



**ORDINARY MEETING OF COUNCIL  
TO BE HELD ON TUESDAY, 6 SEPTEMBER 2005 AT 7.00PM  
LEVEL 3, COUNCIL CHAMBERS**

**A G E N D A**

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

**APOLOGIES**

**DECLARATION OF PECUNIARY INTEREST**

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

**ADDRESS THE COUNCIL**

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

**DOCUMENTS CIRCULATED TO COUNCILLORS**

**CONFIRMATION OF MINUTES**

**Minutes of Ordinary Meeting of Council**

Files: S04019, S02131

Meetings held 19 July 2005, 26 July 2005 & 9 August 2005

Minute numbered 288

Memorandum by Senior Governance Officer dated 22 August 2005.

**Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 23 August 2005

Minutes numbered 333 to 361

## 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 **Election of Mayor for the 2005/2006 Mayoral Term** **1**

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File: S03662

To elect the Mayor for the period 2005/2006.

##### **Recommendation:**

That the Council elect the Mayor for the period 2005/2006 using the ordinary ballot method.

#### GB.2 **Election of Deputy Mayor for the 2005/2006 Term** **4**

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File: S03662

To elect the Deputy Mayor for the period 2005/2006.

##### **Recommendation:**

That Council elect the Deputy Mayor for the period 2005/2006 using the same election method as was used for the election of the Mayor.

#### GB.3 **38 Owen Street, East Lindfield** **7**

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File: DA1313/04

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

##### **Recommendation:**

Refusal.

GB.4 **9 to 15 Kings Avenue, Roseville - Demolition of 4 Dwellings and the Construction of a Residential Flat Building Containing 23 Units and Basement Car Parking for 41 Vehicles** 34

.  
File: DA1285/04

Ward: Roseville

Applicant: Colston Budd, Hunt & Kafes Pty Ltd

Owner: B Carbines, B Eschmann, J Teer and ETC Developments Pty Ltd

To determine Development Application No.1285/04, which seeks consent for the demolition of 4 dwelling houses and the construction of a residential flat building containing 23 units and basement car parking for 41 vehicles.

**Recommendation:**

Approval.

GB.5 **52 Pentecost Avenue, Pymble** 117

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File: DA1317/04

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

**Recommendation:**

Approval.

GB.6 **11 Gregory Street, Roseville** 214

.  
File: DA0188/05

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

**Recommendation:**

Refusal.

GB.7 **1691 to 1693 Pacific Highway, Wahroonga** 236

.  
File: DA0124/05

To determine DA 124/05 for the demolition of existing dwelling and the construction of a residential flat building containing 31 units, basement car parking for 40 cars and landscaping.

Supplementary report to Council

**Recommendation:**

Approval.

- GB.8     **32 Marian Street and 589 Pacific Highway, Killara - Demolition of 2 Residential Dwellings and Construction of a 4 Storey Residential Flat Building Comprising 16 Units and Basement Car Parking for 27 Vehicles**     **349**

File: DA 1415/04

Ward: Gordon

Applicant: Ray Fitz-Gibbon Architects Pty Ltd

Owner: Provent Property Group Pty Limited - 589 Pacific Highway & P Nott - 32 Marian Street, Killara

To determine development application No.1415/04, which seeks consent for demolition of 2 residential dwelling houses and construction of a 4 storey residential flat building comprising 16 units and basement car parking for 27 vehicles.

**Recommendation:**

Refusal.

**EXTRA REPORTS CIRCULATED AT MEETING**

**MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**

- NM.1     **Land & Environment Court Class 1 Appeal Outcomes**     **403**

File: S03398

**Notice of Motion from Councillor T Hall dated 28 July 2005.**

I move:

"That where judgments of class 1 appeals handed down in the Land & Environment Court include a criticism, requirement or suggestion by the Court's Commissioner for the Council to review its policies/development control plans that he/she consider faulty as a result of the outcome of individual Class 1 appeals, these matters be reported with an appropriate staff recommendation to Council for review as to implementation, as soon as possible after the handing down of the relevant judgment.

I refer particularly to the Court's criticisms of Council's bonding conditions of landscaping/preservation of trees (see Appeals No.11333 of 2004 and No.10238/2005), the DCP condition for the rejection of Childcare Centres sited within 100m of sub-arterial roads (see Appeal no.10072 of 2005) and restrictions as to user on title, (Appeal No.11333 of 2005)".

Note. This list is not complete.

**NM.2 Delegation of Authority - Subdivisions**

**404**

File: S03878

**Notice of Motion from Councillor T Hall dated 17 August 2005.**

Further to my motion of 24 May 2005 and general agreement reached at the Planning Committee meeting of 16 August 2005,

I move:

"That all development applications proposing Torrens title subdivision to create up to three lots be determined by staff under delegated authority, excepting subdivision of land that:

- is within the "hatched area" as identified on Council's Bushfire Prone Land Map
- contains a heritage item
- contains remnant bushland vegetation or endangered ecological species

and excepting any application that is called to full Council by a Councillor".

**NM.3 Protocol for the Land and Environment Court**

**405**

File: S03398

**Notice of Motion from Councillor L Bennett dated 29 August 2005.**

I move that:

- "A. Council develop a Protocol for providing information in support of refusal to the Land and Environment Court where Council refuses a Development Application against the recommendation of the Officers.
- B. Until such a Protocol is formally adopted by Council that, when such an appeal is notified to Council, an independent consultant who is prepared to support Council's reasons for refusal be briefed to provide an appropriate Report which can be tendered as evidence to the Court."

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

**QUESTIONS WITHOUT NOTICE**

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

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### **Environmental Planning & Assessment Act 1979 (as amended)**

#### **Section 79C**

##### *1. Matters for consideration - general*

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

*a. The provisions of:*

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

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

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

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## PETITION

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### **83 LUCINDA AVENUE, WAHROONGA - NO OBJECTION TO ERECTION OF FENCE & GATE FROM RESIDENTS (EIGHTY-TWO [82] SIGNATURES)**

"I/We, have no objection to the erection of a black powder-coated steel/ aluminium fence, brick piers and gate (of approximately 1500mm and 1770mm, respectively) to the front boundary of Property No 83 Lucinda Avenue, Wahroonga NSW 2076."

### **RECOMMENDATION**

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

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## ELECTION OF MAYOR FOR THE 2005/2006 MAYORAL TERM

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### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	To elect the Mayor for the period 2005/2006.
<b>BACKGROUND:</b>	Section 290 of the Local Government Act provides that Council shall elect a Mayor and the Council is required to hold mayoral elections in September of each year of its four year term.
<b>COMMENTS:</b>	<p>It is customary in Ku-ring-gai Council for Mayoral elections to use the ordinary ballot method of voting.</p> <p>The General Manager is the returning officer.</p>
<b>RECOMMENDATION:</b>	That the Council elect the Mayor for the period 2005/2006 using the ordinary ballot method.

