



**ORDINARY MEETING OF COUNCIL  
TO BE HELD ON TUESDAY, 5 DECEMBER 2006 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](http://www.kmc.nsw.gov.au) under the link to Business Papers

**APOLOGIES**

**DECLARATIONS OF INTEREST**

**CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING**

**ADDRESS THE COUNCIL**

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

**DOCUMENTS CIRCULATED TO COUNCILLORS**

**CONFIRMATION OF MINUTES**

**Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 28 November 2006

Minutes to be circulated separately

**Minutes of Extraordinary Meeting of Council**

File: S02131

Meeting held 30 November 2006

Minutes to be circulated separately

## MINUTES FROM THE MAYOR

## PETITIONS

## 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 **7 Brevet Avenue, Lindfield - Attached Dual Occupancy** **1**

File: DA0495/06

Ward: Roseville

Applicant: Andrew Spaile & Associates

Owners: Mr Z Y Chen & Mrs S X Z Zhao & Mrs Y F Zhou

To determine development application No 495/06, which is for an attached dual occupancy. This matter has been called to Council by Councillor Shelley.

#### **Recommendation:**

Approval.

### GB.2 **245 to 247 Bobbin Head Road, Turramurra** **37**

File: DA0509/06

Ward: Wahroonga

To respond to the terms of Council's deferral of this application at its meeting of 24 October 2006 and seek determination of the development application.

#### **Recommendation:**

Refusal.

GB.3 **Masada College - Deed of Lease over a Portion of Road Reserve in Eleham Road, Lindfield** 79

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File: S04034

Ward: Roseville

For Council to grant a further lease to Masada College over a portion of road reserve in Eleham Road for school playground and beautification purposes.

**Recommendation:**

That Council approve a Deed of Lease over a portion of road reserve in Eleham Road, Lindfield to Masada College for five (5) years from 22 February 2006.

GB.4 **Christmas/New Year Recess Delegations** 84

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File: S02017

To grant appropriate Delegations during the Christmas/New Year recess period.

**Recommendation:**

That appropriate Delegations of Authority be granted to the Mayor, Deputy Mayor and General Manager.

GB.5 **Council Meeting Cycle for 2007** 87

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File: S02355

To consider the proposed Council Meeting Cycle for 2007 which takes account of school holidays, public holidays and the Christmas Recess.

**Recommendation:**

That Council's Meeting Cycle for 2007 be adopted.

GB.6 **Representation on Ku-ring-gai Meals on Wheels Committee** 91

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Files: S02355, S03148

For Council to make an appointment to the Ku-ring-gai Meals on Wheels Committee Inc.

**Recommendation:**

That Council appoint an alternate representative to the Ku-ring-gai Meals on Wheels Committee.

**EXTRA REPORTS CIRCULATED AT MEETING**

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

**QUESTIONS WITHOUT NOTICE**

**INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS**

**\*\* \*\***

**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.*

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	7 BREVET AVENUE, LINDFIELD - ATTACHED DUAL OCCUPANCY
<b>WARD:</b>	Roseville
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	495/06
<b>SUBJECT LAND:</b>	7 Brevet Avenue, Lindfield
<b>APPLICANT:</b>	Andrew Spaile & Associates
<b>OWNER:</b>	Mr Z Y Chen & Mrs S X Z Zhao & Mrs Y F Zhou
<b>DESIGNER:</b>	Andrew Spaile & Associates
<b>PRESENT USE:</b>	Vacant residential allotment
<b>ZONING:</b>	2(b)
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	Dual Occupancy Code, DCPs 17, 47, 43 & 31 -Access
<b>COMPLIANCE WITH CODES/POLICIES:</b>	No
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP 53, SEPP 55, BASIX, SREP - Sydney Harbour Catchment 2005
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Yes
<b>DATE LODGED:</b>	24 May 2006
<b>40 DAY PERIOD EXPIRED:</b>	3 July 2006
<b>PROPOSAL:</b>	Attached dual occupancy
<b>RECOMMENDATION:</b>	Approval

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**DEVELOPMENT APPLICATION N<sup>o</sup>** 495/06  
**PREMISES:** 7 BREVET AVENUE, LINDFIELD  
**PROPOSAL:** ATTACHED DUAL OCCUPANCY  
**APPLICANT:** ANDREW SPAILE & ASSOCIATES  
**OWNER:** MR Z Y CHEN & MRS S X Z ZHAO & MRS Y F ZHOU  
**DESIGNER** ANDREW SPAILE & ASSOCIATES

**PURPOSE FOR REPORT**

To determine development application No 495/06, which is for an attached dual occupancy. This matter has been called to Council by Councillor Shelley.

**EXECUTIVE SUMMARY**

<b>Issues:</b>	Streetscape, private open space, setbacks, privacy, first floor floor space ratio
<b>Submissions:</b>	Original plans – Five submissions Amended plans – Four submissions
<b>Land &amp; Environment Court Appeal:</b>	No
<b>Recommendation:</b>	Approval

**HISTORY**

**Site history:**

On 11 May 2004, Council approved development application No. 897/03 for subdivision of the former CSIRO site into 29 residential lots including the subject site.

**Development application history:**

24 May 2006	Application lodged.
18 August 2006	Council officers send a letter to the applicant identifying the following non-compliances:- <ul style="list-style-type: none"><li>• Setbacks to Squadron Court &amp; Brevet Avenue, side and rear boundaries</li><li>• Building length greater than 24m</li><li>• First floor space ratio greater than 40%</li><li>• Insufficient soft landscaping</li><li>• Built up area greater than 50%</li><li>• Inadequate private outdoor space</li></ul>
20 September 2006	A meeting was held with the applicant to discuss concept plans designed to address the non-compliances. The following concerns were raised:-

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- Height of fenestration above front entry to Dwelling 1 adjacent to the western boundary.
  - Setback of garage to Brevet Avenue
  - Adequacy of private open space
- 16 October 2006 Amended plans lodged.  
23 October 2006 Amended plans notified.

## THE SITE AND SURROUNDING AREA

### The site

Zoning:	2(b)
Visual Character Study Category:	Between 1945 and 1968
Lot Number:	16
DP Number:	1088187
Heritage Affected:	No
Bush Fire Prone Land:	Yes
Endangered Species:	Sydney Turpentine Ironbark Forest
Urban Bushland:	No
Contaminated Land:	This matters was addressed under DA897/03 for subdivision

### Site description

The subject site is located on the south-western corner of Squadron Court and Brevet Avenue, West Lindfield. The site is relatively flat and grassed, with no significant trees.

### Surrounding development:

The surrounding lots are either vacant land (No. 3 Squadron Court) or contain dwellings under construction (No. 2 Squadron Court and No. 5 Brevet Avenue).

## THE PROPOSAL

The proposed attached dual occupancy consists of the following:-

### Dwelling 1: (Adjacent to the western boundary)

At ground floor there would be a combined living dining room, kitchen, family room, combined laundry and bathroom, entry foyer and double garage with a driveway to Brevet Avenue. The upper level would have four bedrooms (two with ensuites) and a separate bathroom.

### Dwelling 2: (Facing Squadron Court)

On the ground floor, there would be combined living and dining room, entry foyer to the family room, kitchen, breakfast room and combined laundry and bathroom. At first floor level there would be four bedrooms (two with ensuites) and separate bathroom.

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The application includes landscaping with predominately native species and below ground rain water tanks within the southern setback.

Vehicular access for Dwelling 1 adjacent to the western boundary is by way of a driveway off Brevet Avenue and a driveway off Squadron Court for Dwelling 2.

## **CONSULTATION - COMMUNITY**

On 1 June 2006 adjoining property owners were given notice of the application in accordance with Council's Notification DCP No. 56. Five submissions were received from the following property owners:-

1. *Mr P Marner, 19 Paternoster Row, Pyrmont (Owner of No. 4 Brevet Avenue)*
2. *Mr & Mrs J. Chen, 5/11 Orange Street, Eastwood (Owner of No. 2 Squadron Avenue)*
3. *Mr & Mrs Yee, 2/50 Alexandra Street, Drummoyne (Owner of No. 5 Brevet Avenue)*
4. *Mr & Mrs de Swart, 112 Bradfield Road, Lindfield (Owners of No. 8 Squadron Court)*
5. *Nexus Environmental Planning Pty Ltd, 103 Majors Bay Road, Concord (on behalf of the Lindfield Residents Association)*

The following matters were raised in the submissions:-

### ***Dominant, uncharacteristic element within the streetscape***

The amended plans have increased the setbacks to Squadron Court and Brevet Avenue, with soft landscaping within these frontages to reduce bulk and scale to the streetscape. The length of the building has also been reduced in the revised plans to minimise impacts to the public domain. The building would also have a predominantly single dwelling house appearance within the view catchments of Squadron Court and Brevet Avenue similar to other dwelling within those streets.

### ***The roof form is not consistent with what has been approved in the new housing estate***

It is proposed to provide varying low pitched and skillion roofs to minimise bulk and scale to the streetscape as required by section 26.7 in DCP 17.

### ***Excessive length of the building, built upon area***

The revised plans achieve compliance with the relevant controls in SEPP 53 and Council's Dual Occupancy Code.

### ***Non-compliance with the permitted first floor FSR***

Whilst the first floor FSR fails to comply with the permitted 40%, the building is well articulated with varying setbacks to each boundary, adequate soft landscaping to minimise bulk and scale to the streetscape and complies with the overall allowable FSR. There would be no unreasonable impacts on adjoining properties in terms of solar access, views or privacy.

### ***Overshadowing***

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The level of solar access for adjoining properties is compliant with SEPP 53 and Council's Dual Occupancy Code which require 3 hours of solar access between 9am to 5pm on June 22. No. 5 Brevet Avenue would receive more than three hours of solar access after midday whereas No. 3 Squadron Court would receive at least three hours of solar access in the morning to the late afternoon in different parts of their property.

***Front setbacks inconsistent with adjoining properties***

The front setback to Squadron Court, being the main frontage of the subject property, is consistent with No. 2 Squadron Court. The side setback of the proposal to Brevet Avenue is also consistent with the side setback for No. 2 Squadron Court. Both setbacks are compliant with Council's Dual Occupancy Code.

The setback to Brevet Avenue is not consistent with No. 5 Brevet Avenue because its main frontage is to Brevet Avenue where a setback of 12 – 14 metres is required under DCP 38. It is considered unreasonable in the site circumstances to require two deep setbacks on a corner allotment.

***Inadequate first floor setbacks***

The amended first floor setbacks comply with the Dual Occupancy Code, providing a well articulated building to minimise bulk and scale to the streetscape and to adjoining properties.

***Non-compliance with rear setback controls***

A staggered setback is proposed on the western elevation with some minor non-compliances that are acceptable because there would be no unreasonable impacts for adjoining properties in terms of overshadowing, bulk and scale and/or view loss. Moreover, there would be reasonable privacy for No. 5 Brevet Avenue for the reasons stated below.

***Loss of privacy for No. 2 Squadron Court and No. 5 Brevet Avenue***

To minimise overlooking into the rear garden of No. 5 Brevet Avenue, it is recommended that the first floor balcony on the western elevation be deleted and replaced with smaller windows. (**Refer Condition No. 42**) The other first floor windows on the western elevation are either highlight or narrow elongated windows (500mm x 1.5m) that are unlikely to afford overlooking into No. 5 Brevet Avenue.

Privacy impacts as a result of the ground floor windows and doors would be minimised with the proposed setbacks, screen plantings along the southern and western boundaries and any fencing provided under the Dividing Fences Act.

There would be no unreasonable privacy loss for the residents of No. 2 Squadron Court as this property is well removed from the subject site, being situated on the opposite side of the street.

***Dual occupancy development should appear as a single dwelling to maintain streetscape character***

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The proposal is for a two storey building, similar in bulk and scale to other approved dwellings within the new housing estate. The building would appear as a single dwelling when seen in the view catchments of either Squadron Court or Brevet Avenue.

***Increased risk of flooding as a result of excessive paved and roofed areas***

Council's Development Engineer is satisfied that the revised storm water plans comply with DCP 47. They include underground rain water tanks to minimise any risk of flooding for adjoining properties.

The amended plans have reduced the proposed paved areas at the subject site so the proposal now complies with the specified built upon area in Clause 4.9.3 of Council's Dual Occupancy Code.

***All property owners in the new estate should have been notified***

The application was notified in accordance with Council's Notification Policy - DCP 56.

***Too many dual occupancies in one street***

SEPP 53 does not limit the number of dual occupancy developments in any one locality.

***Negative impacts upon property values***

This is not a matter for consideration under section 79C of the Environmental Planning and Assessment Act 1979.

***Only single dwellings should be permitted within the new housing estate***

Dual occupancy development is a permissible form of development in residential zones pursuant to SEPP 53.

***No site analysis or written document was submitted with the application***

The applicant submitted a "site detail plan" and a Statement of Environmental Effects and these contained sufficient information to conduct a proper assessment of the application pursuant to Clause 31 and schedule 5 in SEPP 53.

**Amended plans – 16 October 2006**

Amended plans were lodged in response to issues and concerns raised in the submissions and by Council Officers. The following property owners made submissions:-

1. Mr P Marner, 19 Paternoster Row, Pyrmont (Owner of No. 4 Brevet Avenue)
2. Mr & Mrs J. Chen, 5/11 Orange Street, Eastwood (Owner of No. 2 Squadron Avenue)
3. Mr & Mrs Yee, 2/50 Alexandra Street, Drummoyne (Owner of No. 5 Brevet Avenue)
4. Mr & Mrs de Swart, 112 Bradfield Road, Lindfield (Owners of No. 8 Squadron Court)

The objectors reiterated previous concerns with some additional comments:-

***Setback to Brevet Avenue is inconsistent with No. 5 Brevet Avenue***

Brevet Avenue is the secondary road to Squadron Court and, as such, the building need only address this road as a secondary street frontage. This is compliant with the setback provisions of Council's Dual Occupancy code.

***Bulky concrete pillars at the entrance to doorways***

These design features serve to highlight the front entries to each dwelling and also to address the corner of Brevet Avenue and Squadron Court. The pergola style structure also adds architectural interest to the dwelling without adding unreasonable bulk and scale to the public domain.

***First floor balcony over garage would overlook No. 5 Brevet Avenue***

The first floor balcony over the garage would not cause an unreasonable loss of privacy because it would overlook the front garden of No. 5 Brevet Avenue. The balcony is also off a bedroom that is unlikely to afford extended periods of overlooking. Nevertheless, a privacy screen is recommended on the southern and western perimeters of the first floor balcony to minimise privacy impacts. (see **Condition No. 43**)

***View loss for No. 5 Brevet Avenue as a result of the garage in Brevet Avenue***

There are no significant views to the east of No. 5 Brevet Avenue to warrant a further setback for the proposed garage.

***No landscape, engineering plans or calculations to check compliance***

The applicant lodged the above plans on 16 October 2006 and calculations were noted on the first floor plan DA03 revision A. This information was made available to the public at the time of notification.

**CONSULTATION - WITHIN COUNCIL**

**Landscaping**

Council's Landscaping Team Leader, Ian Francis, made the following comments:-

*The amended landscape plan is an improvement as compared to the previous plan and can be supported in general.*

*I note that there is no existing vegetation on this site.*

*The landscape plan and private open space areas are considered to be adequate. The setbacks to all boundaries are adequate to provide sufficient plantings. The area is classified*

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*as an Inner Protection Zone so amendments need to be made to the landscape plan to be compliant with this requirement. (See Condition No. 22)*

*The canopy tree replenishment is satisfactory and uses locally occurring species selected from Sydney Sandstone Ridgetop vegetative community.*

**Engineering**

Council's Development Engineer, Masahiro Kimura, made the following comments:-

***Site drainage***

*I refer to the submitted drainage plans by Acor Consultants (refer Project No. SY060247, Drawing No. C1.02, Issue B, dated 10/9/2006). This drainage submission incorporates the following stormwater management facilities and works for the development:*

- *4,500L' s of rainwater re-use tank storage for each dwelling in accordance with BASIX commitments.*
- *Council's Storage Requirement provided as a dual OSD/OSR system.*
- *Stormwater piped to existing street pits fronting the property. Backflow is not expected due to the small upstream catchment.*

*The concept drainage plan is suitable, with required modifications. The drainage plan shall not be stamped at this stage as it is suitable as a concept design only and will require advancement/refinement prior to Construction Certificate issue.*

***Traffic generation and vehicle access and accommodation arrangements***

*I refer to the submitted plans by Andrew Spaile & Associates (refer Job No. 05031, Revision A, dated 15/10/2006). This submission incorporates the following accommodation arrangements and traffic access issues:*

- *Two new driveway crossings will be constructed to provide access to the development.*
- *The proposed off-street parking dimensions, driveway grades and widths comply with AS/NZS 2890.1 (2004) - "Off-street car parking".*
- *As Brevet Ave and Squadron Court are both relatively quiet, Development Engineers have no objections to vehicles from both dwellings reversing into the road reserve.*

***Conclusion***

*Based on the formal engineering assessment, Council's Development Engineer has determined that the proposal is satisfactory on engineering grounds, subject to the appropriate engineering conditions. (Refer Conditions Nos. 28-37, 46-49, 52, 58 -62)*

**CONSULTATION – EXTERNAL**

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**NSW Rural Fire Service**

The NSW Rural Fire Service raised no objection to the proposal and recommended a condition of consent requiring the applicant to manage the property as an “Inner Protection Area” (Refer **Condition No. 4**).

**STATUTORY PROVISIONS****State Environmental Planning Policy (BASIX) 2005**

A satisfactory BASIX certificate has been submitted with the amended plans.

**State Environmental Planning Policy 55 – Remediation of land**

A remediation strategy was imposed upon the applicant for DA 897/03 involving the subdivision of the former CSIRO site concerned with the treatment of contaminated soil. The applicant was required to remove contaminated soil and any trace of asbestos (minimum depth of 500mm) until the land was clear of all contaminants.

This work was commenced in 2002 and completed in 2003 when a Site Audit Statement (SAS) was issued by Environmental Resources Management declaring that the land suitable for residential purposes. A further SAS was issued in February 2005 confirm the site’s suitability for residential use.

**State Environmental Planning Policy (Sydney Harbour Catchment) 2005**

SREP Sydney Harbour Catchment 2005 applies to the site. It aims to protect the environment of Sydney Harbour Catchment by ensuring that the impact of future development is considered. The proposal is for a new dual occupancy, associated structures and landscaping works. The works are likely to satisfy the planning objectives identified in Part 2, Clause 13 of SREP (Sydney Harbour Catchment) 2005 and will not adversely impact on the Sydney Harbour Catchment.

**SEPP 53 – Metropolitan Residential Development**

COMPLIANCE TABLE		
Development standards	Proposed	Complies
<b>Allotment size (cl.19(1)(a))</b> • 400m <sup>2</sup> attached dual occupancy (min)	1055m <sup>2</sup>	YES
<b>Floor space ratio (cl.19(1)(b))</b> • 0.5:1 (max)	0.5:1 (528m <sup>2</sup> )	YES
<b>Car parking (cl.20)</b>		

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COMPLIANCE TABLE		
Development standards	Proposed	Complies
<ul style="list-style-type: none"> <li>2 spaces for each dwelling</li> </ul>	4 spaces	YES

## Design of residential development (cl.32)

### Streetscape

The proposed dwelling is of contemporary appearance and is suitable to the future character of the CSIRO site design.

To enhance the general character of the new housing estate and Ku-ring-gai generally, it is recommended that no fencing be provided along the front boundaries in Brevet Avenue and Squadron Court. **(See Condition No. 27)**

### Visual and acoustic privacy

There would be satisfactory privacy to No. 5 Brevet Avenue and No. 2 Squadron Court as discussed previously in the section of this report where comments have been made on submissions.

There will also be satisfactory privacy for the future residents of No. 3 Squadron Court because the first floor balcony on the southern elevation (2.7m length x 1.2m depth) is relatively small, with a 5.7 metres setback to the southern boundary and landscaping to minimise overlooking. Other first floor windows on the southern elevation are very small and as such will not cause adverse privacy impacts for any new dwelling at No. 3 Squadron Court.

The ground floor windows and doors have a varying setback of 5.5 to 8.5 metres, with landscaping and boundary fencing to minimise overlooking into No. 3 Squadron Court.

### Solar access

Future residents of the subject development would receive 3 hours of solar access in different parts of their rear courtyards as well as living areas. Neighbouring property will also receive more than three hours of solar access from 9.00am to 3.00pm at midwinter.

### Crime prevention

The proposal allows for passive, natural surveillance within the development site and the general locality.

### Accessibility

Disabled access is acceptable, with a continuous path of travel from the garages to the dwellings and within the private open spaces.

### Visual bulk

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The proposal generally complies with the relevant density provisions within SEPP 53 and Council's Dual Occupancy Code, providing an acceptable visual mass to the public domain with adequate soft landscaping within the front setbacks to Squadron Court and Brevet Avenue to minimise bulk and scale to the streetscape. The elevations are well articulated, with a palette of materials, colours and finishes that are likely to further minimise impacts on the streetscape.

**POLICY PROVISIONS****DCP 17 – CSIRO LAND, BRADFIELD ROAD, WEST LINDFIELD**

<b>COMPLIANCE TABLE</b>		
<b>Development controls</b>	<b>Proposed</b>	<b>Complies</b>
<b>Materials (cl. 26.8)</b>		
• Earthy tones	Utilised	<b>YES</b>
• Low reflective finishes	Utilised	<b>YES</b>
<b>Bulk (cl. 26)</b>		
• Rooftops avoid bulk appearance	Low pitched roof	<b>YES</b>
• Elevations relieved by horizontal elements/landscaping	Mixed horizontal and vertical lines on each facade	<b>YES</b>
<b>Protection of bushland (cl.36)</b>		
• Prevents pollutants enriching soils	Stormwater is adequately managed on the site,	<b>YES</b>
• Prevents weed invasion	reducing the potential for pollution or erosion.	<b>YES</b>
• Prevents erosion and sedimentation	Sediment controls would be required as a condition of consent. Landscaping includes endemic species.	<b>YES</b>
<b>View retention (Cl. 26)</b>		
• Promote view sharing principles	Views from adjoining properties will be retained	<b>YES</b>
<b>Balconies</b>		
• Not to be enclosed (cl.38)	Open balconies	<b>YES</b>
<b>Solar access (Cl. 28)</b>		
• Adequate solar access to adjoining properties between 9am to 3pm	Acceptable solar access	<b>YES</b>
<b>Open space &amp; landscaping:</b>		
<b>Built-upon area (cl. 23.2)</b>		
• 50% max	40%	<b>YES</b>
<b>Retention of existing trees (Cl.24)</b>	The site is devoid of any significant trees	<b>YES</b>

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COMPLIANCE TABLE		
Development controls	Proposed	Complies
<b>Private open space (Cl. 29)</b>		
• Min depth 6m (ground level)	4m – 9m	<b>NO</b>
• Access from living areas	Access from family rooms	<b>YES</b>
• Not within front setback	Not within front setback	<b>YES</b>

**Private open space (Cl.29)**

There are some minor non-compliances with the depth of the private open space areas, with the least compliant dimension of four metres for Dwelling 1 adjacent to the western boundary. Nevertheless, the areas provided for private outdoor recreation would satisfy the planning objectives for this control with private open space off living rooms having acceptable solar access.

