requires 90% of units to meet with the NatHERS rating of 4.5 stars and above. The environmental performance of the development is acceptable considering the awkward orientation of the site. The proposal has, through careful building orientation, stepping of the building and by limiting building depth, achieved a good climatic responsive outcome. All units achieve a NatHERS rating of 3.5 stars. More than 85% of the units achieve 4 stars or above.

Given that all of the apartments are provided with at least 3 hours of sunlight and that the majority will have at least two aspects with good cross ventilation, the NatHERS non-compliance is acceptable.

Specific Controls for Nominated Areas: Part 7.1 Nola Road Precinct

Desired future character and design objectives:

The proposal provides for 50.2% of the site being a deep soil zone which is compliant with the minimum requirement of 50%. This zone is primarily common land and provided to the rear of the building where its ability to accommodate large canopy trees will not be restricted in the future. All of the existing significant trees are retained, while the type of landscaping proposed is consistent with the desired future character of the area, which seeks continuation of the indigenous Blue Gum Forest to soften the buildings and contribute to the streetscape.

The proposal incorporates a natural palette of materials, including sandstone, timber and brick that is consistent with that of surrounding buildings and responds sensitively to the natural environment.

The development is set back in excess of 15 metres from the centre-line of Blue Gum Creek.

Lot amalgamations:

The preferred lot amalgamation as has been achieved as per the lot amalgamation pattern suggested for the area shown in **Diagram No. 3** below.

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Built form:

The proposal responds to the locality through the pavilion configuration of the building, the use of natural materials and the native landscape theme proposed. The building platform is in accordance with **Diagram No. 3** which is an excerpt from DCP 55. This layout ensures the retention of significant trees and results in an urban form that responds to the existing building fabric. Roof gardens and terraces are introduced to further integrate the building into the landscape.

Although the building does not step down the topography, the amount of excavation required will ensure that the bulk and scale of the structure is reduced. The ceiling height and storey controls are complied with and less than 30m² or 3% of the building footprint constitutes an additional (6th) storey. This is well within the parameters of Clause 25K of the KPSO, which allows a sixth storey over 25% of the building footprint where site slope exceeds 15%.

The environmental performance of the development is acceptable, considering the awkward orientation of the site. The proposal has, through careful unit arrangement, stepping of the building and by limiting building depth, achieved a good climatic responsive outcome. All units achieve a NatHERS rating of 3.5 stars. More than 85% of the units achieve 4 stars or above.

Building articulation:

The proposal integrates into its landscape setting and is contextually responsive to the unique natural characteristics of the locality. The design articulates the proposal into distinct elements, each expressed with different materials.

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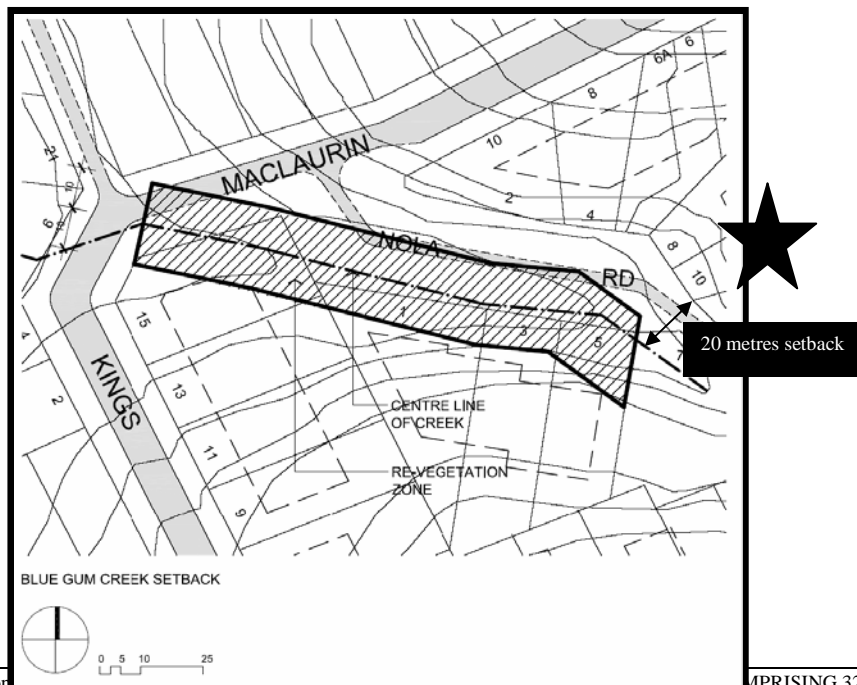
- i. The upper part of the building is expressed as three 4-storey masonry volumes that step across the site. The painted masonry walls have square recessed horizontal joints that provide texture to the façade. These light coloured walls provide a counterpoint to the leafy surrounds and the palette of warm natural materials defines the remaining building elements.
- ii. Dry stack sandstone walls define the base of the building and serve to integrate the built form with the landscape. The material forms part of both the natural and built context of Ku-ring-gai.
- iii. The top floor is set back to reduce the proposal's overall scale and massing. Timber and aluminum shutters define the lightweight expression of the upper level and serve to animate the façade.

Balconies and stepped glazing lines add visual depth to the façade, while a secondary layer of glazed balustrades, timber and aluminium shutters and screens provide a finer layer of articulation. Bay windows, planter boxes and timber shutters reinforce the residential character and scale of the surrounding context.

The proposal draws references from its context by cantilevering timber windows and screens to articulate the building's façade and recall the traditional timber framed bay windows typical of the surrounding vernacular.

Blue Gum Creek:

The proposal exceeds the setback requirement of 15 metres to Blue Gum Creek as shown in **Diagram No. 4**. No works are proposed within 20 metres of its centre line and the application therefore satisfies this control.



Landscape:

The vegetation association for the site is Blue Gum High Forest but few of the locally occurring species are evident except for a single *Eucalyptus saligna* (Sydney Blue Gum) located on the front boundary which will be retained. Council's Landscape Development Officer supports the landscape theme that proposes 80% of the species selected from the Blue Gum High Forest vegetation association. This satisfies the requirements of the DCP.

Development Control Plan 31 - Access

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

Development Control Plan 40 - Construction and Demolition Waste Management

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

Development Control Plan No 43 - Car Parking

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

Development Control Plan 47 - Water Management

Matters for assessment under DCP 47 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

Section 94 Plan

The development attracts a section 94 contribution of \$551,033.78 which is required to be paid (**Refer Condition No.62**).

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

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ANY SUBMISSIONS

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

PUBLIC INTEREST

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

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for discussion.

CONCLUSION

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

RECOMMENDATION

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

THAT the Council, as the consent authority, grant development consent to DA 1333/04 for the demolition of existing structures on site and the construction of 14 x 2 bedroom and 18 x 3 bedroom dwellings within a single building, associated access, basement parking and landscaping on land at 8, 10 and 12 Nola Road, Roseville, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL

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

Architectural Plans

Dwg. No.	Rev.	Description	Author	Dated	Lodged
AR DA 1 03-	Rev A	Site Plan	Bates Smart	Dec 2004	20 Apr 05
AR DA 2-01	Rev A	Basement Plan (Level 001)	Bates Smart	Dec 2004	20 Apr 05
AR DA 2-02	Rev A	Basement Plan (Level 002)	Bates Smart	Dec 2004	20 Apr 05
AR DA 2-03	Rev A	Ground Floor Plan	Bates Smart	Dec 2004	20 Apr 05
AR DA 2-04	Rev A	Level 01 to 03 Plan	Bates Smart	Dec 2004	20 Apr 05

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AR DA 2-05	Rev A	Level 4 Plan	Bates Smart	Dec 2004	20 Apr 05
AR DA 2-06	Rev A	Roof Plan	Bates Smart	Dec 2004	20 Apr 05
AR DA 3-01	Rev A	Sect A-A	Bates Smart	Dec 2004	20 Apr 05
AR DA 3-02	Rev A	Sect B-B	Bates Smart	Dec 2004	20 Apr 05
AR DA 3-03	Rev A	Sect C-C	Bates Smart	Dec 2004	20 Apr 05
AR DA 3-04	–	Sect D-D	Bates Smart	Dec 2004	20 Apr 05
AR DA 3-05	–	Sect E-E	Bates Smart	Dec 2004	20 Apr 05
AR DA 4-01	–	North-east elevation	Bates Smart	Dec 2004	14 Dec 04
AR DA 4-02	–	South-west elevation	Bates Smart	Dec 2004	14 Dec 04
AR DA 4-03	–	North-west elevation	Bates Smart	Dec 2004	14 Dec 04
AR DA 4-04	–	South-east elevation	Bates Smart	Dec 2004	14 Dec 04

Landscape Plans

DA01	Rev B	Landscape Plan	Aspect Sydney Landscape Architect	Apr 2005	20 Apr 05
DA01	Rev B	Tree Retention / Removal Plan	Aspect Sydney Landscape Architect	Apr 2005	20 Apr 05
DA02	Rev B	Landscape Planting Plan	Aspect Sydney Landscape Architect	Apr 2005	20 Apr 05
DA03	Rev B	Landscape Elevation A	Aspect Sydney Landscape Architect	Apr 2005	20 Apr 05
DA04	Rev B	Landscape Elevation E	Aspect Sydney Landscape Architect	Apr 2005	20 Apr 05

- The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
- The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
- A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority. *(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance).*

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5. 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.
6. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

7. 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.
8. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
9. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
10. To maintain existing ground levels all excavated material shall be removed from the site.
11. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
12. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
 - a. The type and size of machinery proposed.
 - b. The routes of all trucks to convey material to and from the site.
 - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.

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13. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
14. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

15. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - a. must preserve and protect the building from damage, and
 - b. if necessary, must underpin and support the building in an approved manner, and
 - c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

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

16. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
17. Any fencing and associated footings shall be constructed entirely within the boundaries of the property.
18. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
19. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
20. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.

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21. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

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

22. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
23. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
- a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
- i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
- b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
24. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
25. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
26. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
27. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.

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28. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
29. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
30. Fire hoses are to be maintained on site during the course of demolition.
31. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
32. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
33. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
34. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
35. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - a. stating that unauthorised entry to the work site is prohibited, and
 - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
36. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
37. "Peep holes" shall be provided to the entrance doors of all units for personal security.
38. Compliance with the notations overdrawn on the consent plans.

Engineering

39. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to Council's stormwater pit in Nola Road via the

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approved site stormwater management 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.

40. A mandatory rainwater re-use tank system of minimum volume 110m³ as shown in ARUP Stormwater Management Plan, together with any additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. DCP47 is available in hard copy at Council and on the Council website. A mains top-up shall be provided for periods of low rainfall.
41. It is the Applicants and contractors full responsibility to ascertain the exact location of any drainage pipe traversing the site and take measures to protect them. All proposed structures are to be sited fully clear of any drainage easements on the site. Trunk or dedicated flow paths shall not be impeded or diverted by fill or structures unless otherwise approved. In the event of a pipeline being uncovered during construction, all work is to cease and the Principal Certifying Authority must be contacted immediately for advice.
42. This development consent does not set aside or affect in any way the exercise of any rights-at-law which may be conferred upon any party or parties by the existence and/or terms of the grant of any easements or rights-of-carriageway on or over the subject property. It is the applicant's full responsibility to ensure that any rights-at-law are upheld. Council accepts no responsibility whatsoever, either now or in the future, for any claim for any matter or thing arising from its approval to this application involving any encroachment or other influence upon any easement or right-of-carriageway. The applicant's attention is further directed to the rights of persons benefitted by any easement or right-of-carriageway concerning the entry and breaking up of a structure approved by this consent. In the event that such a structure causes damage, blockage or other thing requiring maintenance to infrastructure within the easement or right-of-carriageway, or access is required to carry out maintenance, Council accepts no responsibility in this regard now or in the future.
43. A maintenance period of six (6) months shall apply to the work in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
44. 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.

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45. 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.
46. 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.
47. 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".
48. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.
49. The Applicant must obtain a Section 73 Compliance Certificate under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
50. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
51. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.

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52. Convex mirrors are to be provided in the basement car park as recommended in Colston Budd Hunt & Kafes Transport Report 3998/1, dated November 2004.
53. The works are to be carried out in accordance with the recommendations given in Coffey Geosciences Report S22012.1-AD, dated 23 November 2004, and subsequent geotechnical reports, including regular inspections during excavation works and geotechnical review of structural drawings and details.
54. All construction traffic control and management measures shall be implemented in accordance with an approved *Construction Traffic Management Plan* to be submitted and approved by Council prior to the commencement of works. The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.
55. If during the course of the development works, it becomes apparent that either of the drainage easements affecting the site is in use, then the applicant is to demonstrate that the development will not impact on them to the detriment of upstream properties or the future occupants of the subject development. This is in relation to the capacity of the systems or the obstruction of any overland flowpath.

Landscaping

56. 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.

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

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

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58. 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.

59. 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).
60. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
61. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.

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- d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
62. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF TWENTY NINE (29) ADDITIONAL DWELLINGS IS CURRENTLY \$551,033.78. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

1. Community Facilities	\$1,117.76
2. Park Acquisition and Embellishment Works	\$6,384.75
3. Sportsgrounds Works	\$1,318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

Engineering

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

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

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64. Prior to issue of the Construction Certificate the Applicant shall contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to Construction Certificate issue. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia shall be met in full prior to issue of the Occupation Certificate.
65. All overhead electricity and other lines (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point, in accordance with the requirements of Energy Australia. Details to be shown on plans submitted with the Construction Certificate. (Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground).

Special

66. An acoustic report shall be prepared by a suitably qualified person detailing the devices to be fitted and ongoing maintenance required, in relation to the automatic door to the garage, air-conditioning and car park ventilation system to ensure their operation does not result in the emission of noise in excess of 5dB(A) above background measured at the nearest residential property boundary. The report shall be provided for approval with the Construction Certificate and shall include recommendations with regard to the ongoing maintenance of the noise attenuating devices. Certification of compliance with the recommendations contained in the report shall be submitted to the Principal Certifying Authority prior to the release of the final compliance certificate or occupation certificate. The burden of ongoing maintenance of these noise attenuating measures shall remain with the Managing body of the development.
67. Any exhaust ventilation from the car parks is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1. Details demonstrating compliance are to be provided with the Construction Certificate (*Reason: To preserve community health and ensure compliance with acceptable standards*).
68. Four (4) of the proposed apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps; such features to be designed generally in accordance with Australian Standards 1428.1 and 4299. Details demonstrating compliance are to be submitted with the Construction Certificate. (*Reason: To ensure equity of access and availability of accommodation in the future for an ageing population*).
69. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or other areas of the building and is not to be located on the roof. Details demonstrating compliance are to be submitted with the Construction Certificate

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application. (*Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality*).

- 69a. To ensure privacy and amenity to the adjoining properties at No's 6 MacLaurin Parade and 5 Corona Avenue the following amendments shall be made to both the north-western and south-eastern elevations:

- The lower part of the windows to the first, second and third floor study nooks shall be opaque and fixed up to a height of 1.7 metres above finished floor level.
- Additional privacy screens measuring 1.8 metres high shall be affixed to the Level 5 terraces as notated in red.
- Terrace areas as noted in red on Level 5 shall be non-trafficable for general use and limited access shall only be allowed for maintenance of the planter boxes.

Details demonstrating compliance with the condition shall be submitted to the PCA prior to the release of the Construction Certificate.

70. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
 - b. Retaining walls and associated drainage.
 - c. Wet area waterproofing details complying with the Building Code of Australia.
 - d. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Air-conditioning.
 - e. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - f. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

Landscape

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

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

It is the responsibility of the applicant to notify Council in relation to the refunding of the bond at the end of the 3 year period. Where a change of ownership occurs during this period it

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is the responsibility of the applicant to make all arrangements regarding transference of the bond and to notify Council of such.

72. A CASH BOND/BANK GUARANTEE of \$10,000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

Tree 1 - *Eucalyptus saligna* (Sydney Blue Gum)
/ Nola Road reserve

Tree 2 - *Phoenix canariensis* (Canary Island Palm)
/Nola Road reserve

Tree 3 - *Jacaranda mimosifolia* (Jacaranda)
/ North western corner

Tree 4 - *Angophora costata* (Sydney Red Gum)
/ Adjoining property No. 6A Nola Road

Tree 5 - *Magnolia grandiflora* (Bull-bay Magnolia)
/ Adjoining property No. 6A Nola Road

Tree 6 - *Syzygium paniculatum* (Brush Cherry)
/ Adjoining property No. 6A Nola Road

Tree 7 - *Brachychiton acerifolius* (Flame Tree)
/ Adjoining property No. 6A Nola Road

Tree 8 - *Eucalyptus saligna* (Sydney Blue Gum)
/ Adjoining property No. 6A Nola Road

Tree 21 - *Jacaranda mimosifolia* (Jacaranda)
/ Adjoining property No. 6A Nola Road

Tree 33 - *Eucalyptus saligna* (Sydney Blue Gum)
/ Western (front) boundary

Tree 49 - *Ulmus parvifolia* (Chinese Elm)

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/ Western (front) boundary

73. To preserve the following trees the trench for the stormwater pipe shall be hand dug and no roots greater than 50mm severed or injured. The stormwater management plan shall be amended to indicate these protection measures and submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

- The stormwater management plan shall reflect the approved architectural plans.
- The stormwater management plan shall number all trees to be retained in accordance with the plan by Aspect Sydney, Drawing no. DA 06, Revision A, dated April 2004.

Tree/Location

Tree 3 - *Jacaranda mimosifolia* (Jacaranda)

/ North western corner

Tree 4 - *Angophora costata* (Sydney Red Gum)

/ Adjoining property No. 6A Nola Road

Engineering

74. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing three lots. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. The condition is imposed to ensure a continuous structure will not be placed across separate titles.
75. Prior to issue of the Construction Certificate, footpath and driveway levels for the required 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

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

76. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).
77. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater retention/detention system. The storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum, and shall provide sealed lightproof storage. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
78. Permanent water quality measures are to be provided for the development, in accordance with Chapter 8 of DCP 47. Details are to be shown on the stormwater management plans and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
79. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, car-washing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use shall be shown on this design to a detail suitable for installation by the plumbing contractor. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
80. A dedicated car-washing area is to be shown on the Construction Certificate plans. The waste collection vehicle manoeuvring area or a visitor parking bay may be used for this facility. The plans are to be approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
81. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. 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) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development

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Control Plan 47. New connection points to the public drainage system must be shown accurately on the plan and shall be made in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004.

82. Prior to the issue of a Construction Certificate the applicant shall lodge a \$50,000 (fifty thousand dollars) public infrastructure damage bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of all works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
 - b) The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
 - c) Works in the public road associated with the development are to an unacceptable quality.
83. Prior to issue of the Construction Certificate any security gate, grille or door shown on the DA plans, which would prevent unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, must be deleted from the plans to be approved with the Construction Certificate. Such details shall be to the satisfaction of the Principal Certifying Authority (PCA).
84. Prior to issue of the Construction Certificate, a plan detailing services trenches in accordance with the relevant supply authorities (including electricity, gas, telephone, water and sewerage), shall be submitted for approval by the Principal Certifying Authority (PCA). The notice of requirements for Sydney Water must be obtained prior to issue of the Construction Certificate.
85. Prior to issue of the Construction Certificate the Applicant shall contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including cabling, need for substations or similar within the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to Construction Certificate issue. Any structures or requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate to the satisfaction of the PCA. The requirements of the utility provider shall be met in full prior to issue of the Occupation Certificate.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

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86. 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.

Special

87. A photographic record of the dwelling at **No. 12 Nola Road** shall be submitted to Council prior to the commencement of work. A report to be submitted and approved to the heritage officer's satisfaction prior to commencement of the work and prior to issue of a Construction Certificate.

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

The report is to be a bound A4 report and must include copies of drawings submitted with the application including site surveys and specialist reports such as heritage assessments, dilapidation report, and builders or engineers reports. Three copies of the report to be submitted, one copy with negatives. Any archival documents such as family records, old photographs should also be included.

All photographs to be mounted, labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. A photographic recording sheet to be included. Photographs of the following:

- Each elevation
- Photographs of specific details nominated by Council
- All structures on site such as sheds, outhouses and significant landscape features
- Several photographs of house from public streets or laneways including several views showing relationship to neighboring buildings.

Minimum requirements:

- Title page
- Statement of reasons the recording was made
- Location Plan showing relationship of site to nearby area
- Site plan to scale (1:200 – 1:500) showing all structures and site elements
- Floor Plan (1:100)
- Black & White archival quality photographs, contact prints with negatives and selected prints (one copy of negatives other copies with contact sheets and selected prints)
- Colour slides (one set)
- Colour photographs (one copy with negatives)

Digital images and CDs may be submitted as supplementary information.

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Landscaping

88. To preserve the following tree/s, no work shall commence until the trunk/s are protected by the placement of 2.0 metre lengths of 50 x 100mm hardwood timbers spaced at 150mm centres and secured by 2mm wire at 300mm spacings. The trunk protection shall be maintained intact until the completion of all work on site. Any damage to the tree/s shall be treated immediately by an experienced Horticulturist/Arborist, with minimum qualification of Horticulture Certificate or Tree Surgery Certificate and a report detailing the works carried out shall be submitted to the Principal Certifying Authority:

Tree/Location

Tree 1 - *Eucalyptus saligna* (Sydney Blue Gum)
/ Nola Road reserve

Tree 2 - *Phoenix canariensis* (Canary Island Palm)
/Nola Road reserve

Tree 3 - *Jacaranda mimosifolia* (Jacaranda)
/ North western corner

89. To preserve the following tree no work shall commence until the following protective measures are carried out.

- All lower dead palm fronds are to be removed.
- The lower fronds shall be tied up to raise the canopy and prevent damage or ripping of the palm fronds by passing work vehicles.

Tree/Location

Tree 2 - *Phoenix canariensis* (Canary Island Palm)
/Nola Road reserve

90. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location

Radius in Metres

Tree 4 - *Angophora costata* (Sydney Red Gum)
/ Adjoining property No. 6A Nola Road

3m

Tree 5 - *Magnolia grandiflora* (Bull-bay Magnolia)
/ Adjoining property No. 6A Nola Road

3m

Tree 6 - *Syzygium paniculatum* (Brush Cherry)

3m

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/ Adjoining property No. 6A Nola Road

Tree 7 - *Brachychiton acerifolius* (Flame Tree) 3m
/ Adjoining property No. 6A Nola Road

Tree 8 - *Eucalyptus saligna* (Sydney Blue Gum) 5m
/ Adjoining property No. 6A Nola Road

Tree 21 - *Jacaranda mimosifolia* (Jacaranda) 3m
/ Adjoining property No. 6A Nola Road

Tree 33 - *Eucalyptus saligna* (Sydney Blue Gum) 4m
/ Western (front) boundary

Tree 49 - *Ulmus parvifolia* (Chinese Elm) 3m
/ Western (front) boundary

Note: All trees located on the adjoining property to be fenced off within the subject site only.

91. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
92. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

Engineering

93. Prior to the commencement of any works on site the applicant shall submit to Council a full dilapidation report on the visible (including photos) and structural condition of Nola Road and MacLaurin Parade including full road width, kerb and gutter, and the intersection. The report must be completed by a consulting structural/civil engineer. A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council. Other Council roads in the area are not available for construction traffic apart from vehicles less than 3.0 tonne gross unless written approval is received from Council and a dilapidation report has been completed on the roads.
94. Prior to the commencement of bulk excavation on the site, the applicant shall submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) results of excavation trials and vibration monitoring as recommended in Coffey Geosciences Report S22012.1-AD, dated 23 November 2004. This is to ensure that vibration created by the method of construction does not adversely impact on the surrounding properties and

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infrastructure. A qualified and practising geotechnical engineer must oversee the excavation trials and all associated investigations. Excavation is to proceed in accordance with the recommendations of the geotechnical engineer.

95. Prior to the commencement of bulk excavation on the site, the applicant shall submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council), full dilapidation reports on the visible and structural condition of all neighbouring buildings within the 'zone of influence' of the excavation. This includes the structures at 6 and 6a Maclaurin Parade, and 26a Pacific Highway ("Maclaurin Court"). The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted Report No. S22012.1-AD by Coffey Geosciences, dated 23 November 2004. A second dilapidation report, recording structural conditions of all structures originally assessed prior to issue of the Construction Certificate, must be carried out at the completion of the works and be submitted to Council. The report shall have regard to protecting the Applicant from spurious claims for structural damage and shall be verified by all stakeholders as far as practicable.
96. Prior to the commencement of *any* works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:
 1. A plan view of the entire site and frontage roadways indicating:
 - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage any pedestrians and construction related vehicles in the frontage roadways,
 - All traffic is to use Maclaurin Parade. No site traffic is to use Corona Avenue.
 - Traffic controller(s) are to manage construction traffic movements at the intersection of Nola Road and Maclaurin Parade.
 - No construction vehicles are to be parked in Nola Road.
 - Warning signs in Maclaurin Parade of siteworks ahead;
 - Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
 - The locations of any Work Zones in the frontage roadways,
 - Location of proposed crane standing areas
 - A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
 - Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - The provision of an on-site parking area for employees, tradesperson and construction vehicles where possible
 2. Traffic Control Plan(s) for the site

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- All traffic control devices installed in the road reserve must be in accordance with the RTA publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
 - Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.
3. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided.
- Light traffic roads and those subject to a load or height limit must be avoided at all times.
 - A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.
 - The proposed truck route is to be temporarily signposted for the duration of the demolition and construction works to indicate the proposed truck routes.

In addition, the plan must address:

- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.
- For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

The *Construction and Traffic Management Plan* shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained and submitted to the Principal Certifying Authority prior to the commencement of any works on site. The Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation.

97. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee for its installation. Further, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed and the adopted fee paid prior to commencement of any works on the site. Where such a 'Work Zone' is not considered to be feasible by Council Traffic Engineers, the zone will not be required. This condition is to facilitate a dedicated on-street parking area for construction related

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vehicles during work hours. A need for a 'Work Zone' may arise given the scale of the works, limited site frontage and lack of available on-street parking in this location.

98. All new public utility services, or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.
- 98a. An acoustic report shall be prepared by a suitably qualified person detailing the devices to be fitted and ongoing maintenance required, in relation to the automatic door to the garage, air-conditioning and car park ventilation system to ensure their operation does not result in the emission of noise in excess of 5dB(A) above background measured at the nearest residential property boundary. The report shall be provided for approval prior to the release of the Occupation Certificate or final Compliance Certificate and shall include recommendations with regard to the ongoing maintenance of the noise attenuating devices.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

99. 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.
100. Without further written Consent of Council the development is to comply with the following indices:
- a. Maximum floor space ratio 1.235:1.
 - b. Maximum building footprint area 1060m² or 32% of site area.
 - c. Number of resident car parking spaces: 50.
 - d. Number of visitor car parking spaces: 8
 - e. Deep soil landscape area shall not be less than 1635m² or 50% of the site area.
 - f. Maximum height of top floor ceiling not to exceed RL 104.7.

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

Engineering

101. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:
- a. Completion of the new driveway crossings in accordance with levels and specifications issued by Council.

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- b. Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
- c. Full repair and resealing of any road surface damaged during construction.
- d. Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. 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, crane use) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

- 102. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as recommended in Coffey Geosciences Report S22012.1-AD, dated November 2004 and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
- 103. Prior to issue of an Occupation Certificate the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater retention/detention facilities (including all ancillary reticulation plumbing) on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88B instruments for protection of on-site retention/detention facilities (DCP47 appendix 14) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to issue of an Occupation Certificate.
- 104. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):
 - a. A copy of the approved Construction Certificate stormwater retention/detention design for the site, and
 - b. A copy of the works-as-executed drawing of the as-built on-site retention/detention system, and
 - c. The Engineer's certification of the as-built system.