## PURPOSE OF REPORT

To elect the Mayor for the period 2005/2006.

## BACKGROUND

Section 290 of the Local Government Act provides that Council shall elect a Mayor and the Council is required to hold mayoral elections in September of each year of its four year term.

## NOMINATION

Schedule 3 - Election of Mayor by Councillors (Local Government [Elections] Regulations 1998) states:

2. (1) *A councillor may be nominated without notice for election as mayor or deputy mayor.*
- (2) *The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.*
- (3) *The nomination is to be delivered or sent to the returning officer.*
- (4) *The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.*

Nomination forms and Acceptance forms have been distributed with the Business Papers and will also be available on the night.

If there is more than one nomination, an election is carried out.

## METHOD OF ELECTION

The election could be carried out in one of three ways.

The first is an ordinary ballot. In this type of election, each councillor is required to cast one vote for the candidate of his or her choice. If there are more than two candidates, the candidate who polled the lowest number of votes is eliminated and a further ballot takes place. In the case of a tied vote (ie 5 all for the final two candidates), the General Manager will conduct a draw of lots to determine the outcome - the one chosen by lot is elected Mayor. At any stage through the vote, if 2 or more candidates are tied on the lowest number of votes, the one to be excluded is chosen by lot.

The second possible method of voting is a preferential system. In this system each councillor is required to cast a vote listing the candidates in order of preference 1, 2, 3, etc. If no candidate receives an absolute majority of first preferences, then preferences are distributed until one candidate receives a majority.

The third possible method of voting is open voting. This voting method follows the same principles as the ordinary ballot, except that voting is conducted by councillors raising their hands for the

candidate of their choice.

## COMMENTS

It is customary in Ku-ring-gai Council for Mayoral elections to use the ordinary ballot method of voting.

## CONSULTATION

Not applicable.

## FINANCIAL CONSIDERATIONS

Not applicable.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

## SUMMARY

It is also customary for the General Manager to be the returning officer in accordance with Schedule 3 of the Local Government (Elections) Regulations.

Schedule 3 states:

### *Returning officer*

- 1. The general manager (or a person appointed by the general manager) is the returning officer.*

## RECOMMENDATION

That the Council elect the Mayor for the period 2005/2006 using the ordinary ballot method.

Geoff O'Rourke  
Senior Governance Officer

Brian Bell  
General Manager

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## ELECTION OF DEPUTY MAYOR FOR THE 2005/2006 TERM

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To elect the Deputy Mayor for the period 2005/2006.

**BACKGROUND:**

Section 231 of the Local Government Act 1993 empowers the Council to elect a Deputy Mayor.

The Deputy Mayor may be elected for the same term as the Mayor or a shorter period.

Traditionally, Ku-ring-gai Council has elected a Deputy Mayor for the same period as the Mayor, ie annually.

**COMMENTS:**

It is customary that the same method of voting as is used for the election of the Mayor is used to elect the Deputy Mayor.

**RECOMMENDATION:**

That Council elect the Deputy Mayor for the period 2005/2006 using the same election method as was used for the election of the Mayor.

## PURPOSE OF REPORT

To elect the Deputy Mayor for the period 2005/2006.

## BACKGROUND

Schedule 3 - Election of Mayor by Councillors (Local Government [Elections] Regulations 1998) states:

2. (1) *A councillor may be nominated without notice for election as mayor or deputy mayor.*
- (2) *The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.*
- (3) *The nomination is to be delivered or sent to the returning officer.*
- (4) *The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.*

Nomination forms and Acceptance forms have been distributed with the Business Papers and will also be available on the night.

If there is more than one nomination, an election is carried out.

## METHOD OF ELECTION

The election could be carried out in one of three ways.

The first is an ordinary ballot. In this type of election, each councillor is required to cast one vote for the candidate of his or her choice in the normal ballot method, ie secret. If there are more than two candidates, the candidate who polled the lowest number of votes is eliminated and a further ballot takes place. In the case of a tied vote, the General Manager will conduct a draw of lots to determine the outcome - the one chosen by lot is elected Deputy Mayor. At any stage through the vote, if 2 or more candidates are tied on the lowest number of votes, the one to be excluded is chosen by lot.

The second possible method of voting is a preferential system. In this system each councillor is required to cast a vote listing the candidates in order of preference 1, 2, 3, etc. If no candidate receives an absolute majority of first preferences, then preferences are distributed until one candidate receives a majority.

The third possible method of voting is open voting. This voting method follows the same principles as the ordinary ballot, except that voting is conducted by councillors raising their hands for the candidate of their choice.

## COMMENTS

It is customary that the same method of voting as is used for the election of the Mayor is used to elect the Deputy Mayor.

## CONSULTATION

Not applicable.

## FINANCIAL CONSIDERATIONS

Not applicable.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

## SUMMARY

It is also customary for the General Manager to be the returning officer in accordance with Schedule 3 of the Local Government (Elections) Regulations.

Schedule 3 states:

### *Returning officer*

- 1. The general manager (or a person appointed by the general manager) is the returning officer.*

## RECOMMENDATION

That the Council elect the Deputy Mayor for the period 2005/2006 using the same election method as was used for the election of the Mayor.

Geoff O'Rourke  
Senior Governance Officer

Brian Bell  
General Manager

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## 38 OWEN STREET, EAST LINDFIELD

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

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

**BACKGROUND:**

- Application lodged 8 December 2004
- Council considered a report at its meeting on 19 July 2005
- Minutes of the Inspections Committee presented for confirmation 6 September 2005.

**COMMENTS:**

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

**RECOMMENDATION:**

Refusal

## PURPOSE OF REPORT

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

## BACKGROUND

- Application lodged 8 December 2004.
- Council considered a report at its meeting on 9 August 2005.
- Minutes of the Inspection Committee presented for confirmation 6 September 2005.

## COMMENTS

The issues raised at the site inspection are as follows:

### 1. Measurements of carport opposite

- Staff to provide details of the front setback of the carport opposite the subject site at No.49 Owen Street.*

The existing carport at No.49 Owen Street is set back approximately 7m from the street frontage. This carport structure was approved on 3 September 1992 and substantially predates Development Control Plan No.38 which came into operation on 4 February 2002.

### 2. Conditions

- Staff to draft Conditions of Development Consent*

Refer to Attachment A

- Staff to draft a Condition of Consent in relation to the landscape treatment of the eastern side setback.*

Refer to Attachment A - **Conditions Nos 26, 27, 31 and 32.**

### 3. Accuracy of assessment report

- The applicant raised a concern that the assessment report did not address the circumstances in Section 5.5 of DCP 38, in which a carport could be located within the front setback.*

The assessment report states in its conclusion “*that open sided carports will only be considered in front of the building line where it is not possible to provide parking behind the building line. This includes integrating structures with the existing development.*”

Item 3

This is in line with Section 5.5 of DCP38 and the assessment report is accurate in this regard.