**DUAL OCCUPANCY CODE**

COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>4.2 Streetscape:</b>		
<b>Architectural design</b>		
<b>Roof pitch</b>		
• 3m roof height-2 storey (max)	1.5m	<b>YES</b>
• Roof pitch 35 <sup>0</sup> (max)	15 <sup>0</sup>	<b>YES</b>
<b>4.3 Visual and acoustic privacy:</b>		
<b>Visual privacy</b>		
• Windows to habitable rooms set back 9m from neighbouring windows (min)	7.5m to ground floor windows – No. 5 Brevet Avenue 9m to first floor windows – No. 5 Brevet Avenue	<b>NO</b> <b>YES</b>
<b>4.4 Solar access and design for climate:</b>		
<b>Solar access</b>		
• Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min)	3 hours to different parts of the private outdoor recreation areas	<b>YES</b>
• Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min)	3 + hours to adjoining dwellings	<b>YES</b>
<b>Energy efficiency</b>		
• 3.5 star NatHERS Rating (min)	Approved BASIX & ABSA Certificates submitted with application	<b>YES</b>
<b>4.7 Accessibility:</b>		

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COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Vehicular access and car parking dimensions</b> <ul style="list-style-type: none"> <li>• Driveway width – 3.5m max</li> <li>• Garage 5.6m x 5.4m (min double)</li> </ul>	3m to Squadron Court/3.5m to Brevet Avenue Dwelling 1: 6.4m x 5.7m Dwelling 2: 6.4m x 5.8m	<b>YES</b>  <b>YES</b> <b>YES</b>
<b>4.9 Visual bulk:</b>		
<b>Building setbacks</b> <ul style="list-style-type: none"> <li>• Front building line:</li> <li>• Squadron Court (12m Min)</li> <li>• Corner site</li> <li>• Brevet Street Frontage – 3.8m</li> <li>• Side setback: (southern boundary) Ground floor: 3.12m (min) 1<sup>st</sup> floor: 3.9m (min)</li> <li>• Rear setback: 5.4m (min)</li> </ul>	12m   4.5m - 6.5m (ground floor) 7.5m – 8m (first floor)  5.4m - 8.8m 6.7m – 8m 3m - 5.7m	<b>YES</b>   <b>YES</b> <b>YES</b>  <b>YES</b> <b>YES</b> <b>NO</b>
<b>Building form</b> <ul style="list-style-type: none"> <li>• Unrelieved wall length: 8m (max)</li> <li>• Total building length: 24m (max)</li> </ul>	No unrelieved wall 20.7m	<b>YES</b> <b>YES</b>
<b>Built-upon area</b> <ul style="list-style-type: none"> <li>• Total built upon area (max): 45%</li> </ul>	40%	<b>YES</b>
<b>Floor space ratio</b> <ul style="list-style-type: none"> <li>• FSR (max): 0.5:1</li> <li>• 1<sup>st</sup> floor – 40%</li> </ul>	0.5:1  47%	<b>YES</b>  <b>NO</b>
<b>Height of buildings</b> Attached dual occupancy: 8m (max) <ul style="list-style-type: none"> <li>• Building envelope: 45° from horizontal at any point 3m above boundary</li> </ul>	<8m No breach of BHP	<b>YES</b> <b>YES</b>
<b>Cut and fill (building works)</b> <ul style="list-style-type: none"> <li>• Cut &amp; fill: 900mm &amp; Total 1800mm (max)</li> </ul>	Mostly at ground level	<b>YES</b>
<b>Section 5: Landscaping &amp; open space</b>		
<b>Total soft landscaping : 55% (min):</b>	60%	<b>YES</b>
<b>Tree retention and refurbishment</b>		

COMPLIANCE TABLE		
Development control	Proposed	Complies
<ul style="list-style-type: none"> <li>No. of Trees: 7 (min)</li> </ul>	7 Trees	YES
<b>Cut &amp; fill (landscaping)</b> <ul style="list-style-type: none"> <li>Cut &amp; Fill: 900mm &amp; Total 1800mm</li> </ul>	Mostly at ground level	YES
<b>Open space provisions</b> <ul style="list-style-type: none"> <li>Area: 100m<sup>2</sup> or 2 x 75m<sup>2</sup> areas (min)</li> <li>Min dimension 5m x 5m (min)</li> <li>Grade: 1 in 8 (max)</li> <li>50% receives 3+ hours solar access (min)</li> </ul>	Dwelling 1 = 131.55m <sup>2</sup> Dwelling 2 = 82m <sup>2</sup> Dwelling 1: 4m x 16m (min) Dwelling 2: 5.5m x 12.5m (min)  Dwelling 1: < 1 in 8 Dwelling 2: < 1 in 8  Dwelling 1: Open space receives 3+ hours solar access Dwelling 2: Open space receives 3+ hours solar access	YES NO NO YES  YES YES  YES YES

### Visual privacy (cl. 4.3)

Reasonable levels of privacy would be available to the adjoining properties (Nos. 5 Brevet Avenue and No. 3 Squadron Court) with the recommended conditions of consent as discussed previously in the comments on submissions and where the proposal has been assessed under the development standards within SEPP 53 and DCP 17.

### Building setbacks (cl. 4.9.1)

Parts of the rear (western) setback fail to comply with the specified setback of 5.4 metres. This non-compliance is acceptable because there would be no material loss of privacy for No. 5 Brevet Avenue with the recommended condition of consent requiring the deletion of the first floor balcony and the proposed screen plantings along the western boundary to minimise overlooking from the ground floor windows and doors.

### Floor space ratio (cl. 4.9.4)

There is a non-compliance (40m<sup>2</sup>) with the specified first floor FSR of 40%. This non-compliance is acceptable in the site circumstances because the proposal complies with overall permitted FSR of 50%, the building is well articulated with compliant front setbacks to Squadron Court and Brevet Avenue, with adequate soft landscaping to minimise bulk and scale to the streetscape.

### Open Space provision (cl. 5.1.5)

Overall, the proposal provides the prescribed amount of private open space (213.55m<sup>2</sup>). Dwelling 2, however, has only 82m<sup>2</sup> of private open space not 100 square metres as required by Council's

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Dual Occupancy Code. This non-compliance is acceptable because the area set aside for private outdoor recreation would satisfy the planning objectives for clause 5.15 in Council's Dual Occupancy Code by providing an area that is relatively flat with dimensions that are suitable for outdoor recreation with good solar access.

**Likely impacts**

The proposal is unlikely to have an undesirable impact on the environment, landscape or scenic quality of the locality, threatened species, populations or ecological communities or their habitats or any other protected fauna or protected native plants.

**Suitability of the site**

The site is suitable for a dual occupancy development.

**Submissions**

All submissions received have been addressed.

**Public interest**

The proposal is considered to be in the public interest.

**CONCLUSION**

The proposal is likely to achieve the planning objectives for the relevant planning instruments and policies with minimal impacts for adjoining properties and/or the streetscape and is therefore recommended for approval.

**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 495/06 for an Attached Dual Occupancy on land at No 7 Brevet Avenue, Lindfield, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

**GENERAL CONDITIONS**

1. The development to be in accordance with Development Application No 495/06 and Development Application plans prepared by Andrew Spaile & Associates, reference number DA02 – DA06 Rev. A dated October 2006, Landscape Plan No. 1760-1A dated 26 May 2006 prepared by Precinct Landscapes received at Council on 16 October 2006 except where amended by the following conditions:
2. All building works shall comply with the Building Code of Australia.

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3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The entire property shall be managed as an 'Inner Protection Area' as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.
5. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
6. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
7. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
8. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
9. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

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

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12. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
13. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
14. For the purpose of maintaining visual amenity, no permanent electricity supply poles are to be erected forward of the building setback without the prior Consent of Council. It is the onus of the applicant to consult with the authorised statutory electricity provider prior to construction commencing to ensure that direct connection to the building is possible. Details of any proposed permanent pole must be submitted to and approved by Council prior to installation.
15. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
16. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.  
  
All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.
22. Landscape works shall be carried out generally in accordance with Landscape Drawing Number 1760-1A, prepared by Precinct Landscapes and dated 24 May 2006, submitted with the Development Application, except as amended by the following:

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- Due to IPZ classification 1 of 2 be relocated elsewhere on the site consistent with RFS guidelines for Inner Protection Areas.
  - *Beackia virgata* to be replaced with a more fire resistant screen planting species capable of 3m in height such as *syzioum* select forms
  - To enhance native vegetation and promote biodiversity the Landscape Plan is to incorporate at least 25% of the overall number of trees and shrubs as locally occurring native plant species selected from the Sydney Sandstone Ridgetop Vegetative Community.
  - All retaining walls required to be indicated on landscape plan so as to retain existing ground levels to boundaries, no retaining wall to be closer than 2.0m from site boundaries
23. 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.
24. The property shall support a minimum number of 7 canopy trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, the existing tree/s, and 7 additional tree/s to be planted, shall be shown on the Landscape Plan. The plan shall be submitted to, and approved by, the Principal Certifying Authority.  
7 of the canopy trees to be planted are to be locally occurring native trees.
25. The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species
26. Development must be in accordance with BASIX Certificate No.102048M.
27. No fencing is to be provided along the front boundaries in either Brevet Avenue or Squadron Court forward of the building line to maintain streetscape character.
28. Stormwater runoff from all new impervious areas and subsoil drainage systems must be piped to the street drainage system and generally in accordance (with required amendments) with the submitted concept drainage plans by Acor Consultants (refer Project No. SY060247, Drawing No. C1.02, Issue B, dated 10/9/2006). New drainage line connections to the street drainage system must conform and comply with the requirements described in sections 5.3 and 5.4 of Ku-ring-gai Council Water Management Development Control Plan 47. The Applicants attention is directed to the requirements for obtaining a *Road Opening Permit* for excavating in the road reserve.
29. A mandatory rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the development. The (minimum) total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy all relevant BASIX commitments and the requirements specified in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47 (DCP47).

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30. In addition to the mandatory rainwater retention and re-use system provided, an **on-site stormwater detention** system must be provided for the development to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.
31. To control surface runoff all new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details for such measures shall be shown on the approved Construction Certificate issue drawings, to the satisfaction of the Principal Certifying Authority.
32. For stormwater control a 200mm wide grated drain with heavy duty removable galvanized grates is to be located **within** the property at the intersection of the driveway and Council's footway to collect all surface water flowing down the proposed driveways. The drainage line from the grated drain shall be connected to the street system, either separately or via the main site outlet.
33. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.
34. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (2002) "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
35. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis

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and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

36. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".
37. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. The Applicant is to refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://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.

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

38. 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.
39. 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).
40. 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

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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.

41. A CASH BOND/BANK GUARANTEE of \$ 4000 shall be lodged with Council as a Landscape Establishment Bond prior to release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan/s and other landscape conditions.

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

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

42. The first floor balcony on the western elevation is to be deleted from the plans and replaced with windows (1.4m wide x 1.5m high) to minimise overlooking into the adjoining property. Plans to be amended prior to the issue of the construction certificate.
43. To minimise overlooking into the adjoining property, a privacy screen must be provided on the southern and western perimeters of the first floor balcony off Bedroom 1 of Dwelling 1 closest to the western boundary.
44. A CASH BOND/BANK GUARANTEE of \$ 4000 shall be lodged with Council as a Landscape Establishment Bond prior to release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan/s and other landscape conditions.

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

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

45. 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 ONE (1) ADDITIONAL DWELLING IS CURRENTLY \$38,062.75. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

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

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

#### OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

46. Prior to issue of the Construction Certificate, driveway and associated footpath levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

**Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location**

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

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

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA.

49. Prior to issue of the Construction Certificate the submitted concept drainage plans by Acor Consultants (refer Project No. SY060247, Drawing No. C1.02, Issue B, dated 10/9/2006) must be revised and submitted to the Principal Certifying Authority for approval. The

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amendments must be undertaken by qualified persons and must address at least the following issues:

- Consistent values shown on the drainage plans (i.e. detention tank A storage volume).
- All relevant levels shown on the plans.

The amendments are required to ensure compliance with Ku-ring-gai Council Water Management Development Control Plan 47.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

50. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
  - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
  - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
  - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
  - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
51. Prior to 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.
52. Prior to the commencement of any works on site the applicant must submit to Ku-ring-gai Council and the Principal Certifying Authority a photographic record on the visible condition of the existing public infrastructure **over the full site frontage** (in colour - preferably saved to cd-rom in 'jpg' format). The photos must include detail of:
  - The existing footpath
  - The existing kerb and gutter
  - The existing full road surface between the opposite kerb
  - The existing verge area
  - Any existing drainage infrastructure including pits, lintels, grates.

Particular attention must be paid to accurately recording any pre-developed *damaged* areas on the aforementioned infrastructure so that Council is fully informed when assessing damage to public infrastructure caused as a result of the development (which is not to be repaired by the Applicant as part of the development). 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 and demonstrated under the requirements of this condition prior to the commencement of any works.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

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53. 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.
54. The landscape works, shall be installed in accordance with the approved plan/s and/ or conditions of consent, be completed prior to release of Occupation Certificate and be maintained in a healthy and vigorous condition at all times.
55. The Principal Certifying Authority shall ensure that the landscape works, have been installed correctly, consistent the approved landscape plan(s), specification and the conditions of consent prior to release of the Occupation Certificate.
56. The landscape works, shall be installed in accordance with the approved plan/s and/ or conditions of consent, be completed prior to release of Occupation Certificate and be maintained in a healthy and vigorous condition at all times.
57. The Principal Certifying Authority shall ensure that the landscape works, have been installed correctly, consistent the approved landscape plan(s), specification and the conditions of consent prior to release of the Occupation Certificate
58. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:
- Two (2) new concrete driveway crossings and laybacks in accordance with levels and specifications issued by Council.
  - Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter. (Reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials).
  - Full repair and resealing of any road surface damaged during construction.
  - Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

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

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

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

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

- 60. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority.
- 61. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection for approval to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:
  - a) That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
  - b) That the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Council Water Management DCP 47 respectively, have been achieved in full.
  - c) That retained water is connected and available for uses specified in the BASIX commitments.
  - d) That subsoil areas are able to drain via a sump system installed in accordance with AS3500.3.
  - e) That all grates potentially accessible by children are secured.
  - f) That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 2003 and the BCA, and
  - g) All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

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

- 62. Prior to issue of the Occupation Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage and management systems. The WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. The WAE survey must indicate:
  - As built (reduced) surface and invert levels for all drainage pits.
  - Gradients of drainage lines, materials and dimensions.

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

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

Robyn Pearson  
**Executive Assessment Officer**

R Kinninmont  
**Team Leader**  
**Development Assessment - Central**

M Prendergast  
**Manager**  
**Development Assessment Services**

M Miocic  
**Director**  
**Development & Regulation**

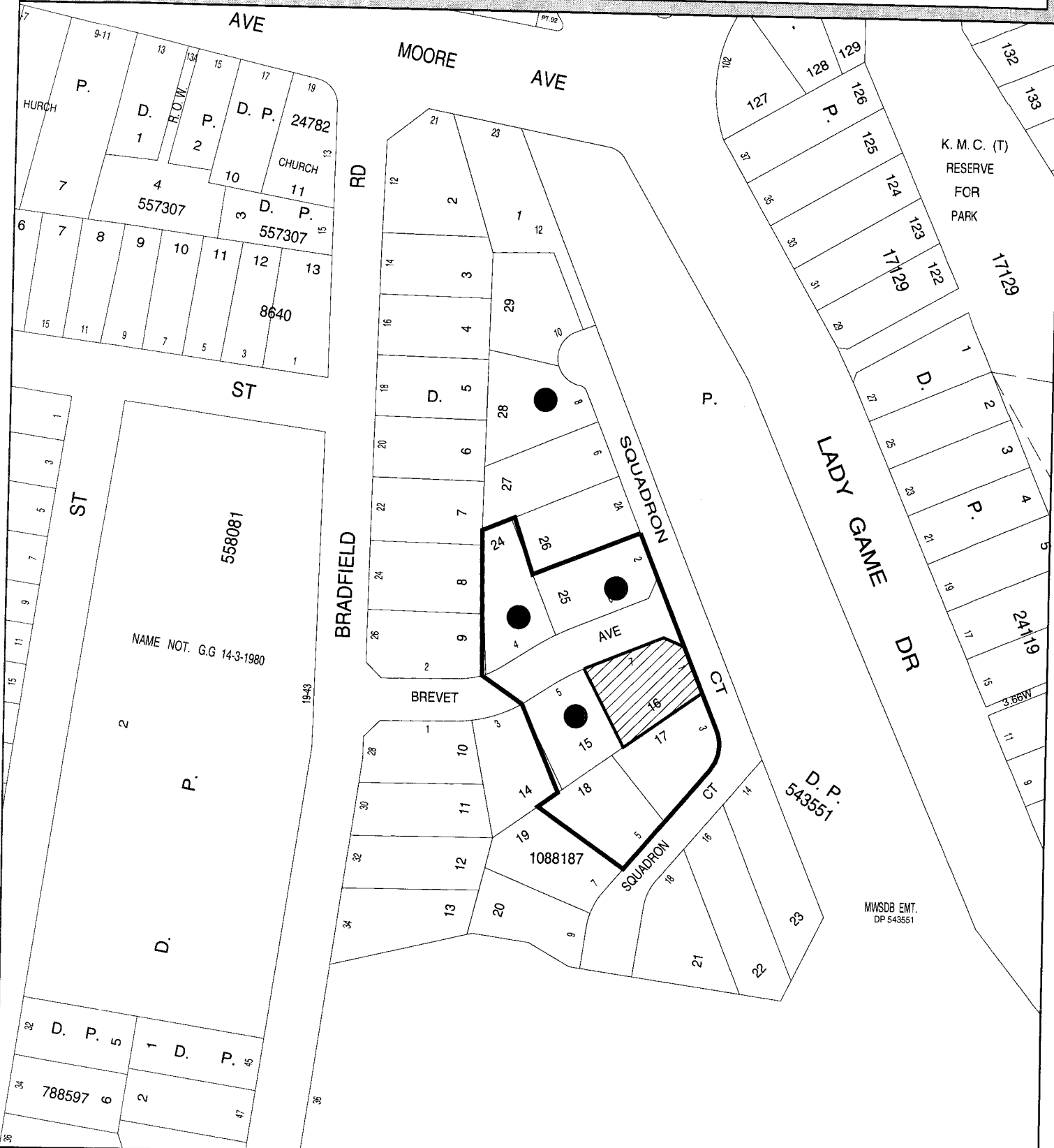
**Attachments:**

- Location Map - 699299**
- Site analysis - 699306**
- Survey - 699306**
- Elevations - 699306**
- Landscape plans - 699332**
- Design perspectives - 699315**
- Shadow diagrams – 699319**
- Confidential floor plans**

# LOCATION SKETCH

## 7 BREVET AVE LINDFIELD

### DEVELOPMENT APPLICATION No 495/06



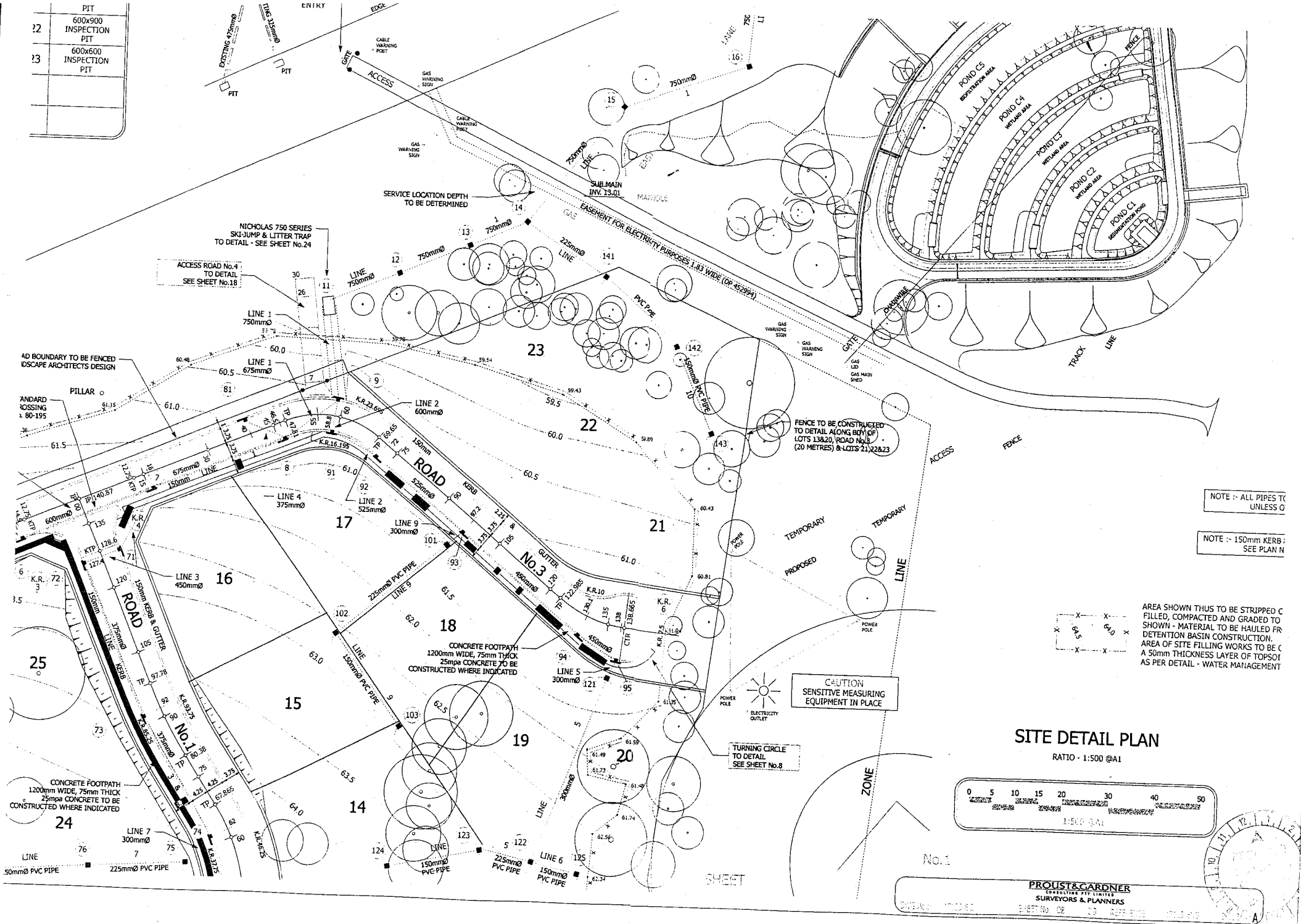
**Scale : 1:2000**

**24-11-2006**

- |  |              |  |                 |
|--|--------------|--|-----------------|
|  | AGREEMENT    |  | PETITION        |
|  | OBJECTION    |  | SUBMISSION      |
|  | SUBJECT LAND |  | CIRCULATED AREA |