This condition is required so Council may maintain its database of as-constructed on-site stormwater detention/retention systems, and also applies if the Principal Certifying Authority (PCA) is not the Council.

- 105. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).

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106. Prior to issue of an Occupation Certificate a certification and a works-as-executed (WAE) plan, in relation to the installed rainwater retention/detention devices, are to be submitted to the Principal Certifying Authority (PCA). Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The Certificate is to specifically state compliance with each of the relevant controls set out in appendix 6.2 of Council Water Management Development Control Plan 47. The Works-as-Executed drawing(s) is to be marked up in red on the approved Construction Certificate design, and shall include:

- As constructed levels in comparison to design levels
- As built location of all tanks/retention devices on the property and distances to adjacent boundaries, buildings and easements
- Dimensions of all retention tanks/devices
- Top water levels of storage areas and RL's at overflow point(s).
- Storage volume(s) provided and supporting calculations/documentation.

For any on-site detention control installed, a separate certificate is to specifically acknowledge compliance of the on-site detention system with the approved Construction Certificate plans and also compliance with the design requirements of appendix 5 in Councils Water Management DCP 47 - "Design of on-site detention systems". The Works-as-Executed details shall be marked in red on the approved Construction Certificate design for the on-site detention system, and shall specifically include:

- As constructed levels in comparison to design levels
- As built location of all detention devices on the property (plan view) and distances to nearest adjacent boundaries, buildings and easements
- As built locations of all pits and grates in the detention system, including dimensions.
- The size of the orifice or pipe control fitted.
- Dimensions of the discharge control pit and access grates
- The achieved capacity of the detention storage and derivative calculation.
- The maximum depth of storage over the outlet control.
- Top water levels of storage areas and RL's at overflow point(s)

107. Prior to issue of an Occupation Certificate the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:

- a. Construction of the stormwater drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and
- b. The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500.3.2, and
- c. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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A Works-as-Executed (WAE) drawing of the property stormwater drainage system is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority (PCA) prior to issue of an Occupation Certificate. The WAE plan shall show the following as built details, marked in red on the approved construction certificate stormwater drawings:

- a. As built reduced surface and invert levels for all drainage pits and connection points.
 - b. As built reduced level(s) at the approved point of discharge to the public drainage system.
 - c. Gradients of drainage lines, materials and dimensions.
108. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” and the parking layout plans approved for the Construction Certificate.
109. Prior to issue of the Occupation Certificate the applicant shall submit **to Council** a follow up dilapidation report on the visible (including photos) and structural condition of Nola Road and MacLaurin Parade including full road width, kerb and gutter, and the intersection. The report must be completed by a consulting structural/civil engineer. The structural conditions of all structures originally assessed prior to the commencement of works, must be assessed and the results submitted to Council.
110. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, an easement for waste collection must be provided. This is to permit legal access for Council, and Council’s contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council’s contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council’s draft terms for an easement for waste collection.

Landscaping

111. On completion of the landscape works, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.
112. Landscape works shall be carried out in accordance with Landscape Drawing No DA 02 prepared by Aspect Sydney Landscape Architecture and dated April 2004 submitted with the Development Application. The landscape works shall be completed prior to the release of the Certificate of Occupation and be maintained in a satisfactory condition at all times.

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BUILDING CONDITIONS

113. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
114. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
115. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:
- | | | |
|-----------------|---------------|---------------|
| Risers: | Maximum 190mm | Minimum 115mm |
| Going (Treads): | Maximum 355mm | Minimum 240mm |
- Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.
116. Termite protection which will provide whole of building protection in accordance with Australian Standard 3660 - *"Protection of Buildings from Subterranean Termites"* is to be provided.
- Council has a non chemical policy for termite control but will consider proposals involving physical barriers in combination with approved chemical systems. Handspraying is prohibited.
- Where a monolithic slab is used as part of a termite barrier system, the slab shall be constructed in accordance with Australian Standard 2870.1 or as designed by a structural engineer but in either case shall be vibrated to achieve maximum compaction.
- To ensure compliance with this condition, a Compliance Certificate or documentary evidence from a suitably qualified person is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
117. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Wet area waterproofing details complying with the Building Code of Australia.

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- b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Air-conditioning.
- c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- d. Storm-water disposal details complying with Council's Storm-water Management Manual and/or other conditions of this consent.
- e. A Compliance Certificate from a suitably qualified person that the residential flat buildings complies with the relevant deemed to satisfy provisions of the Building Code of Australia.
- f. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.
- g. A Registered Surveyor's Report on completion of footings but before external walls are above floor level verifying compliance with this consent.
- h. A Registered Surveyor's Report confirming approved levels of the ground floor.
- i. A Registered Surveyor's Report confirming approved levels of the first floor.
- j. A Registered Surveyor's Reports confirming approved floor levels for all floors.
- k. A registered surveyors report confirming the deep soil landscaped area is no less than 50% of the site area (as defined in the Ku-ring-gai Planning Scheme Ordinance).

C Swanepoel
Executive Assessment Officer

R Kinninmont
Team Leader
Assessment Team– South

M Prendergast
Manager
Development and Regulation

M Miocic
Director
Development and Regulation

Attachments:

- Location Sketch**
- Zoning Extract**
- Site Plan**
- Basement & Levels 1-5**
- Roof Plan**
- Elevation Plans**
- Shadow diagrams**
- Landscape plans**

Report on Blue Gum Creek by Eco Logical

1580 TO 1596 PACIFIC HIGHWAY, WAHROONGA

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To refer the application back to Council following the site meeting and seek Council's determination of the development application.

BACKGROUND:

- Application lodged 19 October 2004
- Council considered a report at its meeting on 24 May 2005.
- Consideration pending site inspection which took place on 11 June 2005.
- Minutes of the Inspection Committee presented for confirmation on 15 June 2005.

COMMENTS:

The matters raised at the site inspection are addressed in this report.

RECOMMENDATION:

Approval

PURPOSE OF REPORT

To refer the application back to Council following the site meeting and seek Council's determination of the development application.

BACKGROUND

- Application lodged 19 October 2004.
- Council considered a report at its meeting on 24 May 2005.
- Consideration pending site inspection which took place on 11 June 2005.
- Minutes of the Inspection Committee presented for confirmation on 15 June 2005.

COMMENTS

The following matters were raised at the site inspection and are addressed, accordingly.

1. Construction management plan –

- 1.1 It was requested that the volume (cubic metres) of soil to be removed from the site be identified, together with confirmation that all fill will be recycled and if so, the method of recycling is to be stated as part of this application.**

Approximately 50, 000m³ of soil is to be removed from the site.

Council has requested the applicant provide advice in relation to whether the fill will be recycled and if so the method of recycling. At this time Council has not received any additional information in relation to this matter.

2. Unauthorised tree removal

It was acknowledged that 272 trees have been removed from the site without Council approval and therefore, the following issues need to be clarified:

- 2.1 Has the applicant assumed that the proposed buildings will be approved because these trees have now been removed?**

This is unknown by Council. However, the removal of the trees and vegetation by the applicant removes possible specific requirements that may be imposed as consent conditions for existing vegetation to be retained or transplanted and reused on site. It also gives the applicant more flexibility with proposed landscape works to their own design rather than incorporating new landscape works within existing landscape elements.

Item 2

DA1081/04
15 June 2005

2.2 What conditions apply to the previous development application for demolition with respect to trees?

Council had imposed a specific condition that no trees or vegetation were to be removed, along with the Tree Preservation Order. **Condition No 29** of DA875/04 clearly stated,

"To preserve the treed character of Ku-ring-gai, ALL existing trees located outside of the 3.0m Tree Preservation Order exemption to existing dwellings are to be retained. This includes ALL existing trees and palms located adjacent to battleaxe driveway pan handles and trees on adjoining properties."

2.3 Were any trees within a proposed building footprint, and were they significant or exempt under Council's Tree Preservation Order?

A significant proportion of trees and vegetation were located within the proposed building footprint and works. Some of these trees had site specific significance as they were part of the original landscape fabric of the site. Some were exempt under Council's TPO.

3. Vegetation

It was requested that the following vegetation issues be clarified:

3.1 The reasons for the trees shown along the southern boundary being removed from DCP 55 despite being shown in Draft DCP 55.

There were only limited amendments to the nominated objectives and controls applying to 1580 - 1596 Pacific Highway in Draft DCP 55 prior to the final DCP 55 being adopted by Council. These amendments included:

Removal of the analytical diagrams showing existing trees (**fig.34**), existing building character (**fig.35**) and transition in building heights (**fig.36**). This was to reduce confusion between what information was analytical and explanatory what information was intended to be development controls. The only diagrams retained in the adopted DCP show the final proposed site layout and the stormwater management issues.

The figure which illustrates the preferred site layout was amended to re-orient the buildings along the Pacific Highway. The revised layout for these buildings was considered to provide a better urban design outcome and a more practical internal common open space.

All other elements of the proposed site layout and controls remained unchanged. This includes the controls relating to tree retention, building setbacks and height of building as they were considered important to achieve the objectives in regard to landscape character, tree protection, building height and impact on the adjoining heritage item.

The intention to make these amendments to the draft DCP 55 were reported to Council on 14 December 2004 and subsequently adopted by Council.

Item 2

DA1081/04
15 June 2005

3.2 Consideration be given to a specific condition to ensure weeds will be removed during construction.

The only weeds remaining on site are the Camphor laurels which are required to be removed (refer to Condition No 50).

3.3 Consideration be given to increasing landscaping density at the rear of all units adjoining neighbouring properties.

A consent condition requires that existing landscape works adjacent to the southern and western site boundaries be substantially increased (refer Condition No. 38).

3.4 Retention of all vegetation including Camphor Laurels adjoining the southern boundary of the site and right-of-carriageway be investigated, in particular, to determine if the proposed basement will allow for a sufficient root zone to ensure the long-term health and survival of these trees.

It is required to remove the existing Camphor Laurels adjacent to the southern site boundary. The trees are exempt under Council's Tree Preservation Order (TPO) and a declared noxious weed under Council's Weed Management Policy. Noxious weeds are required within that policy to be removed as part of any development consent.

The Camphor Laurels are also heavily infested with English Ivy which has further compromised their ongoing viability. Provision has been made through a consent condition for the planting of numerous native endemic tall canopy trees along this site boundary to replenish the tree canopy in the medium to long term. The replacement trees are to have a minimum height of 4m at the time of planting to provide some amenity in the short term. This is in conjunction with the planting of dense understorey shrub and small trees which will establish in the short term.

The retention of the Camphor Laurels will inhibit the growth of future plantings due to their dominance and aggressive root system. It should be noted that other vegetation along the southern site boundary is either weed species or in poor condition providing little amenity. The proposed basement amendment will allow sufficient root zone for the establishment of tall trees.

3.5 Staff to assess the impact of Building G, in particular, the height and extent to which the roof is under or conflicts with the existing canopy of the Sydney Blue Gums. Drafting errors associated with the architectural plans are to be corrected as the plans indicate that the basement beneath Building G will be in the same location as the root zone of the existing Sydney Blue Gum tree.

The tree in question, No. 131, is a tall, forest, Sydney Bluegum, with no lower scaffold branches due to removal by former residents. The extent of the canopy to the east extends at the outer edge to approximately 10.5m, with one significant scaffolding limb. Development is proposed at 6.0m which is on the outer edge of the critical root zone. As a result, approximately 15% of the tree canopy will overhang the proposed development, which will

Item 2

DA1081/04
15 June 2005

be exempt under Council's Tree Preservation Order. Although not desired, this complies with standard arboricultural standards/guidelines for development within the canopy drip lines of existing trees. Given the extent of the canopy dripline, the same arboricultural standards apply with regard to the trees root zone.

3.6 Staff to assess the visual impact and potential for overlooking from Building G, as the height of the canopy for the Sydney Blue Gum trees may not be sufficient for screening purposes.

Multi-layered border planting will in time ensure the privacy of adjoining properties. Proposed planting is to be multi-layered, with tall native indigenous canopy trees, small and medium sized trees and evergreen shrubs and groundcovers. As this matures, the development will be screened and views filtered, which will also allow for filtered sun to penetrate through to the adjoining properties. The canopy of the Sydney Bluegum's will grow higher than the proposed development works, this certainly applies to the existing Bluegums in this area.

3.7 Details of the planting of Sydney Blue Gum trees on the southern boundary near Building G.

No Bluegums are to be planted in this area as specified within the question, due to the location of existing Bluegums and the proximity to the southern site boundary of the neighbouring property (900mm). A consent condition requires the planting of numerous small to medium trees, in conjunction with shrub planting, to ensure privacy and amenity to the neighbouring properties (**refer Condition No 38**).

3.8 Agreement is to be reached between the applicant, residents and Council for increased landscaping on the western boundary near the access driveway and fencing.

Consent conditions relating to an amended landscape plan address this concern. Super advanced planting is required so that plants at the time of planting are 1.2m high. Proposed planting can attain 4.0m height in the short term (**refer Condition No 38**). Standard 1.8m high fencing is proposed as part of the development (**refer Condition Nos 39 and 40**).

3.9 Staff to assess if the proposed building setbacks on the existing trees adjacent to Building G will ensure the long-term health and survival of these trees.

The proposed setbacks from existing trees, primarily Tree No. 131, are outside of the critical root zone, but within the primary root zone. As outlined in standard arboricultural guidelines, it is considered satisfactory that development can occur within the setbacks proposed and still retain the ongoing viability of the tree.

3.10 Staff to investigate why the Oak tree in the centre of the site and the Deodar at the rear of the building are not being retained.

It is preferred to retain the Oak tree as it is significant within the streetscape/landscape and does maintain amenity. The applicant has stated that, due to the expansive canopy spread

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and its setback from the Pacific Highway site boundary, that it was too restrictive on site and that they were not prepared to redesign their proposal to accommodate the tree. The Cedrus deodar adjacent to the Oak tree is being retained with some minor arboricultural work to ensure its ongoing viability.

4. Impact on adjoining heritage item, 1574 – 1576 Pacific Highway**4.1 Staff to confirm if amendments have been made by the applicant to address comments by Council's Heritage Advisor, as follows:**

"The proposed development lacks contextual scale and proposes long repetitive elevations to the Pacific Highway. I am not sure if a reliance on the screening by trees is the answer for providing an acceptable fit between a heritage item and medium density development. However, I acknowledge it is the approach taken in DCP 55. In my opinion, the impacts could be lessened by more variety in the elevations, roof forms, reference to the existing subdivision patterns, materials, colours, textures, setbacks, consistent with and responding to nearby development and stepping down in height near the heritage item."

Amended plans were submitted by the applicant that made the following changes to address the heritage concerns raised by Council's Heritage Advisor;

- Amended schedule of finishes:
 - changing external face brick from dark purple (old iron) to a lighter Cinnamon Smooth (Boral);
 - replacement of some solid balcony balustrade areas with glazing to break up expanse of bulk when viewed from streetscape; and
 - and antique white rendered brick to be changed to European White (creamier finish);
- Additional articulation to the southern elevation of Block C to reduce bulk of building by:
 - Readjustment of window proportions to reflect window proportions of heritage item;
 - Incorporation of aluminium louvers to maintain privacy to balconies; and
 - Incorporation of sunhoods.
- Block D has also incorporated these changes and is stepped halfway along the southern elevation to provide an increased area of articulation to 10.4m.

5. Non-compliance with environmental planning instruments**5.1 Staff are requested to provide a summary of the proposed developments non-compliances with Council's LEP and DCP, in particular with respect to the impact on the adjoining heritage item.**

The proposed development fully complies with LEP 194.

Development Control Plan No. 55 – Railway/Pacific Highway Corridor and St Ives Centre.		
Development Control	Proposed	Complies
Part 3 Local context:		
Development adjacent to heritage item		
<ul style="list-style-type: none"> 3rd and 4th storeys min 15m from heritage item 	13m-14m from 3 rd storey to garage	NO
<ul style="list-style-type: none"> Setback from front boundary equal or greater to that of heritage item (approx 28m) 	12.3m-21.8m from apartment Block C	NO
Part 4.3 Setbacks:		
Street boundary setbacks (min):		
<ul style="list-style-type: none"> 10-12m (<40% of the zone occupied by building footprint) 	67% (includes basement carpark)	NO
Part 4.4 built form and articulation:		
Façade articulation:		
<ul style="list-style-type: none"> Wall plane area <81m² 	<p>Block A: 99m² (SE) 86m² and 93m² (SW)</p> <p>Block B: 84m² (SE) 107m² (NW)</p> <p>Block C: 218m² (W) 137m² (E)</p> <p>Block D: 182m² (W) 178m² (E)</p> <p>Block E: 201m² (E)</p> <p>Block F: 132m² (W)</p> <p>Block G: 87m² (S) 180m² (W) 140m² (N)</p>	<p>NO</p> <p>NO</p> <p>NO</p> <p>NO</p> <p>NO</p> <p>NO</p> <p>NO</p>
	NB: Only areas of non-compliance have been noted, all other elevations meet the required dimension of 81m ² .	
Built form:		
<ul style="list-style-type: none"> Building width <36m 	<p>Block A – 36.5m</p> <p>Block B: 36.5m</p> <p>Block D: 45m</p> <p>Block G: 37m</p>	<p>NO</p> <p>NO</p> <p>NO</p> <p>NO</p>
<ul style="list-style-type: none"> Balcony projection <1.2m 	<p>Block C: 2.4m</p> <p>Block D: 2.4m</p> <p>Block E: 2.4m</p>	<p>NO</p> <p>NO</p> <p>NO</p>

Development Control Plan No. 55 – Railway/Pacific Highway Corridor and St Ives Centre.		
Development Control	Proposed	Complies
	Block F: 2.4m Block G: 2.4m	NO NO
Part 4.5 Residential amenity:		
Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site. 5 th storey <ul style="list-style-type: none"> 18m b/w habitable rooms 	9.5m (Between Blocks A & B) 10m (Between Blocks D & E) 14m (Between Blocks C & D)	NO NO NO
Outdoor living: <ul style="list-style-type: none"> Ground floor apartments have a terrace or private courtyard greater than 25m² Balcony sizes: <ul style="list-style-type: none"> 10m² - 1 bedroom unit 	Block C: min 14m ² (1, 1 bedroom apartment) Block D: min 15m ² (4, 1 bedroom apartments) Block E: min 16m ² (1, 1 bedroom apartment) Block F: min 12m ² (2, 1 bedroom apartments) Block G: 12m ² (2, 1 bedroom apartments and 1, 2 bedroom apartment) Block G: 8m ² (2 apartments undersize) Block B: 11.1m ² (6 apartments undersize) Block E: 11m ² (6 apartments undersize) Block F: 11m ² (6 apartments undersize)	NO NO NO NO NO NO NO NO NO
Part 7.2 1580-1596 Pacific Highway , Wahroonga – Specific controls for nominated areas		
Landscape character: <ul style="list-style-type: none"> Submission of Cultural Landscape report addressing cultural and visual significance of existing tree canopy 	A cultural landscape report has not been submitted. The DCP requires the submission of a cultural landscape report to assess the cultural and visual significance of the existing tree canopy. The applicant has not submitted this report. However, this matter is considered to have been appropriately addressed in the heritage impact statement prepared by City Plan, dated December 2004.	NO

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6. Traffic Management

It was requested that the following traffic issues be clarified:

6.1 Consideration be given to a specific condition requiring all construction vehicles to be located wholly within the site.

It is not usually practical to require all construction traffic to be located on site due to basement excavation and trees. The purpose of a works zone is to allow for a designated area for construction traffic (**refer Conditions Nos 72, 113 and 114**).

6.2 Consideration of a condition to ensure that the right-of-way which currently benefits the existing lot in the position of Building G be extinguished when the lots are consolidated and a further condition imposed, to ensure that no construction access is to be gained via the right-of-carriageway.

The construction traffic plan to be submitted under Condition 113 requires all access to and from site to be from Munderah St. Otherwise it will not be approved by Council. The applicants are also investigating the option of extinguishing the easement. However no agreement has been reached to date.

6.3 Consideration be given to a condition which replicates the time restrictions and traffic management issues addressed by Council in other proposals (refer to Pacific Highway/Burleigh Street and DA 1260/04).

Conditions have been provided in the attached recommendation in relation to the management of traffic and time restrictions for the development site (**refer Condition Nos.14 and 113**).

6.4 Consideration be given to a condition to ensure that there will be no pedestrian or vehicular access for residents in Building G.

In reference to the right of carriageway, the applicant does not propose any pedestrian access or vehicular access off the right-of-carriageway, as shown on the proposed plans. Vehicular access is proposed to Building G from the Munderah Street entrance via a basement carpark. Pedestrian access is also provided to Building G via several pathways from both the Pacific Highway and Munderah Street.

6.5 Staff to assess the applicant's truck/traffic management plan, to determine if signage will need to be circulated in surrounding streets.

A Construction and Traffic Management Plan is required to be approved by Council staff (**refer Condition No. 113**). The Construction and Traffic Management Plan will detail any signage required in the adjoining streets.

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15 June 2005**6.6 Staff to investigate if the 50kph speed sign is missing from Munderah Street.**

This matter has been referred to Council's Traffic Section by CRS on 16 June 2005 for further investigation. Comments have been received by Council's Director of Technical Services that detail that as the default speed limit in NSW is 50 km/hr, the RTA are not installing new signs to indicate that limit. Only other (non 50 km/hr) limits now need to be signposted. Existing signs are being left, but not replaced.

6.7 Staff to investigate if rumble bars will be needed in Munderah Street and any additional traffic management measures required given the location of the school opposite the subject site.

The installation of rumble bars would need to be approved by Council's Local Traffic Committee. It is not considered they would provide any beneficial purpose. This matter was not raised in the Traffic Report provided with the application. The report concludes that the parking layout is in accordance with the recommendations of AS2890.1:2004, which includes pedestrian sight distance requirements at the driveway exit. The driveway has a curve, and a change in grade from 1:8 to 1:20, 6 metres before the exit. This configuration will require vehicles to slow before departing the site, and the flat grade will provide good visibility of the frontage road as intended. No additional measures are considered necessary.

7. Right-of-carriageway

It was requested that the following issues associated with the right-of-carriageway be clarified:

7.1 The applicant's intention to locate the fence adjoining the right-of-carriageway, despite the boundary of the subject site shown within the right-of-carriageway?

The applicant has met with the adjoining neighbours along the right-of-carriageway to come to a satisfactory solution to both parties. At this time Council has not received a resolution in relation to this matter.

7.2 Staff to confirm if the setbacks to the proposed building have been taken from the southern side boundary or from the edge of the right-of-carriageway where the proposed fence will be located.

Setbacks to the southern side boundary of the development site have been taken from the southern side boundary of the site.

7.3 Staff to confirm that the proposed development includes provision for drainage from the right-of-carriageway.

The right-of-carriageway, which forms part of the site, has been included in the stormwater drainage calculations for the development.

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15 June 2005**7.4 Staff to meet with the applicant and adjoining residents on site on Wednesday, 15 June 2005, to resolve issues.**

Council staff met with the applicant and adjoining residents on the adjoining right-of-carriageway at 9am Wednesday, 15 June 2005. The issues of the retention of the Camphor Laurels and the location of the proposed fencing along the right-of-carriageway were not resolved. Council staff recommended the removal of the Camphor Laurels and appropriate replacement planting of varying height. Proposed fencing along the right-of-carriageway remains unresolved between the applicant and the adjoining neighbouring properties.

8. Excavation**8.1 Staff to assess the need for a dilapidation report to be undertaken by the applicant, to prevent damage to adjoining buildings.**

Condition No. 117 requires the provision of a dilapidation report for all neighbouring structures within the “zone of influence” of the required excavation work.

9. Drainage

It was requested that staff investigate/confirm the following matters:

9.1 Staff to assess if the drainage is adequate to cover the proposed development and to determine if there will be a higher risk of flooding.

The proposed development will have on site detention as well as retention and re-use of stormwater. There will be a lower or the same risk of flooding as is currently the case.

9.2 Staff to confirm if water table issues have been addressed.

Council’s Development Engineer has reviewed the geotechnical report submitted. The report outlines that water table will be below the proposed basement level. The existing groundwater regime is unlikely to be affected by the basement excavation.

10. Orientation

It was requested that the following issues be clarified:

10.1 South-facing windows from Block G will reduce privacy to adjoining residents.

There are a total of ten (10) windows facing the adjoining residents to the south Nos 9A Gilda Avenue. All ten (10) windows are to either bedrooms or ensuites. These windows will not have an unreasonable privacy impact on the adjoining residents to the south due to the nature of the rooms they serve. The setbacks from these windows are between 7.0m – 16.2m. With the inclusion of appropriate landscaping as conditioned by Council’s Landscape Officer, the development will maintain a good level of privacy to adjoining properties (**refer Condition No.38**).

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The proposal contains a total of nine (9) south-facing units, between Buildings C, D and G. In accordance with section 4.5.1 Solar Access, of DCP 55, the development does not propose any single aspect south-facing units. The units identified in this report have dual aspect. The development fully complies with the requirements of DCP 55 in this regard.

11. External materials**11.1 Staff to determine whether or not the impacts associated with the colour of the roof are acceptable and to confirm if the roof needs to be orange, as shown in the model.**

The proposed roof colour as provided by the applicant is to be terracotta tiles. This is considered to be consistent with existing surrounding development (**refer Condition No 4**).

12. Courtyards on ground floor units adjoining the Pacific Highway**12.1 Staff to consider if there can be a wider area in front of units adjoining the Pacific Highway, to enable the pathway to be centred.**

The proposed setback to the units facing the Pacific Highway complies with the requirements of DCP 55. Council's Landscape Officer advises that his preference is for the pathway to remain in its current location to allow for an undisturbed deep soil landscaped area facing the Pacific Highway.

RECOMMENDATION

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

THAT the Council, as the consent authority, grant development consent to DA1081/04 for the construction of seven (7) residential flat buildings containing 157 apartments and basement parking for 218 vehicles, including 40 visitor spaces and strata subdivision into 158 lots on land at 1580-1596 Pacific Highway, Wahroonga, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL

1. The development to be in accordance with Development Application No 1081/04 and Development Application plans prepared by Meriton Apartments Pty Ltd, reference number Drawing numbers: DA00(A), DA01(B), DA02(B), DA10 (A), DA11(A), DA12(A), DA13(A), DA14(A), DA15(A), DA16(A), DA17(A), DA18(B), DA19(B), DA20(B), DA21(B), DA22(B), DA31(A), DA32(A), DA41(A), DA42, (A) DA51(A), DA52(A), DA61(A), DA62(A), DA71(A), DA72(A), DA81(A), DA82(A), DA91(B), DA92(B), DA93(B), dated March 2005, dated March 2005 and lodged with Council on 6 April 2005.

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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 external materials and finishes are to comply with the schedule of finishes prepare by Meriton Apartments Pty Ltd. In particular -
 - Face brick – Cinnamon Smooth (Boral)
 - Roof – terracotta tile
 - Powder coated privacy screens and aluminium balustrade – Iron Bark (Dulux 52036)
 - Rendered and painted brickwork of balustrade – European White (Dulux)
 - Rendered and painted brickwork 'V' jointed – Delta Waters (Dulux 17.B2)
5. Peep holes" shall be provided to the entrance doors for all units for personal security.
6. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
7. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
8. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or stormwater drainage system is prohibited. These waters are to discharge via a permanent drainage line into the Sydney Water's sewer. Permission is to be obtained from the Sydney Water prior to the emptying of any pool to the sewer.
9. To ensure compliance with the relevant standards, an effective and approved safety fence with self closing gate complying with the minimum requirements of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools" shall be provided to the Principal Certifying Authority's satisfaction in the location indicated on the approved plans prior to any water being placed in the pool.
10. For safety purposes, depth markers shall be provided at both ends of the pool.
11. For safety purposes, prior to the pool being filled a weather resistant poster detailing expired air resuscitation (mouth to mouth) methods shall be affixed within plain sight of the pool. A sign/notice with the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" shall be erected in clear view and in close proximity to the pool.