- ii. *Staff to investigate the above concern and provide advice regarding the exceptions provisions in DCP 38.*

The assessment report does address circumstances in which a carport within the front setback may be considered pursuant to DCP 38. Although there is unsuitable width to provide vehicle access to the rear, there are options available to achieve similar vehicle accommodation in a more compliant and complimentary way with less impact on the Owen Street Streetscape. This would involve a car parking structure integrated with the existing dwelling house.

The prevailing streetscape character of this part of Owen Street is open front yards with car parking set at or behind the building line. The proposed carport will be located forward of the existing building on site and forward of the generally established building line within the immediate locality. The proposed carport will be unduly dominant when viewed in the context of the wider streetscape.

In summary, the proposal has been given due consideration and is unsatisfactory in that it is inconsistent with the existing character of the area and no justifiable reason has been provided as to why Council's development controls should be relaxed to accommodate the form of vehicular accommodation proposed.

## 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.1313/04 for a detached double carport on land at 39 Owen Street, East Lindfield, as shown on plans referenced Drawing No. DA-01-DA-04, dated December 2004, drawn by GGF Architects for the following reasons:

#### Streetscape

1. The double carport forward of the building façade of the house results in an adverse streetscape impact.

#### Particulars

- i. The proposal will dominate the site and streetscape and will be unsympathetic to the natural and built environment in this location. It is inconsistent with the objectives set out in Schedule 9 (Clauses 1(a), 1(b), 2 (e), 2(f) of the Ku-ring-gai Planning Scheme Ordinance.

Item 3

- ii. The proposed carport and associated works fail to comply with Clause 5.5.1 of the DCP No 38 (car parking spaces) in that the development proposes car parking forward of the façade of the existing dwelling or front building line.
- iii. The proposal fails to provide an integrated car parking design in accordance with Clause 5.5(a) (Access and Parking).
- iv. The proposal carport being located 310mm from the north-eastern boundary fails to comply with the side setback requirement of 1.5 metres as prescribed by Clause 5.1.3.

S Watson  
**Executive Assessment Officer**

R Kinninmont  
**Team Leader**  
**Assessment Team – South**

M Prendergast  
**Manager**  
**Development & Regulation**

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

**Attachments:**

- Report to Council, 9 August 2005 - 517942**
- Draft Conditions of Approval - 524954**
- Location Sketch & Zoning Extract - 526167**
- Site Analysis Plan & Carport Layout Plan - 526315**
- Elevation to Street - 526324**
- Sections & Elevations - 526328**
- Survey Plan**

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	38 OWEN STREET, LINDFIELD - CARPORT
<b>WARD:</b>	Roseville
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	1313/04
<b>SUBJECT LAND:</b>	38 Owen Street, Lindfield
<b>APPLICANT:</b>	A.Gellert, c/- Glendinning Minto & Associates
<b>OWNER:</b>	A.Gellert
<b>DESIGNER:</b>	GGF Architects
<b>PRESENT USE:</b>	Residential
<b>ZONING:</b>	Residential 2(a)
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	Development Control Plan 38, Development Control Plan 40, Development Control Plan 43, Development Control Plan 47
<b>COMPLIANCE WITH CODES/POLICIES:</b>	No
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SREP No.23
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Yes
<b>DATE LODGED:</b>	8 December 2004
<b>40 DAY PERIOD EXPIRED:</b>	17 January 2005
<b>PROPOSAL:</b>	Carport
<b>RECOMMENDATION:</b>	Refusal

<b>DEVELOPMENT APPLICATION N<sup>o</sup></b>	<b>1313/04</b>
<b>PREMISES:</b>	<b>38 OWEN STREET, LINDFIELD</b>
<b>PROPOSAL:</b>	<b>CARPORT</b>
<b>APPLICANT:</b>	<b>A.GELLERT, C/- GLENDINNING MINTO &amp; ASSOCIATES</b>
<b>OWNER:</b>	<b>A.GELLERT</b>
<b>DESIGNER</b>	<b>GGF ARCHITECTS</b>

### **PURPOSE FOR REPORT**

To determine development application No.1313/04, which seeks consent for a detached double carport, new driveway and associated landscaping works within the front yard.

Councillor Shelley has called this matter to Council.

### **EXECUTIVE SUMMARY**

<b>Issues:</b>	Streetscape.
<b>Submissions:</b>	No submissions were received.
<b>Recommendation:</b>	Refusal.

### **HISTORY**

The site is used for residential purposes. There is no related development approval history of the site relevant to the subject development application. At an early pre-lodgement meeting, Council's Assessment Officer raised concerns in relation to the location of the proposed structure and the resultant impact upon the streetscape and surrounding locality. Development Control Plan No 38 requires that, where possible, car parking be provided behind the building line and, if possible, that vehicular accommodation be integrated within the existing development.

Development Consent No.623/04 was granted by Council under Delegated Authority for alterations and additions to an existing dwelling at No.37 Owen Street, Lindfield.

A detached single carport was originally proposed in the front setback but was subsequently deleted by the applicant following concerns raised in relation to setback and streetscape by Council Officers.

### **THE SITE**

<b>Zoning:</b>	<b>Residential 2(a)</b>
<b>Visual Character Study Category:</b>	<b>1920-1945</b>
<b>Lot Number:</b>	<b>19</b>
<b>DP Number:</b>	<b>9439</b>
<b>Area:</b>	<b>971.09m<sup>2</sup></b>

Item 8

Side of Street:	North-western
Stormwater Drainage:	To rear
Heritage Affected:	No
Required Setback:	Minimum 9 metres and 11 metres average
Integrated Development:	No
Bush Fire Prone Land:	Yes
Endangered Species:	Not affected
Urban Bushland:	No
Contaminated Land:	No

## THE SITE AND SURROUNDING DEVELOPMENT

### The Site

The site is located on the north-western side of the street and has a total area of 971.09m<sup>2</sup>. The allotment measures 15.24 metres wide by 63.72 metres deep and contains a two storey dwelling set back from its boundaries as follows:

Front setback	17 metres
Rear setback	25 metres
Side set back (North eastern boundary)	2.2 metres
Side setback (South western boundary)	1.2 metres

The front boundary is defined by a small retaining wall and garden bed. The site contains several trees. A mature tree is located in the front setback area and is to be retained.

The survey submitted with the application details a single brick garage located along the north-eastern side boundary adjoining the rear of the dwelling.

### Surrounding development

The surrounding area is described in the Ku-ring-gai Visual Character Study as being characterised by single dwellings on single lots, with the majority of construction being within the period 1920 to 1945. A mix of architectural styles and periods are evident within the wider streetscape.