12	PIT 600x900 INSPECTION PIT
13	600x600 INSPECTION PIT



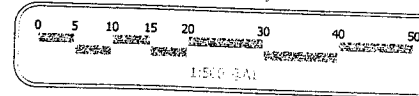
NOTE :- ALL PIPES TO  
UNLESS O

NOTE :- 150mm KERB  
SEE PLAN N

AREA SHOWN THUS TO BE STRIPPED C  
FILLED, COMPACTED AND GRADED TO  
SHOWN - MATERIAL TO BE HAULED FR  
DETENTION BASIN CONSTRUCTION.  
AREA OF SITE FILLING WORKS TO BE C  
A 50mm THICKNESS LAYER OF TOPSOIL  
AS PER DETAIL - WATER MANAGEMENT

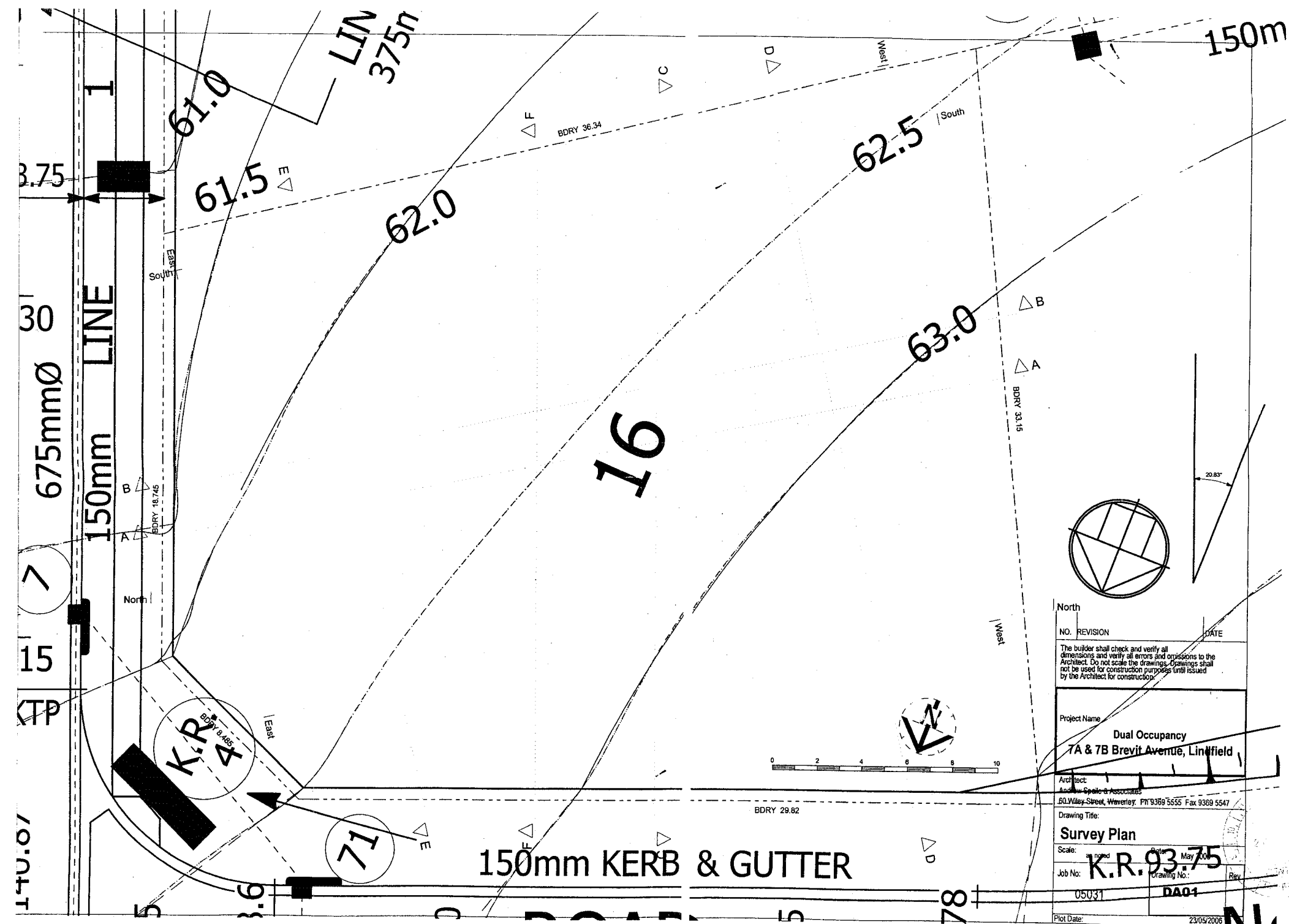
# **SITE DETAIL PLAN**

RATIO: 1:500 @A1



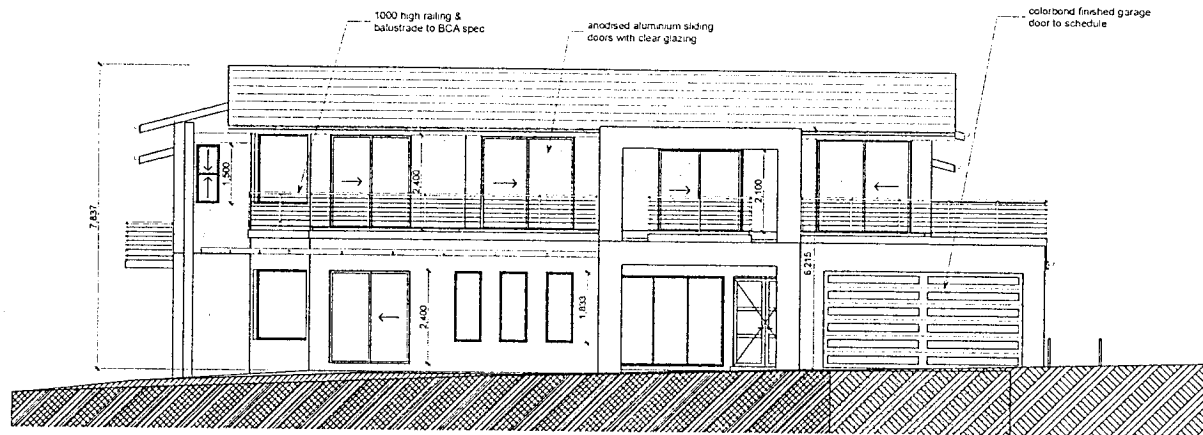
**PROUST & GARDNER**  
CONSULTING PTY LIMITED  
SURVEYORS & PLANNERS

SHEET No. 01 OF 01



North

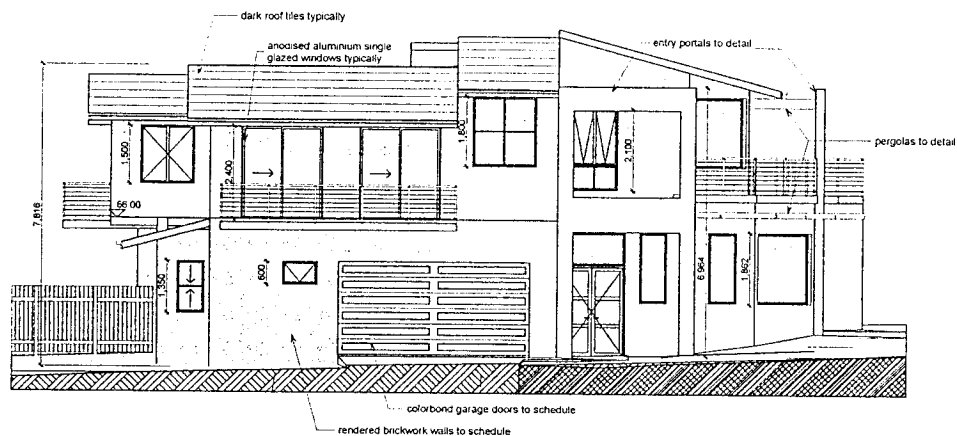
NO. REVISION	DATE
The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.	
Project Name <b>Dual Occupancy</b> <b>7A &amp; 7B Brevit Avenue, Linfield</b>	
Architect <b>Architect Space &amp; Associates</b> 60 Willey Street, Waverley. PH 9389 5655 Fax 9389 5547	
Drawing Title: <b>Survey Plan</b>	
Scale: 1:1000	Date: May 2006
Job No: 05031	Drawing No.: DA01
Plot Date: 23/05/2006	



1

North Elevation

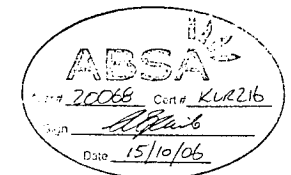
1:100



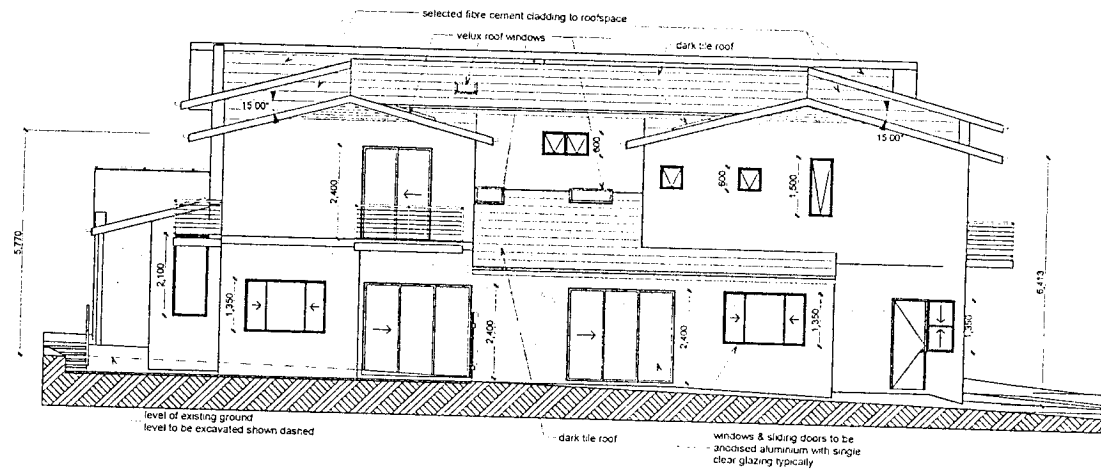
2

East Elevation

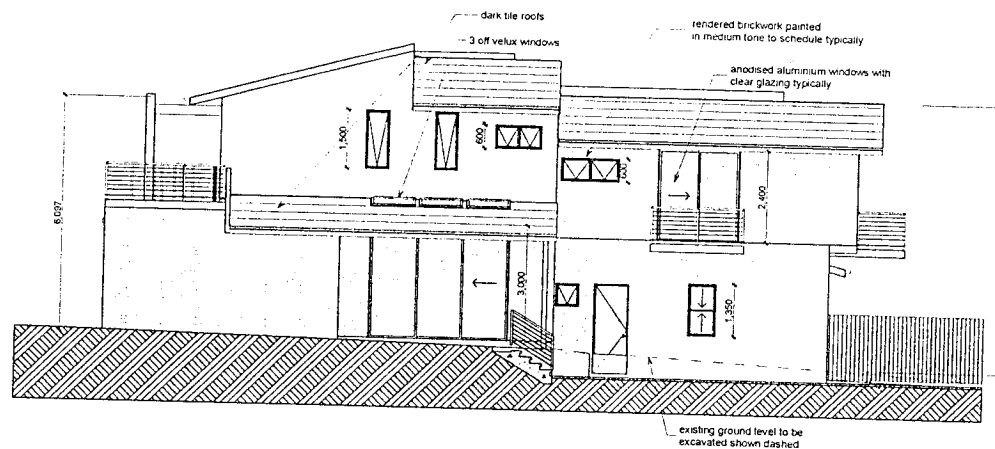
1:100



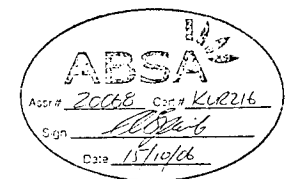
NO.	REVISION	DATE
The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.		
Project Name		
Dual Occupancy		
7A & 7B Brevet Ave, Lindfield		
Architect		
Andrew Spalle & Associates		
60 Wiley Street, Waverley, Ph 9369 5555 Fax 9369 5547		
Drawing Title:		
North & East Elevations		
Scale: as noted		Date: October 2006
Job No:	Drawing No.:	Rev
05031	DA04	A
Plot Date:		15/10/2006



1 South Elevation 1:100



2 West Elevation 1:100



NO.	REVISION	DATE
-----	----------	------

The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.

Project Name  
**Dual Occupancy  
7A & 7B Brevet Ave, Lindfield**

Architect:  
Andrew Spalle & Associates  
60 Wiley Street, Waverley. Ph 9369 5555 Fax 9369 5547

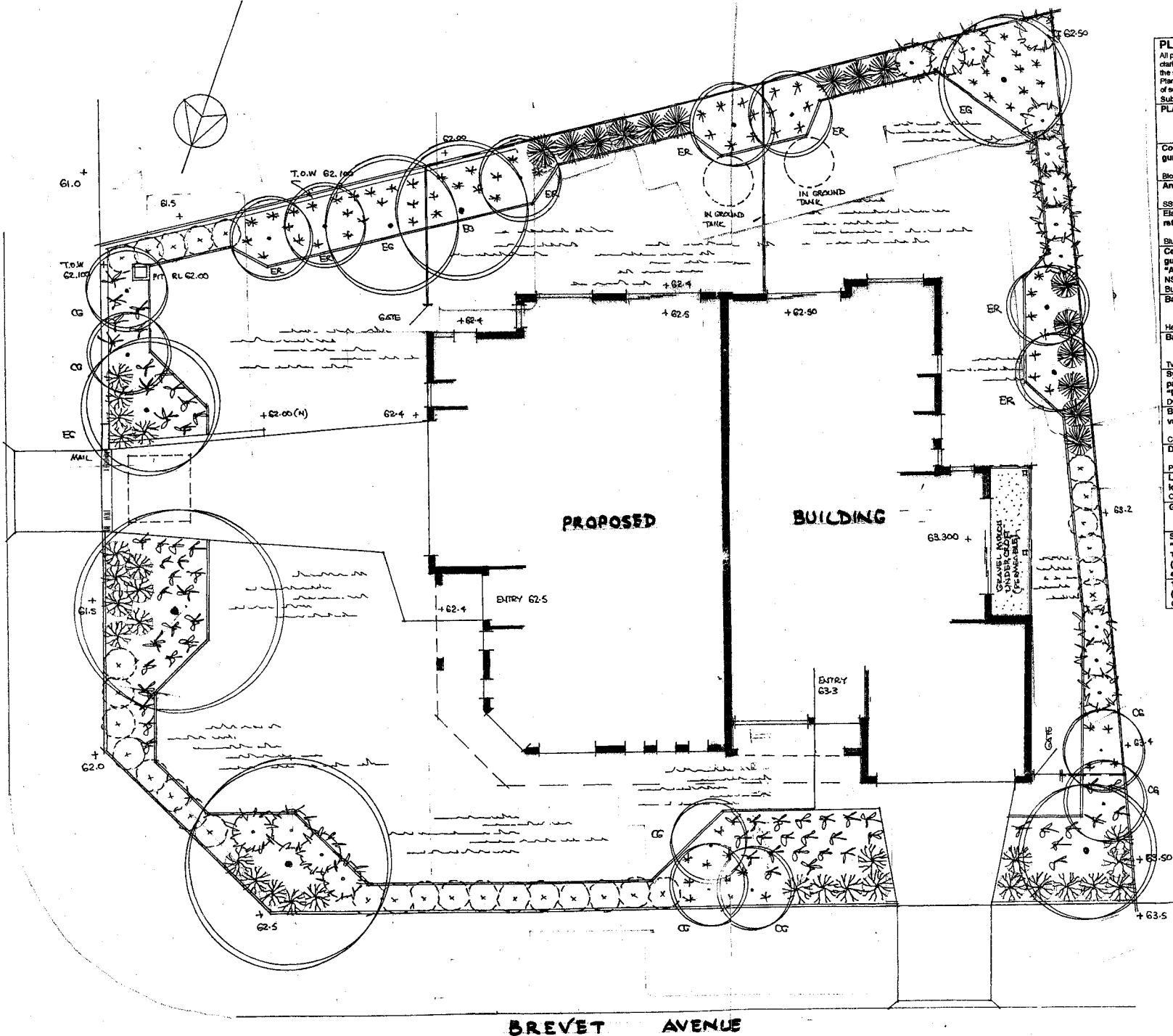
Drawing Title:  
**South & West Elevations**

Scale: as noted Date: October 2006

Job No: <b>05031</b>	Drawing No.: <b>DA05</b>	Rev <b>A</b>
-------------------------	-----------------------------	-----------------

Plot Date: 16/10/2006

COURT SQUADRON



# PLANTING SCHEDULE

All plants should be true to nominated botanical listing and to mature heights scheduled. Seek clarification where any apparent discrepancy in required plant material becomes apparent within the scheduled material.  
Plants should be ordered at the commencement of building construction works to ensure supply of scheduled materials.  
Substitutions are not acceptable without prior approval.

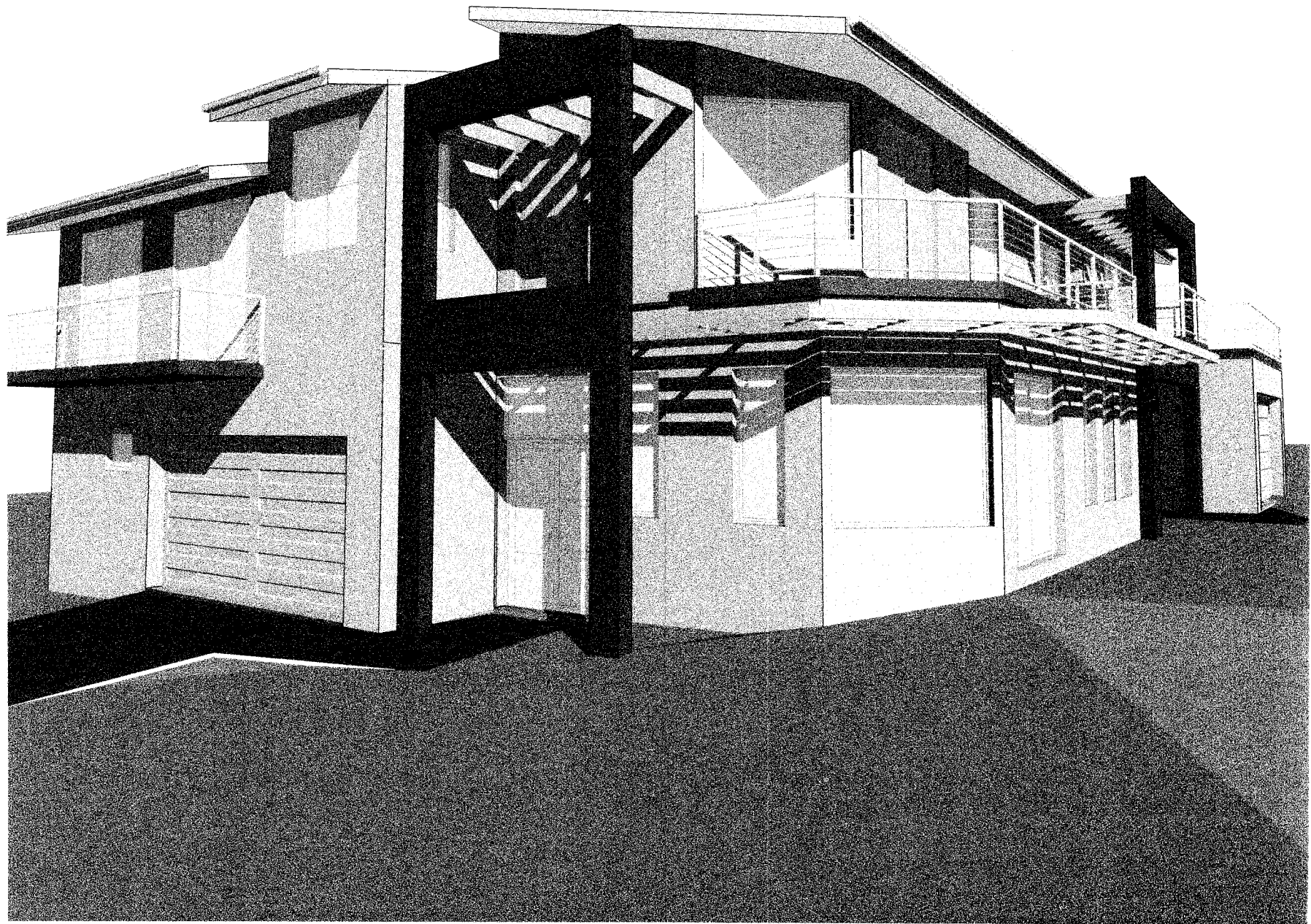
PLANT	Symbol	Supply Size (litre)	Appr. Mature Size (This site)	Stake and Tie	No
Corymbia gumifera	EG	25 litre	To 15m X 5m	Yes	5
Bloodwood Angophora costata	AC	25 lit	To 20m x 15m	Yes	2
Sydney Red Gum Elaeocarpus reticulatus	ER	25 lit	To 8m	Yes	7
Blueberry Ash Ceratopetalum gumifera var "Alberry's Red" NSW Christmas Bush	CG	25 lit	4-5m	Yes	7
Bankia ericifolia		5 lit	To 3.0m x 2.0m	No	14
Heath Bankia Baeckea virgata		5 lit	To 3.0m x 1.2m	No	15
Twiggy Baeckea Syzgium paniculatum "Dwarf" Dwarf Lilipili		5 lit	To 2.0m	No	30
Baeckea virgata var "La Peste"		5 lit	To 1.0m	No	30
Compact Baeckea Dianella caerulea		150mm Pot	Lily to 800mm	No	55
Palm Lily Lomandra longifolia "Tanika" Club Rush		150mm Pot	Fine Leaf Rush to 900	No	70
Gravel Mulch			Washed clean gravel free from sharp material and dust		
Selected "Palmetto" Buffalo Turf (or approved equivalent) 1800 high fencing (timber lapped and capped)					