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12. 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.
13. 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.
14. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

15. 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.
16. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
17. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
18. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
19. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
 - a. The type and size of machinery proposed.
 - b. The routes of all trucks to convey material to and from the site.
 - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.

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20. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
21. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

22. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - a. must preserve and protect the building from damage, and
 - b. if necessary, must underpin and support the building in an approved manner, and
 - c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

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

23. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
24. To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the SUBDIVISION Certificate.
25. If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

26. The developer shall submit to Council a letter from the energy supply authority and either Telstra or Optus, confirming that satisfactory arrangements have been made for the provision of underground telephone and power services, prior to the release of the Subdivision Certificate or Occupation. Application may be made to Energy Australia Phone No. 13 1525 and either Optus, Network Operations, Facsimile No 9837 9060, Phone No 9837 9010, or Telstra Phone No 12 455.
27. All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measure at the nearest adjoining boundary.
28. The fence and footings shall be constructed entirely within the boundaries of the property.
29. Under no circumstances shall building materials, demolition waste, fill, soil or any other material from any source be placed or stored within any public reserve.
30. To preserve and enhance the natural environment, all soil erosion and sediment control structures shall be inspected following each storm event and any necessary maintenance work shall be undertaken to ensure their continued proper operation. Sediment shall be removed from the soil erosion and sediment control structures when no more than forty percent (40%) capacity has been reached. These structures shall continue in proper operation until all development activities have been completed and the site fully stabilised.
31. To preserve and enhance the natural environment, sediment removed from erosion and sediment control structures shall be disposed of to an approved sediment dump.
32. 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.
33. 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.
34. The applicant's attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owner/s which may arise from this application and it is advised that enquiries in this regard may be made at the nearest Local Court.

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35. External paved access for vehicles and pedestrians being provided with material which will provide some contrast to the finish of the pavement to the satisfaction of the Principal Certifying Authority.
36. No advertising signs are to be erected without the prior consent of Council.
37. 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.

38. Landscape works shall be carried out in accordance with Landscape Drawing No DA-0436-01 Rev B, DA-0436-02 Rev B, and DA-0436-03 Rev B prepared by Guy Sturt and Assoc. and dated 04/04/05 submitted with the Development Application, except as amended by the following:
 - The proposed planting of two Eucalyptus saligna (Bluegum) adjacent to the eastern side of the driveway within the proposed terraced gardens are to be relocated so that they are located no closer than 6.0m from any structure in the same vicinity.
 - Existing trees (#'s 129, 130, 133, and 134) Lophostemon confertus (Brushbox) located adjacent to the southern site boundary are to be removed and replaced with eight (8) Elaeocarpus reticulatus (Blueberry Ash) with a minimum pot size of 45 litres, evenly spaced at 4.0m intervals offset from the southern site boundary by 1.5m and planted in conjunction with appropriate native understorey planting screening shrubs able to attain a minimum height of 3.5m.
 - The proposed planting of Eucalyptus pilularis (Blackbutt) adjacent to the southern site boundary (Landscape Plan Part B) are to be planted at an advanced size and have a minimum height at the time of planting of 4.0m.
 - To maintain and enhance neighbour amenity, the proposed planting of Pittosporum revolutum (Yellow flowering pittosporum) adjacent to 2 Munderah St is to have a minimum height of 1.2m at the time of planting.
 - To improve and maintain neighbour amenity it is required that proposed planting of the western site boundary adjacent to Buildings F and G be substantially increased with native endemic shrub species able to attain minimum heights of 3.0 to 4.0m. Understorey screening shrubs are to be planted at 2.0 to 3.0m intervals to ensure a dense screen planting.
 - Raised fixed planter boxes/beds are to be provided along the entire south-eastern elevation of the terrace on level 5 of Block A and the entire north-western elevation of the terrace on Block B on level 5. The planter boxes/beds are to be planted with shrubs which achieve a cumulative total height of 2.0m

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39. To enhance streetscape amenity the proposed timber fence panels adjacent to the Pacific Hwy and Munderah St frontages are to be deleted and replaced with an open palisade fence to the same dimensions.
40. To enhance and maintain streetscape amenity to both the Pacific Highway and Munderah St, any proposed fencing is to be located with a minimum 2.0m setback from the site boundaries. The proposed fence and fence piers are not to exceed 1.8m in height above ground level.
41. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
42. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
Tree numbers refer to Arborists Report by TALC dated 22 March 2005	
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	10.0m
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#4 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	6.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	6.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	10.0m
#15 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	7.0m

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#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	4.0m (western side, 7.0m elsewhere)
#36 <i>Casuarina glauca</i> (Sheoak) Adjacent to western site boundary/2 Munderah Street	3.0m
#39 <i>Acer palmatum</i> (Japanese Maple) Adjacent to western site boundary/2 Munderah Street	4.0m
#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	5.0m
#123 <i>Camellia sasanqua</i> (Chinese Camellia) Adjacent to eastern site boundary within 1578 Pacific Hwy	4.0m
#127 <i>Eucalyptus nicholii</i> (Small leaf peppermint) Adjacent to eastern site boundary within 1578 Pacific Hwy	5.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	6.0m
#132 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	10.0m
#135 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to south west site corner in neighbouring property	10.0m
#140 <i>Castanospermum australe</i> (Qld Blackbean) Adjacent to western site boundary within neighbouring property	4.0m
#141 <i>Angophora floribunda</i> (Rough barked apple) Adjacent to western site boundary within neighbouring property	4.0m
#166 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the rear north west site corner	7.0m
#170 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north-west site corner	3.0m
#171 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north-west site corner	8.0m

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#178 *Eucalyptus saligna* (Bluegum) 10.0m
Adjacent to rear north-west site corner

#180 *Eucalyptus saligna* (Bluegum) 8.0m
Adjacent to rear northern site boundary

#184 *Erythrina sykesii* (Coral Tree) 7.0m
Adjacent to rear northern site boundary
in neighbouring property

#189 *Eucalyptus saligna* (Bluegum) 5.0m
Adjacent to western site boundary

43. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the Principal Certifying Authority shall be required at three monthly intervals. Documentary evidence of compliance with this condition shall be submitted to the principal certifying authority prior to the issue of the Occupation Certificate.

44. Paving works within the specified radius of the trunk/s of the following tree/s shall be constructed to ensure that existing water infiltration and gaseous exchange to the tree/s root system is maintained. Details for the paving shall be submitted to the Principal Certifying Authority for approval by a suitably qualified professional prior to the commencement of paving construction:

Tree/Location	Radius From Trunk
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	10.0m
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#4 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	6.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	6.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	10.0m
#15 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m

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#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	7.0m
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	4.0m (western side, 7.0m elsewhere)
#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	5.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	6.0m
#132 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	10.0m
#189 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary	5.0m

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

Tree/Location	Radius From Trunk
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	7.0m
#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	5.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	8.0m
#166 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the rear north west site corner	7.0m

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

Tree/Location	Radius From Trunk
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	5.0m
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m

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#14 *Eucalyptus pilularis* (Blackbutt) 5.0m
Adjacent to eastern/Pacific Hwy site boundary

#25 *Eucalyptus saligna* (Bluegum) 5.0m
Adjacent to eastern/Pacific Hwy site boundary

#27 *Cedrus deodar* (Himalayan Cedar) 4.0m
Adjacent to eastern/Pacific Hwy site boundary

#73 *Afrocarpus falcata* (Brown Pine) 3.0m
Adjacent to eastern/Pacific Hwy site boundary

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

Tree/Location	Radius From Trunk
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	10.0m
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	6.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	10.0m
#15 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	7.0m
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	4.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	6.0m

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#132 *Eucalyptus saligna* (Bluegum) 10.0m
South west site corner

#166 *Eucalyptus saligna* (Bluegum) 10.0m
Adjacent to the rear north west site corner

48. 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.

49. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Munderah St. The tree/s used shall be 25 litre container size specimen/s:

Tree Species
Eucalyptus pilularis (Blackbutt) x 2

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

Plant Species
Hedera sp. (Ivy)
Ligustrum lucidum (Large-leaved Privet)
Ligustrum sinense (Small-leaved Privet)
Cinnamomum camphora (Camphor laurel)

51. 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.
52. If it is essential for scaffolding to be erected within a protected area, fencing should be erected to provide just sufficient space for scaffolding. The ground between this fence and the building should be protected by boarding (eg scaffold boards). A single thickness of boarding laid on the soil surface will provide sufficient protection for pedestrian loads, but more substantial boarding sufficient to spread the load should be used for heavier traffic. The ground beneath the boarding should be left undisturbed and should be protected with a porous geotextile fabric. If necessary, sand should be laid on the fabric to level the ground. When required, the building scaffolding should be erected. The boarding should be left in place until the building works are finished.
53. If temporary vehicle access is required near a tree to be retained, 75x75x2000mm hardwood planks are to be lain over a mulched area to a depth of 100mm with organic material being 75% leaf litter and 25% wood to distribute weight and to minimise compaction of soil profiles beneath. Timber lengths are to be secured on top of such to avoid movement and the structure should be constructed to accommodate vehicles that are to be used on site. Structural soil or similar should be used as a subgrade placed above existing soil levels for alternate driveway surfaces to support larger site vehicles or more rigid type temporary sealed road surfaces.

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54. Tree protection signage is to be attached to each tree protection zone and displayed in a prominent position and the sign repeated at 10.0m intervals or closer where the fence changes direction. The signs to be a minimum size of 600mm x 500mm. Example details, as following:
1. Tree Protection Zone
 2. This fence has been installed to prevent damage to the trees and their growing environment contained within, to allow those trees to be retained as components of the existing landscape for incorporation into the landscape works for this site. It is the intent of this tree management process to retain these trees in a condition that is safe, viable and healthy, or a condition not less than that at the time of the commencement of this development
 3. Due to the critical nature of the Tree Protection Zone with regards to the long term viability of the tree/s, if encroachment or incursion into this zone is deemed to be essential the consulting Arborist should be informed to the undertaking of such works
 4. Name, address, and contact details of the developer.
55. In the event of prolonged dry periods, or where a tree has been transplanted, or where excavation nearby, especially up slope, leads to the drying out of soil profiles closest to the tree/s, the tree/s is to be deep watered thoroughly at least twice a week. In the event of disrupted ground or surface water flows to the tree due to excavation, filling, or construction, an irrigation system is to be installed, consideration must be given to volume, frequency and drainage of water delivered, and this is to be in consultation with a qualified consulting Arborist.
56. Where tree protection measures are to be removed or altered this must be undertaken in consultation with the consultant Arborist to ensure tree protection is maintained.
57. Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped and connected to the piped Council drainage system within the site. Drainage line connections to the system shall conform and comply with the relevant detail within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe") within Ku-ring-gai Council Water Management Development Control Plan 47.
58. A mandatory rainwater re-use tank system comprising stormwater tanks and rainwater tanks of minimum volume totaling 471m³, as required in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47, must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. A mains top-up shall be provided for periods of low rainfall, with a void space left for runoff storage purposes. An additional **on-site detention** system of volume 613m³ must be provided in accordance with the approved DA stormwater concept plans and supporting documentation.
59. For stormwater control, 200mm wide grated channel/trench drains with heavy-duty removable galvanised grates are to be strategically placed to collect driveway runoff and must

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be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.

60. A maintenance period of six (6) months shall apply to works in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
61. 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.
62. To ensure structural stability, footings to be located adjacent to easements and/or Council drainage pipes shall be sited and constructed so that all footings are located outside of easement boundaries. The applicant shall refer to Council Plan 80-011 concerning such works. Footings must extend to at least the depth of the invert of the adjacent pipe within the easement unless the footings are to be placed on competent bedrock. If permanent excavation is proposed beneath the obvert of the pipe within the easement, suitable means to protect the excavation from seepage or other water flow from the pipe and trench, and means to retain the easement and associated pipe cover, are to be provided by the applicant at no cost to Council. Council accepts no liability for such seepage or water flows now or at any time in the future resulting from such excavation.
63. All public footways and accessways 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.**
64. 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.

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65. 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”.
66. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.
67. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Applicant shall refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
68. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
69. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure. Geotechnical aspects of the development work, namely:
 - Appropriate excavation method and vibration control,
 - Support and retention of excavated faces,
 - Hydrogeological considerations,

Must be undertaken in accordance with the recommendations of the Pells Sullivan Meynik Pty Ltd Consulting Engineers (refer report number PSM858.L3 Rev2 dated 1st October 2004) and all subsequent geotechnical inspections carried out during the excavation and construction phase. Approval must be obtained from all affected property owners, including Ku-ring-gai Council where rock anchors (both temporary and permanent) are proposed below adjacent property.
70. The geotechnical works implementation, inspection, testing and monitoring program for the construction works must be in accordance with the preliminary geotechnical study **prepared** by Pells Sullivan Meynik Pty Ltd Consulting Engineers (refer report number PSM858.L3 Rev2 dated 1st October 2004). Over the course of the works a qualified Geotechnical/hydrogeological Engineer must complete the following:

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- Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
 - Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
 - Written report(s) and certification(s) of the geotechnical inspection, testing and monitoring programs.
71. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
72. All construction traffic control and management measures shall be implemented in accordance with an approved *Construction Traffic Management Plan* to be submitted and approved by Council prior to the commencement of works. The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works, and shall pay particular attention to traffic control during school drop off and collection hours. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.
73. In order to allow **unrestricted access at all times** for Council waste collection vehicles to the basement garbage storage and collection area, no doors, grilles, gates or other devices are to be provided in the access driveways to the basement carpark which would prevent this service.
74. To ensure compliance with Australian Standard 2890.1 – 2004 “Off-Street car parking”, no dividing structures such as cages or partitioning walls shall be placed that divide individual car spaces. The parking layout design is approved based on an open space parking layout.
75. All new public utility services, or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.
76. It is the **full responsibility** of the Applicant and their contractors to:
- Ascertain the exact location of the Council drainage pipe traversing the site in the vicinity of the works, and
 - Take full measures to protect the in-ground Council drainage system, and
 - Ensure existing dedicated overland flow paths are satisfactorily maintained through the site.

Drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage and the like). All proposed structures and construction activities are to be sited fully clear of Council drainage pipes, drainage easements, watercourses and trunk overland flow paths on the site. Trunk or dedicated overland flow paths must not be impeded or diverted by fill or structures unless otherwise approved. In the event of a Council drainage pipeline being uncovered during construction, all work is to cease and the Principal Certifying Authority and Council must be contacted immediately for advice. Any damage

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caused to a Council drainage system must be immediately repaired in full as directed, and at no cost to Council.

77. No part of any building structure shall encroach over any easement and no loadings shall be imposed to utilities within any easement unless approved by the owner(s) appurtenant to the burden. This development consent does not set aside or affect in any way the exercise of any rights-at-law which may be conferred upon any parties by the existence and/or terms of the grant of any easements or rights-of-carriageway on or over the subject lot(s). It is the applicant's full responsibility to ensure that any rights-at-law are investigated and upheld. Council accepts no responsibility whatsoever, at any time, for any claim for any matter or thing arising from its approval to this application involving any encroachment or other influence upon any easement or right-of-carriageway. The applicant's attention is further directed to the rights of persons benefited by any easement or right-of-carriageway concerning the entry and breaking up of a structure approved by this consent. In the event that such a structure causes damage, blockage, impediment or other thing requiring maintenance to infrastructure within the easement or right-of-carriageway, or access is required to carry out maintenance, Council accepts no responsibility in this regard now or in the future.

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

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

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

79. 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).
80. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway,

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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.

81. 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.
82. To ensure structural stability, engineer's details (in duplicate) of retaining walls, prepared by a qualified practising structural engineer, shall be submitted to the Principal Certifying Authority for consideration prior to the issue of the Construction Certificate.
83. All windows of habitable rooms on the western and eastern elevations of Block D, the eastern elevation of Block E, and the western elevation of Block C are to be of translucent glazing to ensure privacy is maintained to these apartments. Details are to be shown on the Construction Certificate plans.
84. Service ducts shall be provided within the building to keep external walls free of plumbing or any other utility installations. Such service ducts are to be concealed from view from the street. Details demonstrating compliance are to be provided in the Construction Certificate (*Reason: To ensure quality built form of the development*).
85. The following energy efficiency devices are to be installed within the development:
 - a) Gas boosted solar, heat pump or electricity boosted solar, instantaneous gas or high efficiency centralized gas hot water heating system.
 - b) Dual flush toilets.
 - c) Low flow taps and showerheads.

Details are to be submitted for approved with the Construction Certificate (*Reason: To promote the use of energy efficient appliances*).

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86. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS 1668.1. Details demonstrating compliance are to be provided with the Construction Certificate (*Reason: To preserve community health and ensure compliance with acceptable standards*).
87. All overhead electricity and other lines (existing and proposed) shall be undergrounded from the proposed buildings on the site to the appropriate power pole(s) or other connection points, in accordance with the requirements of Energy Australia. Details to be shown on plans submitted with the Construction Certificate (*Reason: To provide infrastructure that facilitates future improvement of the streetscape by relocation of overhead lines below ground*).
88. Sixteen (16) of the proposed apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and level door handles and taps: such features to be designed generally in accordance with AS 1428.1 and AS 4299-1995 – Adaptable Housing. Details demonstrating compliance are to be submitted with the Construction Certificate (*Reason: to ensure equity of access and availability of accommodation in the future for an ageing population*).
89. One hundred and ten (110) of the proposed apartments are to be 'visitable housing units' in accordance with the requirements of AS 4299. These apartments are to be visitable by people who use wheelchairs. There must be at least one wheelchair accessible entry and path of travel to the living area and to a toilet that is either accessible (meeting the floor space requirements described in AS1428.1) or visitable toilet (minimum space of 1250mm in front of the toilet that is either accessible or visitable. Details demonstrating compliance are to be submitted with the Construction Certificate (*Reason: to ensure equity of access and availability for disabled persons*).
90. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF 150 ADDITIONAL DWELLINGS IS CURRENTLY \$2,734,814.50. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

1. Community Facilities	\$1,117.76
2. Park Acquisition and Embellishment Works - Wairoonga	\$6,574.28
3. Sportsgrounds Works	\$1,318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

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

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

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

92. A CASH BOND/BANK GUARANTEE of \$45,000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

Tree numbers refer to Arborists Report by TALC dated 22 March 2005

#1 *Eucalyptus saligna* (Bluegum) \$3,000.00

Adjacent to northern/Munderah St site boundary

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#2 *Eucalyptus saligna* (Bluegum) \$3,000.00
North east/Pacific Hwy/Munderah St site corner

#4 *Eucalyptus saligna* (Bluegum) \$3,000.00
Adjacent to northern/Munderah St site boundary

#10 *Eucalyptus saligna* (Bluegum) \$3,000.00
Adjacent to western site boundary/2 Munderah St

#11 *Eucalyptus saligna* (Bluegum) \$3,000.00
Adjacent to western site boundary/2 Munderah St

#14 *Eucalyptus pilularis* (Blackbutt) \$3,000.00
Adjacent to eastern/Pacific Hwy site boundary

#15 *Eucalyptus saligna* (Bluegum) \$3,000.00
Adjacent to western site boundary/2 Munderah St

#25 *Eucalyptus saligna* (Bluegum) \$3,000.00
Adjacent to eastern/Pacific Hwy site boundary

#27 *Cedrus deodar* (Himalayan Cedar) \$2,000.00
Adjacent to eastern/Pacific Hwy site boundary

#73 *Afrocarpus falcata* (Brown Pine) \$1,000.00
Adjacent to eastern/Pacific Hwy site boundary

#131 *Eucalyptus saligna* (Bluegum) \$6,000.00
South west site corner

#132 *Eucalyptus saligna* (Bluegum) \$3,000.00
South west site corner

#166 *Eucalyptus saligna* (Bluegum) \$6,000.00
Adjacent to the rear north-west site corner

#171 *Eucalyptus saligna* (Bluegum) \$3,000.00
Adjacent to rear north-west site corner

93. Prior to the issue of any Construction Certificate the applicant shall lodge a \$50,000 (fifty thousand dollar) public infrastructure damage bond with Council. This bond is applied under the provisions of Section 97 of the Local Government Act to cover the restoration by Council of any damage to public infrastructure not repaired in full, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development and at the end of any maintenance period stipulated by

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consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
 - b) The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
 - c) Works in the public road associated with the development are to an unacceptable quality.
94. Prior to issue of any Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website). The design may be generally in accordance with the Stormwater Plan Report X04389-01 and corresponding drainage plans DA01, DA02, DA03, DA04 and DA05, dated December 2004, by Brown Consulting Engineers, submitted with the development application, and advanced as necessary for construction issue purposes.
95. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the Applicant must demonstrate to the Principal Certifying Authority that the necessary easement(s) for drainage have been created to benefit the entire (consolidated) lot. The easement is to be created over all intervening downstream private properties as far as Gilda Ave and is to be over the existing Council drainage pipeline to which connection is proposed. The terms shall be sufficiently wide enough to permit Council to allow the subject site to discharge its runoff into this piped system. The evidence must be in the form of registered title documents indicating the benefits as necessary. The intent of the condition is to ensure that the necessary easement for drainage is in place when works generating runoff (i.e. concrete pouring) are commenced.
96. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the Applicant must consolidate the existing Torrens lots. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.
97. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, any security gate, grille or door shown on the DA plans which would prevent unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area must be deleted from the plans approved with the Construction Certificate. Such details shall be to the satisfaction of the Principal Certifying Authority (PCA).
98. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, a plan detailing services trenches in accordance with the relevant supply authorities (including

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electricity, gas, telephone, water and sewerage), shall be submitted for approval by the Principal Certifying Authority (Principal Certifying Authority).

99. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the Applicant shall contact Energy Australia with regard to power supply for the subject development. A written response detailing the full requirements of Energy Australia (including cabling, lighting, need for substations or similar within the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the relevant Construction Certificate issue. Any structures or requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate to the satisfaction of the PCA. The requirements of the utility provider shall be met in full prior to issue of the final Occupation Certificate.
100. Prior to issue of the Construction Certificate for works excluding site clearing and excavation, footpath and driveway levels for the required driveway crossing 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 which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

101. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, car-washing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use, including pumps and back up power supply shall be shown on these designs to a detail suitable for installation by the plumbing services contractors. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
102. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full

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construction drawings for the proposed method of achieving Council storage volume requirements for the on-site stormwater detention, retention and bio-retention systems. The minimum storage volumes and designs shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), any manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. The design is to be in accordance with the Stormwater Plan Report X04389-01 and corresponding drainage plans DA01, DA02, DA03, DA04 and DA05, dated December 2004, by Brown Consulting Engineers submitted with the development application, and advanced as necessary for construction issue purposes.

103. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. 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) and shall be compatible with the necessary retention, detention and bio-retention devices. Plans and supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 and the relevant drainage codes. New connection points to the Council drainage system must be shown accurately on the plan and shall be made in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The design of these drainage components may be generally in accordance with the Stormwater Plan Report X04389-01 and corresponding drainage plans DA01, DA02, DA03, DA04 and DA05, dated December 2004, by Brown Consulting Engineers submitted with the development application, and advanced as necessary for construction issue purposes.
104. Prior to issue of a Construction Certificate for works excluding excavation and site clearing, the applicant shall submit, for approval by the Principal Certifying Authority (PCA), revised plans for the basement and external vehicle access and accommodation arrangements. These plans must address the following details:
 - a) Removal of all doors, grates or security grilles which would prevent access to the respective garbage collection and visitor parking areas within each building. This requirement is specified in Councils DCP 40 and DCP 55.
 - b) One of the resident parking spaces is to be allocated as visitor parking, which will then satisfy the visitor parking requirement of the LEP.
 - c) On parking level 4, Space 1 is to be a minimum 2.8m wide due to the adjacent wall.
 - d) On Parking Level 4, the section of curved roadway between the curved ramp and space 30 must have a minimum outer radius of 11.8m instead of 11 metres and a central median of 0.6 metres is required (refer to clause 2.5.2 of Australian Standard 2890.1 – 2004 "Off-Street car parking").

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- e) All disabled visitor parking spaces must have signposting (in accordance with AS1428.1) showing the direction to such spaces.
 - f) The transition at the bottom of 'Ramp 2' is to be minimum 2m long.
105. Prior to issue of a Construction Certificate for any works excluding excavation and site clearing, the Applicant must have detailed engineering plans approved by Council for the following works in the frontage Road Reserves:
- Construction of a fully new concrete footpath, 1.2 metres wide or as directed, over the full site frontage on the Pacific Hwy and Munderah Street.
 - Construction of fully new kerb and gutter on the development side in Munderah Street, between the Pacific Highway intersection and the existing kerb and gutter.

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

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

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

A minimum of three (3) weeks will be required for assessment of Roads Act submissions. Early submission is highly recommended to avoid delays in obtaining a Construction Certificate. An engineering assessment fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

106. In the interest of public safety, existing tree numbers 1, 2, 4, 10, 11, 14, 15 and 25, as identified with the submitted arborist's report, are to have further investigative work undertaken including aerial inspections and resistograph testing to be undertaken by the consulting arborist prior to the issue of the construction certificate to determine their structural integrity as a result of previous storm damage and initial findings.

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Recommendations and works to be undertaken as a result of the further investigation is to be detailed in a report which is to be submitted to the principal certifying authority, with a copy to Council's assessing Landscape Development Officer. The recommendations and works detailed within the report are to be undertaken prior to the release of the construction certificate. In the event that the trees are recommended for removal, replacement trees of the same species with a minimum pot size of 45litre are to be planted within the same general vicinity.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

107. 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.
108. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in Metres
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	7.0m
#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	6.0m
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	3.0m
#39 <i>Acer palmatum</i> (Japanese Maple) Adjacent to western site boundary/2 Munderah St	2.0m
#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	2.0m
#123 <i>Camellia sasanqua</i> (Chinese Camellia) Adjacent to eastern site boundary within 1578 Pacific Hwy	4.0m
#127 <i>Eucalyptus nicholii</i> (Small leaf peppermint) Adjacent to eastern site boundary within 1578 Pacific Hwy	5.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	5.0m

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#132 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	8.0m
#135 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to south west site corner in neighbouring property	10.0m
#140 <i>Castanospermum australe</i> (Qld Blackbean) Adjacent to western site boundary within neighbouring property	5.0m
#141 <i>Angophora floribunda</i> (Rough barked apple) Adjacent to western site boundary within neighbouring property	4.0m
#166 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the rear north-west site corner	6.0m
#170 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north-west site corner	3.0m
#171 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north west site corner	8.0m
#178 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north-west site corner	10.0m
#180 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear northern site boundary	8.0m
#184 <i>Erythrina sykesii</i> (Coral Tree) Adjacent to rear northern site boundary in neighbouring property	7.0m

109. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s excluding that area of the proposed driveway shall be fenced off for the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site:

Tree/Location	Radius From Trunk
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	10.0m
#4 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	6.0m

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#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	6.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#15 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#189 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	5.0m

110. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
111. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
112. Prior to the commencement of **any** works on site the applicant shall submit **to Council** a full dilapidation report on the visible (**including photos**) and structural condition of the following public infrastructure:
 - a) Full road pavement width, including kerb and gutter, of Munderah Street between the western most boundary alignment and the Pacific Hwy, including the intersection
 - b) All driveway crossings and laybacks opposite the subject site.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both via photo and written) *existing* damaged areas on the aforementioned infrastructure so that:

- Council is fully informed when assessing the damage to public infrastructure caused as a result of the development, and
- Council is able to refund infrastructure damage bonds, in full or parts thereof, with accuracy

The developer may be held liable to all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works. In this respect, the infrastructure damage bond lodged by the subject developer may be used by Council to repair the damage regardless.