The predominant housing style in the street is a mix of single and double storey dwellings where garages/carports are either set back behind the building line or incorporated within the lower level of the building flush with the front building line. Whilst there are 3 (three) exceptions in this part of Owen Street, they are long established and pre-date the current DCP:

Address	Setback to Owen Street
35 Owen Street	5.5 metres
49 Owen Street	7 metres
59 Owen Street	8 metres

## **THE PROPOSAL**

Consent is sought to construct a detached double carport, new driveway and associated landscaping works within the front yard. The carport will measure 5.9 metres in length and 5.9 metres in width and be set back a minimum of 9.8 metres from the front boundary and 310mm from the north-eastern (side) boundary.

Some excavation is proposed to provide a suitable grade for the carport and associated driveway. Excavation will have a maximum depth of approximately 400mm to achieve a finished floor level of RL 94.2.

Brick piers will support the structure and a pitched tile roof with gable detail is proposed with an overall height of 3.94m metres above the floor level at approximately RL 94.2.

The north-eastern side setback to the existing dwelling is 2.2metres in width as measured from the survey by Theo Mossel and Associates dated 28 August 2003.

## **CONSULTATION - COMMUNITY**

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

No submissions were received.

## **CONSULTATION - WITHIN COUNCIL**

### **Landscaping**

The Landscape Development Officer raised no objection to the proposal but indicated that the 310mm side setback is inadequate to provide landscaped screening between the carport and the adjacent property.

### **Engineering**

The Development Engineer has no objection to the proposal.

## **CONSULTATION - OUTSIDE COUNCIL**

### **Rural Fire Services**

The matter was referred to Rural Fire Services for comment. No objections were raised to the proposed development.

**STATUTORY PROVISIONS****State Environmental Planning Policy No.55**

The site has a history of residential use. There are no concerns related to potential contamination.

**Sydney Regional & Environmental Plan No.23 – Sydney & Middle Harbours**

The subject site is affected by Sydney Regional Environmental Plan No.23 – Sydney and Middle Harbours. The subject site is not visible from a waterway or foreshore area and will not have any adverse impacts on the waterway or foreshore area and is therefore acceptable.

**Ku-ring-gai Planning Scheme Ordinance**

<b>COMPLIANCE TABLE</b>		
<b>Development Standard</b>	<b>Proposals Numeric Compliance</b>	<b>Complies</b>
<b>Site Area:</b> 971.09m <sup>2</sup>		
<b>Building Height</b> 8m (max)	3.94m (carport)	<b>YES</b>
<b>Built-Up Area</b> 60%(max)	54%	<b>YES</b>

**Aims and objectives for residential zones**

The proposed development is contrary to the aims and objectives stated in Clause 1(a), 1(b), 2(e) and 2(f) of Schedule 9 of KPSO in the following respects:

Visual Impacts

- The proposed carport will dominate the site and streetscape and will be unsympathetic to the natural and built environment in this location. The structure detracts from the visual character of the locality by virtue of its location between the boundary and the primary façade of the front of the building. There is also insufficient room to accommodate screen planting along the north-eastern boundary.
- With the exception of the two (2) long established examples listed earlier in the report, carparking within the context of the existing streetscape is predominantly in-line with or set behind the building line. Consequently, the introduction of the proposed carport will result in a streetscape presentation that is out of keeping with the majority of front setbacks in the area.

## POLICY PROVISIONS

### DCP 38 - Ku-ring-gai Residential Design Manual

COMPLIANCE TABLE		
Development Control	Proposals Numeric Compliance	Complies
<b>Site Area:</b> 971.09m <sup>2</sup>		
<b>5.1 Streetscape:</b>		
<b>Building Setbacks (s.5.1.3)</b>		
<ul style="list-style-type: none"> <li>Front Setback: 11m (Ave) -75% front elevation 9m (min) – 25% front elevation</li> <li>Side Setback: 1.5m (min)</li> </ul>	>9m-11m	<b>YES</b>
	310mm to north-eastern boundary.	<b>NO</b>
<ul style="list-style-type: none"> <li>Rear Setback: 12m(min)</li> </ul>	>25m	<b>YES</b>
<b>Front Fences (s.5.1.5)</b>		
<ul style="list-style-type: none"> <li>Height: 1.2m(max)- (Fencing present in street)</li> </ul>	< 1.2m (existing)	<b>YES</b>
<b>5.2 Building Form:</b>		
<b>Height of Building (s.5.2.2)</b>		
<ul style="list-style-type: none"> <li>2 storey (max) and 7m (site &lt;20° slope)</li> </ul>	2 storey & 6.1m (no increase to existing) 3.94m – carport.	<b>YES</b>
<b>Building Height Plane (s.5.2.3)</b>		
45° from horizontal at any point 3m above boundary	complies	<b>YES</b>
<b>First Floor (s.5.2.4)</b>		
<ul style="list-style-type: none"> <li>FSR: &lt; 40% total FSR</li> </ul>	(no increase to existing)	<b>YES</b>
<b>Built-Up Area (s.5.2.7)</b>		
54% (max)	54%	<b>YES</b>
<b>Cut &amp; Fill (s.5.2.15)</b>		
<ul style="list-style-type: none"> <li>max cut 900mm</li> <li>max cut &amp; fill across building area of 1800mm and 900mm</li> </ul>	<900mm	<b>YES</b>
<b>5.3 Open Space &amp; Landscaping:</b>		
<b>Soft Landscaping Area (5.3.3)</b>		
46% (min)	46%	<b>YES</b>
<b>Useable Open Space (s.5.3.8)</b>		
Min depth 5m and min area 50m <sup>2</sup>	Depth >5m    Area >100m <sup>2</sup>	<b>YES</b>
<b>5.5 Access &amp; Parking:</b>		
<b>No. of Car Parking Spaces (s.5.5.1)</b>		
2 spaces behind building line	2 spaces forward of building line	<b>NO</b> (See planning comments)
<b>Size of Car Parking Space (s.5.5.2)</b>		
5.4m x 5.4m	complies	<b>YES</b>
<b>Driveway Width (s.5.5.6)</b>		
3.5m	<3m	<b>YES</b>

### **Car parking forward of the building line**

The provision of a car parking structure forward of the front façade of the house results in an unsatisfactory streetscape impact. The development will result in a utilitarian structure that will not only compete with the house as a dominant element within the streetscape but will also interrupt the sites existing garden setting.

The existing dwelling is within an area characterised by moderate to large dwellings, with medium to generous setbacks to the street, significant open spaces, garden areas and in many instances, significant landscaping forward of the buildings. Development Control Plan No. 38 requires that development be appropriately located to maintain the streetscape character and discourages the provision of garages, carports or other structures for the parking of cars between the boundary and the primary façade of the front of the building. These provisions are specific so as to ensure that these attributes are maintained. Whilst it is noted that there are some examples of similar structures within the streetscape, these predate the current DCP and should not be seen to justify a continuation of this approach to vehicular accommodation.