RECEIVED

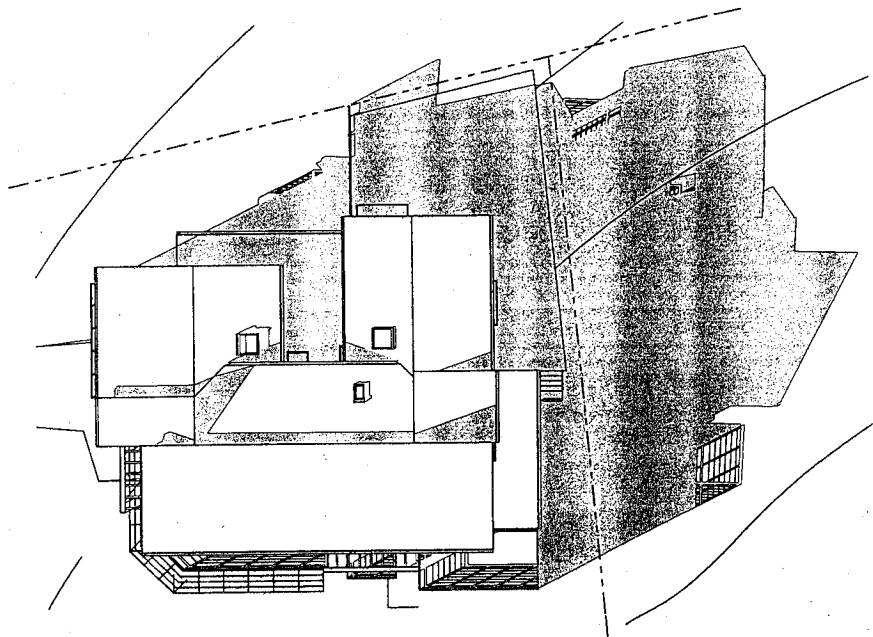
16 OCT 2006

CUSTOMER SERVICE

DATE	ISSUE	TO	NO	AMENDMENT
SITE LANDSCAPE WORKS				
Proposed Residences Development				
7 Brevet Avenue, Lindfield NSW				
Andrew Spall: Architect				
PRECINCT LANDSCAPES				
Landscape Architects				
10 Arkana Street, Telopea NSW 2117				
PO Box 66 Oatlands NSW 2117				
Phone 9630-6581 Fax 9630-6867				
Mobile: 0418-637-899				
Scale: 1:100 As Shown				
Written dimensions are to be taken in preference to scale				
All dimensions and conditions are to be verified at the site prior to the commencement of landscape works.				
Establish locations of all underground services prior to the commencement of landscape works.				
This drawing is subject to copyright and is not to be altered or copied in whole or part without the written permission of Precinct Landscapes				
DRAWING No 1760-1A of 2				
This Drawing supersedes Drawing 1760-1 dated 24 May 2006				



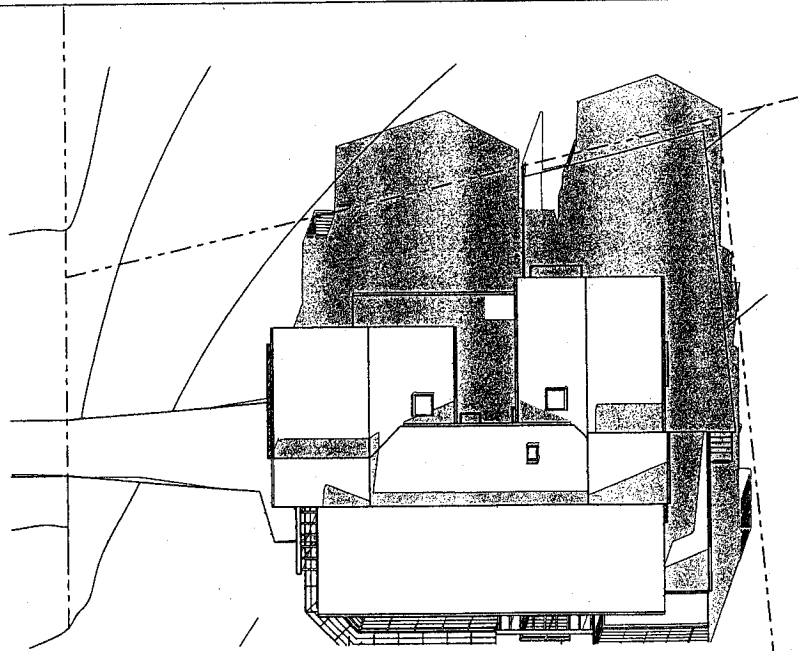




1

9 AM Altitude 19deg Azimuth 43deg E

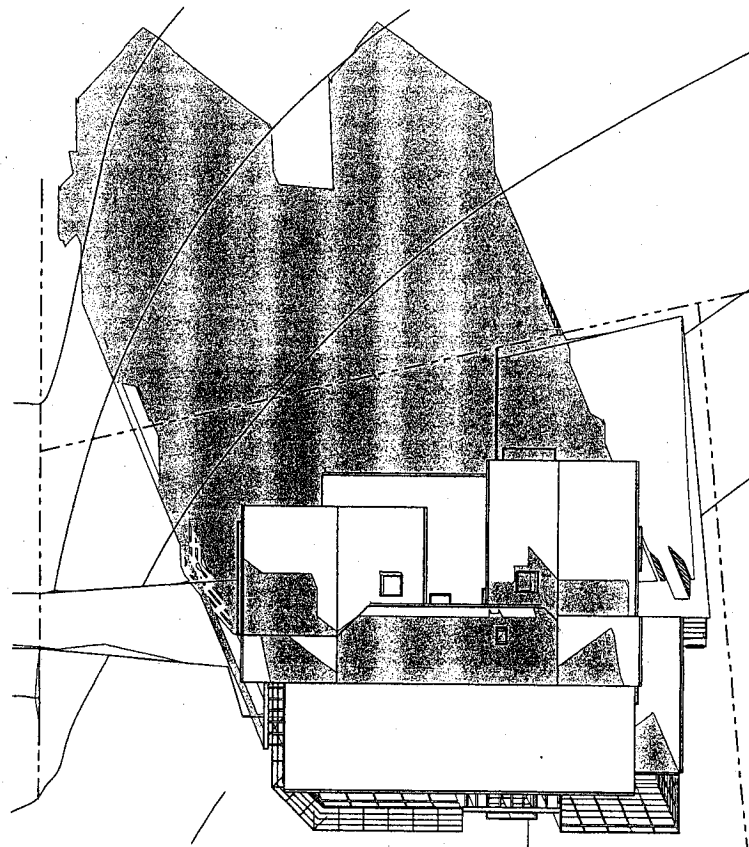
1:200



2

Noon Altitude 33 deg Azimuth: 1deg W

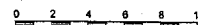
1:200



3

3 PM Altitude 18 deg Azimuth: 44 deg W

1:200



RECEIVED  
16 OCT 2006  
CUSTOMER SERVICE

NO.	REVISION	DATE
The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.		
Project Name <b>Dual Occupancy</b> <b>7A &amp; 7B Brevet Ave, Lindfield</b>		
Architect: Andrew Spalle & Associates 80 Wiley Street, Waverley, Ph 9389 5555 Fax 9389 5547		
Drawing Title: <b>Shadows at 21st June</b>		
Scale: as noted Date: October 2006		
Job No: 05031	Drawing No.: <b>DA08</b>	Rev <b>A</b>
Plot Date:		15/10/2006

Item 2

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## 245 TO 247 BOBBIN HEAD ROAD, TURRAMURRA SUPPLEMENTARY REPORT

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Ward: Wahroonga

### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	To respond to the terms of Council's deferral of this application at its meeting of 24 October 2006 and seek determination of the development application.
<b>BACKGROUND:</b>	On 24 October 2006, Council resolved to defer consideration of the DA to permit staff to enter into discussions with the applicant in respect of the potential to make a voluntary agreement to assist Council with parking and/or other infrastructure within the North Turrumurra Centre.
<b>COMMENTS:</b>	<p>Responses to the applicant's offer are addressed in this report.</p> <p>Given the inability to provide suitable parking and loading facilities to meet the parking requirements for the proposed mini market, the application is recommended for refusal.</p>
<b>RECOMMENDATION:</b>	Refusal

Item 2

## PURPOSE OF REPORT

To respond to the terms of Council's deferral of this application at its meeting of 24 October 2006 and seek determination of the development application.

## HISTORY

On 24 October 2006, Council considered an assessment report and recommendation from its officers in respect of DA509/06 at 245- 247 Bobbin Head Road, Turrumurra. The application is for the demolition of existing structures and construction of a two storey retail/ commercial development with basement level for a mini market at ground level and two offices at the first floor.

The officer's report recommended refusal of DA for the following reasons:

### *Traffic and car parking*

1. *The proposed development provides insufficient off-street parking, does not provide for loading and unloading of vehicles and would result in an unsatisfactory impact on local traffic and parking conditions.*

### *Suitability of the site*

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

### *SEPP 1 Objection*

3. *The SEPP 1 objection to the provisions of Clause 30B(2) 'Floor space ratio' of the Ku-ring-gai Planning Scheme Ordinance submitted with the application is not acceptable as the development does not provide sufficient off-street car parking or loading facilities within the site and would have an undue impact on the operation of the local street network.*

Council at its meeting resolved as follows:

*"That the Council defer this development application to permit the Staff to enter into discussions with the Applicant in respect of the potential to make a voluntary agreement to assist Council with parking and/or other infrastructure within the North Turrumurra Centre."*

In response to the resolution, Council staff entered into discussions with the applicant. The applicant indicated, by letter dated 3 November 2006 (attached), that they wish to make a monetary offer of \$50,000 under section 93 (F) of the Environmental Planning and Assessment Act. The terms of the offer are that it is to be made for a public purpose including funding the provision or recurrent expenditure relating to public amenities, public services, affordable housing, transport or other infrastructure or the enhancement of the natural environment and is to be payable prior to the issue of the Occupation Certificate.

The applicant has suggested that the contribution could be used towards:

Item 2

1. Moving the existing pedestrian crossing away from Normurra Avenue or incorporating a new pedestrian island or speed hump.
2. The provision of street furniture or street planting.
3. Improvement to or add to the existing supply of public car parking in the North Turramurra village.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

### Traffic Engineer

Council's Traffic Engineer, Joseph Piccoli, made the following comments:

*I refer to the Council resolution relating to the above application dated 24 October 2006, which states:*

*That the Council defer this development application to permit the staff to enter into discussions with the Applicant in respect of the potential to make a voluntary agreement to assist Council with parking and/or other infrastructure within the North Turramurra Centre.*

*In response to the above resolution, the applicant has submitted an offer in writing (dated 3 November 2006) to potentially assist Council with parking and/or other infrastructure within the North Turramurra area. The offer consists of a one-off monetary contribution of \$50,000 to be used for a public purpose, including the funding of transport or other infrastructure.*

*The applicant has suggested that the above amount could be used towards funding the following works:*

1. *The possible relocation of the pedestrian crossing in Bobbin Head Road near Normurra Avenue,*
2. *Provision of street furniture/street planting in the vicinity of the site,*
3. *Adding to, or improving the stock of public parking in the North Turramurra village.*

*The existing pedestrian crossing in Bobbin Head Road is located at the pedestrian desire line. If the crossing is relocated, it is likely that pedestrians will still use the current location to cross the road. A pedestrian refuge was recently constructed in Normurra Avenue to improve pedestrian access across Normurra Avenue at Bobbin Head Road. The accident history for the existing crossing site indicates that the crossing is reasonably safe. Nonetheless, parking restrictions in the vicinity of the crossing were adjusted some time ago, to improve visibility. Therefore, relocation of the crossing is not recommended.*

*Provision of street furniture/street planting in the vicinity of the site would not address the shortfall of parking.*

*Given that there would be a parking shortfall on the site as a result of the proposal, ideally contributions should be directed towards adding to the public parking stock in the area. However, there is no Section 94 plan for contributions towards car parking in the North Turramurra village area. Even assuming a contribution rate of \$10,000 per space, the amount offered would not be sufficient to cover the shortfall in car parking spaces.*

Item 2

*Furthermore, concerns would still remain that no on-site servicing facilities have been provided, something that the contribution would not be able to address.*

*Therefore, it is considered that the offer of \$50,000 would not be appropriate to address the outstanding traffic issues.*

## CONSIDERATION

Section 93(F)(1) provides that a planning agreement is a voluntary agreement or other arrangement between one or more planning authorities and a developer under which the developer agrees to make development contributions towards a public purpose.

Under the Act, the process requires the agreement to be placed on public notice for at least 28 days following which approval from the Minister must be sought. A planning agreement must be in writing and signed by all parties to the agreement. Any such agreement would also need to be referred to Council's legal advisor. All of this must occur prior to development consent being issued.

The public interest benefit implicated by a planning agreement should be measured in terms of the need to mitigate any adverse impacts of development on the public domain and the desirability of providing a planning benefit to the wider community. Benefit to the developer should not be a primary consideration.

The applicant's offer fails to provide any real public benefit in relation to resolving the adverse impacts that would result both from the substantial shortfall of car parking spaces and the lack of on-site loading provision.

The applicant's offer and suggested means of expending their \$50,000 proposed contribution are assessed as follows:

**1. *Moving the existing pedestrian crossing away from Normurra Avenue or incorporating a new pedestrian island or speed hump.***

Based on the advice of Council's Traffic Engineer, the relocation of the existing pedestrian crossing is not recommended.

**2. *The provision of street furniture or street planting.***

As discussed by Council's Traffic Engineer, the provision of funding for street furniture or street planting does not address either the considerable shortfall of car parking or the absence of any loading facility on the subject site.

**3. *Improvement to or addition to the existing supply of public car parking in the North Turrumurra village.***

There is currently no land available within the North Turrumurra shopping centre to cover the shortfall of parking spaces. In addition, if there were land available within the centre, the offer of \$50,000 would only cover the provision of 5 car spaces. This offer would therefore not accommodate the remaining shortfall of 20 car spaces and the required loading facility, necessary to ensure the proposed development would not have an adverse traffic impact.

Item 2

Council does not currently have a Section 94 Contributions Plan for the North Turrumurra shopping strip in order to utilise the applicant's offer. There are also no other proposed plans for parking in the North Turrumurra shopping centre to make use of the offer. The applicant's offer of \$50,000 would not be able to be utilised by Council to address parking and traffic concerns as a result of the proposal.

It should be noted that, should Council accept the applicant's offer via a planning agreement, the determination of the application should be deferred for the correct planning procedure to be followed.

## OPTIONS

There are four available options for Council are:

1. Refuse the application. Should Council consider that the failure of the development to provide on-site loading and 25 car parking spaces is unacceptable; then Council should refuse the development application. Any amendments to the current proposal to include on-site loading and 25 car spaces would constitute a substantially different proposal and should be the subject of a new development application.
2. Resolve to enter into a planning agreement and defer the determination of the application. Council in entering into a planning agreement is to be satisfied that:
  - (i) the \$50,000 does not cover the costs for the shortfall of 25 car parking spaces within the North Turrumurra neighbourhood centre.
  - (ii) the \$50,000 does not cover the costs for on-site loading facilities, not provided on the subject site.
  - (iii) the \$50,000 would be used for a public purpose, which does not offset the non-compliances.
3. Approve the application with a condition for the payment of \$50, 000. The imposition of a condition requiring payment of \$50,000 is not a planning agreement, nor a condition allowed under s.94. The imposition of a condition requiring the payment of \$50,000 is not recommended, as advised by Council's Corporate Lawyer, as such a condition would not accord with the criteria of the "Newbury principles" being that the condition must:
  - i) relate to the development,
  - ii) be for a planning purpose, and
  - iii) be reasonable.
4. Approve the application and not accept the applicant's offer of \$50,000. Should Council approve the application, Council needs to be satisfied that the proposal is acceptable despite the absence of on-site loading facilities and a shortfall of 25 car parking spaces.

## SUMMARY

The proposed development fails to provide adequate car parking for the scale of development proposed, with a shortfall of 25 car parking spaces. The proposal also fails to provide loading facilities. There is currently no Section 94 Contributions Plan for the North Turrumurra shopping

Item 2

centre and no other parking arrangements in the area to utilise the applicant's offer of \$50,000. Concerns about the parking requirement for the site being accommodated on the surrounding road network and adversely impacting the surrounding shopping strip, adjoining school and residential streets remain. Therefore, the proposed development is recommended for refusal.

## RECOMMENDATION

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

THAT Council, as the consent authority, refuse development consent to development application No 509/06 for demolition and construction of a commercial building containing ground floor mini market/ office space, car parking and signage on land at 245- 247 Bobbin Head Road, North Turrumurra, as shown on plans numbered DA01A to DA05A inclusive, prepared by the Architecture Company, dated January 2005 and received by Council on 29 May 2006 for the following reasons:

### Traffic and car parking

1. The proposed development provides insufficient off-street parking, does not provide for loading and unloading of vehicles and would result in an unsatisfactory impact on local traffic and parking conditions.

#### *Particulars*

- (i) The proposal fails to comply with the car parking requirements of Council's Car parking Development Control Plan (DCP 43) and would result in a shortfall of 25 parking spaces. The development would rely upon surrounding on-street parking to accommodate excess customer parking demand.
- (ii) The proposal does not provide any loading and unloading facilities within the site and would rely upon the surrounding street network for loading and unloading of delivery vehicles.
- (iii) The development will result in adverse traffic impacts on the surrounding street network and nearby North Turrumurra Public School particularly before and after school hours.
- (iv) The proposal is inconsistent with the objectives of the zone in that the development would result in an adverse impact on parking in the surrounding area, and is likely to threaten the operation of the shopping strip.
- (v) The proposal is inconsistent with the considerations for development within the business zones as provided by subclause (a), (e), (g), (h) and (i) of Clause 30C of the Ku-ring-gai Planning Scheme Ordinance.

### Suitability of the site

2. The proposal is an overdevelopment of the site.

#### *Particulars*

- (i) The proposal exceeds the maximum floor space ratio of 0.75:1 as stipulated by Clause 30B (2) of the Ku-ring-gai Planning Scheme Ordinance. The proposed supermarket and offices result in a total floor space area of 946.4m<sup>2</sup> and a floor space ratio 1.35:1.

Item 2

- (ii) The proposal is inconsistent with the objectives of the zone in that the development is of an excessive scale for the site that would result in an adverse impact on parking in the surrounding area, and is likely to threaten the operation of the shopping strip.
- (iii) The proposal is inconsistent with the considerations for development within the business zones as provided by subclause (a), (e), (g), (h) and (i) of Clause 30C of the Ku-ring-gai Planning Scheme Ordinance.

**SEPP 1 Objection**

- 3. The SEPP 1 objection to the provisions of Clause 30B(2) 'Floor space ratio' of the Ku-ring-gai Planning Scheme Ordinance submitted with the application is not acceptable as the development does not provide sufficient off-street car parking or loading facilities within the site and would have an undue impact on the operation of the local street network.

***Particulars***

- (i) The proposal exceeds the maximum floor space ratio of 0.75:1 as stipulated by the KPSO with a proposed floor space ratio of 1.35:1
- (ii) The SEPP 1 Objection is not well founded and has not demonstrated that the objective or purpose of the standard has been satisfied.
- (iii) Compliance with the provisions of Clause 30B(2) is reasonable and necessary to ensure that development within the shopping strip does not have an adverse impact on the operation of the shopping strip as a business centre, or surrounding streets.

Karen Rae  
**Development Assessment Officer**

R Kinninmont  
**Team Leader**  
**Development Assessment - Central**

M Prendergast  
**Manager**  
**Development Assessment Services**

M Miocic  
**Director**  
**Development & Regulation**

**Attachments:**      **Previous report considered by Council on 24 October 2006 - 686554**  
                             **Letter from applicant dated 3 November 2006 - 699713**

Item 3

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	245 TO 247 BOBBIN HEAD ROAD, TURRAMURRA - DEMOLITION AND CONSTRUCTION OF A COMMERCIAL BUILDING CONTAINING GROUND FLOOR MINI MARKET, FIRST FLOOR OFFICE SPACE, EMPLOYEE CAR PARKING AND SIGNAGE
<b>WARD:</b>	Wahroonga
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	509/06
<b>SUBJECT LAND:</b>	245 to 247 Bobbin Head Road, Turrumurra
<b>APPLICANT:</b>	Mr Andrew Chriss c/- SPD Town Planners
<b>OWNER:</b>	Terry and Toula Chriss
<b>DESIGNER:</b>	The Architecture Company
<b>PRESENT USE:</b>	Convenience store and gift shop
<b>ZONING:</b>	Business 3(a) - (A3) Retail Services
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER: COUNCIL'S POLICIES APPLICABLE:</b>	Ku-ring-gai Planning Scheme Ordinance KPSO, DCP 14- Business, DCP 28- Advertising Signs, DCP 43- Car parking, DCP 47- Water Management, DCP 31- Access
<b>COMPLIANCE WITH CODES/POLICIES: GOVERNMENT POLICIES APPLICABLE:</b>	No SEPP 55, SEPP 1, DRAFT SEPP (Development Standards), SEPP 64, SREP 20
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	No
<b>DATE LODGED:</b>	29 May 2006
<b>40 DAY PERIOD EXPIRED:</b>	8 July 2006
<b>PROPOSAL:</b>	Demolition and construction of a commercial building containing ground floor mini market, first floor office space, employee car parking and signage
<b>RECOMMENDATION:</b>	Refusal

Item 3

**DEVELOPMENT APPLICATION N<sup>o</sup>  
PREMISES:**

**509/06**

**PROPOSAL:**

**245-247 BOBBIN HEAD ROAD,  
TURRAMURRA  
DEMOLITION AND CONSTRUCTION OF A  
COMMERCIAL BUILDING CONTAINING  
GROUND FLOOR MINI MARKET, FIRST  
FLOOR OFFICE SPACE, EMPLOYEE CAR  
PARKING AND SIGNAGE**

**APPLICANT:**

**MR ANDREW CHRISS C/- SPD TOWN  
PLANNERS**

**OWNER:  
DESIGNER**

**TERRY AND TOULA CHRISS  
THE ARCHITECTURE COMPANY**

**PURPOSE FOR REPORT**

To determine development application No 509/06 which seeks consent for the demolition of existing structures and construction of a two storey commercial development with basement level for a mini market at ground level and two offices at the first floor

This application was called to Council by Councillor Cross.

**EXECUTIVE SUMMARY**

**Issues:**

Loading facilities, car parking, and floor space ratio.

**Submissions:**

Five (5) submissions and two (2) petitions were received.

**Land & Environment Court Appeal:**

No appeal lodged to Land & Environment Court has been lodged.

**Recommendation:**

Refusal.

**HISTORY**

**DA1500/03**

Council received development application No 1500/03 on 18 November 2003. The application involved the demolition of the existing supermarket and construction of two storey commercial development comprising a ground floor supermarket with offices at first floor, 10 parking bays and a delivery goods area. Council officers identified issues of inadequate car parking, street setback and traffic. The application was withdrawn by the applicant on 29 January 2004.

**Pre-DA meeting**

Prior to lodging the current application, a pre-DA meeting was held with Council officers on 13 December 2005. Issues identified at the meeting were traffic, signage and building design.

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**Current proposal - DA0509/06**

The current application was lodged with Council on 29 May 2006.

The application was notified to the surrounding property occupants and owners on 9 June 2006 for a period of 30 days. The application was also advertised in the local newspaper.

On 17 August 2006, Council wrote to the applicant identifying the following issues:

**1. Traffic and car parking**

*The proposal fails to comply with the car parking requirements of Council's Car Parking Development Control Plan (DCP 43) and would result in a shortfall of 25 parking spaces. In addition to insufficient off-street parking, the proposal does not provide for on-site loading and unloading of vehicles.*

*The proposal will therefore rely upon surrounding on-street parking for loading and unloading of delivery vehicles and to accommodate excess customer parking. This is not suitable given the current parking demands in the area and the likely traffic conflicts with North Turramurra Public School.*

**2. Suitability of the site**

*The proposal is considered to be an overdevelopment of the site as it exceeds the maximum floor space ratio of 0.75:1 as stipulated by Clause 30B(2) of the KPSO. The development also fails to provide adequate off-street parking to cope with the likely parking demand generated by the proposed supermarket use.*

The applicant was offered 14 days to withdraw the development application with a further extension of 14 days provided from 24 August 2006. The applicant failed to respond to the issues raised by Council and sought a meeting to discuss the issues raised in Council's letter.