113. Prior to the commencement of **any** works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:

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

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

2. Traffic Control Plan(s) for the site

- All traffic control devices installed in the road reserve must be in accordance with the RTA publication “Traffic Control Worksite Manual” and be designed by a person licensed to do so (minimum RTA ‘red card’ qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

3. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided

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

In addition, the plan must address:

- Evidence of RTA concurrence where construction access is provided directly or within 20m of an Arterial Rd.
- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.
- For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel’s vehicles do not impact on the current parking demand in the area.

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

4. **For traffic and pedestrian amenity purposes, no truck movements shall occur in Pacific Highway, Ada Avenue, or Munderah Street during school drop off (8:00am to 9:30am) nor during school collection hours (2:30pm to 4:00pm).**

The principal Certifying authority shall monitor the traffic control and management situation over the course of construction works and shall pay particular attention to traffic control during school drop off and collection hours. Where it is found that the traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.

The proposed truck route is to be temporarily signposted for the duration of the demolition and construction works to indicate the proposed truck routes.

114. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. The application must be made at least 15 days prior to the commencement of any works on site approved under this consent. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.
115. Prior to the commencement of any works on site, a closed circuit television (CCTV) inspection and report on the existing condition of the entire section of Council drainage pipeline traversing the subject property must be completed. The report must be provided to Council, attention Development Engineer, prior to issue of the Construction Certificate. The report is to include a copy of the video footage of the pipeline.

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116. Prior to the commencement of construction works on site the Applicant must liaise with the RTA in relation to installing 'No Stopping' signage over the Pacific Highway frontage of the site. The general requirement for the installation 'No Stopping' signage over the Arterial Road frontages of construction sites is specified by RTA.
117. Prior to the commencement of **any excavation works** on site the Applicant must submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations. This is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal. The report shall have regard to protecting the Applicant from spurious claims for structural damage and must be verified by all stakeholders as far as practicable. Where the consulting geotechnical engineer is of the opinion that no dilapidation reports on adjoining structures are required, certification to this effect shall be provided for approval by the Principal Certifying Authority prior to any excavation. Upon submitting a copy of the dilapidation report to Council (or certification that no report is required), a written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

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

118. The subdivision certificate must not be issued until a *final* Occupation Certificate is issued by the Principal Certifying Authority. This condition is imposed to ensure that all development works related to the subdivision are completed to an acceptable standard prior to transfer of responsibility for the site and development.
119. Prior to issue of the subdivision certificate the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site detention, retention and re-use, and bio-retention facilities. The terms of the instruments are to be generally in accordance with the Council's terms of Section 88B instrument for protection of detention and retention and re-use facilities (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. The locations of the facilities within common property are to be denoted on the final plan of subdivision.
120. Prior to issue of the subdivision certificate an easement for waste collection is to be created under Section 88B of the Conveyancing Act 1919. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection and shall be to the satisfaction of Ku-ring-gai Council.

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121. For issue of the subdivision certificate the Applicant must submit an original instrument under Section 88B of the Conveyancing Act with the plan of subdivision, plus six (6) copies. This is to create all required easements, rights-of-carriageway, positive covenants, restrictions-on-use or other burdens/benefits as may be required. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the same.
122. For issue of the subdivision certificate, the Applicant shall submit an original plan of subdivision plus six (6) copies suitable for endorsement by the consent authority. The following details **must** be submitted with the plan of Subdivision and its six copies, where Council is the consent authority:
- a) The endorsement fee current at the time of lodgment.
 - b) The 88B Instrument plus six (6) copies,
 - c) A copy of the final Occupation Certificate issued under this consent.
 - d) The Section 73 (Sydney Water) Compliance Certificate for the subdivision.

All parking spaces and all areas of common property, including visitor car parking spaces and on-site detention facilities, which are to be common property, must be included on the final plans of strata subdivision. Where Council is the consent authority, officers will check the consent conditions on the subdivision. Failure to submit the required information will delay endorsement of the linen plan, and may require payment of rechecking fees. **Plans of subdivision and copies must not be folded. Council will not accept bonds in lieu of completing subdivision works. If the certifying authority is not Council, then a copy of all of the above must be provided to Council.**

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

123. 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.
124. A survey report shall be submitted to the Principal Certifying Authority prior to occupation, which certifies that the development has been constructed in accordance with the terms of this consent in relation to built upon area, building levels and setbacks.
125. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
126. On completion of the landscape works/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.

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127. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the preliminary geotechnical study prepared by Pells Sullivan Meynik Pty Ltd Consulting Engineers (refer report number PSM858.L3 Rev2 dated 1st October 2004) and subsequent geotechnical input must be compiled in report format and submitted to the Principal Certifying Authority for approval.
128. At the completion of works and prior to issue of the Occupation Certificate qualified practitioners must undertake a follow up closed circuit television (CCTV) inspection and then report on the existing condition of the entire section of Council drainage pipeline traversing the subject property. The report must be provided to Council, attention Development Engineer, prior to issue of the Occupation Certificate. The report is to include a copy of the video footage of the pipeline. Any damage to the pipe caused by the works shall immediately be repaired in full at no cost to Council.
129. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:
- a) Completion of the new driveway crossing in accordance with levels and specifications issued by Council.
 - b) Completion of all works in accordance with the Council approved *Roads Act* plans.
 - c) Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to footway, turfed verge and upright kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - d) Full repair and resealing of any road surface damaged during construction.
 - e) Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. 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, crane use) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

130. Prior to issue of an Occupation Certificate the approved footpath and drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.
131. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).

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132. Prior to issue of an Occupation Certificate a suitably qualified consulting civil/hydraulic engineer is to provide engineering certification for approval by the Principal Certifying Authority (PCA). The certification is to make specific reference to each of the following aspects of the installed drainage and stormwater management measures:
- a) That construction of the stormwater drainage management systems has been carried out by a plumbing and engineering contractor licensed to do so.
 - b) All Sydney Water approvals have been obtained for the use of reticulated water.
 - c) That the as-built detention, retention and bio-retention systems achieve the design storage volumes approved by the Principal Certifying Authority with the Construction Certificate (engineer must complete the form in appendix 4 of DCP47 in relation to the on-site detention system).
 - d) The as-built drainage layout (including pits, pipes, spreaders and the like) is in accordance with the relevant stormwater management and drainage plans approved by the Principal Certifying Authority with the Construction Certificate,
 - e) That all enclosed floor areas, including habitable and basement levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, grading and provision of stormwater collection devices.
 - f) The overall as built drainage and stormwater management systems will achieve the discharge control intent of the approved construction plans and Councils Water Management DCP47.
133. Prior to issue of an Occupation Certificate the applicant shall submit Works-as-Executed (WAE) drawing(s) to the Principal Certifying Authority in relation to the installed stormwater drainage and managements systems. These plans shall cover:
- a) Completed bio-retention basins and indicative levels within.
 - b) As built location and indicative internal dimensions of all detention and retention structures on the property (plan view) and horizontal distances to nearest adjacent boundaries and buildings on site
 - c) As built surface and invert levels for all drainage pits and junction points.
 - d) Gradients of drainage lines, materials and sizes.
 - e) As built level(s) at the approved point of discharge to the public drainage system.
 - f) As built locations of all access pits and grates in the detention, retention and bio-retention systems, including dimensions.
 - g) The size of the orifices or pipe controls fitted.
 - h) Dimensions of the discharge control pit and access grates.
 - i) The achieved capacity of the retention and detention storages and derivative calculations.
 - j) The maximum depth of storage over the outlet control for on-site detention.
 - k) Top water levels of storage areas and indicative RL's through the escape flow path in the event of blockage of system.

The WAE(s) is to be prepared by a registered surveyor and shall show all critical constructed levels, materials and dimensions in comparison to those shown in the relevant designs approved by the Principal Certifying Authority with the Construction Certificate. All relevant

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details indicated must be marked in red on the Principal Certifying Authority stamped construction certificate stormwater drawings. The plan shall not be prepared until final surfaces (such as turf) are laid.

134. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):
- a) A copy of the approved Construction Certificate stormwater drainage plans which show the bioretention systems, retention systems and detention systems.
 - b) A copy of all the works-as-executed drawings as specified in this consent relating to drainage and stormwater management,
 - c) The Engineer's certifications of the as-built drainage, retention and detention systems as specified in this consent.

This condition is required so Council may maintain its database of as-constructed on-site stormwater detention/retention systems, and also applies if the Principal Certifying Authority (PCA) is not the Council.

135. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include full dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that:
- a) Vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 "Off-Street car parking" and
 - b) The revisions to the vehicle access and accommodation arrangements necessary under this consent, shown on the relevant approved Construction Certificate drawings, have been constructed, and
 - c) No security doors, grilles or gates are provided which would prevent access to the garbage storage area by Councils waste collection vehicle, including the truck manoeuvring area for forward egress.
136. Prior to issue of the Occupation Certificate, the provision of separate underground electricity, gas and phone, or appropriate conduits for the same, must be provided to the site to the satisfaction of the utility provider. A suitably qualified and experienced engineer or surveyor is to provide certification that all new lots have ready underground access to the services of electricity, gas and phone. Alternatively, a letter from the relevant supply authorities stating the same may be submitted to satisfy this condition.

BUILDING CONDITIONS

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

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- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
 - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
 - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
 - d. Retaining walls and associated drainage.
 - e. Wet area waterproofing details complying with the Building Code of Australia.
 - f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
 - g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
138. Any mechanical ventilation installed in a dwelling shall comply with the requirements of Part 3.8.5.0 of the Building Code of Australia Housing Provisions. Documentary evidence of compliance is to be obtained from a suitably qualified person and submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
139. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
140. All structural timber members subject to weather exposure shall have a durability class rating of 2 or better in accordance with Australian Standard 1684.2-1999 (National Timber Framing Code), or be preservative treated in accordance with Australian Standard 1604-1980 (Preservative Treatment for Sawn Timbers, Veneers and Plywood).
141. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
142. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

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

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

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

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

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

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

Catherine Otto
Executive Assessment Officer
Development Assessment - Central

Scott Cox
Team Leader
Development Assessment -Central

Matthew Prendergast
Manager
Development Assessment Services

Michael Miocic
Director
Development and Regulation

21 HANDLEY AVENUE, TURRAMURRA - OPTION TO RENEW LEASE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council that the Pymble Turramurra Kindergarten Inc. have exercised its option to renew the lease for the premises at 21 Handley Avenue, Turramurra.
BACKGROUND:	On 17 December 2002 Council resolved to grant a 2 year lease with a 3 and then further 5 year option to Pymble Turramurra Kindergarten Inc. to operate pre-school service from the premises located at 21 Handley Avenue, Turramurra. The initial 2 year lease commenced on 6 August 2003 and expires on 5 August 2005.
COMMENTS:	Pymble Turramurra Kindergarten Inc. has exercised their option to renew for a further 3 years as per the terms of the lease.
RECOMMENDATION:	That Council authorise the exercise of the option by the Pymble Turramurra Kindergarten Inc. for the premises at 21 Handley Avenue, Turramurra to continue to operate the pre-school centre.

PURPOSE OF REPORT

To advise Council that the Pymble Turramurra Kindergarten Inc. have exercised its option to renew the lease for the premises at 21 Handley Avenue, Turramurra.

BACKGROUND

Council is the owner of Lot 2 DP 209248 and Lot 1 DP 207586 and Lot 39 DP36328, that is zoned Residential 2(c) and classified as Operational Land.

On 17 December 2002 Council resolved to grant a 2 year lease with a 3 and then further 5 year option to Pymble Turramurra Kindergarten Inc. to operate pre-school service from the premises located at 21 Handley Avenue, Turramurra. The initial 2 year lease commenced on 6 August 2003 and expires on 5 August 2005.

COMMENTS

Pymble Turramurra Kindergarten Inc. under the conditions of the lease has exercised the option to renew the lease for a further 3 years.

Pymble Turramurra Kindergarten Inc. operated from these premises since 1962. The centre has been meeting its responsibilities as a tenant and has complied with the conditions as set out in Council's Policy for Leasing Council Property to Community Organisations. Given this, it is recommended that Pymble Turramurra Kindergarten Inc. be granted a renewal of its lease.

Being an option to renew, the conditions of the previous lease stand, with the exception of the exclusion of the renewal (option) clause. A condition of the original lease included a provision that the option license be subject to Council's leasing policy at the time.

CONSULTATION

Pymble Turramurra Kindergarten Inc. has exercised their option to renew as per the terms of the lease.

FINANCIAL CONSIDERATIONS

The current rental being paid by the Pymble Turramurra Kindergarten Inc. is \$3,927pa and is subject to annual CPI adjustments throughout the option period.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

The lessee has validly exercised their option to renew and have fulfilled their obligations under the term of the lease. Accordingly, Council is obliged to grant the renewal of the lease. The conditions of the original lease stand and are reflective of the leasing policy at the time.

RECOMMENDATION

- A. That Council receive and note the exercise of option and approve the grant of a 3 year lease to the Pymble Turramurra Kindergarten Inc. over Council premises at 21 Handley Avenue, Turramurra.
- B. That the Mayor and General Manager be authorised to execute all necessary lease documents.
- C. That Council authorise the affixing of the Common Seal of Council to the lease agreement.

Stephen Plumb
Community Facilities Coordinator

Janice Bevan
Director Community Services

DRAFT KU-RING-GAI COMMUNITY PLAN 2005 TO 2009

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To present to Council the draft Ku-ring-gai Community Plan 2005 to 2009.
BACKGROUND:	The Local Government (General) Regulation 1999 requires all Councils in NSW to develop a social/community plan and report on identified access and equity activities in their annual reports.
COMMENTS:	The draft Community Plan 2005-2009 reflects the priority needs and issues which were raised during consultations held with the local community during the second half of 2004.
RECOMMENDATION:	That the draft Ku-ring-gai Community Plan 2005 to 2009 be placed on public exhibition for a period of 28 days then reported back to Council.

PURPOSE OF REPORT

To present to Council the draft Ku-ring-gai Community Plan 2005-2009.

BACKGROUND

The Local Government (General) Regulation 1999 requires all Councils in NSW to develop a social/community plan and report on identified access and equity activities in their annual reports. The regulation aims to recognise and build on the many existing Council efforts to promote the well-being of their community members and effectively meet their needs through social/community planning. The regulation was introduced to assist councils to:

- promote fairness in the distribution of resources, particularly for those most in need
- recognise and promote people's rights and improve the accountability of decision makers
- ensure that people have fairer access to the economic resources and services essential to meeting their basic needs and improving their quality of life
- give people better opportunities for genuine participation and consultation about decisions affecting their lives.

The development of a Community Plan is included in Council's Management Plan 2004-2008 and was prepared through the assistance of Twyford Consulting.

What is a Community Plan?

A Community Plan is a way of examining quality of life issues for those living and working in Ku-ring-gai and a method by which Council can plan for the future. The plan is a produce of a participatory process which aims to forge working relationships between Council, other key government and non government agencies, and community and business groups so that important community issues can be identified and addressed in a co-operative way.

Issues identified through the community planning process will help Council to formulate its business plans across the range of Council functions and ensure that its services are, as far as possible, accessible and responsive to all members of the community.

All of these outcomes are arrived at through broad-based community consultation and a commitment by Council to include residents in decision making processes. By engaging in the development of a Community Plan, Council is also producing a document by which it can monitor its activities and measure progress in terms of well-being in Ku-ring-gai.

A Community Plan enables Council to:

- Respond to diverse social needs
- Ensure services are equitable and accessible
- Encourage citizen participation
- Focus on prevention and early intervention

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- Identify emerging social issues
- Work collaboratively with the community and service providers
- Build community connectedness
- Resource communities to find their own solutions
- Promote innovation and creativity
- Increase capacity and resilience

Previous Community Planning in Ku-ring-gai

Ku-ring-gai Council has a history of social planning dating back to 1985, when it was one of the first councils in NSW to undertake such a planning initiative.

Since that time Council has developed a number of other social planning documents including:

- Youth Consultation Report (1995)
- Child Care Services Plan (1995)
- Services and Facilities Plan for Seniors (1996)
- Ku-ring-gai Council's Social Plan 2000

The timing allows the new Community Plan 2005-2009 to become effective at the beginning of Council's 2005-2009 Management Plan.

In addition, the Community Plan will interface with the following Council planning processes and policies:

- Council's Management Plan
- Council's Access and Equity Policy & Plan
- Council's Access Policy and Disability Discrimination Act Action Plan
- Council's Budget Development
- Council's State of Environment Report
- Council's Residential Development Strategy
- Council's Environmental and Planning Instruments ie Plans, Policies and Codes
- Development Applications
- Council's Section 94 Contributions Plan

COMMENTS

The draft Community Plan 2005-2009 is a way that councils can demonstrate that they are responsive to their communities needs and aspirations.

Council engaged the services of Twyford Consulting to assist in the preparation of the Community Plan 2005-2009. The development of the community plan is included in Council's Management Plan 2004-2008. The draft Community Plan 2005-2009 reflects the priority needs and issues raised at these consultations and sets out recommendations on the roles that Council and others can take in addressing these issues.

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One of the key objectives of this Community Plan was to ensure that it related across the many areas of Council's business, as opposed to primarily focussing on community services. To help overcome this tendency, Council's Management Plan 2005-2008 framework will form the basis to discuss identified issues. The Management Plan key result areas are:

- Civic Leadership
- Integrated Planning
- Community Development
- Natural Environment
- Built Environment
- Financial Management
- Corporate Services

Council has been undertaking planning and programs in a range of areas, and the Community Plan has identified opportunities for building upon and linking with these initiatives.

Some of the key issues, findings and gaps in service delivery arising from the Community Plan 2005-2009 are listed:

Civic Leadership

- Council has mostly used conventional means of consulting its community, although it has shown a great deal of commitment and initiative to consult key stakeholders and work collaboratively with other organisations and State Government.
- There is no structured way of quickly gaining thoughtful feedback from a representative section of the Ku-ring-gai community, making it difficult for Council to gauge community opinion, or to effectively monitor effectiveness of Council initiatives from previous social plan.
- Residents expressed willingness to participate more actively in Council's consideration of key issues of importance, especially in relation to the built environment in their local area.
- Youth Council has been effective with regard to planning activities for young people however could be utilised more productively to consider policy matters and decisions being considered by Council.

Integrated Planning

- There is growing appreciation of the inevitability of increased housing density/population.
Residents believe very strongly in the need to retain character of the area, mainly in regard to trees, parks, space, heritage, safety, biodiversity.
- Residents are concerned about traffic and parking in the LGA, and possible ongoing implications associated with increased population.
- Public transport for many is not seriously entertained as an option. For those who are quite mobile and use public transport through the day, satisfaction is quite high. For young people away from rail line transport is problematic, as it is for those who use

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prams, wheelchairs, scooters. Older people and people with disabilities cannot access railways stations in Ku-ring-gai.

- Coordination, planning and development of services to frail aged and people with disabilities.
- Integrated transport plans including active transport ie cycle ways, pedestrian and footpath plans.

Community Development

- Many people throughout Ku-ring-gai experience social isolation, especially those who are new to the area, and without existing networks or established groups with whom to connect.

Children:

- There is a significant need for additional children's services, especially long day care and occasional care.
- Awareness about the range of available children's services, and the difficulty of obtaining placements, is not strong, both for newcomers to the area and new parents.
- Young people highly value their education in the LGA and have difficulty accessing space in public libraries of an afternoon.
- Council's Youth Outreach Service is limited in its current form due to lack of a purpose built vehicle and appropriate resources. Transport to support activities such as the Fitz (Youth Centre) could help enable some young people to enjoy Band Nights and other activities.
- Public transport for young people who live away from the rail/highway corridor is poor after hours.
- The image of young people has been improved through publicity around successful events organised by Council. Negative media portrayal of young people will remain an ongoing issue.
- There are few recreational outlets in the LGA for young people, which have been identified through representations made to Council- a variety of options could be developed as young women are under-represented as users of current youth services.
- Racism in schools has been identified by young people in the LGA, although it is more subtle and not always picked up by school authorities.

Older People:

- Facilities for HACC service providers are inadequate, and the population is ageing. Facilities also inconsistent with more integrated approach to service delivery.
- Awareness about the range of available services to older people is not strong, or is confusing.
- Footpaths are dangerous or non-existent in many part of the LGA – which represents a hazard for older people and people with disabilities.
- Transport services for frail aged and younger people with disabilities remains somewhat inflexible.

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People with Disability:

- The Access Committee has assisted considerably with Council's efforts to improve access across the LGA. There is more work to be done, especially in relation to footpaths, shopping centres, open space areas and rail access.
- Public amenities for adults with disabilities are improving but still inadequate, especially for people with very high support needs.
- Parking spaces for people with disability needs to be monitored, especially as commercial and retail areas are redeveloped.
- Awareness about the practical challenges of living with a disability is not high.
- Given the anticipated speed of development in the LGA it is imperative that ongoing communication with people with disabilities (PWD) is maintained to ensure responsive planning.
- Cultural and linguistic diversity is increasing throughout the community, including older age groups. Services are becoming more responsive though anecdotally, people from CALD are under-represented in user statistics.

Women:

- Women/parents with small children face a number of challenges with regard to mobility. The poor condition or absence of footpaths means that women do not take small children in prams/strollers for walks; lack of easy access at railway stations is also an issue.
- There are few places for women with small children to socialise – public spaces with safe and interesting playgrounds where parents can enjoy meeting and share a coffee. Many cafes face busy roads or highways; most playgrounds are uninviting for parents.
- Retail outlets are disappointing in Ku-ring-gai. The shopping experience is not all that enjoyable.
- Issues of domestic violence and child abuse are somewhat hidden, being an affluent and established area. Council is not seen as being as active in raising awareness about these concerns as previously.

Aboriginal and Torres Strait Islanders (ATSI):

- There is a small population of Aboriginal and Torres Strait Islanders in Ku-ring-gai; the Northern Sydney Area offers limited services to ATSIs, which means their needs are often overlooked, and/ or they travel to areas like Redfern to obtain support and assistance.
- There is limited recognition of the indigenous heritage of Ku-ring-gai throughout the LGA.

Culturally and Linguistically Diverse (CALD) Communities:

- Few materials are prepared in languages other than English. Recognition of growing numbers of other language groups could be recognised more.
- Cultural and linguistic diversity is increasing throughout the community, including older age groups. Services are becoming more responsive though anecdotally, people from culturally and linguistically diverse communities are under-represented in user statistics.
- Levels of acceptance and inclusion are mixed; although Ku-ring-gai is a highly educated community some prejudice and racism is apparent, at least anecdotally.

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- Small and emerging community groups would not be able to operate effectively without Council subsidising their accommodation costs.
- For people who are culturally and linguistically diverse, communicating with Council can be challenging. Council has responsibility under access and equity to meet the needs of culturally and linguistically diverse members of the community.

Natural Environment:

- The Ku-ring-gai community highly values the surrounding natural environment, and the connecting urban forest within its neighbourhoods. Many fear that development will threaten this prized characteristic of the LGA. At the same time a number of people do not take advantage of these areas owing to the orientation of shopping areas (toward the highway and not toward open space), and the difficulty accessing parks other than by car.
- Bush care groups play an important role in Ku-ring-gai, helping to maintain awareness and understanding of the bushland, as well as helping to maintain them.

Built Environment:

- Footpaths are dangerous or non-existent in many parts of the LGA – which represents a hazard for a range of people, as well as preventing people from getting to know their neighbourhoods.
- Many of Council facilities are looking tired and no longer serve the needs of a more diverse community.
- Although large houses on tree lined blocks characterise Ku-ring-gai there are growing numbers of older people who cannot find “easy to maintain” and well located housing within the LGA.

Financial Sustainability:

- Council is committed to reducing its heavy reliance on rating revenue and its level of debt.

Corporate Support Services:

- Reasonable efforts have been made to provide information to the community through Council newsletters and the web site, however consultation revealed that many people are unclear about Council’s services, or the information they hold that might be of value.
- Council officers have good skills and knowledge in technical areas, and in community development. The issues raised in this Community Plan need to be understood, and skills need to be developed in regard to the use of tools for community engagement and how they can assist Council’s decision-making and delivery of services.

To address the issues, findings and gaps in service delivery, a number of directions / recommendations have been identified in the Community Plan for Council’s consideration.

Needs Assessment

In order to comply with Local Government (General) Regulation 1999, a needs assessment was conducted based on the mandatory target groups as well as the broad community issues. These included:

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- Children ie those aged between 0 and 11 years
- Young people ie those aged between 12 and 24 yrs
- Women
- Older People aged 55 years and over
- People with disability – this term covers all types of disability
- Aboriginal and Torres Strait Islander people
- People from culturally and linguistically diverse backgrounds
- General issues:
 - social isolation
 - unsafe pedestrian/cycle access around the LGA
 - the need for safe, aesthetically pleasing areas of open space
 - community engagement

These needs have been documented in the Community Plan as well as the identification of several strong issues that have emerged during the consultation process. At the conclusion of each section, a number of priority areas have been identified for Council consideration and further investigation.

In addressing the needs of Aboriginal people living in Ku-ring-gai in greater detail, Council has participated in a regional planning process to prepare a Northern Regional Aboriginal Social Plan. This is an integrated approach to human services planning involving local, state and commonwealth government departments. Approaching this planning on a regional basis is consistent with the structure of the Aboriginal Land Council, which covers Northern Sydney, as do the majority of services and networks for Aboriginal people.

The Regional Aboriginal Social Plan has involved consultation with Aboriginal people across Northern Sydney to identify issues that can be addressed at a local and regional level. The draft plan will be submitted to Council separately later this year, once it has been finalised.

CONSULTATION

In developing the Community Plan it was important to acknowledge that Council had already undertaken a great deal of consultation and for some participants, consultation fatigue was a concern. With this in mind, the following approach was undertaken.

- Carefully review what residents/community groups have already told Ku-ring-gai Council through an intensive document/literature review.
- Use existing forums/consultation processes to explore community planning priorities.
- Provide opportunities for contributors to the Community Plan to work together to identify practical solutions to the main issues identified (as opposed to simply raising the same issues again)
- Invite comment from, and make it as easy as possible for, any resident or group who wishes to contribute to the development of the Community Plan.
- Explore ways of connecting the Community Plan to other plans being undertaken by Council.

The range of consultation techniques included; interviews internal/external, professional networks, workshops/focus groups, surveys, written submissions, website and public notices in local papers.

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This material, the ideas and insights, were drawn upon in the needs assessment and helped to shape the priorities in the Community Plan.

FINANCIAL CONSIDERATIONS

The financial implications of this plan at this stage only relates to placing this document on public exhibition. The cost of placing the Community Plan on public exhibition will be funded from the existing Community Services budget. Cost implications for any adopted recommendations will be reported on a progressive basis to Council for consideration.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Interviews were held with the Mayor, General Manager, Directors and staff from various Council Departments. Joint consultations were also held with Open Space. Regular briefings and updates were provided through Council's Community Services Committee.