The proposed carport structure is inconsistent with the form of development which is sought to be achieved through Council's DCP No 38 and consequently is not in the public interest.

### **CONCLUSION**

The key aims and objectives referred to in the Ku-ring-gai Planning Scheme Ordinance and Development Control Plan No. 38 would not be met by the proposal in relation to the planning requirements that apply to the subject site. Development Control Plan No. 38 specifically requires that carport and garage structures should not dominate the site or the streetscape. This must be achieved by provide parking behind the building line where possible or integrating structures within the development.

Development Control Plan No. 38 requires that only open sided carports will be considered in front of the building line where it is not possible to provide parking behind the building line. This includes integrating structures with the existing development.

The proposal is inconsistent with the character of the area and there is no justifiable reason why Council's development controls should be relaxed to accommodate the form of vehicular accommodation proposed. The applicant has stated that the width of the setback between the dwelling and the north-eastern boundary fails to provide a suitable width for vehicular access. Despite this, there are other options available to the applicant to achieve similar vehicle accommodation in a more compliant and complimentary way with less impact on the Owen Street streetscape. Most obviously this would appear to involve a more integrated car parking design with the existing dwelling house.

### **RECOMMENDATION**

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

Item 8

THAT Council, as the consent authority, refuse development consent to Development Application No. 1313/04 for a detached double carport on land at 38 Owen Street, East Lindfield, as shown on plans referenced Drawing No. DA-01 – DA-04, dated December 2004, drawn by GGF Architects for the following reasons:

**Streetscape**

1. The double carport forward of the building façade of the house results in an adverse streetscape impact.

*Particulars*

- i) The proposal will dominate the site and streetscape and will be unsympathetic to the natural and built environment in this location. It is inconsistent with the objectives set out in Schedule 9 (Clauses 1(a), 1(b), 2(e), 2(f) of the Ku-ring-gai Planning Scheme Ordinance.
- ii) The proposed carport and associated works fail to comply with Clause 5.5.1 of the DCP No 38 (Car parking spaces) in that the development proposes car parking forward of the façade of the existing dwelling or front building line.
- iii) The proposal fails to provide an integrated car parking design in accordance with Clause 5.5(a) (Access and Parking).
- iv) The proposed carport being located 310mm from the north-eastern boundary fails to comply with the side setback requirement of 1.5 metres as prescribed by Clause 5.1.3 of Development Control Plan No.38.

S Watson  
**Executive Assessment Officer**

R Kinninmont  
**Team Leader**  
**Assessment Team - South**

M Prendergast  
**Manager**  
**Development & Regulation**

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

**Attachments:**      **Locality map - 517944**  
                             **Site plan and carport layout**  
                             **Elevation to street**  
                             **Sections and elevations**

## **DRAFT CONDITIONS OF CONSENT**

### **PREMISES: 38 OWEN STREET, EAST LINDFIELD DEVELOPMENT APPLICATION NO: 1313/04 PROPOSAL: CARPORT**

#### **GENERAL CONDITIONS**

1. The development to be in accordance with Development Application No 1313/04 and Development Application plans prepared by G Gordon Fuller Architects, reference number DA01 – DA04 (Carport plan, Elevations – East & South, Elevations – North & West, Section) dated December 2004 and lodged with Council on 8 December 2004.
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
7. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
8. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

9. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
10. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
11. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
12. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
13. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
14. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - a. stating that unauthorised entry to the work site is prohibited, and
  - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
  - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
15. 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.
16. Stormwater runoff from new hard surfaces generating runoff shall be piped to the existing site drainage system. No stormwater drainage system is to be connected to the Sydney Water sewer system. Where found, all illegal connections must be rectified to the satisfaction of Council and Sydney Water.
17. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.

18. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
19. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking".

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

20. 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.

21. 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).
22. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering,

crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.

23. 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.
24. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), written certification from a qualified civil/hydraulic engineer or licensed plumber relating to connection of the additional runoff generated into the existing site drainage system. To ensure the existing drainage system is operating satisfactorily, the Certificate shall specify:
- a. The satisfactory condition of the existing system and satisfactory capacity for continued use after the development and
  - b. That there will be no deleterious effect on existing, adjacent or downstream properties as a result of the continued use of the existing system.

The inspecting engineer/plumber must also include with the certification a sketch plan of the point and method of discharge for the existing stormwater drainage system.

Where the existing drainage system is found to be unsatisfactory for continued use, the applicant is to submit design documentation for a new system for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate. Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website, and AS 3500.2 Plumbing and Drainage Code.

NOTE 1: Any new dispersal trenches deemed necessary as a result of the inspection shall be designed in accordance with Council Water Management DCP 47.

NOTE 2: Any proposed or existing stormwater drainage systems that discharge to an approved Council drainage point after passing over other private properties will be required to provide legal evidence within the drainage statement of the existence of a *private drainage easement* benefiting the subject site. Alternatively, evidence of the procurement of a private drainage easement over all necessary intervening downstream properties must be provided in the form of registered title documents.

NOTE 3: New drainage works must incorporate a piped connection to an existing drainage system (satisfying the requirements of this Condition) or to a (new) approved Council discharge point. New drainage line connections to the Council system shall comply with Council Water Management DCP 47.

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

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

Note 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.

Note 2: When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

26. An amended plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

27. The landscape plans by Paul Scrivener, Job Ref. 2003/782/DA1, Issue B, Sheets 1 to 4 are not approved and will require the following amendments.
- The plans shall indicate the revised location of the carport and driveway.
  - The planting of *Trachelospermum jasminoides* (Star Jasmine) shall be extended towards the front boundary adjacent to the proposed brick retaining wall.

#### **CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING**

28. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.

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

29. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.

#### **CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION**

30. 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.
31. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
32. On completion of the LANDSCAPE WORKS, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.

#### **BUILDING CONDITIONS**

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

- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
  - b. Retaining walls and associated drainage.
  - c. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
34. Termite protection which will provide whole of building protection in accordance with Australian Standard 3660 - *"Protection of Buildings from Subterranean Termites"* is to be provided.