**Meeting with the applicant – 21 September 2006**

A meeting with Councillor Cross and the applicant took place on 21 September 2006. The issues raised with the applicant included inadequate car parking, no loading zone and excessive floor area. Councillor Cross requested the matter be referred to full Council for consideration.

**THE SITE AND SURROUNDING AREA**

**The site**

Zoning:	Business 3(a) - (A3) Retail Services
Visual Character Study Category:	(Business and Commercial areas)
Lot Number:	A
DP Number:	407723

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Area:	696m <sup>2</sup>
Side of Street:	Eastern
Cross Fall:	Site generally level, slight fall to rear
Stormwater Drainage:	To street
Heritage Affected:	No
Required Setback:	Yes
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The site is rectangular in shape and is located within the North Turramurra neighbourhood shopping strip on the eastern side of Bobbin Head Road, Turramurra.

The site has an area of 696m<sup>2</sup> and is currently occupied by a convenience store and gift shop.

A metal shed and some vegetation are located to the rear of the existing building and are separated by a vacant area of approximately 300m<sup>2</sup>. No formal car parking arrangements are provided, although vehicular access to the rear is available via a concrete driveway between 261 and 245- 247 Bobbin Head Road.

## **SURROUNDING DEVELOPMENT**

A privately owned car park with a total of 25 car spaces and loading area is located to the west of the site.

Turramurra North Public School is located to the south of the site. The southern boundary of the site adjoins a driveway belonging to the school.

A row of shops comprising of a dental surgery, hairdresser and café are located to the north of the site.

A two storey development containing a real estate agency and restaurant is located to the east.

Existing development outside the North Turramurra shopping strip is characterised by low density, one and two storey residential development.

## **THE PROPOSAL**

The proposed development involves the demolition of existing structures and the construction of a two storey development with basement level including a mini market at ground level and two offices at the first floor level. Employee car parking with ten (10) car spaces and one (1) disabled car space is located at roof top level. Storage for the mini market is provided in the basement.

The proposed signage is as follows:

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- Flush wall sign containing the red and white IGA logo located on the front façade - 1770mm x 1135mm; and
- Four fascia signs containing red outlined IGA 250mm high lettering on the front awning.

### CONSULTATION - COMMUNITY

In accordance with Council's Notification DCP No 56, adjoining owners were given notice of the application. In response four (4) submissions were received, as follows:

1. *Andrew Mitchell, President of North Turramurra Public School P & C Association  
On behalf of Parents and Citizens of the North Turramurra Public School.*
2. *Laurel Cakebread, 4 Normurra Avenue, North Turramurra.*
3. *Tania Kaye, 266 Bobbin Head Road, North Turramurra.*
4. *North Turramurra Action Group, PO Box 3071, North Turramurra.*

The submissions raised the following issues:

***Management plan on noise level, dust and pollution be submitted and approved by Council as well as managing construction traffic outside of school zone traffic times***

Should the application be approved, issues relating to construction management, noise and dust could be dealt with by conditions of consent.

#### ***Asbestos***

Should the application be approved, a condition of consent would be required to ensure any asbestos materials found within existing buildings is removed in accordance with Workcover guidelines.

#### ***Hours of construction***

Should the application be approved a condition of consent would be required to restrict hours of construction.

#### ***Vehicular access including car parking, garbage and delivery access***

Inadequate car parking and loading facilities have been provided on site. This will have a detrimental impact on the shopping strip and surrounding street network.

#### ***Hours of operation***

The hours of operation are Monday to Sunday, 8am to 7pm. The proposed hours of operation are considered reasonable given the business zoning and are commensurate with the operating hours of surrounding businesses. The proposed hours will not adversely impact upon the residential amenity of the surrounding properties.

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***Streetscape and height of proposal***

The proposed development complies with the building height control outlined in the KPSO and DCP14. The proposed height is also consistent with the adjoining development within the North Turrumurra centre.

***Removal of trees***

The existing street tree at the front of the proposal is to be retained. The landscape plan submitted to Council identifies two trees situated on the adjoining property to the south proposed to be removed. No owners consent has been provided as part of this application to permit their removal and therefore cannot be considered under the current application.

***Advertising signs***

Full details of the proposed advertising signs were submitted with the development application and are addressed within the body of this report.

**Petitions**

The following submissions were also received after the formal notification period:

1. *North Turrumurra Action Group (NTAG)*
  - NTAG supports the proposal provided parking does not have a significant effect and access does not affect the safety of children from the neighbouring school.
2. *The applicant- SPD Planners - Petition 1*
  - Petition received 6 October in support of the proposal signed by 14 Residents
3. *The applicant - SPD Planners - Petition 2*
  - Petition received 10 October 2006 in support of the proposal signed by 240 residents. The petition presented by the applicant on both occasions was signed subject to the following statement:  
  
*"I am in favour of an IGA Convenience Store to be located on 245- 247 Bobbin Head Road North Turrumurra. It will significantly improve the level of convenience for local residents and Lurge Council to approve the proposal"*

The 3 (a) zoning allows for a range of retail/ commercial uses to meet community demands and needs. Council does not oppose the provision of a new mini market and office development in North Turrumurra on this basis. However the scale and intensity of the current proposal is not

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suitable for the subject site. In particular, car parking and loading facilities have not been provided on site to cater for the extent of the current proposal.

## CONSULTATION - WITHIN COUNCIL

### Landscaping

Council's Landscaping Team Leader, Ian Francis supports the application subject to standard conditions of consent relating to landscaping being imposed.

### Building

Council's Building Surveyor, Steve Murray made the following comments with respect to the proposal:

*"The proposed development of an IGA supermarket with office and car parking area can be constructed satisfying the deemed to satisfy provisions of the Building Code of Australia. No objection is raised to the proposed development in regards to compliance with the Building Code of Australia."*

### Health

Council's Environmental Health Officer, David Mitchell raised no objection to the proposal and provided standard conditions of consent relating to health and hygiene.

### Engineering

Council's Development Engineer, Ross Guerrero has made the following comments in respect of the proposal:

*"The application is for the demolition of the existing building and construction of a part one (1) and part two (2) storey building containing a mini-market at ground floor, office at first floor, and off-street car parking at roof top level.  
The following comments are made with regard to engineering and stormwater issues.*

#### ***Stormwater disposal***

*The stormwater runoff is to be collected and conveyed to an on-site detention tank located beneath the proposed vehicular access ramp with a 2m<sup>3</sup> rainwater tank to be provided within the car parking area. The storage from the rainwater tank has been deducted from the OSD storage volume. A pump out system for the driveway has been provided with the rising main directed to the OSD system, which is acceptable. The overflow from the OSD is to discharge to the kerb and gutter in Bobbin Head Road. This is considered a satisfactory system for this development.*

#### ***Site access***

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*Vehicular access to the car parking area is in the same location as the existing driveway with pedestrian access to the proposed mini-market provided directly from the Bobbin Head Rd footpath, adjoining the site.*

*A 12m long loading zone is proposed / suggested by the applicant on Bobbin Head Rd, adjoining the site. However this solution would not allow for adequate loading space for a large rigid truck within the area dedicated at the front of the site, due to the location of the existing driveway crossing and location of the bus zone.*

*The turning maneuverability within the car parking area complies with AS2890.1:2004 B85 design template allowing vehicles to leave the site in a forward manner, however the required numbers of parking spaces have not been provided as per Council's Car Parking Code – DCP No.43. This has not been justified in the traffic report.*

**Traffic impacts**

*Traffic and Parking report (Ref. 5716/2 dated March 2006) has been prepared by Colston Budd Hunt & Kafes Pty Ltd.*

*The parking spaces provided do not meet the minimum required by Council's DCP No.43 for Retail – Shops. Hence there is a shortfall of 25 spaces which is considered to be quite significant. The balance of parking requirements would therefore need to be accommodated on street or the nearby council car park which will have significant effect on the operation and amenity of the surrounding road network.*

**Geotechnical investigations**

*A geotechnical report (No. 11027/1-AA dated 21/3/06) has been prepared by Geotechnique Pty Ltd which includes details in relation to subsurface conditions.*

**Recommendations**

*The development cannot be supported on the grounds of parking provision and service vehicle arrangements."*

**Traffic Engineer**

Council's Traffic Engineer, Joseph Piccoli has made the following comments in respect to the proposal:

*"The proposal has been assessed to identify the impacts on parking and traffic generation. AS2890, Council's Car Parking Code - Development Control Plan (DCP) No. 43 and the Roads and Traffic Authority's Guide to Traffic Generating Developments have been used/referred to for assessing the application.*

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***On-site parking provision***

*Below is an assessment of the parking required for the office and commercial land uses in accordance with Council's Car Parking Code (DCP43):*

Standard	Parking Provision Criteria	Calculation based on	Number Parking Spaces Required
DCP 43 (office and commercial)	<p>1 space per 33m<sup>2</sup> gross floor area plus 1 space if resident manager or caretaker.</p> <p>For development in excess of 200m<sup>2</sup> gross floor area, 1 courier space to also be provided in a convenient location.</p> <p>Servicing facilities to be provided to the satisfaction of Council's Director Development</p>	194m <sup>2</sup> gross floor area	6 (office)
DCP 43 (Retail - Shops)	<p>1 space per 17m<sup>2</sup> gross floor area. For minor additions to existing shops or conversion of existing premises to shops, 1 space per 28m<sup>2</sup>.</p> <p>Servicing facilities to be provided to the satisfaction of Council's Director Development Control</p>	508m <sup>2</sup> gross floor area	30 (retail)

*The overall parking requirement for the site is considered to be 36 car spaces. This is in contrast to the traffic assessment, which states that only 24 spaces are required due to consideration of only the increase in retail floor area and office floor area contributing to the parking requirement.*

*The above assessment calculates parking requirement of the supermarket based on the ground floor retail space. That is, the area of the basement storage is not included in the calculation. As a comparison, the RTA parking rates for supermarkets indicates that the supermarket component of the application would require 16 spaces (vs. 30 spaces from DCP43). However, this is for supermarkets in a large retail environment (eg shopping centre mall) where the supermarket is supported by other specialty shops, slow/fast retail trade and offices/medical suites. Therefore, the RTA rate is considered to be less suitable.*

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***Traffic impacts***

*The traffic assessment notes that, “access to [the rear of] the site is provided from Bobbin Head Road via a three metre wide driveway with no formal parking provided. Servicing of the shop occurs on street”. While it is acknowledged that no formal parking currently exists on the site, the 3m wide driveway gives access to the rear of the shops, which is undeveloped. It is considered that this area could currently be accommodating some 10 spaces, and aerial photographs indicate that this area is used by vehicles for parking.*

*11 car parking spaces are proposed on the site, which is effectively accommodating the existing car parking capacity of the site. It is proposed that these spaces accommodate the staff parking only of the office and retail uses. There is a shortfall of 25 spaces (mostly retail customer parking) which would have to be accommodated on-street or in surrounding car parks.*

*A survey of the availability of surrounding on-street and off-street (public and private) parking was undertaken by the applicant. At times of peak demand, the survey found that 35% (or some 80 spaces) of the parking stock was available for parking, although utilisation of the Council car park off Valley Park Crescent was generally higher. The extent of on-street parking surveyed is not given in the assessment, therefore the practical on-street parking (in close proximity to the site) may be less. Concern is raised that the majority of the parking space requirement for the proposal is intended to be absorbed by the surrounding on-street and off-street parking.*

***Service vehicle provision***

*No on-site servicing facilities have been provided, and the proposal would be relying on Council to formalise an existing arrangement (whereby apparently servicing currently occurs on-street, on the Bobbin Head Road frontage) through the introduction of part-time kerbside ‘Loading Zone’ restrictions outside the site.*

*The Roads and Traffic Authority’s Interim Guide to Signs and Markings notes (in part) the following in relation to Loading Zones:*

*... Specifically designated loading zones should not be provided unless off-street loading facilities are not available and the competition for kerbside spaces is such that general kerbside space is not readily available for goods vehicles...*

*However, Council’s Traffic and Transport Policy notes that:*

*“... New developments ... should provide for their own parking and other needs to minimise their impact on the surrounding area...”*

*This is also the general intent of Council’s DCP 43. As an example, a similar mini supermarket site in Ku-ring-gai, the Wahroonga IGA, has a loading dock located at the side of the site.*

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*The Statement of Environmental Effects notes that goods would be moved between the service vehicle and the site using hand trolleys, and that fork-lifts or other motorised vehicles would not be used. Also, waste collection is likely to occur on the Bobbin Head Road frontage of the site.*

*Although not encouraged, the existing loading arrangements are considered to be currently operating without particular concern due to their relatively low intensity and scale. However, with a mini-supermarket operating at the site, the intensity and scale of loading and unloading goods would increase, therefore impacting on pedestrian access, safety and amenity, and impacting on on-street parking availability outside the site. This is despite the applicant's willingness to restrict deliveries to outside of peak school set down and pick up.*

*In 2003, Council approved the introduction of No Stopping restrictions (affecting 2 car spaces) on the western side of Bobbin Head Road between Valley Park Cr and Normurra Ave (outside No.270). There was concern expressed by shopkeepers as to the loss of parking, however, these alterations were required for safety reasons, to improve visibility to the pedestrian crossing. A loading zone on the site frontage will further reduce the amount of kerbside parking on Bobbin Head Road by 2 spaces.*

*It has been suggested that service vehicle access could be gained from the rear of the site, through the car park of the adjoining property. However, this would require some form of right-of way, or agreement with the adjoining property owner. A site with separate side/rear service vehicle access would be more suitable for the proposal.*

**Conclusion**

1. *It is considered that there is a shortfall of 25 car parking spaces (based on the parking requirements in DCP43), and there is concern that the majority of the parking requirement for the site is intended to be accommodated on the surrounding road network.*
2. *On-site servicing facilities have not been provided.*

*Based on the above, the parking provision and service vehicle arrangements are not supported."*

The concerns raised by the traffic engineer confirm that the site is not suitable for the scale and intensity of development proposed and is likely to result in detrimental impacts upon the surrounding locality.

**STATUTORY PROVISIONS**

**State Environmental Planning Policy 55 - Contaminated Land (SEPP 55)**

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

Clause 7 of the Policy requires that Council consider whether the proposed use of the land is suitable in its current state or whether the site must be remediated in order that the site be made suitable for the proposed use.

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The subject land has historically been used for commercial premises and Council's records do not indicate contamination on the subject site. It is not considered that the proposal will require remediation of the site or further site investigation given it continues as a non-residential use. The site is therefore deemed to be suitable for the proposed development.

**State Environmental Planning Policy 64 - Advertising and Signage (SEPP 64)**

The proposed signage is consistent with the objectives of the SEPP and satisfied the assessment criteria specified in Schedule 1 of SEPP64 for the following reasons:

- *Character of the Area*

The proposed signage is consistent with other signage in the shopping strip.

- *Special Area*

The proposed signage does not detract from the amenity or visual quality of the adjoining residential and school zone.

- *Views and Vistas*

The proposed new signs will not obscure or compromise views or vistas, and will not impede on the viewing rights of other advertisers.

- *Streetscape, Setting or Landscape*

The scale, proportion and form of the proposed signs are appropriate for the streetscape and setting. Although, signage above awning height is not encouraged by Council, the sign is not inconsistent with the surrounding shopping strip.

- *Site and Building*

The proposed signs are compatible with the characteristics of the proposed building.

- *Associated devices and logos with advertisements and advertising structures*

No associated devices and logos have been proposed.

- *Illumination*

The proposed signage is not to be illuminated.

- *Safety*

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The proposed signage is not considered to reduce safety by obscuring sightlines and will not reduce the safety of drivers, pedestrians and cyclists using public roads.

### Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River

The proposal involves the provision of an on-site detention system and a rainwater tank to minimise and control stormwater. Should the application be approved, the proposal would be subject to conditions, consistent with the provisions of SREP 20.

### KU-RING-GAI PLANNING SCHEME ORDINANCE

#### Permissibility

The proposed use of the premises for a shop (mini market) and commercial premises is permissible within the Business 3a (A3) zone.

#### Aims and objectives for the Business 3a (A3) Zones

The development does not satisfy the objectives of the zone being:

- (a) *to identify existing business centres within the Municipality, the principal functions of which are to satisfy the retail and community service demands of the community which they serve;*
- (b) *to permit, within the business centres' hierarchy, business and office premises of a scale and character which do not threaten the role of the business centres as described in (a) above;*

The proposed development is an overdevelopment of the site and is inconsistent with the scale and context of the surrounding pattern of commercial/ retail use of the neighbourhood centre. Sufficient off street parking and loading should be provided to meet the demand. It is likely that the proposed development will disadvantage the surrounding development in terms of the overall parking and loading available in the area, along with the safety of the surrounding pedestrians and users of the centre.

COMPLIANCE TABLE		
Development Standard	Proposals Numeric Compliance	Complies
Site Areas : 692m <sup>2</sup>		
Height of Buildings		
<ul style="list-style-type: none"> <li>Building Height : 8m</li> <li>2 storeys from streetscape</li> </ul>	6.2m	YES
FSR 0.75:1 (max)	1.35:1 (939.77m <sup>2</sup> )	NO

#### Floor space ratio (cl.30B)

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The proposal does not comply with the maximum allowable FSR of 0.75:1 as required by Cl.30B of the KPSO. The applicant has submitted a SEPP 1 objection to address the non-compliance. An assessment against SEPP 1 provisions is detailed below:

**Is it a development standard?**

Clause 30(B) of KPSO details the maximum floor space ratio for business zones. This is a development standard as defined by Section 4 of the Environmental Planning and Assessment Act.

**Purpose of the development standard**

As outlined Clause 30B of the KPSO states:

*“30B. (1) The objective of this clause is to establish a hierarchy of business centres for the following purposes:*

*(c) in floor space zone A3, the neighbourhood retail and community service centres within the Municipality, to provide a reasonable level of service to the surrounding neighbourhood of each centre;*

*and which relate to the existing size, character and level of activity and to the existing and potential infrastructure capacity of individual centres.”*

The principal purpose of the floor space zone of A3 is to encourage new development that is in keeping with level A3 ‘neighbourhood’ centres. The scale of business uses within the A3 zone should be consistent with the intended operation of a ‘neighbourhood’ centre. That is, to provide basic goods and services to the surrounding residential neighbourhood without significant detrimental impacts. The maximum FSR requirement of 0.75:1 is consistent with the intended operation of the shopping strip as a neighbourhood centre. This FSR limitation represents a scale which relates to both the existing and desired size, character and activity levels of the business area.

**Is compliance unreasonable or unnecessary?**

Compliance with the development standard for floor space ratio is necessary in this instance to ensure that the new development is consistent with the existing operation of the North Turrumurra shopping strip as a local neighbourhood centre. The proposal significantly exceeds the maximum FSR requirement by 417.8m<sup>2</sup> and would result in a significant impact on the operation of the shopping strip as a ‘neighbourhood’ centre in terms of the inability to provide compliant loading facilities and car parking sufficient to meet the demand of the development.

Given the proposal is a redevelopment of the site, the proposal must provide adequate facilities on site to cater for the proposed use and comply with the intent of the development standard for floor space ratio by servicing the scale of the development proposed.

***Is application consistent with the aims of the policy set out in clause 3?***

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The proposal is inconsistent with the objects specified in section 5 (a) (i) and (ii) of the Act.

Overall, the proposal exceeds the floor space ratio outlined by the KPSO and fails to provide compliant car parking and loading facilities to cater for the intensification of the site. The proposed non compliance will therefore adversely impact on the existing neighbourhood centre at North Turramurra. The SEPP1 Objection is not well founded and cannot be supported in this instance.

**Draft State Environmental Planning Policy - Application of Development Standards**

The draft SEPP was made in 2004 but has not yet been adopted. Clause 7 (2) provides that a variation must be justified by demonstrating:

- “(a) that the proposed departure from the development standard will result in a better environmental planning outcome than that which could have been achieved on the site had the standard been complied with, and*
- (b) that the proposed development will be in the public interest by being consistent with any aims and objectives expressed in, or implied from:*
  - (i) the zone in which the development is proposed to be carried out,*
  - (ii) the development standard, or*  
*in any relevant environmental planning instrument.*
- (3) For the purposes of subclause (2) (a), a better environmental planning outcome will not be demonstrated unless the element of the proposed development that is inconsistent with the relevant development standard:*
  - (a) is necessary because of unusual site characteristics, or*
  - (b) comprises any one or more of the following:*
    - (i) exceptional design quality,*
    - (ii) social benefit to the community,*
    - (iii) economic benefit to the community,*  
*which is above and beyond that which could have been achieved had the development standard been complied with, or both.”*

The development does not satisfy the provisions of clause 7(2) (a) & (b) as the proposal does not provide adequate levels of car parking and loading facilities in the redevelopment of the site. Furthermore, there has been no justification from the applicant that the development results in a better planning outcome than a complying development (i.e. complies with FSR and provides on-site parking).

**Development considerations (cl. 30 C)**

The development fails to satisfy the following matters for consideration under Clause 30C:

- (a) the carrying out of the development is consistent with the general aims for business zones, the objectives of this Part and any Development Control Plan applying to the land;*

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The proposal is inconsistent with the general aims for business zones as it does not provide adequate loading facilities and car parking in keeping with the town centre hierarchy.

- (e) *the development will minimise nuisance to adjoining residential development by way of traffic movements, parking, security lighting or the like;*

The proposal will result in nuisance to adjoining residential development as inadequate car parking and service areas for loading vehicles have been provided on site to satisfy parking and traffic demands. Furthermore it is likely that the development will conflict with the adjoining public school and surrounding street network.

- (g) *sufficient (as determined by the Council) off-street parking is supplied by the development to meet the demand generated by the development;*

The proposal fails to provide sufficient off-street parking to meet the demand generated by the development with a shortfall of 25 car parking spaces.

- (h) *traffic generated by the development is safely accommodated by the road system and does not unreasonably affect the amenity of surrounding localities;*

Inadequate car parking has been provided on site and therefore the proposal does not ensure that traffic generated by the development is safely accommodated by the road system and does not unreasonably affect the amenity of surrounding localities.

- (i) *adequate space and facilities have been provided, wherever site conditions reasonably permit, for the loading and unloading of goods and materials on the development site;*

The proposal does not provide adequate car parking and loading facilities on the site.