SUMMARY

A range of findings and priority areas have been identified in the Community Plan to address issues raised by the community. A number of the strategies will require an inter-departmental approach and the involvement of residents, community groups and other levels of government to effect change that will lead to improvements in the quality of life of Ku-ring-gai residents. The areas identified with the Community Plan reflect a diversity of roles for Council, including; lobbying, advocacy, service planning and coordination, policy development, enhancement in service provision and further research.

A key component in the development of the Community Plan will be the public exhibition process. This will provide residents, community organisations, professional networks, local businesses and other levels of government the opportunity to give Council feedback in issues and priorities identified in the Community Plan. It is likely therefore, that this additional feedback, when incorporated in the Community Plan, will further enhance the original document.

RECOMMENDATION

That the draft Ku-ring-gai Community Plan 2005-2009 be placed on public exhibition for a period of 28 days and then reported back to Council.

Danny Houseas
Manager Community Development

Janice Bevan
Director Community Services

Attachments: Draft Ku-ring-gai Community Plan 2005 to 2009

WEST PYMBLE POOL REFURBISHMENT STAGE 4 TENDER

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to authorise a selective tender process for Stage 4 works for the refurbishment of West Pymble Pool in accordance with the facility condition audit and five year asset management plan.
BACKGROUND:	West Pymble Pool is the only public swimming pool in the Ku-ring-gai local government area and was opened late 1969. In February 2002, a facility condition audit was undertaken by consultants, which recommended work priorities in order to comply with the NSW Health Guidelines and to ensure lasting quality of the asset.
COMMENTS:	<p>Stage 1 and Stage 2 works were undertaken and completed between May and August 2004.</p> <p>Planning for Stage 4 works has commenced and a Council resolution is required to enable a tender process to be commenced and reported to Council.</p>
RECOMMENDATION:	That Council authorise a tender for Stage 4 refurbishment works to upgrade the 50 metre pool plant room and water treatment plant.

PURPOSE OF REPORT

For Council to authorise a selective tender process for Stage 4 works for the refurbishment of West Pymble Pool in accordance with the facility condition audit and five year asset management plan.

BACKGROUND

In February 2002, consultants were commissioned to undertake a facility condition audit and develop a long term asset maintenance program for the pool.

The audit outlined the following recommendations and priorities in order to comply with NSW Public Health Guidelines and to ensure longevity of the asset. These recommendations include:-

- A. Separation of the 50 metre pool from the remaining pools, in terms of pool water reticulation, filtration, treatment and heating
- B. Provision of reticulation, filtration, water treatment and heating systems for leisure pools and a new common balance tank for the leisure pools
- C. Provision of new filtration systems for 50 metre pool and upgrade of balance tank
- D. Upgrade of gutter and return to pool system for leisure pools
- E. Upgrade of gutter and return to pool system for 50m pool
- F. Surface treatment for 50 metre pool (tiles)
- G. Surface treatment for leisure pools (tiles)
- H. Provision of new backwash tank

On 19 November 2002, Council considered a report on all asset classes and appropriate funding strategies for their long term management and maintenance. The needs of the West Pymble Pool as one of the community's most significant asset was considered within this report. The report considered staging of works over a five year period, with priority works focusing on filtration and reticulation associated with the leisure pool (babies, toddlers and learners) in Stage 1.

The capital works allocation required for the pool, as adopted by Council on 19 November 2002, is \$300,000 per year over the next five years, totalling \$1.5 million.

In June 2003, consultants were engaged to prepare documentation assessment and project management of Stage 1 works. Stage 1 works were undertaken by Swimplex Constructions Pty Ltd., commencing at the end of the 2003/04 swimming season.

Stage 1 works included:-

- A. Separation of the 50m pool and leisure pool in terms of water reticulation, filtration, treatment and heating.
- B. Provision of reticulation, filtration, water treatment and heating systems for leisure pools and a new common balance tank for leisure pools.
- C. Upgrade of gutter and return to pool system for leisure pools.
- D. Upgrade of electrical infrastructure for new leisure pools plant room.

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In November 2003, consultants were engaged to prepare designs, tender documentation and project manage Stage 2 works.

Identified Stage 2 works included:-

- A. 50m pool balance tank upgrade
- B. A new backwash tank.
- C. 50m pool/joint repair/replacement.

These works commenced in July 2004 and were completed in August 2004, prior to the 2004/2005 swimming season.

In December 2004, Paul Stevenson and Associates Pty Ltd, Aquatic Engineering Consultants, were appointed to review the program and budget estimates, prepare tender documentation, assess tenders and project manage Stage 3 works.

Replacement of the existing gas heating for the main pool will be complete prior to the opening of the pool for the 2005/06 swimming season.

Refer to Confidential Financial Considerations, Attachment 1, Program and Budget Estimates for Stage 4 Works.

COMMENTS

Following a review of the program and budgeting, the remaining works required to complete the program are:

- A. Upgrade 50m plant room and provision of new 50m water treatment plant.
- B. Upgrade of 50m pool water distribution system, surface finishes and furniture.
- C. Enclose leisure pool filtration yard.
- D. Provision of new 50m pool heating system.

Stage 3 works will comprise the provision of a new 50 metre pool gas heating system. These works are currently being designed and quoted and will be undertaken prior to the pool re-opening for the 2005/06 swimming season in September 2005.

Stage 4 works are proposed as the following:

- Upgrade the 50 metre pool plant room and provide new water treatment plant for 50 metre pool.

The cost of stage three and four will exceed available funds in the 2005/06 financial year. Accordingly, it is proposed that stage 4 works will commence at the conclusion of the 2005/06 swimming season and will carry over into the 2006/07 financial year. The works will be complete prior to the 2006/07 swimming season.

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To ensure that these timeframes are met, planning for the project has commenced and a Council resolution is required to enable a tender process to be commenced and reported to Council in November 2005.

Attachment 1 (confidential) outlines the proposed program and estimated costings for remaining works.

CONSULTATION

The lessee at the facility has been consulted and involved in the process since initial work started in 2002 when the facility condition maintenance and depreciation audit was undertaken. The lessee has indicated support for the staged works program.

Development of the Expression of Interest and tender documentation will involve the specialist aquatic project manager, the pool lessee and Council officers.

FINANCIAL CONSIDERATIONS

Costings and timing associated with the works program have been included as a confidential attachment (Attachment 1, Stage 3 Program and Budget Estimates). Funds sufficient to manage and deliver Stages 3 and 4 of the project will be available within the current forecast of available funds in the 2005/2006 and 2006/2007 Management Plans. Due to the increases in necessary works and cost increases the total cost of the program for all stages of work is likely to increase by \$250,000 to a total cost of 1.75 million dollars.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Finance and Business Development have been consulted in the development of this report, particularly with regard to the financial implications and will assist in the evaluation of the Expression of Interest and tender responses.

SUMMARY

On the basis of the facility condition audit and asset maintenance program, a five year pool refurbishment program totaling \$1.5 million (\$300,000 per year) was endorsed by Council in November 2002. These funds are specifically allocated for the implementation of the required stage works, as identified in the long term asset management plan for the facility.

Stage 1 and Stage 2 Works were undertaken and completed between May 2004 and August 2004.

In December 2004, a consultant was engaged to assist Council officers with the development of the Expression of Interest tender documentation, assessment and project management of the implementation of Stage 3 and 4 of the works program.

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The tender for Stage 4 works will be advertised during July 2005 and tender responses will be assessed during September 2005. A further report to Council in November 2005 will recommend a preferred tenderer, costs and recommended timing for implementation of the work.

RECOMMENDATION

- A. That council receive and note the report outlining an upgrade on the program of works to the pool.
- B. That a tender be used for the selection of suitably qualified persons or organisations to implement Stage 4 upgrade to the 50 metre pool, plant room and water treatment plant works, as outlined in this report, consistent with the provision of Section 55 of the Local Government Act.
- C. That a further report be referred to Council to consider tender submissions, the preferred tenderer and associated funding implications during November 2005.

Warwick Brown
**Landscape Technical
Officer**

Amanda Colbey
**Manager Parks Sport and
Recreation**

Steven Head
Director Open Space

Attachments: Confidential Stage 4 Program and Budget Estimates.

BUSHLAND CATCHMENTS AND NATURAL AREAS REFERENCE GROUP - MEETING OF 9 MAY 2005

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To bring to the attention of Council the proceedings from the Bushland Catchments and Natural Areas Reference Group meeting held on Monday 9 May 2005.
BACKGROUND:	The role of the Bushland Catchments and Natural Areas Reference Group is to provide resident and industry expert advice and feedback to Council on matters relevant to bushland, catchments and natural areas.
COMMENTS:	The meeting discussed fire management proposals, environmental levy, environmental research, weed mapping and the progress on the transfer of land at Nelson Street, Gordon.
RECOMMENDATION:	That the Minutes of the Bushland Catchments and Natural Areas Reference Group meeting held on 9 May 2005 be received and noted.

PURPOSE OF REPORT

To bring to the attention of Council the proceedings from the Bushland Catchments and Natural Areas Reference Group meeting held on Monday 9 May 2005.

BACKGROUND

The role of the Bushland Catchments and Natural Areas Reference Group is to provide resident and industry expert advice and feedback to Council on matters relevant to bushland, catchments and natural areas.

COMMENTS

The group discussed 5 items including:

- Transfer and acquisition of land at the rear portion of 38 Nelson Street Gordon.
- Fire management program, including the strategic development of the Hornsby Ku-ring-gai district bush fire management plan and its implementation.
- Environmental levy
- Environmental research proposals
- Weed mapping

There are no specific items enquiring consideration by Council.

CONSULTATION

The Reference Group is itself a consultative forum representing the interests of residents, user groups and industry experts.

FINANCIAL CONSIDERATIONS

There are no direct financial considerations related to this report.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation with other departments has taken place in the preparation of this report. Specifically in relation to the land transfer at Nelson Street and the development of the environmental levy.

SUMMARY

The Reference Group were presented information for discussion on three strategic projects,

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fire management, environmental levy and potential research, the ongoing weed mapping project and in general discussion the future acquisition of land at Nelson Street Gordon. There are no specific items requiring consideration by Council.

RECOMMENDATION

That the attached Minutes of the Bushland Catchments & Natural Areas Reference Group meeting of 9 May 2005 be received and noted.

Peter Davies
**Manager Bushland Catchments & Natural
Areas**

Steven Head
Director Open Space

**Attachments: Minutes of Bushland Catchments & Natural Areas Reference Group
meeting held on 9 May 2005**

DRAFT (HERITAGE CONSERVATION) LOCAL ENVIRONMENTAL PLANS NO 31, 134 TO 138 EASTERN ROAD, WAHROONGA & NO 32, "THE OAKS", 517 PACIFIC HIGHWAY, KILLARA

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to consider the abandonment of Draft (Heritage Conservation) Local Environmental Plans No 31 (DHLEP31), 134-138 Eastern Road, Wahroonga and consider DHLEP32 "The Oaks", 517 Pacific Highway, Killara (DHLEP32) following exhibition.
BACKGROUND:	On 15 February 2005, Council resolved to prepare a Local Environmental Plan for 134-138 Eastern Road, Wahroonga and the property known as "The Oaks" at 517 Pacific Highway, Killara as draft heritage items in Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance. DHLEP31 and DHLEP32 were then placed on public exhibition from 20 April 2005 to 19 May 2005.
COMMENTS:	No submissions were received in relation to DHLEP31. In the case of <i>Mirvac Projects Limited v Ku-ring-gai Council</i> [2005] the issue of the proposed demolition of Interwar Building at 134-138 Eastern Road, Wahroonga was considered. The Court permitted the demolition to proceed. In light of the Court's finding, it is recommended that Council abandon DHLEP31. Submissions were received in support of Council's inclusion of "The Oaks", 517 Pacific Highway, Killara in Schedule 7 (Heritage items) of the Ku-ring-gai Planning Scheme Ordinance (KPSO) and the supporting heritage map.
RECOMMENDATION:	That Council abandon Draft LEP31 (134-138 Eastern Road, Wahroonga). That Council adopt Draft (Heritage Conservation) Local Environmental Plan No 32 "The Oaks" and submit the Draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act 1979 with a request that the Plan be made.

PURPOSE OF REPORT

For Council to consider the abandonment of Draft (Heritage Conservation) Local Environmental Plans No 31 (DHLEP31), 134-138 Eastern Road, Wahroonga and consider DHLEP32 "The Oaks", 517 Pacific Highway, Killara (DHLEP32) following exhibition.

BACKGROUND

134-138 Eastern Road, Wahroonga

In 2004 Council received a development application seeking consent for the demolition of the existing inter-war building and chapel on the property located at 134-138 Eastern Road, Wahroonga. Council on 15 February 2005 resolved:

- A. *That Development Application No 991/04 for the demolition of the existing interwar building and chapel on site be refused on grounds of the heritage significance of the interwar building and chapel.*
- B. *That Council prepares a Local Environmental Plan to include the site at 134 – 138 Eastern Road, Wahroonga as a draft heritage item.*
- C. *That Council makes a request to the Minister to consider making an Interim Heritage Order (IHO) on the site.*
- D. *That Council notifies the Department of Infrastructure, Planning and Natural Resources of its intention to prepare a draft Local Environmental Plan in accordance with Section 54 of the EP & A Act.*
- E. *That Council notify the owners of all affected properties of its decision.*
- F. *That the Draft Plan be placed on exhibition in accordance with the requirements of the EP & Act and Regulations.*
- G. *That a report be brought back to Council at the end of the exhibition period.*

Following Council's resolution, Draft (Heritage Conservation) Local Environmental Plan No. 32 was prepared. A heritage assessment was undertaken as part of the Court Case. DHLEP32 was placed on public exhibition to receive written submissions from 20 April 2005 to 19 May 2005. One submission was received during this period received from Mirvac Projects Pty Limited the owner of the subject land. During the exhibition period, the case of *Mirvac Projects Limited v Kuring-gai Council* [2005] NSWLEC 162 (21 April 2005) was heard in the Land and Environment Court NSW. Roseth SC and Murrell C considered the issue of the proposed demolition of Interwar Building at 134-138 Eastern Road, Wahroonga. The Court approved the demolition of the interwar building (**ATTACHMENT 1**).

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“The Oaks” 517 Pacific Highway, Killara

At the meeting on 15 February 2005 Council resolved:

- A. *That Council prepares a Local Environmental Plan to include 517 Pacific Highway, Killara as a draft heritage item.*
- B. *That Council makes a request to the Minister to consider making an Interim Heritage Order (IHO) on the site.*
- C. *That Council notifies the Department of Infrastructure, Planning and Natural Resources of its intention to prepare a draft Local Environmental Plan in accordance with Section 54 of the EP & A Act.*
- D. *That Council notifies the owners of all affected properties of its decision.*
- E. *That the Draft Plan be placed on exhibition in accordance with the requirements of the EP & A Act and Regulations.*

Council engaged Glen Cowell Heritage Services in February 2005 to prepare the heritage assessment for the land known as “The Oaks”, 517 Pacific Highway, Killara. It found the site to be of historical, aesthetic and social significance and some technical/research significance. The Heritage report came to the following conclusion:

“The Oaks” is one of the few large mansions in a largely intact condition and in its original expansive gardens, still remaining along the Pacific Highway corridor through the suburb of Killara. The building should be retained as a reflection of the original concept and promotion of the suburb as a suitable place for “Gentlemen of Means”.

The character of the building is expressive of the transitional period between Federation and Inter-War styles and exhibits rare detailing in its oversized horseshoe arches which dominate the front of the building.

Consideration should be given to either listing this building as a local heritage item and retaining its use as a single residential unit, or redeveloping the property in such a way that the existing house will be retained intact with a higher density re-use of the site.

The Draft Plan was placed on public exhibition and seeking written submissions from 20 April 2005 to 19 May 2005.

COMMENTS

134-138 Eastern Road, Wahroonga

Mirvac Projects Limited v Ku-ring-gai Council

In the case of *Mirvac Projects Limited v Ku-ring-gai Council* [2005] NSWLEC 162 (21 April 2005), Roseth SC and Murrell C of the Land and Environment Court considered the issue of the proposed demolition of Interwar Building at 134-138 Eastern Road, Wahroonga. The Court

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considered whether the building located at 134-138 Eastern Road, Wahroonga justifies retention and adaptive re-use at considerable cost and secondly, whether the building, if adapted, would be successful in achieving the purpose of retention, namely retaining its identified value and significance to the Patrician Brothers', the site and Wahroonga.

The Court's key findings were:

1. *"The Patrician Bothers' use of the site will be permanently commemorated by retention of Glenwood House and the associated interpretive material. The retention and adaptive re-use of the Interwar building would not add to the effectiveness in commemorating the Bothers' role".*
2. *"The demolition of the building, which is located within Glenwood House's curtilage, would "free-up" Glenwood House and assist in making it the focus of the residential estate".*
3. *"In coming to our decision, we were not influenced by the cost of converting the Interwar building to a house the significance of the Interwar building is not of a significance that justifies its retention".*

Given the determination of the court case allowing demolition of the draft heritage item located at 134-138 Eastern Road, Wahroonga it is unlikely that the Minister will make an Interim Heritage Order to halt demolition. Given this, it is recommended that Council abandon DHLEP31.

Interim Heritage Order

On 30 May 2005 Council received notification from the NSW Heritage Office regarding Council's nomination of the former Patrician Brothers Training College and Chapel for an Interim Heritage Order under the Heritage Act, 1977 (**ATTACHMENT 2**). After giving detailed consideration to the submitted nomination the Heritage Office is of the opinion that the Interwar Building does not meet the criteria for state significance. The Heritage Office further considered it to be a local heritage management issue to be addressed through the planning system. To this end the Heritage Office commented that in the recent proceedings of the Land and Environment Court, and the determination of the court had satisfactorily addressed the heritage significance of the Interwar Building. The Heritage Office did not recommend the making of an Interim Heritage Order over this site.

"The Oaks" 517 Pacific Highway, Killara

Interim Heritage Order

At its meeting on 15 February 2005, Council resolved to request an Interim Heritage Order (IHO) under section 24 of the Heritage Act for a site at 517 Pacific Highway, Killara (**ATTACHMENT 3**). The issue was raised when a demolition application was lodged for demolition of a two storey face brick residence with sandstone detailing (known as "The Oaks"), constructed within the first decade of the Twentieth Century which is located on the site. Council believes the building has local heritage significance and seeks to extend the listing to include the item. Council wrote to the Heritage Office in February 2005 seeking an IHO to provide adequate protection until the draft LEP can be finalised. A response to Council's request was received from the Heritage Office on 5 April

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2005 advising that it does not consider action under the Heritage Act to be warranted at the present time, however it indicated that the Heritage Office is continuing to monitor the matter closely.

CONSULTATION

Notification under Section 54 of the Environmental Planning and Assessment Act 1974 (EP&A Act) was made to the Department of Infrastructure, Planning and Natural Resources (DIPNR) and Section 62 notification to relevant State agencies on Wednesday 20 April 2005. Draft (Heritage Conservation) Local Environmental Plan No. 31 and 32 were placed on formal public exhibition at the Customer Service Centre and Council's libraries and Council's website from 20 April 2005 to 19 May 2005. Affected property owners were also notified in writing of the exhibition of the Draft Plan and were invited to make submissions. In response to DHLEP31 (134-138 Eastern Road, Wahroonga) one submission (**ATTACHMENT 4**) was received from Mirvac Projects Pty Limited requesting that Council allow them reasonable opportunity to prepare and submit to Council a written submission on the Draft Plan. In relation to "The Oaks" 517 Pacific Highway, Killara, two submissions were received from State agencies, neither raised objections to the draft plan. A total of 13 public submissions were made all of which were in favour of the proposed draft plan (**ATTACHMENT 5**).

Public Submissions

A summary of the general submissions made for the proposed heritage listing is provided below and a copy of submissions is attached.

Issues raised in Submissions in support for the Heritage Listing Under DHLEP32

Summary of Issues raised in Submissions	Comments
<p>The property is a precious remnant of early Ku-ring-gai.</p> <p>There are few remaining examples of early 20th Century architecture remaining in Ku-ring-gai.</p>	<p>"The Oaks" is significant as part of the early residential development of the new northern suburb of Killara between 1890 and 1915 when Federation Period styles were at their peak of popularity.</p>
<p>The site forms part of the National Trust Urban Conservation area and Potential Conservation Area.</p> <p>Encourages the adaptive reuse of the dwelling.</p>	<p>As stated in the submission, "The Oaks" was included on the National Trust of Australia (NSW) Register in 1980.</p> <p>The Glen Cowell Heritage Assessment recommends that "depending on the quality and intactness of the interior, "The Oaks" could be converted for use as two or more apartments".</p>
<p>"The Oaks" is of architectural significance and displays rarity value.</p> <p>It has a rich social history and a landscape of significant trees.</p> <p>It is a prominent and well known landmark which establishes a dominant streetscape pattern.</p> <p>"The Oaks" is a 'pristine gem' in Ku-ring-gai.</p>	<p>"The Oaks" which is largely intact externally has historic and aesthetic significance for its age and for its landmark quality as one of the few remaining large residential buildings from this period still remaining along this section of the Pacific Highway at Killara.</p> <p>The building has aesthetic significance for the largely intact fabric of the original residence, which retains the high quality and character of the original design. It has significance as one of the large, important residences</p>

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Summary of Issues raised in Submissions	Comments
Concerned about the threat of demolition and loss of integrity due to the lack of interface	which were constructed as a result of the subdivision of land in the immediate area.
"The Oaks" can be converted to apartments. Ku-ring-gai must keep its outstanding artefacts and houses for the benefit of Australia.	The Glen Cowell Heritage Assessment for the Oaks (February 2005) states that "consideration should be given to either listing this building as a local heritage item and retaining its use as a single residential unit, or redeveloping the property in such a way that the existing house will be retained intact with a higher density re-use of the site".
"The Oaks" has been recognised by the National Trust for its heritage significance. The house has great significance to Ku-ring-gai. A succession of distinguished Australians have owned and occupied The Oaks. The House is of great social and cultural significance.	"The Oaks" has high social significance as the home and surgery of a number of prominent Sydney Medical Practitioners from its construction in c1907 through to the death of the last Doctor in residence in 1982. The building also has social significance as a largely intact and highly visible example of the quality of building reflecting the social standing of the occupants within the suburb of Killara (contemporary community esteem).
"The Oaks" is a landmark historic property. Recognition of the properties significance is overdue. Heritage Office has recognised the significance of The Oaks. "The Oaks" requires statutory listing.	"The Oaks" is one of the few large mansions in a largely intact condition and in its original expansive gardens, still remaining along the Pacific Highway corridor through the suburb of Killara. The Glen Cowell Heritage Assessment recommends that "The Oaks" should be retained as a significant landmark element defining the major street entering the Killara Estates from the Pacific Highway.
Too much of Ku-ring-gai's heritage has been lost to date. Listing "The Oaks" will save part of Ku-ring-gai's history for future generations.	As alluded to in this submission, "The Oaks" has historical significance as a largely intact example of the type of building which reflects the evolving pattern of residential development within the suburb of Killara immediately preceding and following the opening of the Hornsby to Milson's Point Rail Line in 1910.
"The Oaks" is a magnificent building with a significant treed setting and known for its quality architecture. Contributes to the character of Ku-ring-gai.	"The Oaks" is considered to be of high significance for a number of reasons, the submission discusses two such reasons. Firstly, the site, including fence and gates, gardens, lawns and trees within the context of the streetscape. Secondly, the extant Oak tree on the North western boundary of the site which is possibly part of the original landscaping.
Strong support for heritage listing of The Oaks	All submissions received during the public exhibition period highlighted the strong community support for the listing of The Oaks in Schedule 7 of the KPSO.
Strong support for heritage listing of The Oaks	Refer to above comment.
Property displays rarity value and is of architectural significance. It is historically significant as the site of the first Wesleyan services on the North Shore.	In response to the stated 'rarity' value of "The Oaks" the Glen Cowell Heritage Assessment remarked that "the building has been identified as a rare combination of the brick Queen Anne Style with Art Nouveau detailing on the "horseshoe arch" verandah detailing".

FINANCIAL CONSIDERATIONS

The preparation, exhibition and assessment of Draft Local Environmental Plan (Heritage Conservation) No. 31 and 32 are covered by the Urban Planning budget.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has been undertaken with the Development & Regulation and Civic Management Department.

SUMMARY

Draft HLEP No. 31 was publicly exhibited. One submission was received during the exhibition period. While on exhibition, the case of *Mirvac Projects Limited v Ku-ring-gai Council* [2005] NSWLEC 162 (21 April 2005), was heard in the Land and Environment Court NSW. Roseth SC and Murrell C considered the issue of the proposed demolition of Interwar Building at 134-138 Eastern Road, Wahroonga ruling that the demolition go ahead. Given the determination of the case, it is recommended that Council abandon DHLEP31.

Draft HLEP32 was publicly exhibited. Submissions supporting the draft plan were received during the exhibition period and these have been assessed in this report. The submissions support the findings and recommendations made in the Glen Cowell Heritage Assessment for "The Oaks" in relation to the listing of the property as a heritage item in Schedule 7 (Heritage items) of the KPSO. The main issues raised in the public submissions expressed the architectural, social, aesthetic and landmark significance of the property to the suburb of Killara and the wider community. It is recommended that Council adopt DHLEP32 (**ATTACHMENT 6**) and submit it to the Minister for approval and gazettal.

RECOMMENDATION

- A. That Council adopts Draft (Heritage Conservation) Local Environmental Plan No.32 "The Oaks" 517 Pacific Highway, Killara, and submit the Draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act 1979 with request that the Plan be made.
- B. That Council notifies the NSW Heritage Office informing them of Council's decision.
- C. That Council notifies all affected residents and all people who made a submission of its decision.

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- D. That Council abandon Draft (Heritage Conservation) Local Environmental Plan No.31 (134-138 Eastern Road, Wahroonga) and the Department of Infrastructure Planning and Natural Resources be notified.
- E. That Council notifies all affected residents and all people who made a submission of its decision.

Louise O'Flynn
Heritage Planner

Antony Fabbro
Manager Urban Planning

Leta Webb
**Director Planning &
Environment**

Attachments: **Attachment 1 - Copy of Mirvac Projects Ltd v Ku-ring-gai Council [2005] NSWLEC 162 (21 April 2005).**
 Attachment 2 - Letter from NSW Heritage Office re IHO for 134-138 Eastern Road, Wahroonga.
 Attachment 3 - Letter from NSW Heritage Office re IHO for 517 Pacific Highway, Lindfield.
 Attachment 4 - Submission from Mirvac Projects Pty Ltd.
 Attachment 5 - Copy of submissions on DHLEP32.
 Attachment 6 - Copy of DHLEP32.

DRAFT DEVELOPMENT CONTROL PLAN NO 56 - NOTIFICATION

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To present to Council Draft Development Control Plan No 56 for consideration and adoption.

BACKGROUND:

Council's Notification Policy came into effect in February 2003. Under current legislation, Council's notification provisions for development and related applications must be contained in a Local Environmental Plan (LEP) or Development Control Plan (DCP). The draft DCP has been exhibited for a period of 28 days.

COMMENTS:

Draft DCP No 56 complies with the legislation and incorporates a range of notification and advertising provisions that are appropriate to the variety of development applications received by Council. Some amendments are proposed following exhibition.

RECOMMENDATION:

That draft Development Control Plan No 56 be adopted.

PURPOSE OF REPORT

To present to Council Draft Development Control Plan No 56 for consideration and adoption.