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

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

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

**\*\*END OF CONDITIONS\*\***

# LOCATION SKETCH

## 38 Owen Street, LINDFIELD NSW

### DEVELOPMENT APPLICATION No 1313/2004



Scale : 1:2000

01-08-2005



AGREEMENT

OBJECTION

SUBJECT LAND



PETITION

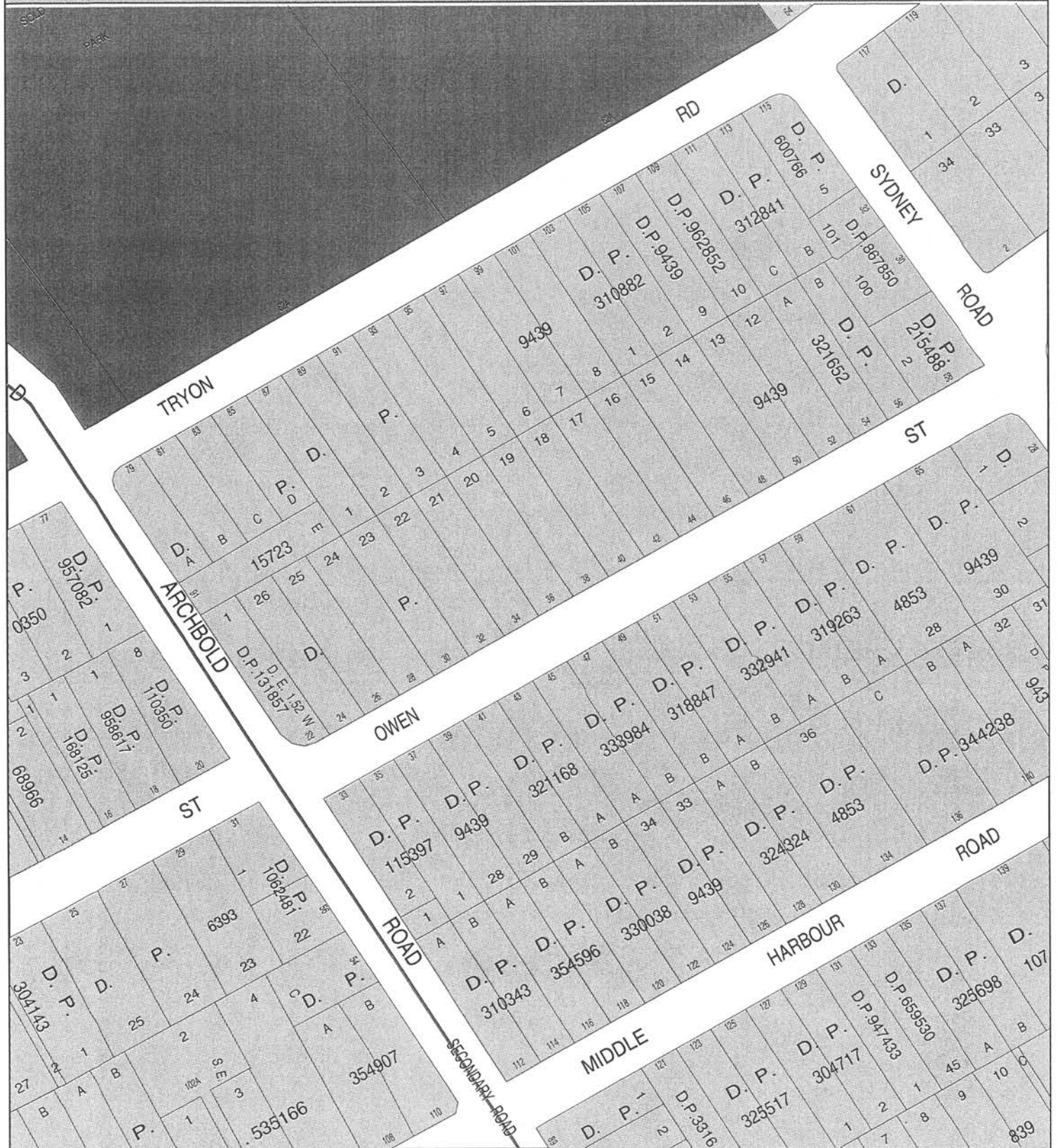
SUBMISSION

CIRCULATED AREA



# Zoning Extract

## 38 Owen Street, LINDFIELD

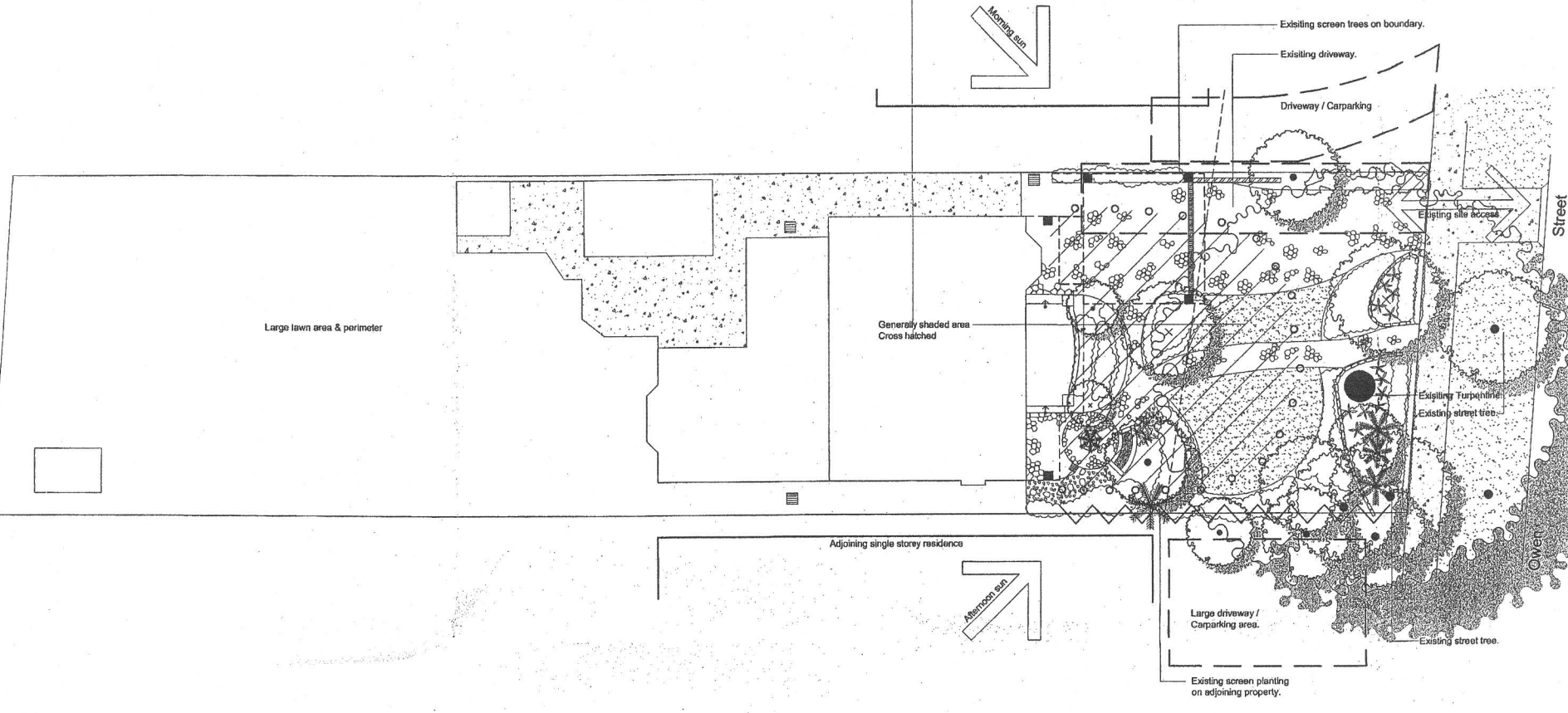


01-08-2005

Scale = 1:2000

- EXISTING COUNTY ROAD
- RECREATION EXISTING 6(a)
- RESIDENTIAL 2(a)
- RESIDENTIAL 2(c)