## POLICY PROVISIONS

### Development Control Plan No 14 - Development in Business Zones

COMPLIANCE TABLE		
Development Control	Proposals Numeric Compliance	Complies
<b>Site Characteristics</b>		
Site Area = 696m <sup>2</sup>		
<b>Controls</b>		
<b>Height of Buildings (Part 12)</b>		
• Building Height: 8m	6.2m	YES
<b>FSR (Part 13)</b>		
• Max FSR: 0.75:1	1.35:1 (939.77m <sup>2</sup> )	NO
<b>Building Setbacks (Part 14)</b>		

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COMPLIANCE TABLE		
Development Control	Proposals Numeric Compliance	Complies
<ul style="list-style-type: none"> <li>Building Line: - prevailing- approx 2.3- 3.8m</li> </ul>	2.9m	YES
<b>Car Parking (Part 18)</b> <ul style="list-style-type: none"> <li>No. of parking spaces:               <ul style="list-style-type: none"> <li>- Office- 1 Space per 33sqm- 6 spaces</li> <li>- Shop- 1 Space per 17sqm- 30 spaces</li> </ul> </li> </ul>	10 spaces plus one disabled space The applicant has not identified the allocated use of the provided car spaces	NO

The following is a detailed discussion of further relevant matters:

### ***Clause 11 - Development considerations***

Clause 11 provides development considerations by which a new development should be assessed. Development should be consistent with the general aims of the KPSO with respect to business zones and should be consistent with the provision of relevant planning controls. Any elevation facing a residential area should be reasonably compatible with surrounding development and should maintain/enhance the streetscape. Development should retain a reasonable level of solar access, privacy and acoustic amenity for surrounding properties. Sufficient off street parking should be provided to meet demand. Traffic generated by the development should be reasonably accommodated by the existing road network and adequate space and facilities should be provided for safe loading and off loading. New development should be energy efficient and reduce stormwater impacts.

The development fails to satisfy the development considerations outlined in Clause 30C and Part 11.2 of the DCP in that it fails to provide adequate on-site car parking and loading facilities.

### ***Clause 13 - Floor space ratio***

The proposed floor space ratio exceeds the KPSO. The resultant impacts will have a detrimental effect on the shopping centre and adjoining residential zones.

### ***Clause 14 - Building setbacks***

The prevailing building line along the street is the primary determination of the building line in the subject business zone. The proposal will have a minimum setback of 2.9 metres. This is consistent with the existing setback along the eastern side of Bobbin Head Road.

### ***Clause 15 - Landscaping***

A landscape plan has been provided as part of the application which includes planting to a maximum height of 2 metres along the southern elevation. The existing street tree forward of the site is to remain. Planting tubs are also provided along the front edge of the proposed first floor deck. Council's Landscaping Officer has raised no objection to the proposal, and provided standard

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conditions of consent. The landscape plan submitted to Council identifies two trees situated on the adjoining property to the south proposed to be removed. No owners consent has been provided as part of this application to permit their removal and therefore cannot be considered under the current application.

***Clause 17 - Vehicular access and circulation***

Vehicular access to roof top parking is provided from Bobbin Head Road. Roof top parking is only for staff of the supermarket and for the offices. The turning manoeuvrability within the car parking area allows for the cars to leave the site in a forward direction.

Loading and unloading facilities have not been provided on the site for service vehicles. The existing arrangements associated with the existing convenience store require delivery vehicles to park on the street adjoining the site and move goods into the site by hand. The applicant has proposed that the existing arrangements continue, despite the supermarket significantly increasing in size and intensity.

The applicant has suggested that a loading zone (approximately 12 metres long) be provided on the eastern side of Bobbin Head Road along the frontage of the site. It is also suggested that the loading zone operate during business hours outside of school set down and pick up times (8.00am to 9.30am and 2.30pm to 4.00pm).

Council's engineer does not support this arrangement. The proposal involves a significant increase in the current floor space and no loading facilities have been provided on the site to support this increase. The proposal should reflect the proposed floor space and use by providing the appropriate facilities on site to cater for the use.

***Clause 18 - Car parking***

The proposal provides inadequate parking. Refer to discussion of DCP 43.

***Clause 19 - Developer contributions***

As no adequate on-site service vehicle provision and car parking have been provided in the redevelopment of the site, to facilitate the scale of development proposed, Council cannot consider a development contribution to compensate for any reduction in car parking. In addition, Council's Strategic Planner, Craig Wyse has indicated that there is no S94 plan for the North Turrumurra area in relation to car parking, therefore contributions for the shortfall are not possible.

***Clause 21 - Urban design***

In accordance with Part 21, the proposed building has followed the existing streetscape pattern with the façade being suitably modulated. The proposal has also followed the existing streetscape pattern with the use of a continued awning.

***Clause 24 - Plant***

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While no plant rooms are shown on the provided plans is noted that the lift overrun is approximately 1.1m higher than the finished roof height as viewed from the streetscape. Despite this, the lift overrun is setback 8 metres from the street and should not detract from the overall building presentation and does not warrant refusal in this regard.

***Clause 27 - Facilities for the disabled and the elderly***

At grade access is provided to the premises and adequate access is provided to the first floor offices via the lift. One disabled car space has been provided on the first floor, only available to employees. This does not comply with Council's controls given that access to the disabled car parking spot will only be available to staff of the mini market and offices.

**Development Control Plan 31- Access**

An access report prepared by Andrew Chriss of Morris - Goding Accessibility Consulting has been provided as part of the application. The proposal provides at grade access from the footpath into the premises and a continuous path of travel for access.

One disabled/ accessible car space is provided for employees on the first floor. Access from the first floor is available via the lift.

The proposal does not meet the requirements of DCP31 as the proposed disabled car parking space is accessible only to employees of the site and is not available to patrons of the mini market.

**Development Control Plan 43 - Car parking**

The proposal fails to comply with the provisions of DCP43 and results in a significant shortfall of car parking spaces.

The aims of DCP43 include the following:

- *“ensure that adequate parking is provided for developments in Ku-ring-gai, firstly to minimise the overflow of parking onto surrounding streets, and secondly to ensure that a high standard of parking and access to commercial developments is provided, to support their viability;*
- *provide objectives and guidelines for the design of parking and service areas, to ensure that these areas are safe, efficient and consistent with the desirable characteristics and environmental standards expected in the Ku-ring-gai area”*

As detailed in Council's traffic engineer's comments, the proposal is inconsistent with the aims of DCP43 as it does not provide for adequate car parking and services areas on site. As a result, the proposal will have an adverse impact on the surrounding streets.

The basement area has been included as floor space within the building but has been excluded from the car parking calculation as this area will not generate any additional patronage of the mini

Item 3

market. Irrespective of this, the proposal fails to achieve the minimal car parking requirement of DCP43 and cannot be supported.

In addition to failing to provide adequate car parking on site, the proposal does not provide any on-site service area for loading vehicles. DCP43 provides that services areas should be designed to ensure that development can be adequately serviced on-site, without the need for service vehicles to park on- street and without conflict with other site traffic. It also outlines that service areas should be easily accessed and freely available for use at all times so that on-street servicing is discouraged. The proposal does not provide for a service area within the site and there are limitations to when the proposed loading zone that Council is to provide can be accessed due to the adjoining school.

### **Development Control Plan 28 - Advertising Signs**

The proposal includes the following signage for the purpose of business identification:

- Flush wall sign containing the red and white IGA logo located on the front façade – 1770mm x 1135mm
- Four fascia signs containing red outlined IGA 250mm high lettering on the front awning

Existing signage within the North Turrumurra shopping strip is predominantly located at or below awning level. Although wall signs above awning heights are generally discouraged, the proposed 'IGA' wall sign is of appropriate design in relation to the proposed building and the existing shopping strip townscape.

### **Development Control Plan 40 - Construction and Demolition Waste Management**

If recommended for approval, conditions for construction and demolition waste management would be provided.

### **Development Control Plan 47 - Water Management**

Council's Development Engineer has assessed the application in regards to water management on site as detailed above.

### **LIKELY IMPACTS**

The proposal will result in an adverse impact on the surrounding streets as it fails to provide adequate car parking and loading facilities on site.

### **SUITABILITY OF THE SITE**

The site is not suitable for the proposed development as the site area is insufficient to sustain the scale of the proposed supermarket and offices without significant impacts to the existing shopping centre in terms of parking demand, vehicle access and loading facilities.

### **CONCLUSION**

Item 3

The proposed development fails to provide adequate car parking and loading facilities for the scale of development proposed. As a result, the surrounding shopping strip, adjoining school and residential streets will be adversely impacted. Therefore, the proposed development is recommended for refusal.

**RECOMMENDATION**

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

THAT Council, as the consent authority, refuse development consent to development application No 509/06 for demolition and construction of a commercial building containing ground floor mini market/ office space, car parking and signage on land at 245-247 Bobbin Head Road, North Turrumurra, as shown on plans numbered DA01A to DA05A inclusive, prepared by the Architecture Company, dated January 2005 and received by Council on 29 May 2006 for the following reasons:

**Traffic and car parking**

1. The proposed development provides insufficient off-street parking, does not provide for loading and unloading of vehicles and would result in an unsatisfactory impact on local traffic and parking conditions.

***Particulars***

- (i) The proposal fails to comply with the car parking requirements of Council's Car parking Development Control Plan (DCP 43) and would result in a shortfall of 25 parking spaces. The development would rely upon surrounding on-street parking to accommodate excess customer parking demand.
- (ii) The proposal does not provide any loading and unloading facilities within the site and would rely upon the surrounding street network for loading and unloading of delivery vehicles.
- (iii) The development will result in adverse traffic impacts on the surrounding street network and nearby North Turrumurra Public School particularly before and after school hours.
- (iv) The proposal is inconsistent with the objectives of the zone in that the development would result in an adverse impact on parking in the surrounding area, and is likely to threaten the operation of the shopping strip.
- (v) The proposal is inconsistent with the considerations for development within the business zones as provided by subclause (a), (e), (g), (h) and (i) of Clause 30C of the Ku-ring-gai Planning Scheme Ordinance.

**Suitability of the site**

2. The proposal is an overdevelopment of the site.

***Particulars***

Item 3

- (i) The proposal exceeds the maximum floor space ratio of 0.75:1 as stipulated by Clause 30B (2) of the Ku-ring-gai Planning Scheme Ordinance. The proposed supermarket and offices result in a total floor space area of 946.4m<sup>2</sup> and a floor space ratio 1.35:1.
- (ii) The proposal is inconsistent with the objectives of the zone in that the development is of an excessive scale for the site that would result in an adverse impact on parking in the surrounding area, and is likely to threaten the operation of the shopping strip.
- (iii) The proposal is inconsistent with the considerations for development within the business zones as provided by subclause (a), (e), (g), (h) and (i) of Clause 30C of the Ku-ring-gai Planning Scheme Ordinance.

**SEPP 1 Objection**

- 3. The SEPP 1 objection to the provisions of Clause 30B(2) 'Floor space ratio' of the Ku-ring-gai Planning Scheme Ordinance submitted with the application is not acceptable as the development does not provide sufficient off-street car parking or loading facilities within the site and would have an undue impact on the operation of the local street network.

**Particulars**

- (i) The proposal exceeds the maximum floor space ratio of 0.75:1 as stipulated by the KPSO with a proposed floor space ratio of 1.35:1
- (ii) The SEPP 1 Objection is not well founded and has not demonstrated that the objective or purpose of the standard has been satisfied.
- (iii) Compliance with the provisions of Clause 30B(2) is reasonable and necessary to ensure that development within the shopping strip does not have an adverse impact on the operation of the shopping strip as a business centre, or surrounding streets.

Karen Rae  
**Development  
Assessment Officer**

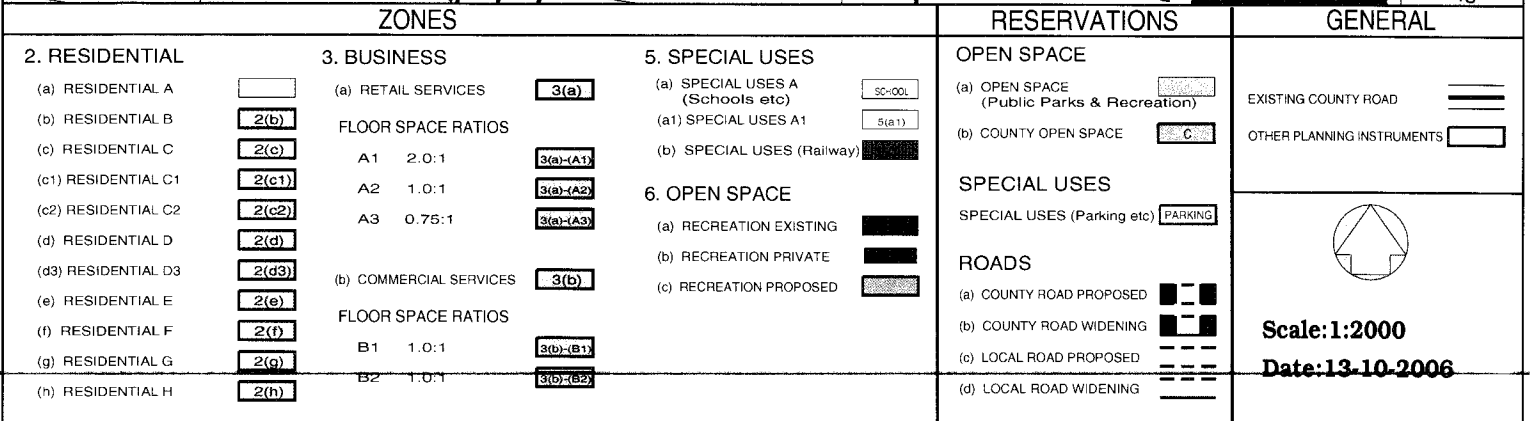
R Kinninmont  
**Team Leader  
Development Assessment -  
Central**

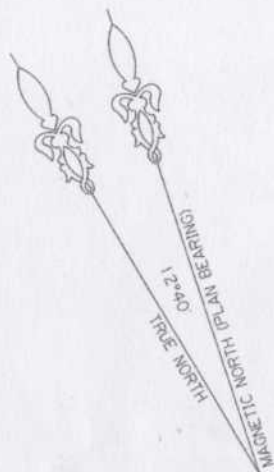
M Prendergast  
**Acting Director  
Development & Regulation**

**Attachments:**      **Location Sketch & Zoning Extract - 683312**  
                             **Site Plan, Survey Plan & Shadow Diagrams - 683315**  
                             **Floor plans, Elevations & Sections - 683320**

**DEVELOPMENT APPLICATION No 509/06**

**245-247 BOBBIN HEAD RD**





**BOBBIN HEAD ROAD**

**OBM**  
SSM 77884  
RL 163.329 (AHD)

# **NOTE:**

**G968795 COVENANT**  
**L386640 COVENANT**

- (A) = window ( 1.9w \* 1.4h ) SIL RL 164.75
- (B) = window ( 0.6w \* 1.2h ) SIL RL 165.0
- (C) = door ( 0.85w \* 2.05h ) FLOOR LEVEL RL 163.7
- (D) = door ( 1.2w \* 1.0h ) SIL RL 168.2
- (E) = window ( 2.4w \* 1.5h ) SIL RL 168.2
- (F) = window ( 1.55w \* 1.45h ) SIL RL 168.2
- (G) = window ( 1.6w \* 1.45h ) SIL RL 169.0
- (H) = window ( 0.6w \* 0.7h ) SIL RL 169.0

**2 - STOREY**  
**(FLAT METAL ROOF)**

**NO. 261**  
**BRICK SHOP**  
**'DENTAL SURGERY'**  
**(FLAT METAL ROOF)**

**NO. 245-247**  
**BRICK SHOP**  
**'WELCOME MART SUPERMARKET'**  
**(METAL ROOF)**

**NO. 245-247**  
**BRICK SHOP**  
**'BAZAAR THE UPMARKET MARKET'**  
**(METAL ROOF)**

**METAL CLASSROOM**  
**'DEMOUNTABLE'**  
**(FLAT ROOF)**

- (I) = window ( 9.7w \* 1.95h ) SIL RL 165.15
- (J) = window ( 4.0w \* 2.15h ) SIL RL 164.95
- (K) = window ( 11.35w \* 2.15h ) SIL RL 164.95

## **NOTE:**

- (1) NO BOUNDARIES HAVE BEEN MARKED OR SURVEYED.
- (2) ALL AREAS AND DIMENSIONS HAVE BEEN COMPILED FROM PLANS MADE AVAILABLE AT THE LAND & PROPERTY INFORMATION & ARE SUBJECT TO FINAL SURVEY
- (3) ONLY SPOT LEVELS SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION
- (4) NO INVESTIGATION OF UNDERGROUND SERVICES HAS BEEN MADE. ALL RELEVANT AUTHORITIES SHOULD BE NOTIFIED PRIOR TO ANY EXCAVATION ON OR NEAR THE SITE.
- (5) SERVICES THAT ARE NOT SHOWN ON THE PLAN WERE NOT VISIBLE AT THE TIME OF THE SURVEY
- (6) SHOULD THERE BE ANY DISCREPANCIES ON THE SURVEY PLAN PLEASE CONTACT CBD SURVEYING SERVICES IMMEDIATELY BEFORE WORK COMMENCES



**CBD SURVEYING SERVICES PTY. LTD**  
1/328 KING GEORGES ROAD  
BEVERLY HILLS NSW 2209

PHONE: 9758 0505  
FAX: 9758 0507  
EMAIL: cbbd@bigpond.net.au

## **TITLE**

**DETAL & LEVEL SURVEY**  
**NO. 245-247 BOBBIN HEAD RD.**  
**TURRAMURRA**  
**LOT A DP 407723**

## **CLIENT**

**SPD TOWN PLANNERS**

## **SURVEYED BY**

**M. DELEZIO**  
**E. DELEZIO**

## **DRAWN BY**

**S. HRISTOV**

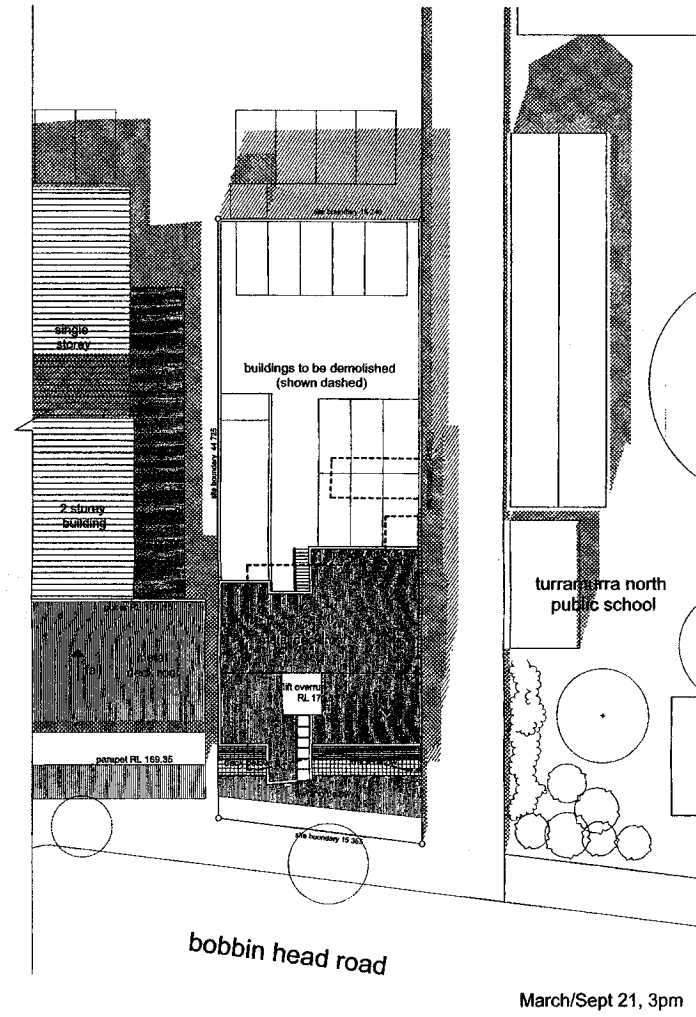
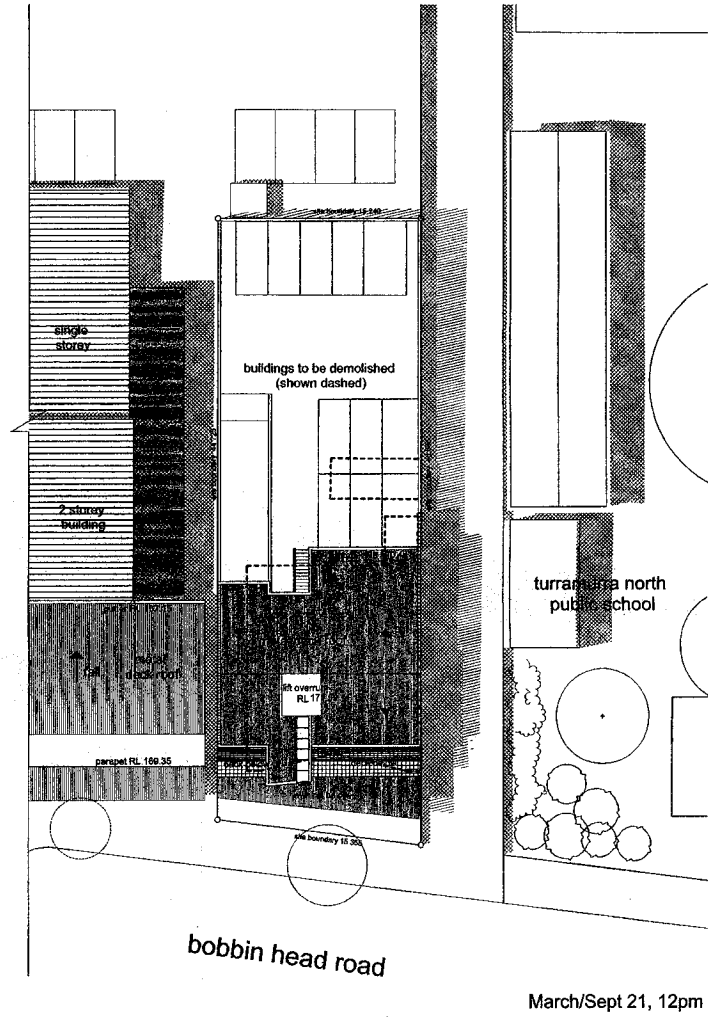
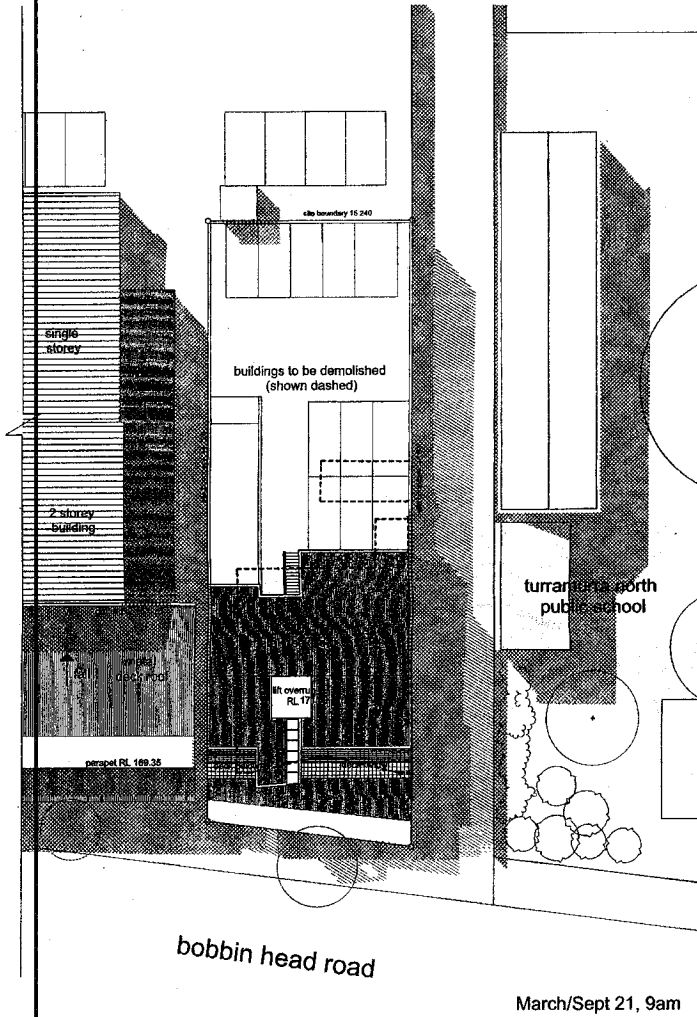
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FILE No.:	265106
SCALE:	1 : 100
PLAN DATE:	27/02/06
DATE OF SURVEY:	23/02/06
HORIZ. CONTROL:	LOCAL
CONTOUR INTERVAL:	0.1m
HEIGHT DATUM:	SSM 77884
	RL 163.329
	(AHD) CLASS LB