BACKGROUND

Under current legislation, the only forms of development that must be advertised and notified are Designated Development, State Significant, Advertised Development and Integrated Development. The legislation does not require advertisement or notification of the majority of development applications received by councils.

To ensure that councils are able to appropriately consult with stakeholders, the *Environmental Planning and Assessment Act 1979* ('the Act') allows Council to add to or extend the provisions contained in the Regulation concerning notification and advertising of development applications and the making of submissions relating to Advertised Development.

Council's adopted Notification Policy, which came into effect in February 2003, extended the advertising and notification requirements for a number of application types. It is still being used by Council to determine where notification is required and how it must be undertaken. However, the Policy does not meet the requirements of current legislation.

Draft DCP 56 was presented to Council in late 2004. Council resolved to defer consideration of the document until options for:

- notification to residents in residential flat buildings,
- notification of Section 96 applications, and
- notification of applications relating to heritage items

were presented.

Options were presented and discussed with the Planning Committee in early March 2005. An amended Draft DCP was presented to Council. Council then resolved to exhibit Draft DCP56.

COMMENTS

The preparation of the draft DCP for Notification provided Council with the opportunity to review the objectives and provisions in the existing Notification Policy and the way in which the Policy is being used.

General issues

Notification and advertising can be an important step in the consideration of a development application, allowing the community to participate in the planning process. However, although the existing Policy requires extensive notification, it does not ensure that Council effectively involves

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the community. Notification letters are often sent to people who are not likely to be materially affected by any given development.

Fulfilling the requirements of the existing Notification Policy involves considerable staff time, as does responding to queries from people who receive letters about minor development and are concerned that, because it warranted a letter, the proposed development may have a substantial impact upon the enjoyment of their properties even though this may not be the case. Further, Council officers must spend time recording in their reports details of submissions (generated by the notification letters) that only express a general dislike of a type of development.

The large amount of notification currently occurring also consumes a significant amount of material and financial resources, including postage and paper.

In reviewing the Policy and creating a new DCP, the primary objectives have been to:

- ensure that notification and advertising involve the community to the extent appropriate for the specific type of development;
- reduce the amount of staff time spent in fulfilling the notification requirements that is unnecessary;
- ensure that Council resources are used effectively; and
- ensure that the controls are consistent with the KPSO and all relevant legislation.

KPSO requirements

The current Notification Policy requires that all development involving heritage items, in addition to numerous other development types, be notified and advertised as 'Category A', the most rigorous advertising category. This appears to be based on a misinterpretation of the KPSO, which specifies that certain development must be notified and advertised in the same way as Designated Development is notified and advertised under the *Environmental Planning and Assessment Act 1979*, specifically:

demolition of all heritage items and buildings in conservation areas, and

where an application involving a heritage item or a building in a conservation area would not be permissible under the KPSO, but where clause 61H may be invoked to allow consent to be granted because conservation of the building depends on such consent being granted, provided that the proposed use would have little or no adverse effect on the amenity of the area. (This only applies to a very limited number of applications.)

The notification provisions in proposed Draft DCP 56 relating to heritage have been made consistent with the KPSO requirements. With the exception of KPSO notification requirements, the scale of notification of all other heritage items is proposed to be consistent with that which is required under the DCP for the development type. However, in order to ensure that community members with an interest in heritage may keep themselves informed of proposed works to heritage items, where works proposed are of a scale that requires them to be advertised on Council's website, the website would also be required to include information about the item's heritage status /

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location within an urban conservation area. In addition, the scope would exist for the extent of notification to be increased if warranted.

Other development that, under the KPSO, requires notification under Designated Development requirements will still require this, as the scope of the review has not been to alter the KPSO but rather to ensure consistency with the KPSO by confirming interpretation of the relevant clauses. Such development include residential flat buildings, housing for aged or disabled persons, places of public worship, child care centres, clubs, hospitals, motels, places of public assembly, professional consulting rooms, schools or existing uses.

The minimum notification requirements for applications in this category ('Type F') are proposed to a breadth of three properties either side of the subject property and seven properties at the rear and front of the property. This is a lesser requirement than that contained in the current Notification Policy, however, it is considered important that the minor works covered by this category are not extensively notified unless it is necessary. For more major works, it is proposed that the DCP set criteria to be applied by the development assessment Team Leader to decide whether or not to increase the extent of notification to encompass all properties likely to be materially affected by the proposal based on criteria set out in the DCP.

Notification requirements not covered by the KPSO

Draft DCP56 has been designed to take into account the different types of works that could be proposed for certain development types and to ensure that notification is appropriate to the proposal and in proportion to the scope of works proposed. For example, an application for a new hotel would require advertising and significant notification, however, minor alterations and additions to an existing hotel (such as a new staircase or reconfigured windows) would not need to be advertised and would need to be notified only to those properties adjoining the areas where the works were to take place.

Chapter 3 of Draft DCP56 is therefore presented as a table, consistent with the development aspect of the Proclaim computer system currently being set up for Council, in which between one and three different notification types are specified for the different development types, depending on the scope of proposed works. It is proposed that notification may always be increased from the minimum by the development assessment Team Leader where, based on certain criteria, in the opinion of the Team Leader, this is warranted.

In addition to Type F, which relates to notification requirements specified in the KPSO (described in the previous section), the Draft DCP provides for five other types of notification.

Development that is expected to have no impact on any adjoining and neighbouring properties is specified as Type A, for which no notification is required. Such would include proposals to extend trading hours in a business zone or internal works to a boarding house. However, where the development assessment Team Leader is of the opinion that some impact is likely, notification must be undertaken.

Type B notification relates to applications for section 96(2) modifications to development consent and is consistent with the *Environmental Planning and Assessment Act 1979*. As discussed with the

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Planning Committee, section 96(1) and section 96(1A) applications need not be notified as they relate to minor errors, misdescriptions and miscalculations and modifications to development consents that would have minimal environmental impact.

Type C notification is for minor development that could have some impact upon adjoining properties but would not necessarily affect all adjoining properties. For example, a carport constructed at the front of a property would be unlikely to affect those properties adjoining to the rear.

Type D is for more substantial development which should be notified to a greater number of property owners but where advertising is not considered to be necessary. Examples of such development include new buildings in business zones, extension of trading hours in residential areas, dwelling houses and family flats. The minimum notification requirement for Type D is all adjoining properties, however, the development assessment Team Leader could determine on a case by case basis that more extensive notification is required.

Type E is for development proposals that are of a similar scale to those in Type F, but which have no notification requirements specified by the KPSO. Examples of such development include a new hospital in a non-residential zone, or a new hotel. Such development would be advertised and notified for a period of fourteen (14) days but otherwise largely in accordance with Type F requirements.

Notification of residents in residential flat buildings

Following discussion with the Planning Committee, where the draft DCP requires a property containing a residential flat building to be notified, it is proposed that notification letters be sent to all owners and occupiers, together with the proprietors of any strata or community plan.

Procedures

Chapter 5 of draft DCP56 specifies the manner in which advertising and notification must be carried out, including information to be included on Council's website, content of notification to Councillors, content of notification letters, advertisements in the local paper and erection of notification signs at a property.

Chapter 6 of the draft DCP specifies the criteria for written submissions and sets standards for the manner in which Council will respond to written submissions.

Amendments since exhibition

Minor amendments have been made to Draft DCP56 since exhibition in order to improve its useability and to correct inconsistencies.

The primary changes based on submissions received during the consultation period are as follows:

- New dual occupancy development is proposed for Type D notification, which is equivalent to present notification requirements for dual occupancies. (The exhibited version of the DCP suggested Type E.)

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- In order to reduce confusion for Council officers, it is proposed that all DAs for alterations and additions to detached dwellings be notified as Type C at a minimum (the exhibited version of the DCP proposed three different levels of notification, being Types A, C and D).
- All restaurants in residential zones be notified as Type D while restaurants proposed in all other zones be notified as Type A. This is suggested so that customer service staff need not assess the application at the time of lodgement to determine correct fees.
- All internal changes to commercial development are now proposed to be notification Type A as such alterations would not generally affect neighbouring properties.
- All demolition except demolition of heritage items or of items in a conservation area be notification Type A as such alterations would not generally affect neighbouring properties.
- Notification requirements for child care centres, educational establishments and nursing homes be determined on the basis of zoning and whether or not the works are internal as internal works have little potential to affect neighbouring properties whereas external works may do so. (The exhibited version proposed a more complicated division which would have required some assessment at the time of lodgement.)
- All new libraries be notified as Type D, all alterations and additions to libraries as Type C and all internal works as Type A. This is suggested so that customer service staff need not assess the application at the time of lodgement to determine correct fees.

CONSULTATION

Draft DCP56 was publicly exhibited between 27 April and 13 May 2005. Five submissions were received, three of which were from one individual. The following issues were raised:-

- ***Residential Ancillary – Fencing be notified in accordance with Type C rather than Type A (no notification) as presently listed.*** Front fences are not considered to have the potential to materially affect the amenity of residents of neighbouring properties. Council officers already assess impact on streetscape so any submissions received regarding such a proposal would not assist Council in its assessment of the proposal.
- ***Concern that notification about 2(d3) development adjacent to properties zoned for single residential homes was insufficient given the inappropriateness of the sites.*** It is considered that minimum notification standards of letters to twenty properties, an advertisement in the local newspaper and a notification sign at the front of the property would ensure that the majority of people directly affected by the proposed development will be informed. However, draft DCP56 requires the development assessment Team Leader to increase notification where other properties are likely to be materially affected. Requirements for residential flat buildings are in accordance with the KPSO and the Act.
- ***Concern that the controls regarding information to be supplied on Council's website are too loose. In particular, it was recommended that most information submitted with the DA***

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be available for download from the website. At the present time this is not possible, however, it is anticipated that future systems will enable this to be achieved. This is an administrative issue which cannot be controlled by the DCP.

- *Suggestion that a section should be created in the DCP to specify the information available for inspection during the exhibition period.* This is an issue about process that can be determined at an administrative level.
- *Suggestion that, regardless of the scope of change, all persons who made submissions regarding the original DA should be notified of any proposed amendments to such DAs and modifications to development consents.* Where the change is minor, this would serve no additional purpose as the amenity of affected properties would not change. It is already proposed that larger scale S(96) developments be notified.
- *Links between chapters three and four are not consistent.* This has been corrected.
- *Commencement dates for exhibition periods are not always specified.* This has been corrected, although the primary responsibility for this is administrative (the date printed on the notification letter is several days in advance of the date on which the notification letter is prepared) in order to ensure that recipients of the letters have a full 14 or 30 days (as appropriate) to view the material.
- *DAs advertised in the local newspaper should be advertised for the duration of the exhibition period.* This would be very costly to the applicant and is not usual practice for local government.
- *Notification signs be specified for Types D and F as well as E.* Types E and F developments are of a similar scale so this requirements will be added for Type F. Type D is not considered to be of a scale where a notification sign would be necessary. This is consistent with Council's present practice.
- *Control 4.6.6 provides a loophole around 4.2.3.* 4.6.6 is a clause that replicates the part of the Act to which the KPSO refers and applies only where notification has already occurred once. No loophole is provided.
- *The format of the DCP be changed to make it as "clearly set out as the existing policy".* Draft DCP56 was developed in consultation with the end-users of the document with considerable effort devoted to making it more user-friendly than the present policy. However, it is proposed to add a table as an appendix that specifies all development types to which each notification type applies. It is recommended that the useability of the document be further tested following adoption and that the DCP be reviewed within 12 months.
- *Notification signs be erected at all properties where demolition is proposed because certain areas of Ku-ring-gai are potential urban conservation areas (but are not yet listed as such) and the community needs to be aware of such proposed changes to the streetscape.* Council's assessment officers will already evaluate the significance of a building's demolition on the streetscape. The primary purpose of notification is to enable the community to

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contribute to the assessment process, particularly by advising how they may be affected by the proposal. Persons who do not receive notification letters would be unlikely to own or reside in properties that would be materially affected by the demolition.

- ***Notification signs be erected at all sites where major alterations and additions are proposed so as to draw attention to instances where it is proposed to retain only a single wall of an existing building.*** Regardless of the name given to the type of development (ie. “new buildings” or “alts and adds”), Council staff will make an assessment of the impact on the proposal on the streetscape, residential amenity etc. The number of persons materially affected by the proposal would not generally be altered by a new development as opposed to alterations and additions.
- ***Notification signs should be erected as suggested above because recipients of notification letters:-***
 - ***may be away during the notification period.***
 - ***may be too elderly to comment***
 - ***may not receive their letters.***

People who are away during an exhibition period would not benefit from erection of a sign that they are not present to see but would receive their notification letters upon return to their properties. It is unclear how a sign would assist elderly people in contributing to the assessment process in any greater way than a notification letter.

Non- receipt of a notification letter is a regrettable event, however, erection of a notification sign at all sites because letters may go astray is not considered warranted or feasible.

FINANCIAL CONSIDERATIONS

The costs associated with the preparation of this DCP are limited to staff time and advertising / exhibition costs. If Draft DCP56 is adopted, significant cost savings are anticipated through reduced use of resources and increased staff efficiency.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Draft DCP 56 has been prepared in consultation with staff in the Development and Regulation, Corporate and Communication and Planning and Environment Departments.

SUMMARY

Draft DCP 56 has been prepared in accordance with the requirements of the Act and Regulation. The draft DCP is consistent with the KPSO and has been designed so that the scale of notification is appropriate to the type and extent of development proposed. To further ensure that notification is suitable to the proposal, the scope exists for the development assessment Team Leader to increase the extent of notification as far as is necessary.

RECOMMENDATION

- A. That Draft Development Control Plan No 56 be adopted.
- B. That the adopted Development Control Plan No 56 be reviewed within twelve months.

Katherine Lustig
Environmental Planner

Leta Webb
Director Planning & Environment

Matthew Prendergast
Manager Development Assessment Services

Michael Miocic
Director Development & Regulation

Attachments: Draft Development Control Plan No 56.

UTS REZONING PROPOSAL

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To present to Council an assessment of the proposal to rezone the UTS Ku-ring-gai campus and to obtain a resolution from Council on the procedure for the next stage of the project.
BACKGROUND:	Originally designed to cater for 900 students, the present university campus at 100 Eton Road, Lindfield is a fine example of the 1960s / 1970s Sydney School of Architecture. The UTS has operated on this campus since 1990. Student numbers exceeded 4,000 in the 1990s but numbers are now declining. The UTS is concerned that the decision not to establish a train station at the campus will make it less competitive with other universities and therefore less viable. The university is seeking to address this by rezoning the campus to permit a range of land uses.
COMMENTS:	<p>The site is presently zoned Special Uses "A" and its primary permissible use is "teachers college". The UTS proposes that the site be rezoned with a new site-specific zoning that allows for the establishment of a community at the site. Proposed permissible land uses include a range of residential and commercial developments. The concept plan submitted with the application suggests that the existing main building could be adaptively reused and that the majority of residential development could be residential flat buildings.</p> <p>The proposal has significant adverse implications in terms of traffic and transport, ecology, bushfire hazard, heritage, community amenity, community facilities and its lack of with Council and State directions in planning.</p>
RECOMMENDATION:	That the rezoning proposal not be formally exhibited in its present form and that Council staff work with the UTS to determine a more feasible and appropriate development opportunity for the site.

PURPOSE OF REPORT

To present to Council an assessment of the proposal to rezone the UTS Ku-ring-gai campus and to obtain a resolution from Council on the procedure for the next stage of the project.

BACKGROUND

The University of Technology, Sydney (UTS), Ku-ring-gai campus is located at the south western end of Eton Rd, west of the Pacific Highway in Lindfield at 100 Eton Road. The campus comprises two properties – the north western carpark (Lot 5 DP 32292) and the remainder of the campus (Lot 1 DP 523448) – and has a total site area of 208,010m². An aerial photograph of the site is found in the Attachment Map A.

The site is located on a sandstone ridge that slopes away to the east, south and west where it is bounded by the Lane Cove National Park. The northern end of the site is adjacent to Film Australia and low density residential properties. The site forms part of the catchments of Sugarbag, Blue Gum and College Creeks, all of which are tributaries of the Lane Cove River. College Creek travels across the south west of the site.

The UTS Ku-ring-gai campus was acquired by the Commonwealth in 1915 and reserved for use as a teachers college. It was purchased in 1961 by the NSW Minister of Education and in 1967 the government officially announced that the William Balmain Teachers College would move to the site.

The new college was one of a number of bushland campuses established in the late 1960s and 1970s. The campus building was designed in five stages by David Don Turner, an architect with the then Public Works Department, in consultation with teaching staff, planners and other architects. The site layout, architecture and landscaping were intended to be reminiscent of an Italian Hill village that had been lowered into the natural landscape, providing a unique experience for visitors who entered from the surrounding suburban area.

The design of the campus building was heavily influenced by the Neo-Brutalist Movement. It is considered to be one of the finest examples of the Sydney School architectural style (in which the Brutalist architectural approach is tempered with a design that demonstrates an appreciation of the natural landscape and social-consciousness). The university is considered to be the first in Australia to successfully provide opportunities for effective interaction between staff and students.

The native landscape surrounding the building was kept largely intact, with minimalistic landscape and garden design by the landscape architect Bruce Mackenzie that blended with the natural features in a distinctly Australian approach.

The campus was originally designed to cater for 900 students. By 1980, the campus was operating as the Ku-ring-gai College of Advanced Education (CAE) and was attended by more than 3000 students. The increased student population began to have an adverse impact on surrounding residents owing to increased traffic and parking. A new access road was proposed to alleviate such problems, but protests were raised against this on environmental grounds.

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In 1990, the CAE merged with the UTS and the architect's involvement in the design and maintenance of the building ceased after a period of some twenty-five years (an unusually long period of continuity). Alterations to the building since that time have been undertaken without consultation with the original architect. Following the merge, the student population rose to between 4000 and 5000 and the UTS began to lobby Ku-ring-gai Council for the access road.

The preferred route for the access road was through campus bushland at the south-west of the campus to Lady Game Drive. In 1995, consent was granted for the access road to be constructed, however, works did not proceed as proposed. A report prepared in 1998 for the UTS advised that, with student numbers falling and the high environmental cost of constructing the access road, there was little justification for proceeding.

The UTS Ku-ring-gai Campus now offers subjects in nursing, midwifery and health, teacher education and business at the campus. Ancillary services and facilities at the site including outdoor recreation facilities (sportsfield and tennis courts), indoor recreation facilities (gymnasium, dance studio, basketball court and squash courts), auditorium, library and a child care centre. These facilities are provided primarily for use by UTS students and staff but are also used by the wider community including residents, clubs and other organisations.

The site is presently zoned Special Uses "A" with permissible land uses being "teachers college", demolition, special events, subdivision (subject to cl. 58(A) of KPSO) and utility installations.

At present, approximately 44.1% of the site (91,792 m²) is bushland. The developed area of the site includes building footprints (13,918 m² or 6.7%), sportsfield (15,535m² or 7.5%) and roads, parking and other hard surface (86,765m² or 41.7%).

To cater for the large student population, it was originally intended that the Epping – Chatswood rail link would include a station at the UTS Ku-ring-gai campus. The rail line, now under construction, will include a station at Macquarie University, however, the line will now bypass the UTS. Consultants to the UTS (JBA Urban Planning) state that "from a university standpoint, UTS Ku-ring-gai therefore remains relatively remote in terms of access to public transport and services, particularly in relation to other campuses..."

The UTS now claims that student numbers are falling, largely owing to the distance of the campus from facilities, work opportunities, public transport and services compared with other university campuses. As a result, UTS is presently seeking a rezoning for the campus as part of its exploration of options for achieving viability across all its campuses.

Council has resolved to list the property as a heritage item of local significance under the *Ku-ring-gai Planning Scheme Ordinance*. It has also been nominated for listing on the State Heritage Register as an item of State significance.

The UTS Ku-ring-gai Campus has been the recipient of several awards including the Sulman Award (1978) from the NSW Chapter of the Royal Australian Institute of Architects (RAIA), the RAIA Merit Award (1973) and the Horticulture Award of Merit (1978). The building was recently selected as one of the two 1970s "Building of the Decade" and is on the RAIA Register of 20th

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Century Buildings of Significance. Most recently, on Friday, 17th June 2005, the RAIA awarded the campus the NSW 25 Year Award.

COMMENTS

The Proposal

The UTS have requested rezoning of the Ku-ring-gai campus to allow a range of “feasible and appropriate” development, including the presently permissible uses, child care centres, clubs, commercial premises, dwellings, hospitals, mixed business, multi-unit housing, places of assembly, public buildings, refreshment rooms, residential flat buildings, shops, townhouses and villas. There is no existing zone in the Ku-ring-gai Planning Scheme Ordinance (KPSO) that provides for such a range of land uses. The amendment sought is therefore a new site-specific zone.

The UTS rezoning proposal is accompanied by a concept plan for the site (Attachment Map B). This plan suggests that the main campus building, with a gross floor area of 21,044 m² (excluding the western part of the building currently incorporating the North Shore Conference Centre), could be adaptively reused for both residential and commercial purposes. The applicant acknowledges that the use of the existing floorspace would be subject to market demand, but suggests the following:

- 4,264 m² to retain the existing library,
- 2,769 m² to retain the existing auditorium,
- 1,000 m² for a child care centre,
- 3,880 m² for a gymnasium, and
- 9,131 m² for commercial (suggested 70 - 90%) and / or education (10 – 30 %).

The western part of the building is proposed to be adapted to as residential dwellings. The concept plan suggests that site redevelopment could feasibly include some 566 new dwellings, including through adaptive reuse of the main building, comprising:

- 11 detached dwellings on “traditional sized lots”
- 25 medium density (villa / townhouse) dwellings on “integrated small lots”
- 530 residential flat building apartments (51 one bedroom, 319 two bedroom and 160 three bedroom)

To protect the development on the site from threat of bushfire, a 60 metre wide asset protection zone is proposed to the south east and west.

(Council has prepared a second map showing the concept plan overlaid on the aerial photograph – see **Attachment Map C**)

Value of the University Campus

The university is considered by current and past students and staff to have tremendous value as an educational facility in its own right, particularly including because of its purpose-designed teaching spaces, the standard of teaching and the overall campus design. The campus is also strategically

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important in its location on the North Shore and proximity to the Central Coast as the availability of land for the establishment of a new university or other educational facility in this region is low.

In addition to its value for educational purposes, the university campus has heritage significance. The Heritage Impact Assessment prepared for the UTS by Graham Brooks and Associates acknowledges the heritage significance in terms of:

- State level importance for its strong Post War Brutalist architecture, the relationship between the buildings and their bushland setting, the use of the internal street and compact organisational planning and continuity of the original architect's involvement;
- local level importance for its associations with thousands of students and staff who have used the complex since 1971; and
- local level importance for the wider Ku-ring-gai community who have used the campus community facilities.

A heritage assessment of the campus was also undertaken by City Plan Heritage, consultants to Council, prior to adoption of Heritage Local Environmental Plan No. 30 (HLEP 30) for the UTS campus at Lindfield on 26th April, 2005. (HLEP 30 is now being considered by the Department of Infrastructure Planning and Natural Resources.) This assessment concluded as follows (summarised in **Attachment map D**):

- The UTS Ku-ring-gai Campus is of State heritage significance, primarily owing to the role it played in the development of architecture and landscape architecture in Australia and its demonstrated appreciation for natural bush settings.
- The campus design is significant because of its association with prominent Australian designers.
- The campus is significant because of its influence on the design of later educational buildings, particularly its emphasis on spatial planning to create a social environment.
- The college is historically significant for its place in teacher education in NSW and its role in education on the North Shore, and because it is illustrative of government investment in education.
- The manner in which the building and landscape were integrated is particularly significant.
- The following areas of the campus have exceptional heritage value:
 - the main entry to the campus for its 'unprepossessing' integration with the bushland setting, which was protected during construction
 - the rock-filled batter to the Oval for its landscape treatment of an 'initially stark slope'
 - Stage 1 (south) and Stage 2 (north) of the campus building for their design, particularly the 'fusion between Brutalist and Sydney School ethos, the merging of the building within the natural landscape, attention to detail, and planning to facilitate social interaction within the college'

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- the roof garden of Building 12 for its formal landscape treatment that provides a contrast to the remnant bushland areas, although it is acknowledged that the heritage significance has been reduced somewhat owing to poor maintenance
 - the view south from the buildings because of the opportunities provided for views of the surrounding Lane Cove National Park
 - the bush courtyard between the Assembly Hall and the Union / Administration areas because it is an excellent example of the integration of the building with the bushland setting where trees and rock outcrops were carefully maintained
 - the fountain / water feature within the Union / Administration area for its aesthetic contrast from the busy public spaces
- The following areas of the campus have high heritage value;
- the bus bay for its sensitive incorporation of a necessary traffic management device into the landscape
 - the caretaker's residence for its demonstration of the integrated design philosophy employed for all campus buildings
 - the oval for the constructed concrete seating, retention of natural rock outcrops and vegetation, integrated landscaping and its function within and integration into the campus
 - the gymnasium, an integral component of the early building stages
 - the link bridge between Stage 2 and the gymnasium, which is integral to the buildings
 - the rock infill cuttings along the main road south east of the gymnasium for their high aesthetic value and juxtaposition of materials
 - the road cutting east of the gymnasium and beneath the link bridge for their interesting artificial creation of space and landscaping
 - the lawn area to the south east of the building for its contribution as a meeting space
- The following areas of the campus have a moderate heritage value:
- eastern car parking area for the integration of infrastructure with the natural bushland setting and the feature battered rock cuttings;
 - Stages 4 and 5 of the main building which are less detailed than the earlier stages of the building but are sympathetic in style and contribute to the overall integrity of the building;
 - the tennis and basketball courts which are sensitively integrated into the site with attention to landscape detail;
 - the gatehouse at the entry to the site for its consistency with the design of the principle buildings.
- The following areas of the campus have a low heritage value:
- child care centre – originally a change room block, the heritage value of the building has been compromised by its conversion to a child care centre
 - the north west car park – where landscape design is less detailed than in other areas of the site

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- the shed to the south of the child care centre which is considered to be intrusive.

Council has resolved to list the property as a heritage item of local significance under the *Ku-ring-gai Planning Scheme Ordinance*. It has also been nominated for listing on the State Heritage Register as an item of State significance.

The proposed rezoning is likely to compromise the heritage significance of the existing campus building as many of the suggested uses would be incompatible with the purpose for which the site was designed, a principle element in its present heritage significance. From a heritage viewpoint, it would be preferable to retain the main building for an educational purpose, however, adaptive reuse that does not require significant modification of the building fabric could also be appropriate.

In terms of heritage significance, the concept plan for the site is inappropriate because it:

- proposes many adaptive reuses which may require considerable modification of the buildings,
- proposes significant and adverse alteration to the majority of the main building's setting which is considered to be a primary element in the significance of the campus,
- proposes removal of a number of elements that have high and moderate heritage significance, all of which fulfil the criteria for local or State heritage listing, in particular the oval, gymnasium, tennis and basketball courts and link bridge,
- proposes development forward of visually important elements (such as the oval landscape batter.)

Rezoning of the campus to either remove the educational use or to render it an insignificant element of the site's operation is undesirable from a heritage point of view as the present use of the campus is a significant reason for its heritage significance. It is, however, considered that the campus, or areas of the campus, could be rezoned in a manner that does not compromise its heritage significance. This will be discussed later in the report.

Public Transport

The original plan for the new Epping-Chatswood railway line included the establishment of a station at the UTS Ku-ring-gai Campus. However, the decision to take the new rail line under the Lane Cover River has resulted in an almost complete realignment of the rail tunnel in terms of both depth and location. The tunnel still travels beneath the UTS campus, however, it is now deeper than originally proposed and the grade of the line (which has already been bored through this point) is also now too steep to incorporate a platform. Regrading of the line to allow for a platform would require a large part of the already-constructed tunnel to be realigned or re-routed.