**PAUL SCRIVENER**  
LANDSCAPE ARCHITECT

PO Box 795 MANLY NSW 1555  
ACR 019 509 882  
AKA 54 010 509 882

Phone: 02 5957 8911  
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Mobile: 0417 758 629  
www.scrivener-design.com  
Email: paul@scrivener-design.com

PROJECT: NEW CARPORT AT  
38 OWEN STREET  
EAST LINDFIELD

DWG: SITE ANALYSIS

DATE: 29/09/2003	SCALE: 1:100 @ A1
JOB REF: 2003/782/DAL	SHEET NO: 1 OF 4
ISSUE: B	CAD FILE: -

SHOWN MUST MEET ALL REQUIREMENTS FOR THE SITE AND BECOME MORE COMPREHENSIVE.  
PAUL SCRIVENER LANDSCAPE ARCHITECTS IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.

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AMENDMENTS	NORTH

ADJOINING SINGLE STOREY  
BRICK DWELLING  
NO. 40

SANDSTONE FLAGGING ON  
CONCRETE BASE (REFER  
DRW DA2 PREPARED BY  
LANDSCAPE ARCHITECT)

PORPOSED  
STORMWATER PIT

NEW SOFT LANDSCAPING  
IN EXISTING DRIVEWAY

BRICK  
RETAINING  
WALL

RL 94.010

RL 94.15

10270  
SETBACK

EX. DRIVEWAY  
CROSSING

NEW CARPORT

NEW DRIVEWAY  
CONCRETE

PROPOSED NEW CARPORT  
WITH FACE BRICK PIERS  
TO MATCH HOUSE

EXISTING TWO  
STOREY BRICK  
DWELLING

NO WORK HERE

PORCH  
RL 94.03

FFL 94.13

PATH

GRASS

PATH

LANDSCAPING REFER  
PLANTING/LIGHTING PLAN  
PREPARED BY LANDSCAPE  
ARCHITECT DRW DA3.

GRASS

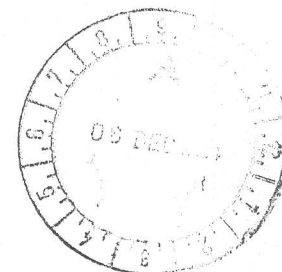
EX.  
TREE

LANDSCAPING REFER  
PLANTING/LIGHTING  
PLAN PREPARED BY  
LANDSCAPE ARCHITECT  
DRW DA3.

POWER POLE

Street

Owen



### TOTALS

SITE AREA ..... 971.09 sq. m  
TOTAL BUILT UPON AREA ..... 525sq. m  
TOTAL BUILT UPON AREA ..... 54%

### LEGEND

x 10.86 EXISTING REDUCED LEVELS.  
RL 10.86 PROPOSED REDUCED LEVELS.  
AHD AUSTRALIAN HEIGHT DATUM.  
/// PROPOSED NEW WALLS.

ADJOINING SINGLE STOREY  
BRICK DWELLING  
NO. 36

### ARCHITECTS



G. GORDON FULLER  
& ASSOCIATES  
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amend description

date

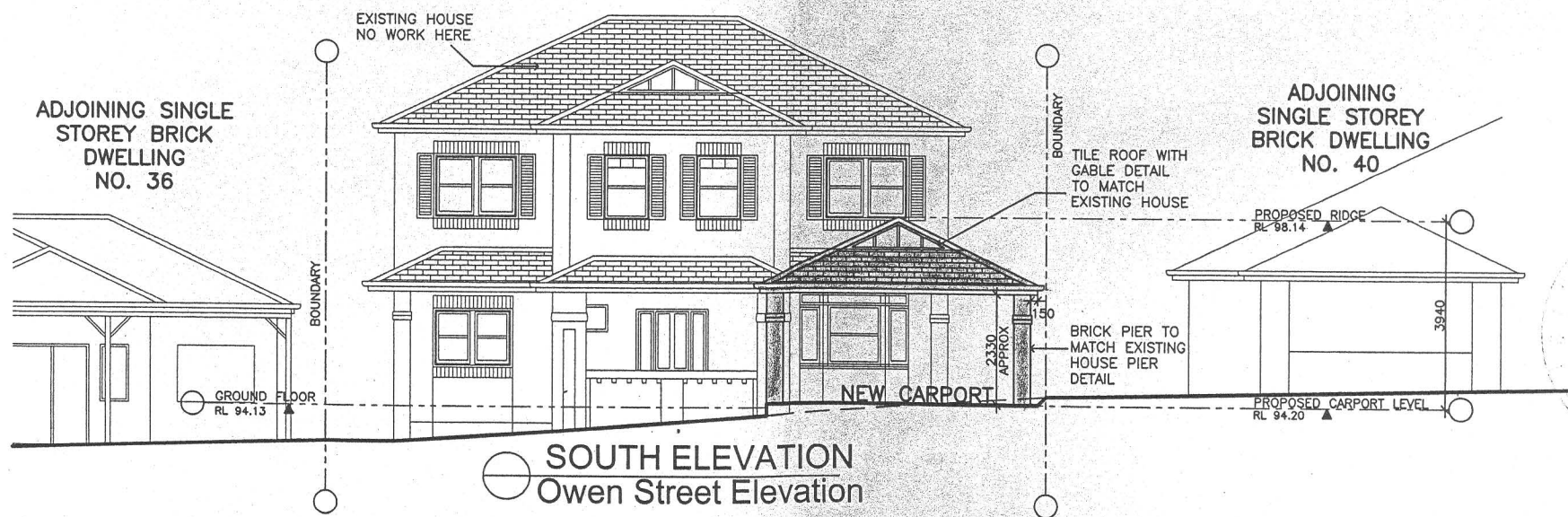
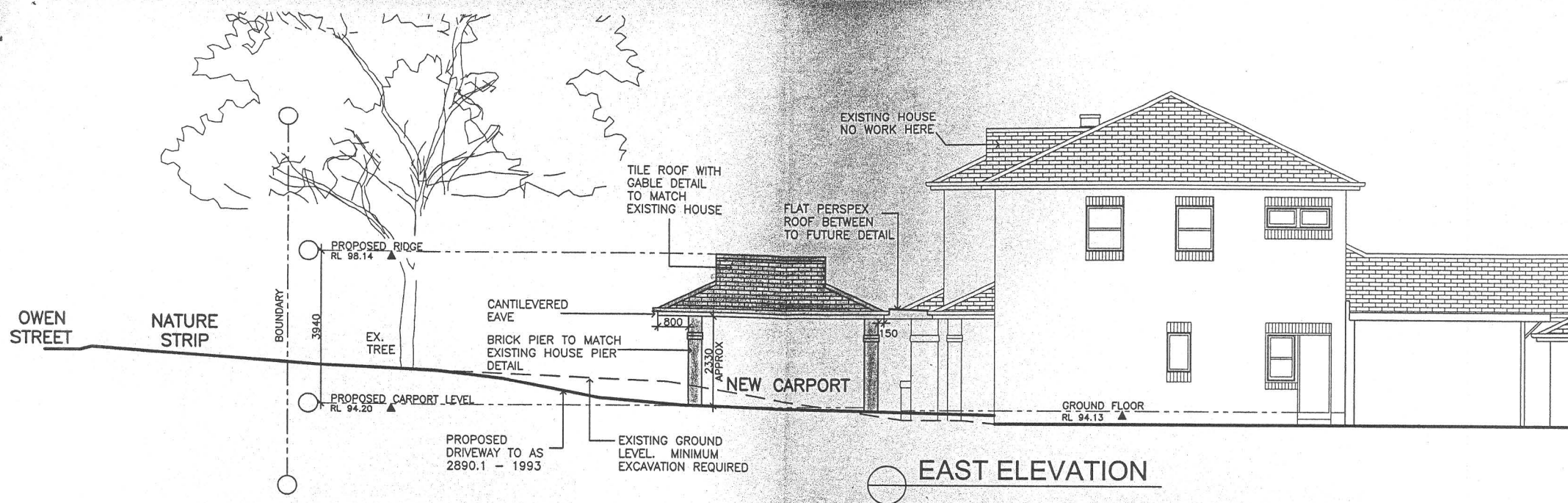