## **LEGEND**

PIT	UNKNOWN PIT	AV	AIR VENT
TOPT	TELSTRA PIT	FL	FLOOR LEVEL
WM	WATER METRE	BM	BENCH MARK
SBP	SURFACE INLET PIT		
OP	ODLY PIT		
SMH	SEWER MAN HOLE		
SWMH	STORM WATER MH		
H	HYDRANT		
SV	STOP VALVE		
S	RADIAL THREE SPREAD		
GM	GAS METRE		
DMR	DATA UTILITY		
SI	STON		
TL	TRAFFIC LIGHT		
BT	BOUNDARY TRAP		
EROX	ELECTRICITY BOX		





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245-247 Bobbin Head Road, North Turrumulla

CLIENT  
Andrew Chris

PROJECT NO.  
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J T Hepworth  
Northwest Architect 5038



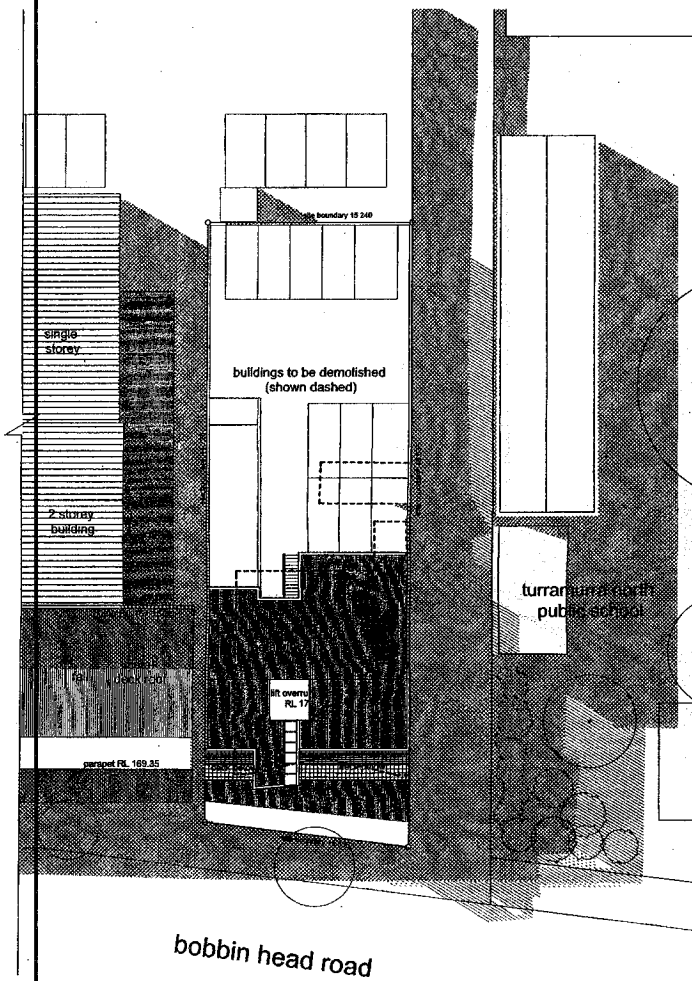
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shadow diagrams, march/sept 21

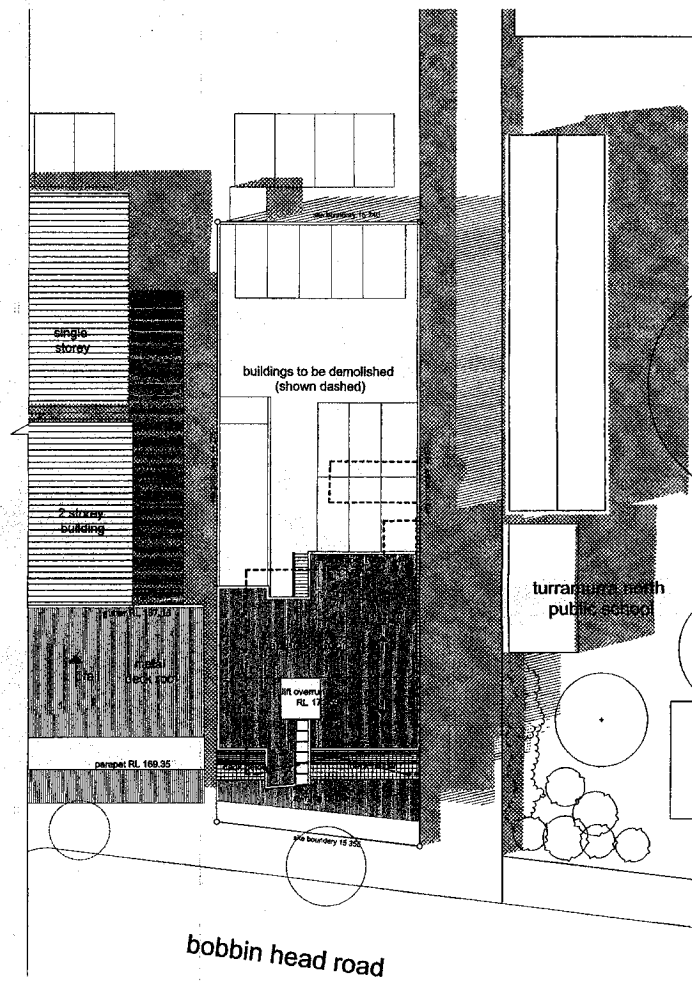
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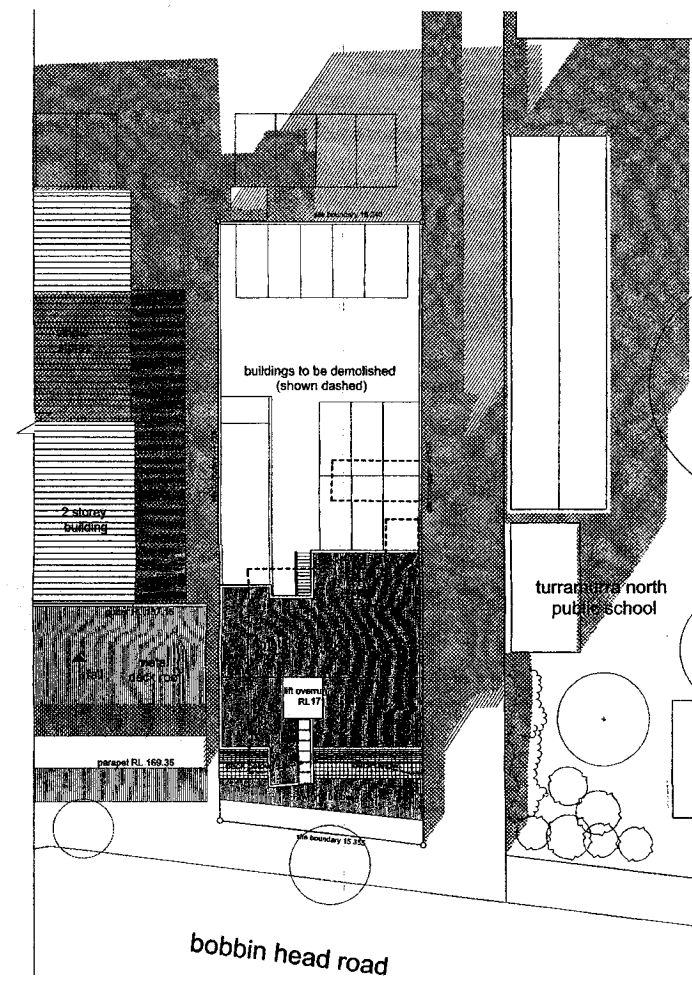
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June 21, 9am



June 21, 12pm



June 21, 3pm

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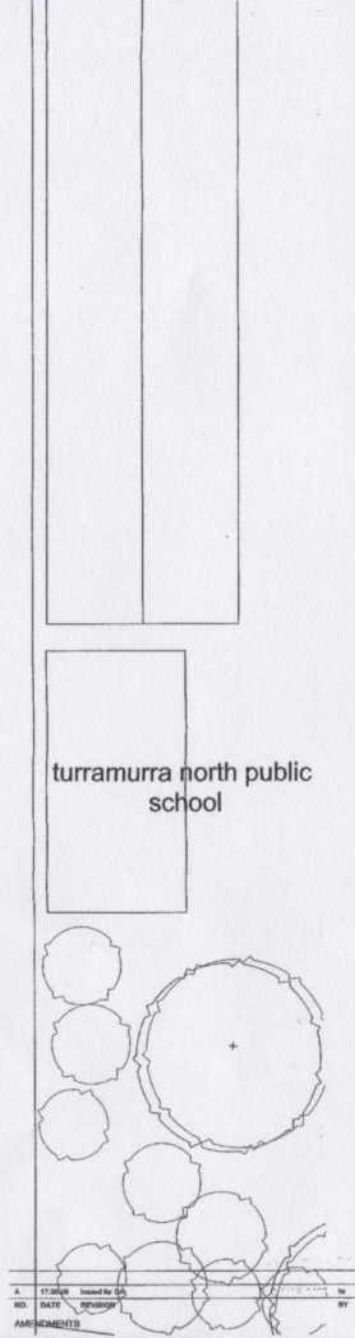
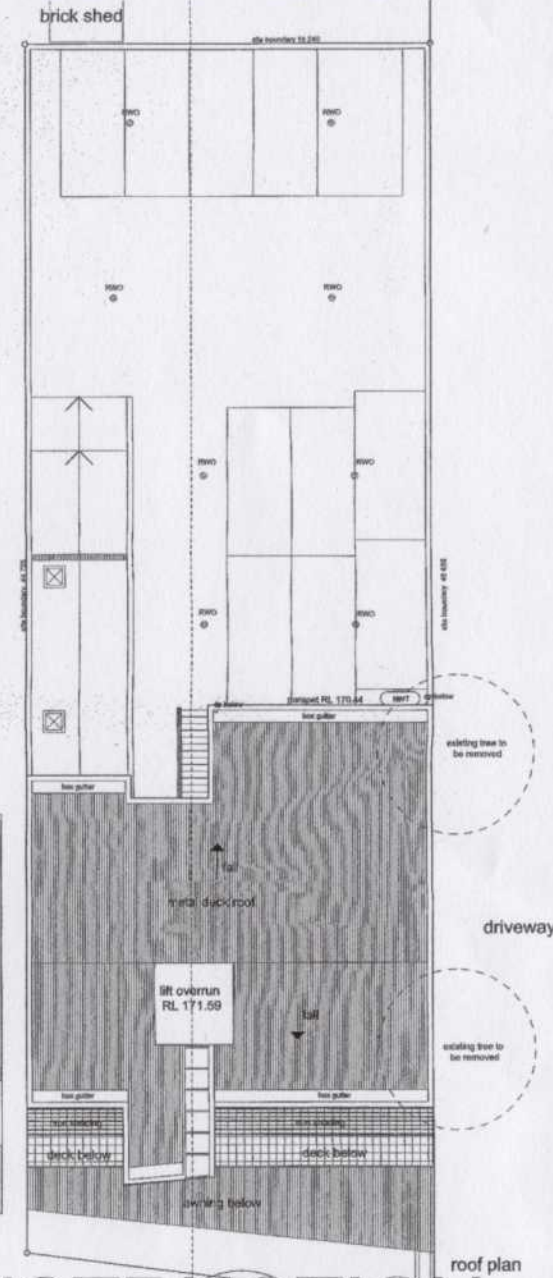
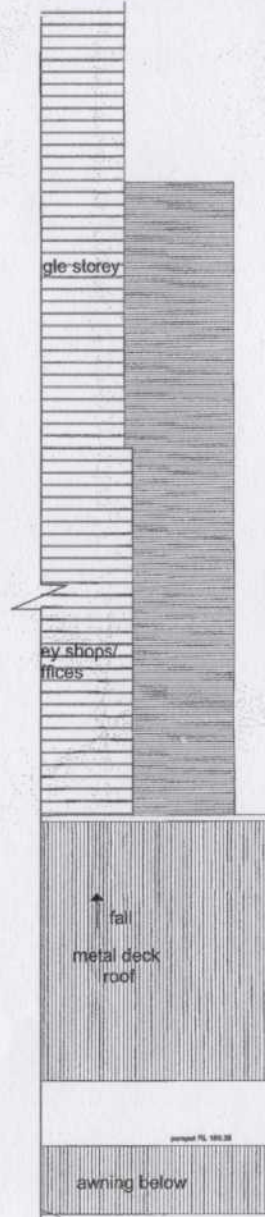
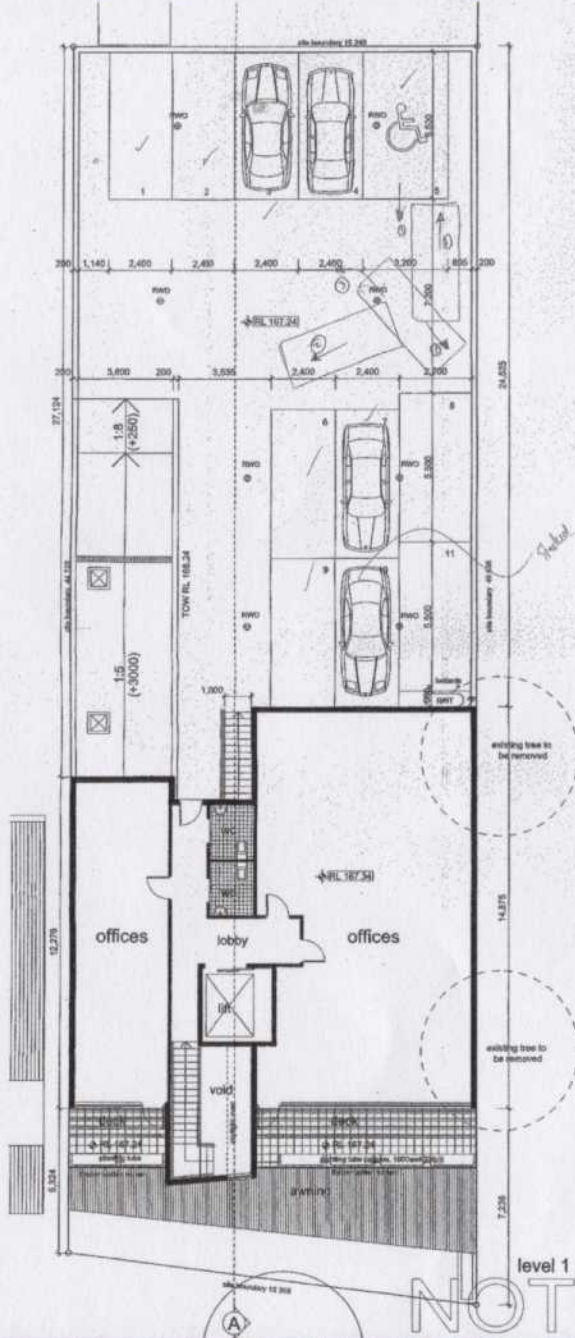
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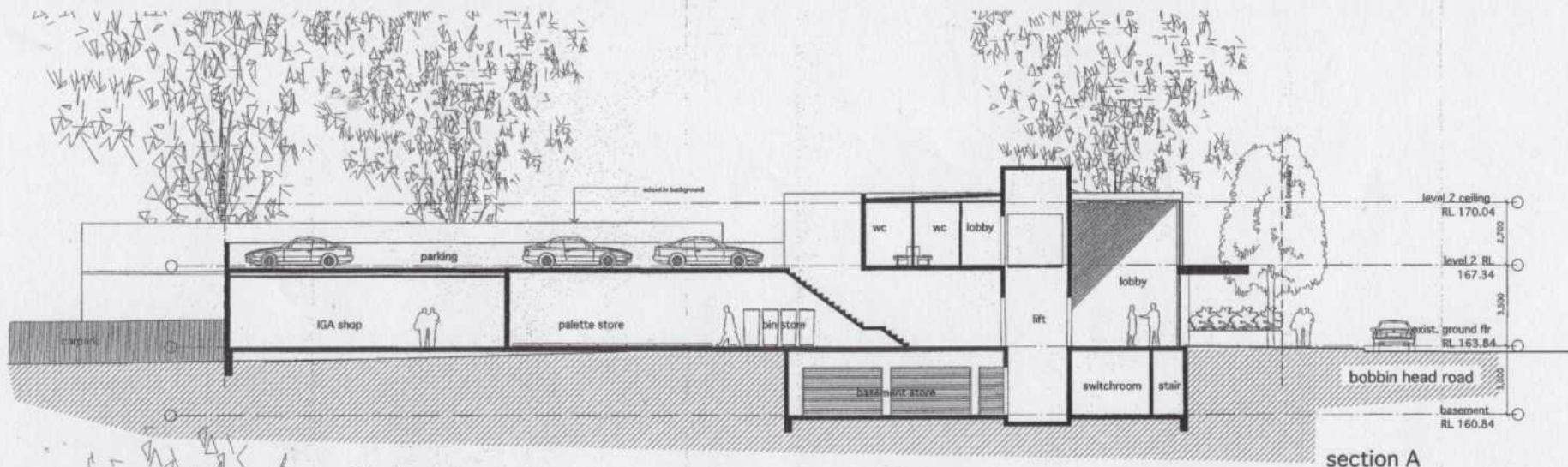
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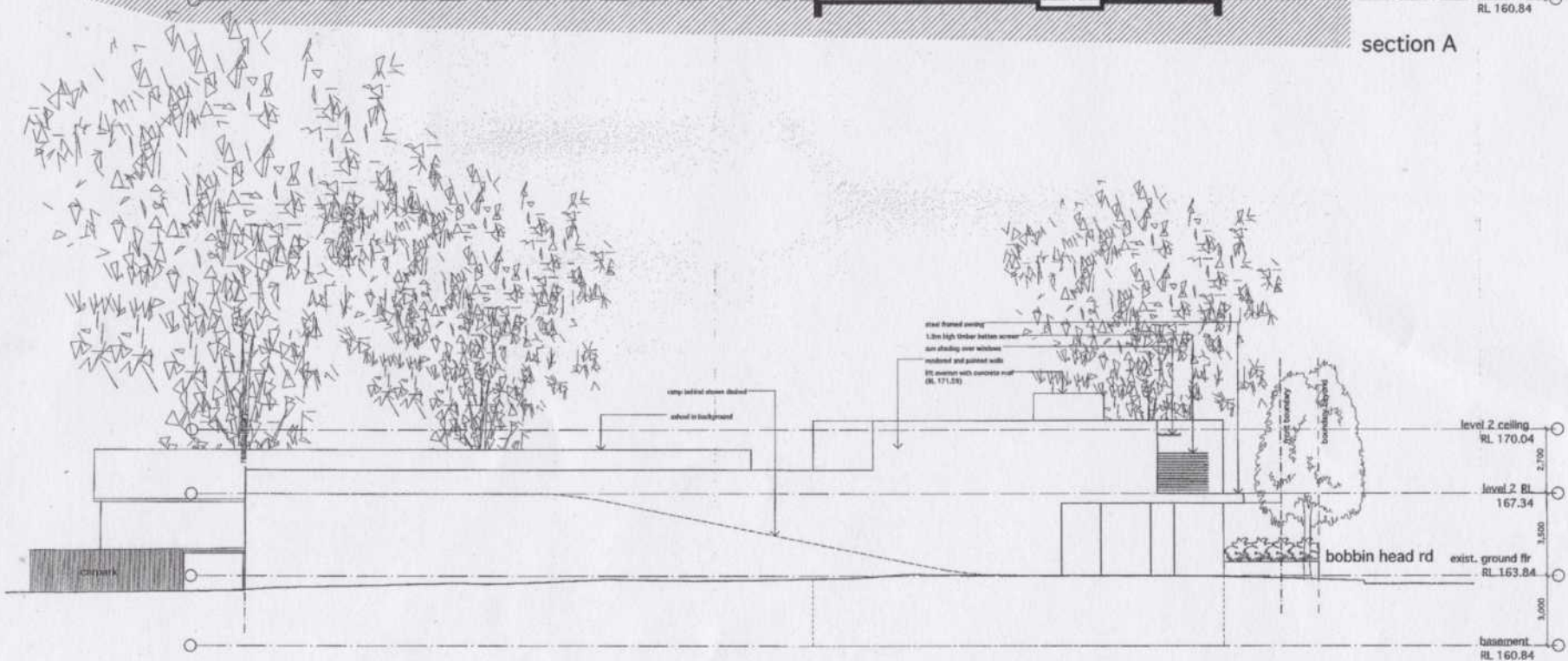
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section A