In addition, all service facilities and infrastructure that were to have been included at the UTS station (such as power generators, water treatment and emergency egress) have now been established at Lady Game Drive near Blue Gum Creek. Excavation at this location was also not sufficient for a railway station. The opportunity for a station at or near the UTS site using the new train line has therefore now been lost entirely.

The new train line will have its closest stations at Lindfield and at Delhi Road (near Plassey Road). There is no dedicated walking route between the Delhi Road station and the UTS site, so

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commuters would have to walk along the roadways (Delhi Rd, Lady Game Drive, Grosvenor Rd, Austral Ave and Eton Rd) to reach the campus site. This is a distance, almost all of it uphill from Delhi Rd, of some four kilometres.

The closest railway stations are located along the Pacific Highway at Lindfield and Roseville. The entrance to the UTS is some 1650m walking distance from Roseville railway station and some 1800m walking distance from Lindfield railway station. A typical walking trip from the stations would take 25 minutes. However, the return journeys would take longer as they are both uphill.

In addition to the train lines, Shorelink runs a bus service (Route 565) between Macquarie University and the Chatswood train station that travels via Killara, Lindfield station, the UTS and Roseville station. The majority of services stop at the UTS, however, many of the services run only between the campus and Lindfield station. In peak hours the buses stop at the UTS three or four times, while at other times of the day the service runs generally once or twice an hour. The bus service runs very infrequently during the weekend.

The UTS also provides an inter-campus service (between Lindfield and Broadway), however, this would cease in the event that the Ku-ring-gai site no longer operated as a university.

The public transport access to the UTS Ku-ring-gai site is considered to be poor. While it is possible that the bus service could be improved through negotiation with Shorelink, it is unlikely that this would sufficiently cater to the increased residential population suggested by the concept plan. Particularly given the inconvenience and expense of commuting on both non-government buses and government trains (with incompatible ticketing services), it would be expected that the majority of people living or working at the site would drive if their daily trips extended beyond Lindfield station. Consideration of the rezoning proposal in terms of traffic and transport cannot, therefore, assume regular use of public transport by commuters. This must be taken into account when considering the likely traffic impacts.

TrafficTraffic Generation

The rezoning proposal includes a traffic and transport report by Sinclair Knight Merz (SKM) which describes the existing traffic issues around the site and provides an assessment of potential traffic impacts and parking and access requirements. The report draws on two sets of traffic counts:

1. Fifteen different sites around UTS were surveyed in 1998, 1999 and 2003 in morning (8-9am) and evening (5-6pm) peaks. These surveys do not review trends over the five year period as no single site was surveyed more than once.
2. Traffic generation at the Eton Road entrance to the campus was measured in 1990, 1993 and 1998. No additional studies were carried out to support the rezoning application. This information indicates that in the 1990s the UTS was generating between 346 – 386 vehicles in the morning peak hours and 368-550 vehicles in evening peak hours (excluding vehicles parking in streets outside the campus, which SKM suggests is an additional 50 vehicles).

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SKM concludes from the studies presented that traffic volumes along Eton Rd are already at the desirable maximum for a local road, receiving some 2,000 vehicles per day, while traffic volumes along Grosvenor Rd have not yet reached the desirable maximum, which is 10,000 vehicles per day for a collector road.

The SKM assessment of the likely traffic generated by the commercial component of the proposed development is based on a number of assumptions, including:

- that the adaptive reuse of the main building will be predominantly by computer or other high technology industry; and
- that other commercial uses for the main building would be industries in the fields of health, insurance, accountancy / management and legal.

The SKM report calculates traffic generation from the proposed residential component of the site on the following standard traffic generation rates in the Roads and Traffic Authority *Guide to Traffic Generating Development*:

- detached dwellings: 0.85 peak hour vehicle trips per dwelling
- “integrated small lot housing” (medium density): 0.45 peak hour vehicle trips per dwelling
- high density residential flat buildings (RFBs): 0.29 peak hour vehicle trips per dwelling.

The *Guide to Traffic Generating Development* describes high density RFBs as buildings that contain twenty or more dwellings, are at least five storeys high and have secure basement-level parking. The RTA calculation for traffic generation from RFBs (as defined) is based on the assumption that the dwellings are located in a metropolitan sub-centre (such as Gordon) and in close proximity to public transport.

Although the majority of the proposal’s residential component fits the RTA’s definition of high density RFBs, the site is not located at a metropolitan sub-centre. The walking time from train services (minimum 25 minutes) and infrequent bus services mean that the traffic generation for the proposed development cannot be calculated as if it were from standard high-density RFBs. Rather, Council staff calculate that the proposed RFBs would be more likely to generate traffic consistent with the upper end of the range for medium density residential development: an average of 0.5 (rather than 0.29) peak hour trips and 5 daily trips.

Likewise, owing to the distance from transport and core services, the proposed medium density housing would be expected to generate traffic consistent with detached residential dwellings. This would equate to an average of 0.85 (rather than 0.45) peak hour trips per dwelling and 9 daily trips.

The figures used in the SKM report suggest that the residential component of the development is likely to generate some 174 vehicle trips in the peak hours. Using the more feasible figures suggested by the distance of the site from transport and core services, the residential component of the development is considered likely to generate peak traffic of some 320 vehicles and 2,974 vehicle trips per day.

The SKM report concludes that the adaptive reuse of the main building together with the residential development at the site could, at a “conservatively high” estimate based on worst case scenario,

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generate between 407 and 422 vehicles during peak hours. This compares reasonably favourably with the estimates of present peaks of between 350-550.

However, contrary to SKM's assertions, Council's calculations suggest that a more accurate figure would be between 553 and 568 vehicles during peak hours, which represents a significant increase in peak hour traffic from the present levels. When compared with the likely existing traffic generation rate of about 360 vehicles per hour, it is expected that the proposed development could increase traffic by 50%.

Given that traffic along Eton Rd has already reached its desirable maximum, vehicle numbers alone suggest that the proposed rezoning would have an adverse impact on the local community. Council calculates that, in order to keep vehicle numbers at the same level as the existing, the commercial component and only half the residential component proposed could be permitted. This, however, does not take into account the direction of traffic flow, discussed below.

Traffic Flow

At present, traffic activity associated with the university flows counter to other traffic in the area, as students arrive at Lindfield while residents are leaving and vice versa. In the event that residential development occurred at the campus, any traffic associated with that component of the development would flow towards the Pacific Highway and Lady Game Drive in the same direction as the existing local residential traffic.

Vehicles associated with the commercial component of the proposed development would generally flow in the same direction as the existing university traffic, ie, counter to peak traffic. In terms of traffic flow, the commercial component of the proposal is considered to be acceptable.

The SKM report acknowledges that outbound morning peak vehicles trips would be increased as a result of the proposed residential component but suggests that these would have only a "marginal" impact on intersections as the traffic would be split between a number of alternative routes. SKM therefore concludes that intersection upgrades would be unnecessary.

Contrary to SKM's conclusion, it is considered that, regardless of the back-routes taken by the additional vehicles, the number of right-turn (city-bound) opportunities onto the Pacific Highway would remain the same. (There are only two such roads: Grosvenor Rd and Shirley Rd.) Thus, any existing problem with traffic flow from local Lindfield roads onto the highway would only be exacerbated by the proposed additional residential development.

Based on RTA traffic volume data from 2002, Lady Game Drive is estimated to be currently operating at a Level of Service "E", meaning that the flow is considered to be unstable, with traffic at or close to capacity and drivers severely restricted. Any additional residential development in the local area would therefore be expected to increase traffic problems during peak hours.

Further, as Eton Rd traffic is already at the desirable maximum, any residential development within the subject site could be expected to increase traffic problems during peak hours and have a significant impact on the amenity of the local residents.

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Vehicle movement in the area could be kept at a level similar to the present with the proposed commercial use of the main building and approximately half the number of residential dwellings proposed in the rezoning submission. However, the proposed development would have a severely adverse impact on local traffic and residential amenity because the additional traffic generated by the residential component of the development would flow in the same direction as the existing residential traffic as opposed to counter to normal peak as do the vehicles associated with the university.

Street Parking Outside the UTS

The surveys used by SKM did not look at street parking generated by the university students, however, the SKM report asserts that it “amounts to around 50 vehicles in peak hours”.

It is generally expected that parking spaces for the residential component of the development would be accommodated within the residential buildings or properties themselves.

The SKM report identified that approximately 417 parking spaces would be required to satisfy demand from the adapted main building (subject to the final mix of uses). This figure was derived from Council’s DCP 43 (Carparking) controls for commercial development. Using RTA rates, it is calculated that only 347 spaces would be required. It is estimated, however, that only approximately 300 spaces would be available in remaining carparks and around the main building. The represents a shortfall of 117 spaces based on Council’s DCP 43 rate and a shortfall of 47 spaces based on the RTA rate. It is therefore expected that parking requirements for the adaptively used main building would either help to maintain an existing problem or to exacerbate the issue.

Ecology

The present area of bushland measures approximately 91,792 m² (9.18 ha). 49,142 m² (4.91 ha) of this would remain following establishment of the APZ shown on the concept plan.

The bushland on site contains some of the most intact remnants of the Low Open Forest and Open Forest community types (as defined by Structural Formation in Australia (Mark IV Version) *Specht et al*) in the Ku-ring-gai area, with relatively little weed.

None of the vegetation communities on the site are listed as an endangered community, however the campus contains, or is used by, a relatively high diversity of flora and fauna, including several threatened species. See **Attachment** for a Map E of the threatened species distribution and likely habitat.

Darwinia biflora

Darwinia biflora is an erect or spreading shrub up to 80 cm tall with leaves 6-10mm long. The species has been recorded in Ku-ring-gai, Hornsby, Baulkham Hills and Ryde local government areas. It occurs primarily on ridge-tops and favours the edges of shale-capped ridges that intergrade with Hawkesbury Sandstone.

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In late 2004, 105 populations of the species were identified across 241 sites in Sydney. (A single population may occupy several sites as individuals separated by a distance of less than 50m are considered to be part of the same population.) A large area of habitat is known to have been lost in the Mt Colah area during the construction of the F3 freeway. The species is also believed to have occurred extensively in Turrumurra and St Ives before they were cleared. Only 90 of the sites on which *D. biflora* is known to occur are within conservation areas.

The number of *D. biflora* species at a site cannot be used as the sole criterion for determining the relative importance of the site. This is because the number of individuals at any one site may vary significantly over only a few years, with populations being largest soon after disturbance by fire.

Darwinia biflora is listed on Schedule 2 of the *Threatened Species Conservation Act 1995* (TSC Act) as a vulnerable species. This means that critical habitat cannot be declared for the species under the TSC Act. Critical habitat can, however, be declared for the species under the *Environmental Protection and Biodiversity Conservation Act (Cwth) 1999* as the species is listed as nationally threatened, but declaration of critical habitat has not yet occurred for this species. Nevertheless, if any actions proposed are likely to have a significant impact on the species, the action must be referred to the Commonwealth Minister for consideration.

The TSC Act lists three key threatening processes relevant to *Darwinia biflora*, as follows:

1. Bushrock removal.
2. Clearing of native vegetation: past clearing of vegetation is a primary reason for the present need to list *D. biflora* as a vulnerable species.
3. High frequency fire: Fire promotes *D. biflora* seed numbers and is needed at least once every 20-30 years. However, where two or more fires occur at intervals of less than five years, post-fire *D. biflora* seedlings have insufficient time to reach maturity and replenish the seedbank. Ideally, the interval between fires should be greater than ten years, but lesser intervals (between five and ten years) may occasionally be acceptable. A sequence of three fires at less than five year intervals could lead to extinction of the species at a site.

In addition the above key threatening processes, other factors that may affect the viability of the species include:

- fire intensity: the effect of heating on seed dormancy is variable between localities, however, a temperature of greater than 120°C (likely to occur during a bushfire where fuel consumption is high) are known to kill *D. biflora* seeds. At the same time, where the fire intensity is not high enough, soil temperatures will not break seed dormancy, which could lead to population decline.
- fire seasonality: it is understood that late summer and autumn fires are the most advantageous for *D. biflora* survival, while mid-summer fires are likely to be too intense.
- lack of knowledge about the species.

In October 2004, the Department of Environment and Conservation (DEC) published a recovery plan for *Darwinia biflora* in order to promote recovery of the species and ensure its ongoing viability. The primary target for the Plan is to maintain the current “vulnerable” status to prevent it

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from becoming endangered. (It is not possible to recover the species to its former distribution.) In order to maintain its current status, it is necessary to reduce the incidence of species loss and retain representative populations across the species' range.

The Recovery Plan requires that Council, in its assessment of rezoning applications, consider the recovery plan and any further advice from the DEC regarding the distribution and biology of the species.

Council has contacted the DEC with regard to the rezoning application. DEC advises that:

- the UTS Ku-ring-gai campus is "significant for *Darwinia biflora* as the site is at the south-easterly limit of the species distribution"; and
- the *D. biflora* site to the west of the oval which is proposed to be located within an APZ would not be adequately protected.

The letter to Council contains the following statement:

...the DEC recommends that Council ensure APZs are located away from the two sites where individuals and habitat are proposed to be retained. Further these two sites should be managed for the principle purpose of biodiversity conservation and in a manner that is consistent with the recovery plan for this species. The DEC considered that the current Concept Plan will result in the eventual extinction of this species across the site, as the greatest threat to the individuals and habitat that are proposed to be conserved on site will be habitat modification for bushfire hazard removal and landscaping.

It is considered that any rezoning within the site must ensure that development does not compromise recovery of the species. This could be achieved by ensure that all development and associated APZs are confined to the already developed areas of the site. The concept plan for the subject site is not appropriate for the conservation of this vulnerable species.

Red Crowned Toadlet

The red crowned toadlet population at the site is a discrete population isolated from other populations. Although surveys have not always indicated the presence of the toadlet, the campus certainly contains potential breeding sites and habitat and it is likely that individuals are present.

The proposal to establish additional development and an APZ would result in the modification or clearing of all likely toadlet habitat at the site. The potential impacts of the proposal are therefore significant and development under the proposed rezoning would require the preparation of a Species Impact Statement (SIS) and referral to the Department of Environment and Heritage (under the *Environmental Protection and Biodiversity Conservation Act*).

Other threatened species

Other threatened species that are likely to visit the site include the Powerful Owl, Grey-headed Flying Fox, Gang Gang Cockatoo, Glossy Black Cockatoo, Swift Parrot, Regent Honeyeater and Bentwing Bat. The site contains potential foraging habitat for these and other species.

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9 June 2005Ecology Summary

Environmental Resources Management Australia (ERM), the environmental consultants to the UTS, prepared their report based on previously prepared reports, databases, on-line information and plans of management, together with site inspections and discussions with the Department of Environment and Conservation.

ERM assert that the Lane Cove National Park corridor is large enough to provide habitat for the many threatened species that may presently use the campus site and suggest that the addition of a portion of the campus to the National Park would “increase the size of the section of corridor that is permanently reserved for conservation”.

ERM suggest that any redevelopment of the site could be expected to result in “improved management” and mitigation of sedimentation and erosion, weeds, feral and domestic animals, and inappropriate fire regimes. It is, however, difficult to understand how permanent removal or significant modification (including removal of all understorey and some canopy for establishment of an APZ) of almost 50% of the site bushland could enable mitigation of ecological problems. Rather, it would reduce the area of vegetation that needed to be managed and could result in local extinction of a threatened species.

From an ecological point of view, the concept plan presented is entirely inappropriate, however, this does not discount any rezoning of the site which could be undertaken in a more sympathetic manner.

Bushfire HazardSite description

The vegetation surrounding the main campus building is Open Forest *Angophora costata*, *Eucalyptus piperita*, *Corymbia gummifera*, Veg Group 1, Structure 5, 9. The vegetation is moderate to dense and has a high level of connectivity both within the canopy and in the understorey layers. However, there is some localised variation as large rock outcrops within and external to the property fragment the vegetation canopy and understorey.

The campus site is located on a flat section of ridgeline with land sloping away on three of its sides. The development therefore lies upslope of any bushfire hazard. The land surrounding the development is moderate to steeply sloping, with typical angles being between 15.6 and 24.7 degrees see **Attachment Map F**. The existing main campus building is presently located less than 20 metres from vegetation on an average slope of greater than 18 degrees. In such vegetation and on such steep slopes, fire could easily roll through the canopy vegetation even in the absence of ground fuel.

It is noted that the report prepared by Holmes Fire and Safety (HFS), consultants to the UTS, incorrectly assumes a maximum gradient of 15° within 100m of the proposed developed areas.

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The bushfire attack category is Flame Zone (FZ). Construction standards for such a site lie outside the scope of AS3959-1999, however, Level 3 building standards apply

The most recent bushfire, in January 2004, was a wildfire that spread down the Lane Cove Valley from Pennant Hills Park to the west of the subject site. The Ku-ring-gai Campus buildings were damaged by the fire but none were destroyed, however, several properties in nearby Winchester and Lyle Avenues were destroyed and others damaged.

Evacuation

The HFS suggests that the proposed development would result in a substantial reduction in overall numbers of people who would need to be evacuated in the event of a bushfire. This conclusion is reached by comparing the expected population of approximately 1000 residents (in 566 dwellings) with the existing student and staff population of 4000. The argument is flawed for several reasons:

- the entire student and staff population are never at the campus at any single point in time;
- the student and staff attendance at the university is at a minimum during summer holidays when bushfire risk is greatest, whereas a residential / working population would be present all year round;
- the calculation ignores the anticipated workforce in an adaptively reused main building, which has been assumed to be one employee per 21.1 m² (ie, over 900 employees);
- a higher proportion of students and staff use public transport rather than private vehicles to the site than would a residential population with an average car ownership of 1.8 vehicles per dwelling (ie, around 1000 cars owned by the residential population); and
- staff and students being evacuated from a university in the event of a bushfire would have limited property to remove from the site, whereas residents would commonly wish to salvage a considerable amount of property.

It is therefore questionable that changing the use of the site from that of a university to a residential and commercial development would reduce the numbers of people present at the site who would need to be evacuated in an emergency or that it would increase the ease of an evacuation.

Use of the existing main building

The floors, supporting posts, roofs and external walls of existing buildings are constructed primarily of reinforced concrete. The only weak areas of the buildings in terms of fire integrity are windows, external door gutters, service pipes and weepholes, which are vulnerable to wind, radiated heat and ember attack. These weak areas do not fully comply with Level 3 building standards.

Previous bushfires at the site have not caused any significant damage to the buildings and they are generally considered to have high fire integrity despite not being surrounded by an APZ. Nevertheless, certain Special Protection uses (child care centres and hospitals) are not appropriate for the main building as they would require the establishment of an APZ under section 100B of the *Rural Fires Act*, which in turn would affect the landscape setting of the building and thus both the ecology and heritage significance (as discussed elsewhere in this report). It is also questionable whether an APZ of sufficient width could be contained on site south of the building.

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In terms of bushfire management, it is considered that use of the main building should be restricted to use for which additional bushfire management measures need not be accommodated.

Access and egress

At present there is a single point of access to the campus. PFBP requires that “the public road system provide alternative access or egress for firefighters and residents during a bushfire emergency if part of the road is cut by fire”. The rezoning proposal does not suggest the addition of another access point to the site. It would therefore be necessary to ensure that the single point of access had little potential to be blocked in the event of a bushfire. HFS suggest that existing surrounding development (Film Australia and residential development) is sufficient to shield the access route from bushfire.

Comment on the rezoning proposal was received from NSW Rural Fire Service (RFS) regarding the potential for future development to comply with the requirements of PFBP. With regard to the access route, RFS state that the road “has the potential to be cut by fire along the vegetation intrusion”. Proper protection of the access point would therefore require the establishment of an APZ around the entrance road, however, modification of the landscape around the driveway would negate the opportunity for the landscape in this area be maintained because of its exceptional heritage value.

Perimeter roads

Planning for Bushfire Protection requires that a public perimeter road be established around all development on the site. Such a road must be two-way (minimum 8m width), two-wheel drive, all weather and linked to the internal road system at intervals of not more than 500m. The HFS proposal for a 4m property access fire trail is therefore not acceptable.

The concept plan submitted with the development application shows the additional perimeter fire trail to the west, south and east of the development. It is questionable whether the terrain over which this trail is proposed is suitable for construction of a road suitable for two-wheel drive vehicles and whether construction could be undertaken without significant damage to the local ecology. The length of the additional road is approximately 700 metres. An 8 metre wide road along this proposed route would add some 5,600m² hard surface to the site, approximately 4,320m² of which is through existing bushland.

In addition to the requirement for a perimeter road, *Planning for Bushfire Protection* requires that all internal roads on a property such as this have a minimum width of 8 metres to provide sufficient space for fire fighting crews and their equipment. Contrary to the HFS assertion, the existing road widths range from 5.7 metres to 6.5 metres. In the event that the site was redeveloped, the road network could be widened, however, this would require additional modification to the landscape.

Rezoning of the site must ensure that all development including the perimeter road be contained within existing developed areas so as to be on suitable terrain and so as not to compromise the site ecology.

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The concept plan submitted with the rezoning proposal suggests an APZ of 60 metres based on an assumption that slopes in this area do not exceed 15°. Slopes within 100m of the development proposed in the concept plan exceed 15 degrees and even 18 degrees (see slope map attached) so the minimum APZ required is 70 metres. This view is supported by the RFS which notes, in its letter to Council, that “APZs may be short in some areas”.

The RFS further notes that the concept plan does not show the APZ extending beyond boundaries. Reducing the width of an APZ so that it fits on the subject site is not considered to be effective bushfire management. Instead, the proposed development must be set further back from the boundaries so that the APZ can be contained within the site.

The concept plan suggests that the APZ could be established on all terrain surrounding the existing developed areas of the site without extending beyond the site. Further, the submitted information appears to suggest that establishment of the APZ would have no adverse effect on the environment of the campus.

Establishment and maintenance of an APZ involves reducing fuel to very low levels. APZs are commonly established and maintained using mechanical methods, however, mechanical clearing of slopes greater than 18 degrees is not possible. APZs on steep slopes such as those at the subject site (which typically range from 15.6 to 24.7 degrees) must instead be established and maintained by fire. The RFS letter to Council agrees that the site terrain is generally not conducive to regular mechanical fuel management and notes that a Plan of Management would have to be prepared detailing the ongoing management and maintenance of such an APZ.

Maintenance of the APZ by fire in the location suggested on the concept plan is problematic for four reasons:

- The containment lines that must be established and maintained for safe burning of the APZ would have to be established using machinery, which would cause erosion in the long term and hence degradation of the bushland.
- Establishment and maintenance of an APZ is a specialised undertaking, particularly under such conditions. It is unlikely that private contractors would carry out such a task, so government agencies could be required to police and possibly even maintain an APZ on private land.
- Fuel loads within forest vegetation (such as at the Lindfield site) would typically build to pre-fire levels within three or four years following a fire, so controlled burning of the area would be needed at least every four years. This is a considerably shorter period than the minimum interval between fire events that would enable the survival of *Darwinia biflora* and, as noted by the Department of Environment and Conservation, would almost certainly lead to local extinction of the species.
- A three-four year frequency of fire is less than the minimum seven year fire frequency set by the *Rural Fire Service* Environmental Assessment Code (EAC) used for the purpose of environmental assessment with undertaking hazard reduction.

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For the above reasons, the proposal to establish an APZ at the Ku-ring-gai campus site in areas where establishment and maintenance by burning would be required is not appropriate. Rather than developing to the edge of the existing developed area and establishing an APZ around that, it is preferable that both the development and the APZ be contained within existing developed areas and other less steep areas.

Static water supply

It is common, during major bushfire events, for the supply of mains water pressure to drop significantly. This limits the amount of water available for protection of properties and prevents their adequate protection. Adequate water supply would be of particular concern where development is located at the top of a ridge.

HFS suggest that town reticulated water supply would be sufficient for fire fighting purposes, however, where such a substantial amount of residential development is proposed, a dedicated static water supply would be necessary. It is calculated that over 50,000 litres could be required for emergency services.

Bushfire summary

The rezoning submission does not adequately demonstrate that all proposed new land uses could be accommodated on the site with sufficient protection from bushfire and without adverse impact on other important elements of the site. including ecology and heritage. Further, the RFS have advised that “in its current form, the RFS is not in a position to support the rezoning”. However, it is considered that some areas of the site could be rezoned with appropriate bushfire management methods accommodated (including for residential purposes) and the RFS advises that they may support this. A later section of this report discusses feasible development where bushfire could be appropriately managed.

Community Facilities

The existing university campus has a number of recreation and other facilities that are used by students, staff and the community. These include an indoor gym, dance studio, squash courts, gymnasium, sportsfield, tennis courts, auditorium and drama studio.

The consultants to UTS have advised Council that they are unable to provide figures for the number of users for each of these facilities, but have given indicative figures for the number of hours per week for which each of these facilities is typically hired.

Sportsfield

Ku-ring-gai Council has identified a shortage of playing fields (particularly senior sized fields) and currently places more users on each field than the assets can reasonably sustain. Further, DIPNR have recently conducted a Sydney study which has identified that, at current population levels, there is already a shortfall of over 250 sportsfields across Greater Metropolitan Sydney.

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The sportsfield at the UTS campus is a senior size field which is presently hired by the community for some twelve hours each week and by the university population for some seventeen hours each week. On 22 Saturdays in the year it is used by the Ku-ring-gai District Soccer Association (KDSA). The KDSA have already experienced an increase in the number of teams registered with them to play this season and projections appear to be that this rise in number of players is set to continue in the foreseeable future.

The concept plan suggests residential development over the existing sportsfield with a small portion of it (approximately one fifth) retained as "active recreation space". Open space of this size could not reasonably be considered to be an active recreation space as it is very small and would be overlooked by a large number of the residents who would not want the noise associated with active use such as coaches shouting directions and blowing whistles. Its proximity to residences and its size would make the small "active recreation" space in effect little more than a village green where small children could run around.

The proposal would mean the loss of the playing field as a space for formal sports and games which is not desirable. As Council is presently conducting research into the possibility of providing additional playing fields in North Turramurra because of the recognized shortfall, it would be inconsistent to support a proposal that would allow loss of a valuable facility at this location.

The Gymnasium Facilities

The gymnasium, which was developed as part of the main campus building complex, presently houses an indoor gym, gymnasium area, dance studio and squash courts. The gymnasium is used by both the community and the university staff and students for approximately 76 hours each week. The indoor gym is hired for approximately 48 hours weekly and by the university population for approximately 25 hours. The dance studio is hired for a total of 26 hours and the squash courts for a total of 23 hours.

The gymnasium facilities are considered to be an important indoor recreation asset for the Ku-ring-gai and university populations. The proposal to remove these facilities in place of residential development is not considered to be appropriate, particularly given that an increased residential population would be expected to generate greater need for local recreation opportunities. In addition, as discussed earlier, the building itself has heritage significance its present uses are intrinsic to this.

Tennis / basketball courts

Tennis courts are generally considered to be oversupplied in Ku-ring-gai. The combined tennis / basketball courts at the university campus are not presently in great demand, being hired for some ten hours per week by the community and some eight hours a week by university students and staff.

In principle, in terms of local community facilities, the proposal to redevelop the area containing the tennis / basketball courts is generally acceptable, however, an increased residential community could increase the demand for such facilities.

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Auditorium

The auditorium seats approximately 900 people and is used primarily for university purposes. It is hired out to the community on occasion.

The auditorium is a valuable community asset, so the rezoning proposal to retain this is considered to be appropriate.

FEASIBLE DEVELOPMENT FOR THE SITE

Heritage

Rezoning of the entire campus under a single site-specific zone would not enable Council to ensure that development of the campus was appropriate to the heritage significance of the different site elements. In order to ensure the appropriate development of each area, the campus could be divided into smaller areas, each of which could be given a separate, location-specific zoning. For example, the north-western carpark could be rezoned to allow certain types of residential development while the main campus building could be rezoned to also allow commercial development.

In order to maximise retention of the heritage value of the site, locality specific zoning would need to be prepared to ensure that:

- the use of the main building did not compromise its heritage significance (ie, no significant modifications to the design would be needed);
- areas to be developed would not compromise the landscape setting of the site (ie, most new buildings should not be visible from the main driveway approach to the building); and
- areas of the site that have a high or exceptional heritage value would be retained (however, it is also preferable that areas of moderate heritage value be retained).

Public Transport

It is not possible to establish a railway station at or near the university campus and the nearest station is a minimum of 25 minutes walk away. The existing bus service is not adequate to accommodate a significant increase in commuter numbers.

Feasible development for the site should generally be calculated on the assumption that the majority of people living and/or working at the site would use private transport.

Traffic

Rezoning of the campus to generally allow for a range of residential and commercial uses could have serious implications for local traffic and hence also for community amenity. Any proposal to rezone or redevelop the site must consider the volume of traffic that would be generated, the effect of any change in traffic volumes on peak flows and the effect on parking requirements.

Any additional residential development in the local area will add to traffic issues in the area, particularly during peak hours, as this would generate more vehicles flowing away from Lindfield.

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As the roads in the area are already at or near capacity, it would be preferable that rezoning of the site did not permit residential development and particularly not high density development. However, at a maximum, some low density development could be permitted as this would have only a minor adverse impact on local traffic issues.

Commercial development at the site could be accommodated without significant adverse impact on local traffic issues as vehicle numbers would not be expected to significantly increase from the present and traffic would flow counter to the residential traffic in the area, as does the university traffic at the present time. However, it would be necessary to ensure that the development did not increase parking issues in the area and it would be preferable that all parking was contained within the site.

Enabling an educational purpose to continue at the site would also help to ensure that traffic issues would not be exacerbated.

Ecology

Darwinia biflora is a vulnerable plant species that could easily become extinct at the site through clearing, establishment of an asset protection zone (APZ) and maintenance of an APZ by fire, as would be required at this site. As the subject site is at the south-easterly limit of the species distribution, it is vital that any future development at the site does not compromise its habitat.

In order to properly ensure that *D. biflora* survives at the site and that the present rich biodiversity of the campus is maintained, it is necessary that any rezoning and redevelopment of the site (including any APZ) be confined to the existing developed areas of the site.

Bushfire

The existing buildings are constructed of reinforced concrete and have a high fire integrity, despite some non-compliance with Level 3 building standards. They could be adaptively reused for many purposes in their present state, however, Special Protection Development in the buildings would require establishment of an APZ around the buildings. An appropriate APZ could not be contained on the site and would significantly alter the important bushland setting which has both heritage, ecological and aesthetic value. Adaptive reuse of the building should therefore not include a child care centre or hospital as these are Special Protection Developments. Although not proposed in the rezoning submission, it should be noted that a school (for persons under 18 years) would likewise be classed as a Special Protection Development.

Additional development on the site is considered to be possible, however, owing to site slope (greater than 18 degrees in some areas) and vegetation (including several threatened species), establishment of an APZ beyond the existing developed area of the site is not advisable. In order to ensure ecological stability and to allow for regular fuel management, all development and any associated APZ should be contained within existing developed areas of the site and other areas where slope is less than 10 degrees and the bushland is not threatened species habitat.

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Ku-ring-gai and Metropolitan Sydney as a whole are presently experiencing shortages in senior-size playing fields. Although the UTS playing field is not publicly owned, it is considered to be a valuable community asset. It is therefore not appropriate for any redevelopment of the subject site to involve removal of this field, particularly given that any increase in the local residential population, as proposed in the rezoning submission, would be likely to increase demand for active recreation spaces.

CONSULTATION

In August and September 2004, Council placed the rezoning submission on preliminary exhibition. Over 900 submissions were received, the overwhelming majority of which were against the proposal.

A high proportion of the submissions received were a form letter, while 138 letters were original letters or form letters with original comments.

The primary concerns raised were:

- the loss of a valuable university campus and the loss of opportunity for future use of the site for education purposes;
- the inappropriateness of the extensive profit the university stands to make in the event that rezoning occurs and the land it sold to developers;
- the loss of an important and unique piece of architecture and landscape;
- the incompatibility of the proposal with Council and Metropolitan planning principles, particularly with regard to distance of the site from regular public transport;
- the degradation of ecology / biodiversity that could result from the development and establishment of an asset protection zone;
- the unsuitability of the site for residential purposes owing to the bushfire hazard, particularly given the history of bushfire in the immediate area;
- the increase in local traffic that the development would generate and the failure of the UTS consultants to identify this;
- the increased pressure on parking in the local area;
- the reduction in community amenity that would result from removal of bushland, increased noise, reduced privacy and loss of views;
- the loss of community facilities; and
- the style of consultation undertaken by the consultants to the UTS.

A summary of the submissions received from the community is found in the Attachemnt, as are copies of correspondence received from other government agencies. Copies of the all submissions received have previously been made available to Councillors.

FINANCIAL CONSIDERATIONS

The UTS paid the required fee for assessment of the rezoning proposal. This has covered costs associated with the assessment of the submission including staff time, advertising, notification letters and responses to submissions.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The assessment of the application for the rezoning of the UTS Ku-ring-gai Campus has been undertaken by staff from the Planning and Environment, Open Space, Technical Services and Development and Regulation Departments.

SUMMARY

It is understood that the University of Technology, Sydney (UTS) considers the campus in its present state not to be viable in the long term. However, the proposal to rezone the entire campus to permit a range of residential and commercial land uses is not appropriate as this could enable development to occur in a manner that compromised the ecology, heritage value and availability of community facilities of the site. The proposal could therefore have a significant impact on community amenity, particularly with regard to changes to traffic in the local area.

Commercial development at the site could be accommodated without compromising traffic and parking in the area, however, some types of commercial adaptive reuse of the existing campus building would adversely affect the heritage significance of the building.

Predominantly medium and high density residential development in an area that is not close to public transport is not consistent with Ku-ring-gai Council's planning strategy nor with State directions in planning.

Residential development is not desirable at the site, however, some areas of the campus could be redeveloped with low or medium density housing with less impact on the local traffic and without necessarily compromising the safety of the local community in the event of a bushfire.

In order to retain the heritage significance of the site, it would be preferable that the site continue to be used for an educational purpose. This would, however, exclude education of persons under 18 as the site is bushfire-prone.

Although the present proposal is not desirable in many respects, rezoning of the site could be undertaken so as not to so seriously compromise the value and amenity of the site and local area. A blanket rezoning of the entire site would not ensure that development is confined to the areas appropriate for different types of development.

Discussions between with the UTS and Ku-ring-gai Council could help to determine a more appropriate manner in which to rezone and develop the campus.

RECOMMENDATION

1. That the rezoning proposal not be formally exhibited in its present form.

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2. That council staff work with the UTS to determine a more feasible and appropriate development opportunity for the site.

Katherine Lustig
Environmental Planner

Leta Webb
**Director
Planning and Environment**

Attachments: **Summary of submissions received.**
 Two letters from the Department of Environment and Conservation.
 Letter from NSW Rural Fire Service.
 Letter from Dr Brendan Nelson MP.
 Letter from Willoughby Council.
 Letter from Transport Infrastructure Development Corporation.
 Letter from the Royal Australian Institute of Architects.
 Maps (circulated under separate cover)

ACCEPTANCE OF RTA FUNDING FOR 2004/05

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	The purpose of this report is to seek Council's endorsement to accept funding from the Roads and Traffic Authority for roadworks to be completed by 2004/05.
BACKGROUND:	Following advice to the Roads and Traffic Authority about the limited amount of funding for the 2005/06 REPAIR Program, the RTA were requested to direct unspent funds from other Councils to this Council to enable further road works to be done on regional roads.
COMMENTS:	<p>While the request was intended for 2005/06, the RTA sought assistance from Ku-ring-gai Council to undertake works before the end of this financial year.</p> <p>Arrangements have been made with Council's contractors to carry out works and spend the available funds. This involved an adjustment of the program and using Block Grant funds to provide Council's share of the funding</p>
RECOMMENDATION:	That Council endorses the action taken by the Director Technical Services to accept the \$275,000 grant for road works on regional roads for 2004/05 and the re-allocation of funds to provide Council's share of the funds.

PURPOSE OF REPORT

The purpose of this report is to seek Council's endorsement to accept funding from the Roads and Traffic Authority for roadworks to be completed by 2004/05.

BACKGROUND

Following advice to the Roads and Traffic Authority about the limited amount of funding for the 2005/06 REPAIR Program, the RTA were requested to direct unspent funds from other Councils to this Council to enable further road works to be done on regional roads

The RTA contacted the Technical Services Section on 15 June 2005 to advise that they have \$275,000 available to spend on regional road rehabilitation works due to some other Councils not being able to spend their grant this financial year. They were aware it was late notice but they asked if Council could carry out the works and spend the money by the end of this financial year provided Council can match the amount on a 50/50 basis.

COMMENTS

While the request to the RTA was intended for 2005/06, the RTA sought assistance from Ku-ring-gai Council to undertake works before the end of this financial year.

The total cost of the works is \$550,000 and therefore Council would need to match the RTA share on a 50/50 basis and therefore Council would need to allocate \$275,000 from its funds to carry out the work.

The following is a list of works scheduled to be carried out using these funds:

1. Heavy patch and resheeting Fox Valley Road between Ada Avenue and Lucinda Avenue estimated at \$225,000.
2. Heavy patch and resheeting Eastern Arterial Road from Burra Brui Cr to Nicholson Avenue estimated at \$255,000.
3. Heavy patch and resheeting Eastern Road from Hastings Rd to Challis Street estimated at \$70,000.

The balance of Council funds is to come from the following:

\$165,000 from the RTA Block Grant which was proposed for heavy patching of Eastern Arterial Road and was scheduled to be carried out in the last two weeks of June 2005. Also, \$110,000 from the road program for the stabilising and resheeting of Minnamurra Avenue, Pymble has been identified to meet the required amount. This work was also scheduled for the last two weeks of June 2005 but can now be carried over to early July 2005. Extra funding from the new Roads to Recovery Program for 2005 to 2009 can now be used to complete these works and this will be reported to Council in July 2005 as part of the 2005/06 program.

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16 June 2005

Arrangements have been made with Council's contractors to carry out works and spend the available funds.

The works have all been programmed for the last week of June 2005 and the contractors have advised that they are available to do these works.

The RTA has indicated that the works can carry over into early July 2005 provided the invoices are provided to the RTA by the end of July 2005.

As the advice was late and the works needed to be organised, the RTA was advised by email that Council is able to undertake the works and provide its share of funding for the grant.

CONSULTATION

Not applicable

FINANCIAL CONSIDERATIONS

Funding for Council's share of the works has been made available from the Block Grant funds for maintenance works and it was intended that the available funds were for heavy patching works on regional roads. Also, the final works in Minnamurra Avenue, Pymble have been deferred to allow for the balance of funds required to match the grant. This work has now been rescheduled for early July 2005 and the funding for this work can be provided from the 2005/06 road program.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The Finance and Business Department have been consulted on this offer and the proposed adjustment to the program

SUMMARY

Following advice to the Roads and Traffic Authority about the limited amount of funding for the 2005/06 REPAIR Program, the RTA were requested to direct unspent funds from other Councils to this Council to enable further road works to be done on regional roads.

While the request was intended for 2005/06, the RTA sought assistance from Ku-ring-gai Council to undertake works before the end of this financial year.

Arrangements have been made with Council's contractors to carry out works and spend the available funds. This involved an adjustment of the program and using Block Grant funds to provide Council's share of the funding.

Item 10

S02388
16 June 2005

As the advice from the RTA was late and action was required to advise the RTA that this Council accepts the grant, an email was sent to all Councillors advising of the grant and the proposed actions.

This report has been prepared to formalise the arrangements and seek Council's endorsement of the actions taken.

RECOMMENDATION

That Council endorses the action taken by the Director Technical Services to accept the \$275,000 grant for road works on regional roads for 2004/05 and the re-allocation of funds to provide Council's share of the funds.

Roger Guerin
Manager Design & Projects

Greg Piconi
Director Technical Services

Attachments: Letter from RTA

INVESTMENT CASH FLOW & LOAN LIABILITY MAY 2005

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To present to Council the investment allocation and the performance of investment funds, monthly cash flow and details of loan liability for May 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 May.
RECOMMENDATION:	That the summary of investments, daily cash flows and loan liability for May 2005 be received and noted.

PURPOSE OF REPORT

To present to Council the investment allocation and the performance of investment funds, monthly cash flow and details of loan liability for May 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 May Council's cash increased by \$4,600,000 and gross capital appreciation on Council's investments was \$83,800.

Council's total investment portfolio at the end of May 2005 is \$20,705,800. This compares to an opening balance of \$17,271,200 as at 1 July 2004.

Council's General Fund interest on investments for May year-to-date is \$930,900. This compares favorably to the year-to-date budget of \$847,800.

Council's total debt as at 30 May 2005 is \$10,125,900. 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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8 June 2005

Summary of Borrowings

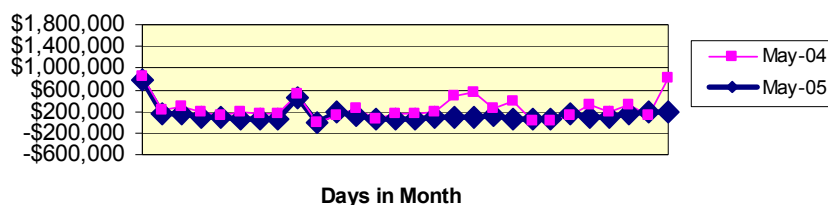
This is a summary of Council's borrowings. It lists each of Council's loans, original amounts borrowed, principal repayments made, outstanding balances, interest rates and maturity dates.

May 2005

Management of General Fund Bank Balance

During May Council had an inflow of funds of \$4,600,000. Funds were received from the final instalment of the Financial Assistance Grant and the final rate instalment which fell due on 31 May 2005.

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 May was 6.06% compared to the benchmark of the UBS Bank Bill Index of 5.86%.

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	\$1,163,338	\$400,000	\$4,803	\$1,568,141	5.92%
Deutsche Income Fund	At Call	\$4,703,881	\$1,050,000	\$22,977	\$5,776,858	6.17%
Macquarie Income Plus Fund	At Call	\$2,415,804	\$2,650,000	\$15,390	\$5,081,194	5.95%
Perpetual Credit Enhanced Cash	At Call	\$4,914,413	\$500,000	\$25,214	\$5,439,627	6.19%
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		\$16,037,436	\$4,600,000	\$81,742	\$20,705,821	

Item 11

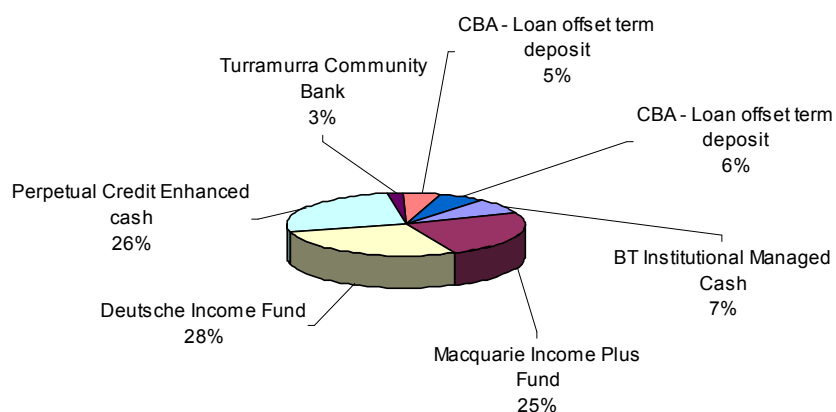
S02722
8 June 2005**Year-to-date Funds Performance against the UBS Bank Bill Index**

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

Fund Manager	Performance Annualised for July 2004 –May 2005	UBS Bank Bill Index Annualised for July 2004 –May 2005
BT Institutional Managed Cash	5.70%	5.63%
Deutsche Income Fund	6.40%	
Macquarie Income Plus Fund	6.46%	
Perpetual Credit Enhanced Cash	6.55%	
Turramurra Community Bank	5.66%	
CBA Offset No.1	5.42%	
CBA Offset No.2	5.42%	

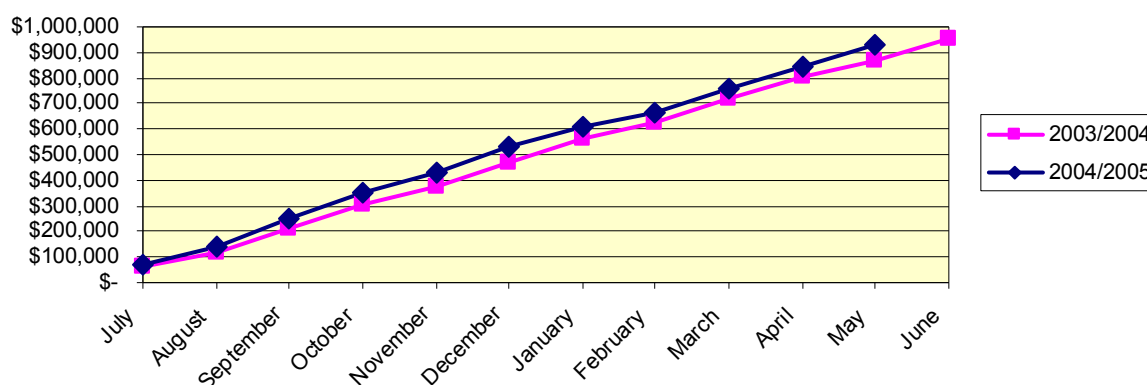
Allocation of Investment Funds:

Council's funds during May were allocated as follows:

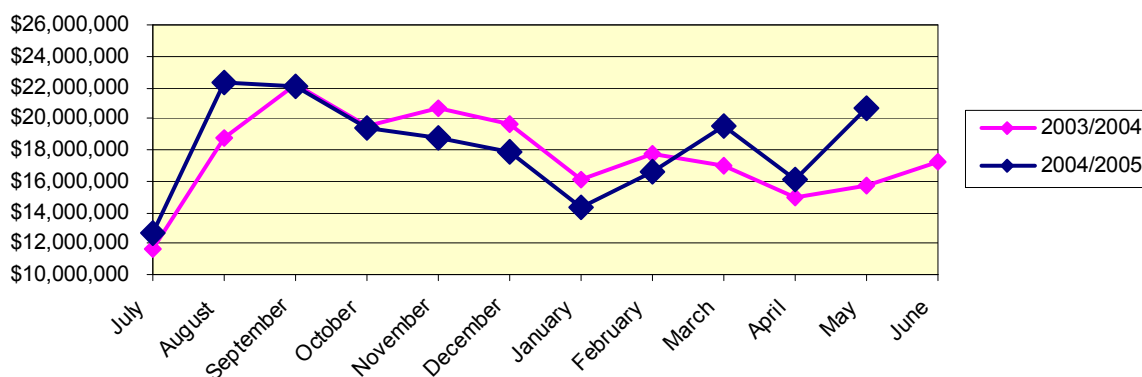
Portfolio Allocation of Investment Funds

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. As at the end of May 2005, year to date interest earnings totalled \$930,900. This compares to \$870,100 at the same time last year, an increase of \$60,800.

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 May 2005 Council's investment portfolio increased by \$4,600,000. In comparison, during May 2004 Council's investments increased by \$703,100.

Council's closing investment portfolio of \$20,705,800 in May 2005 is \$5,003,600 higher than the May 2004 closing balance of \$15,702,200.

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8 June 2005

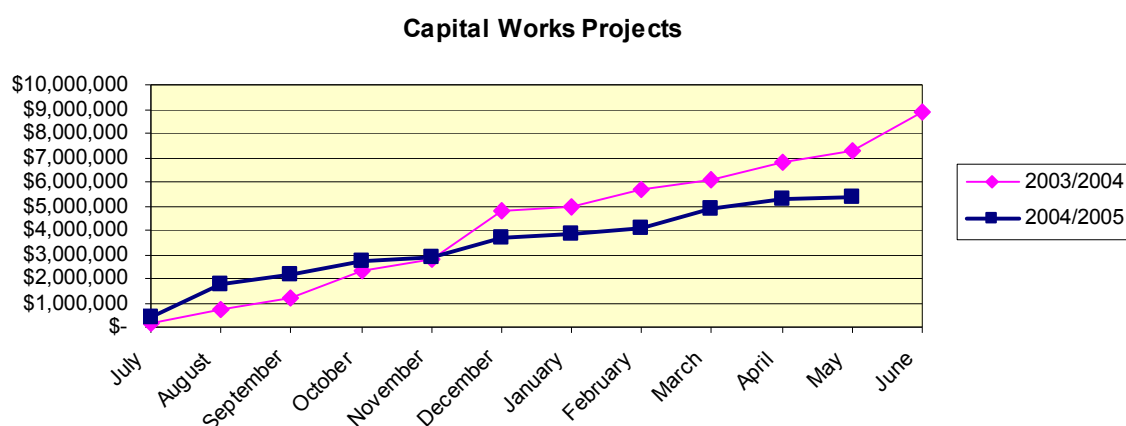
Capital Works Projects

At the end of May 2005 Council had a net expenditure of \$5,384,700 on capital works, which is \$1,869,800 lower than at the same time last year when \$7,254,500 had been expended.

During May 2005 Council expended \$124,700 on capital works, which compares to \$475,700 during May 2004, a decrease of \$351,000.

Council's 2004/2005 total budget for capital works (excluding fleet replacement and purchase of the property at 48 St Johns Avenue, Gordon) is \$9,896,800 which leaves funds of \$4,512,100 unspent at the end of May.

The following graph compares the accumulative monthly expenditure totals for Capital Works for financial years 2003/2004 and 2004/2005.

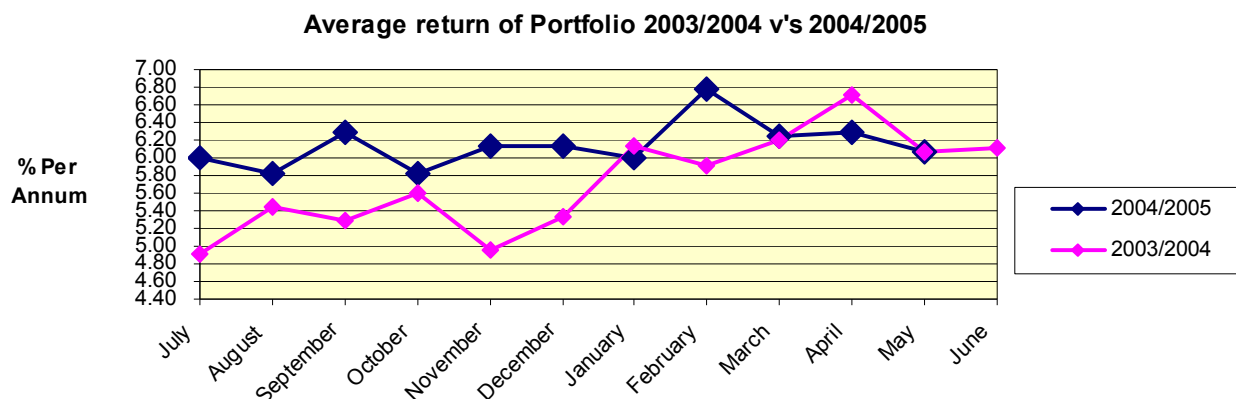


Portfolio Performance Average Return 2003/2004 versus 2004/2005

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

In May 2005 earnings before fees were 6.06%, this compares to the same percentage of 6.06% in May 2004.

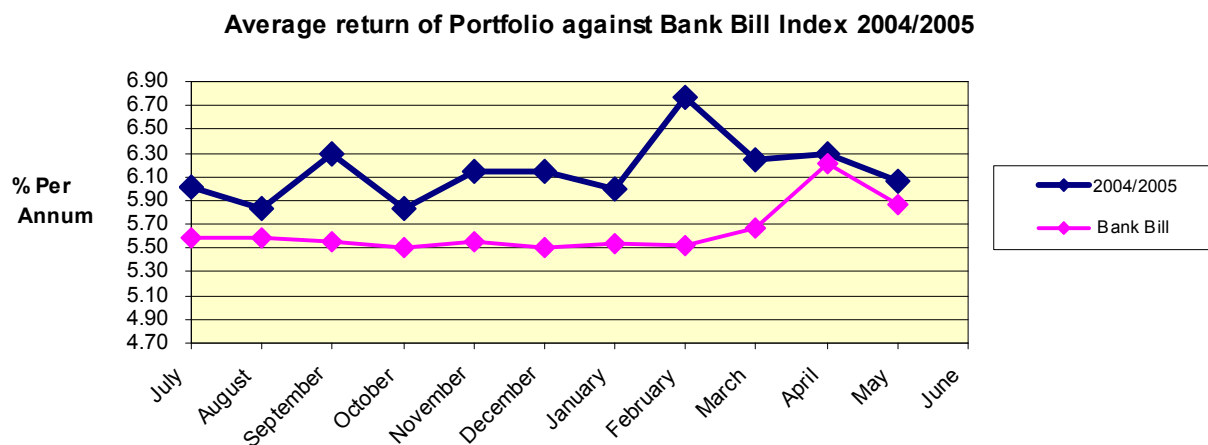
For the period July 2004 – May 2005 Council's average earnings before fees were 6.15%. This compares to 5.69% for the same period last financial year.



2004/2005 Portfolio Performance against the UBS Bank Bill Index

Council's average portfolio return performed above the UBS Bank Bill Index in May. Returns above benchmark have been achieved in each of the 11 months this financial year.

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



Summary of Borrowings

There was no loan repayment's made in May, leaving the total level of debt at month end to \$10,125,900. This compares to a total debt at 1 July 2004 of \$11,850,000.

Lender	Loan Number	Original Principal	Principal Repayments	Balance Outstanding	Interest Rate	Draw Down Date	Maturity Date
Westpac	127	\$1,000,000	\$577,558	\$422,442	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	\$732,979	\$1,867,021	6.32%	26-Jun-01	28-Jun-11
NAB	131	\$2,600,000	\$495,310	\$2,104,690	6.85%	27-Jun-02	27-Jun-12
Westpac	132	\$1,882,000	\$224,562	\$1,657,438	5.16%	27-Jun-03	27-Jun-13
CBA	133	\$1,800,000	\$65,647	\$1,734,353	6.36%	23-Jun-04	23-Jun-14
TOTAL		\$15,082,000	\$4,696,056	\$10,125,944			

CONSULTATION

Not applicable

FINANCIAL CONSIDERATIONS

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

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

As at 31 May 2005:

- Council's total investment portfolio is \$20,705,800. This compares to an opening balance of \$17,271,200 as at 1 July 2004.
- Council's General Fund interest on investments totals \$930,900. This compares favourably to the year-to-date budget of \$847,800.
- Council's total debt is \$10,125,900. This compares to a total debt of \$11,850,000 as at 1 July 2004.

RECOMMENDATION

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

John McKee
Director Finance and Business