north elevation

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section and north elevation

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Client  
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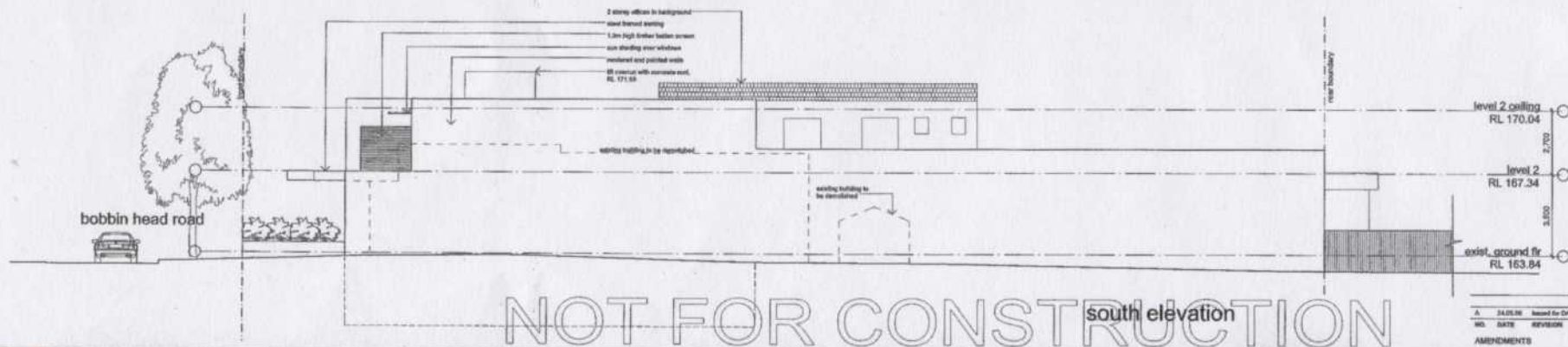
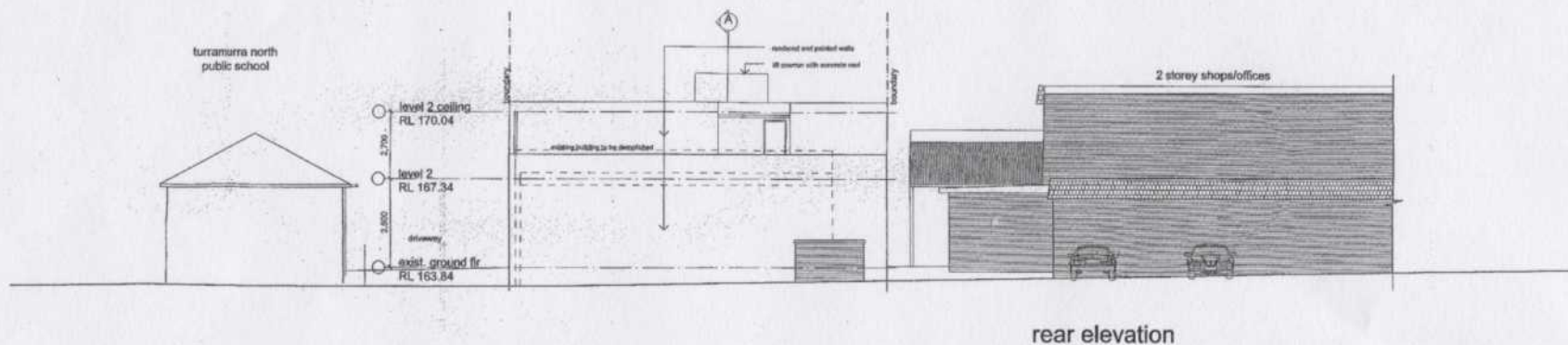
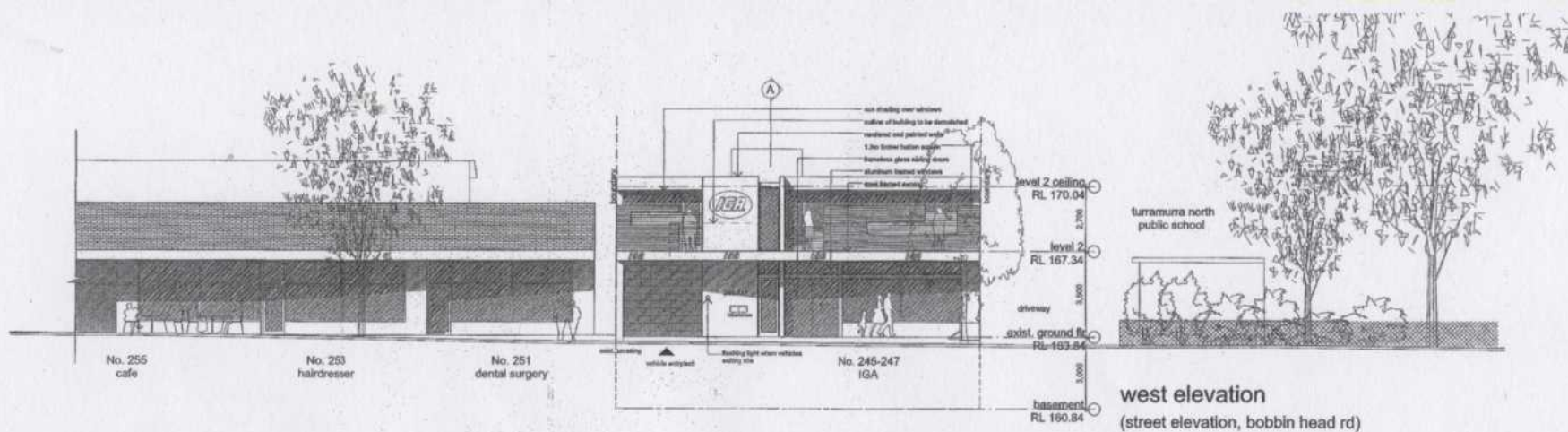
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west elevation & east elevation

DA04

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Commercial Development

245-247 Bobbin Head Road, North Turrumurra

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Jan 2006

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## Fax Transmission - URGENT

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<b>To:</b> Michael Miocic	<b>Date:</b> 3 November 2006
<b>Firm:</b> Ku-ring-gai Council	<b>Pages:</b> 1 of 2
<b>Fax:</b> 9424 0880	<b>Project No:</b> 05069
<b>Re:</b> Development Application No. 509/06 245-247 Bobbin Head Road, North Turramurra	<b>Cc:</b> Andrew Chriss - 9487 6238

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Dear Mr Miocic,

We refer to Development Application (DA) No. 509/06 in respect of the property at Nos. 245-247 Bobbin Head Road, North Turramurra (the site). As you are aware, the DA was deferred at the 24 October 2006 Council meeting, in order for the Applicant to consult with Council in respect of the possibility of making a Planning Agreement pursuant to Clause 93F of the Environmental Planning and Assessment Act 1979. We understand that Council's resolution indicated that the contribution, subject of the Agreement, would be used for the provision of car parking or other facilities within the North Turramurra area.

The Applicant has instructed us to make an offer, on his behalf, for the payment of a one-off monetary contribution of \$50,000.00 to Council, having regard to Clause 93F(2) of the Act, which states that such a contribution may be made for used for a public purpose, including funding the provision or recurrent expenditure relating to public amenities, public services, affordable housing, transport or other infrastructure, or the enhancement of the natural environment. We would suggest that the contribution would be payable prior to the issue of the Occupation Certificate for the proposed development.

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Facsimile

245-247 Bobbin Head Road, North Turrumurra

3 November 2006

During our meetings and discussions with the North Turrumurra Action Group, Turrumurra North Public School and the local community generally, we have been made aware of the community's concern in relation to the location of the pedestrian crossing on Bobbin Head Road, close to its intersection with Normurra Avenue.

We are of the understanding that the community has concerns in relation to the safety of this crossing. The community has suggested that the crossing may be moved away from Normurra Avenue, or alternatively, redesigned to incorporate a pedestrian island or speed hump, in order to improve its visibility and slow vehicles down on approach. This is one (1) possible way in which the proposed contribution could be allocated.

Another option for the expenditure of the contribution could be for the provision of street furniture or street planting and the like in the vicinity of the site, in order to enhance the amenity of the local environment. A third option may involve the money being allocated for use to improve or add to the stock of public car parking in the North Turrumurra Village.

We are of the opinion that the proposed contribution to Council, will have significant positive impacts in respect of the North Turrumurra Village. It will assist Council in providing new, or maintaining existing infrastructure in the locality, being a significant public benefit.

We look forward to Council's favourable response in relation to the proposal outlined above, with a view to having the matter considered at the next possible Council meeting. Once Council has considered the contents of this fax, please contact the undersigned to discuss the specifics of the proposal.

If you have any queries in regards to the above, please do not hesitate to contact the undersigned or Spiro Stavis from our office.

Regards,



Genevieve Slattery  
Senior Urban Planner

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## **MASADA COLLEGE - DEED OF LEASE OVER A PORTION OF ROAD RESERVE IN ELEHAM ROAD, LINDFIELD**

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**Ward: Roseville**

### **EXECUTIVE SUMMARY**

<b>PURPOSE OF REPORT:</b>	For Council to grant a further lease to Masada College over a portion of road reserve in Eleham Road for school playground and beautification purposes.
<b>BACKGROUND:</b>	Masada has leased a portion of road reserve in Eleham Road, Lindfield for school playground and beautification purposes. The previous lease commenced on 1 August 1985 and expired on 31 July 1990. Masada has remained in occupation of the land ever since. It is now proposed to formalise this occupation by the granting of a new lease.
<b>COMMENTS:</b>	A lease of the land has been negotiated for a further period of five (5) years from 22 February 2006. The proposed lease has similar provisions to the previous lease with an updated rental amount and provision for early termination if necessary.
<b>RECOMMENDATION:</b>	That Council approve a Deed of Lease over a portion of road reserve in Eleham Road, Lindfield to Masada College for five (5) years from 22 February 2006.

## PURPOSE OF REPORT

For Council to grant a further lease to Masada College over a portion of road reserve in Eleham Road for school playground and beautification purposes.

## BACKGROUND

Masada College leases approximately 2,250 sq metres of road reserve in Eleham Road, Lindfield between 1 August 1985 and 31 July 1990 for school playground and beautification purposes. Masada has remained in occupation of this land ever since expiry of the lease. It is now proposed to formalise this occupation by the granting of a new lease. A location/site plan of the subject land is attached (**Appendix A**)

## COMMENTS

In the period from 31 July 1990 until now Masada has remained in occupation of the land. No action was progressed over the years to renew the lease due to uncertainties about the future redevelopment of the College land. Masada has continued to pay rent for the land at the amount set in 1990.

The Extraordinary Meeting of Council held on 16 August 2006, dealt with the Draft Local Environmental and Development Control Plans for Lindfield Centre. The Masada College site is included in the Plans as part of Precinct P. Masada is considering relocation from its Lindfield site due to declining student numbers. Ultimately sale and redevelopment of the Lindfield site is likely. Possible options for the site have been considered by Council on a number of occasions. A mediation session with relevant stakeholders was held on 27 July 2006.

There has been recent progress with the College's site redevelopment plans however, it will be some time before all planning controls are in place and subsequent actions are completed by the College to enable the site to be vacated. In the interim, the College's continued occupation of the public road land should again be formalised.

A new lease of the land has been negotiated for a further period of five (5) years from 22 February 2006 (the date of a new rental valuation).

The proposed lease has similar provisions to the previous lease with the updated rental amount. In addition it is proposed to include a clause in the new lease to allow the lease to be terminated prior to expiry date if Masada vacates its Lindfield site.

Masada is agreeable to the proposed terms and conditions.

The lease of the road reserve is subject to the provisions of the Roads Act 1993. As such all documentation and public notification will be undertaken in accordance with the Act.

## CONSULTATION

The proposed lease is substantially a renewal of existing arrangements. Public notification of the proposed lease will be undertaken subject to Section 154 of the Roads Act 1993 (**Appendix B**). In

addition public consultation processes are ongoing in respect of the Lindfield Centre plans and the possible future redevelopment of the Masada College site.

## FINANCIAL CONSIDERATIONS

The proposed lease provides for the payment of an annual rental. The proposed rental amount has been determined through the Property Valuation Services Branch of the NSW Department of Commerce, a copy of which is attached (**Confidential Appendix C**). The details of the terms and conditions of the proposed lease are set out in the Heads of Agreement document attached (**Confidential Appendix D**).

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Urban Planning staff have been consulted in respect of the possible future redevelopment of the Masada College site.

## SUMMARY

Masada College leased a portion of road reserve in Eleham Road Lindfield between 1 August 1985 and 31 July, 1990. Masada has remained in occupation of the land ever since. Continued occupation of the land by Masada should again be formalised. New lease arrangements have been negotiated with the College including a provision for early termination of the lease should the College vacate its Lindfield properties.

## RECOMMENDATION

- A. That Council approve the Deed of Lease between Council and Masada College over a portion of road reserve in Eleham Road, Lindfield having an area of approximately 2,250 sq metres for school playground and beautification purposes.
- B. That Public Notice of the proposed lease be given in accordance with the provisions of Section 154 of the Roads Act 1993.
- C. That the Mayor and General Manager be authorised to execute all documentation associated with Deed of Lease.
- D. That the Council Seal be affixed to the Deed of Lease.

Deborah Silva  
Commercial Services Co-ordinator

John Clark  
Acting Director Finance & Business

**Attachments:**     **Appendix A: Location/Site Plan - 680039**  
                              **Appendix B: Section 154 Roads Act 1993 - 651251**  
                              **Appendix C: Rental Valuation - Confidential**  
                              **Appendix D: Heads of Agreement - Confidential**

# LEASE OVER PART OF ELEHAM ROAD LINDFIELD



**09-10-2006**





## New South Wales Consolidated Acts

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### ROADS ACT 1993 - SECT 154

#### Public notice to be given of proposed lease

#### 154 Public notice to be given of proposed lease

(1) Before granting a lease under this Division, the roads authority must cause notice of the proposed lease:

- (a) to be published in a local newspaper, and
- (b) to be served on the owner of each parcel of land adjoining the length of public road concerned.

(2) The notice:

- (a) must identify the public road concerned, and
- (b) must state that any person is entitled to make submissions to the roads authority with respect to the proposed lease, and
- (c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

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## CHRISTMAS/NEW YEAR RECESS DELEGATIONS

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### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	To grant appropriate Delegations during the Christmas/New Year recess period.
<b>BACKGROUND:</b>	Council at its meeting of 6 December 2005 adopted an amended Meeting Cycle for 2006 through to 6 February 2007.
<b>COMMENTS:</b>	The Christmas recess period is from the last Extraordinary Council meeting on 19 December 2006 until meetings resume on 6 February 2007. During this period, it is necessary to grant Delegated Authority to the Mayor, Deputy Mayor and General Manager.
<b>RECOMMENDATION:</b>	That appropriate Delegations of Authority be granted to the Mayor, Deputy Mayor and General Manager.

## **PURPOSE OF REPORT**

To grant appropriate Delegations during the Christmas/New Year recess period.

## **BACKGROUND**

Council at its meeting of 6 December 2005 adopted an amended Meeting Cycle for 2006 through to 6 February 2007. Council also resolved to hold 5 Extraordinary Meetings in November/December, last of which will be held on 19 December.

## **COMMENTS**

The Christmas recess period is from the last Extraordinary Council meeting for the year, which is to be held on 19 December 2006 through to the first meeting of 2007 on 6 February.

During the recess period, it will be necessary to grant Delegated Authority to the Mayor, Deputy Mayor and General Manager to exercise the functions of Council where such functions could not be deferred until the meeting of Council on 6 February 2006.

## **CONSULTATION**

Not applicable.

## **FINANCIAL CONSIDERATIONS**

Not applicable.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

Not applicable.

## **SUMMARY**

Not applicable.

## **RECOMMENDATION**

- A. That the Mayor, Councillor Nick Ebbeck, the Deputy Mayor, Councillor Anita Andrew and the General Manager, John McKee, be granted authority to exercise all powers, authorities, duties and functions of Council except those set out in Section 377 of the Local Government Act 1993 during the period 20 December 2005 to 5 February 2007, subject to the following conditions:

Item 4

**S02017**  
**7 November 2006**

1. Such powers, authorities and functions may only be exercised by unanimous agreement between the Mayor, Deputy Mayor and General Manager.
  2. Any such power, authority, duty or function shall only be exercised by the Mayor, Deputy Mayor and General Manager jointly where they are of the opinion that the exercise of any such power, authority, duty or function could not be deferred until the meeting of Council on 6 February 2007.
- B. That consultation subject to their availability be held with Ward Councillors on matters where they would normally be contacted before delegation is exercised.

John McKee  
**General Manager**

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## COUNCIL MEETING CYCLE FOR 2007

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### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	To consider the proposed Council Meeting Cycle for 2007 which takes account of school holidays, public holidays and the Christmas Recess.
<b>BACKGROUND:</b>	Council has in the past resolved to amend its meeting cycle to take into account the school holiday breaks, the Local Government Association Conference and the Christmas Recess.
<b>COMMENTS:</b>	Options for Council's consideration.
<b>RECOMMENDATION:</b>	That Council's Meeting Cycle for 2007 be adopted.

## PURPOSE OF REPORT

To consider the proposed Council Meeting Cycle for 2007 which takes account of school holidays, public holidays and the Christmas Recess.

## BACKGROUND

The scheduled meeting cycle for 2007 is:

February:	6 February 2007 27 February 2007	Ordinary Meeting of Council Ordinary Meeting of Council
March:	13 March 2007 27 March 2007	Ordinary Meeting of Council Ordinary Meeting of Council
April:	10 April 2007 24 April 2007	Ordinary Meeting of Council Ordinary Meeting of Council
May:	8 May 2007 22 May 2007	Ordinary Meeting of Council Ordinary Meeting of Council
June:	12 June 2007 26 June 2007	Ordinary Meeting of Council Ordinary Meeting of Council
July:	10 July 2007 24 July 2007	Ordinary Meeting of Council Ordinary Meeting of Council
August:	14 August 2007 28 August 2007	Ordinary Meeting of Council Ordinary Meeting of Council
September:	11 September 2007 25 September 2007	Ordinary Meeting of Council Ordinary Meeting of Council
October:	9 October 2007 23 October 2007	Ordinary Meeting of Council Ordinary Meeting of Council
November:	13 November 2007 27 November 2007	Ordinary Meeting of Council Ordinary Meeting of Council
December:	11 December 2007 25 December 2007	Ordinary Meeting of Council Ordinary Meeting of Council

## COMMENTS

The school holiday periods for 2007 are:

Autumn: Friday, 6 April 2007 to Friday, 20 April 2007  
 Winter: Monday, 3 July 2007 to Friday, 13 July 2007  
 Spring: Monday, 1 October 2007 to Friday, 12 October 2007  
 Summer: Monday, 24 December 2007 to Friday, 28 January 2008

There are scheduled Council Meetings that fall within these periods. Council has in the past resolved to cancel scheduled meetings during school holidays.

The Meeting Cycle for 2007 is also affected by Christmas Day.

It is recommended to amend the Meeting Cycle for 2007, as follows:

### School Holidays: 6 April to 20 April 2007

3 April 2007	Ordinary Meeting of Council	(transferred from 10 April 2007)
24 April 2007	Ordinary Meeting of Council	

### School Holidays: 2 July to 13 July 2007

10 July 2007	Ordinary Meeting of Council	(transferred to 17 July 2007)
17 July 2007	Ordinary Meeting of Council	
24 July 2007	Ordinary Meeting of Council	

### School Holidays: 1 October to 12 October 2007

9 October 2007	Ordinary Meeting of Council	(transferred to 16 October 2007)
16 October 2007	Ordinary Meeting of Council	
23 October 2007	Ordinary Meeting of Council	(transferred to 30 October 2007)
30 October 2007	Ordinary Meeting of Council	

The Local Government Association Conference is to be held from 20 October 2007 to 24 October 2007.

### Christmas Recess 2007

Council has traditionally held the last Council meeting for the year on the second Tuesday in December and resumed meetings in February, the next year.

As the fourth Tuesday is Christmas Day, it is recommended that the meeting be brought forward to the first Tuesday - 4 December 2007 with the last Ordinary Meeting of Council being held on Tuesday, 11 December 2007. Following the recess, it is further recommended that the first meeting for 2008 be held on Tuesday, 5 February 2008 with the normal meeting cycle to resume on 26 February 2008.

## CONSULTATION

Not applicable.

## FINANCIAL CONSIDERATIONS

Not applicable.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

## SUMMARY

Not applicable.

## RECOMMENDATION

- A. That Council amend its meeting cycle for 2007, as follows:

3 April 2007	Ordinary Meeting of Council	(transferred from 10 April 2007)
24 April 2007	Ordinary Meeting of Council	
10 July 2007	Ordinary Meeting of Council	(transferred to 17 July 2007)
17 July 2007	Ordinary Meeting of Council	
24 July 2007	Ordinary Meeting of Council	
9 October 2007	Ordinary Meeting of Council	(transferred to 16 October 2007)
16 October 2007	Ordinary Meeting of Council	
23 October 2007	Ordinary Meeting of Council	(transferred to 30 October 2007)
30 October 2007	Ordinary Meeting of Council	
4 December 2007	Ordinary Meeting of Council	
11 December 2007	Ordinary Meeting of Council	

- B. That the first meeting for 2008 be held on 5 February 2008 and the normal meeting cycle resume on 26 February 2008.

Geoff O'Rourke  
Senior Governance Officer

John McKee  
General Manager

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## REPRESENTATION ON KU-RING-GAI MEALS ON WHEELS COMMITTEE

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### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	For Council to make an appointment to the Ku-ring-gai Meals on Wheels Committee Inc.
<b>BACKGROUND:</b>	Council at its meeting of 26 September 2006 appointed Councillor Shelley as Council's representative on the Committee.
<b>COMMENTS:</b>	A request has been received from the Meals on Wheels Committee for Council to appoint a second or alternate representative.
<b>RECOMMENDATION:</b>	That Council appoint an alternate representative to the Ku-ring-gai Meals on Wheels Committee.

## **PURPOSE OF REPORT**

For Council to make an appointment to the Ku-ring-gai Meals on Wheels Committee Inc.

## **BACKGROUND**

Council at its meeting of 26 September 2006 appointed Councillor Shelley as Council's representative on the Committee.

## **COMMENTS**

A request has been received from the Meals on Wheels Committee for Council to appoint a second or alternate representative to the Committee for those times when Councillor Shelley is unable to attend the Committee's meetings.

## **CONSULTATION**

Not applicable.

## **FINANCIAL CONSIDERATIONS**

Not applicable.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

The Director Community Services agrees with the request for an alternate representative.

## **SUMMARY**

Not applicable.

## **RECOMMENDATION**

That Council appoint an alternate representative to the Ku-ring-gai Meals on Wheels Committee.

Geoff O'Rourke  
Senior Governance Officer

John McKee  
General Manager

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## AMENDED NOTICE OF MOTION

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### BERT OLDFIELD OVAL

**Notice of Motion from Councillor A Ryan dated 29 November 2006.**

I move:

- i. That Council undertakes a study into alternative and more appropriate locations for a Leash Free Area within the immediate catchment of the Bert Oldfield Oval at Killara Park and that a report with recommended alternatives be brought to Council no later than the first meeting in March 2007.
- ii. That subject to Council's identification of an alternative and more appropriate location, that a trial period of 3 months commence and submissions from the community are invited.
- iii. That subject to a successful trial of the alternative location, that Bert Oldfield Oval at Killara Park be removed from Council's register of Leash Free Areas".

### RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Adrienne Ryan  
Councillor for Gordon Ward

**Attachment: Original Notice of Motion deferred from Council Meeting of 28 November 2006**

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## NOTICE OF MOTION

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### BERT OLDFIELD OVAL

**Notice of Motion from Councillor A Ryan dated 13 November 2006.**

I move:

- "i. That Council resolve to remove, following finalisation of Part (ii) below, Bert Oldfield Oval at Killara Park from Council's register of Leash Free Areas.
- ii. I further move that Council undertake a study into alternative and more appropriate locations for a Leash Free Area within the immediate catchment".

### RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Adrienne Ryan  
Councillor for Gordon Ward