Client  
MR & MRS GELLERT

All dimensions are in millimetres. Verify all dimensions  
on site prior to commencement of work. Report  
discrepancies to Architect. Do not scale off drawing.  
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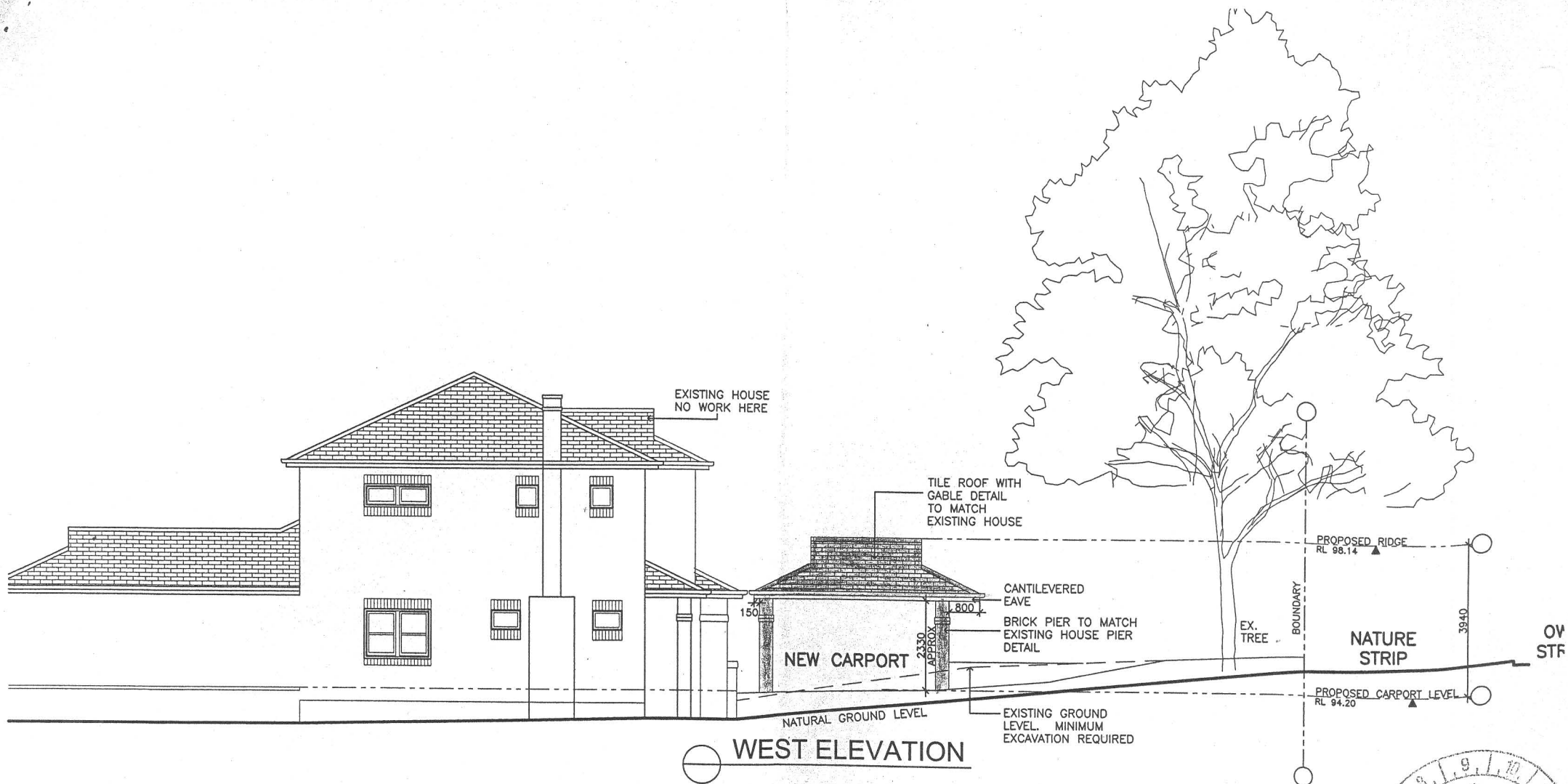
Project  
PROPOSED CARPORT  
38 OWEN STREET  
EAST LINDFIELD  
Title  
CARPORT PLAN

Scale 1:100	Date DEC 04	Drawing No. <b>DA 01</b>
Project no. G0488	Drawn/Checked AF/CM	



<div>ARCHITECTS</div> <div><div>GGF</div></div>	<div>G. GORDON FULLER &amp; ASSOCIATES 1st Floor Suite 1B 1/5 Railway Avenue Wairoonga N.S.W 2076 P.O Box 54 Wairoonga t: (02) 9487 4033 f: (02) 9487 4044 e: ggf_architects@optusnet.com.au</div>			<div><div></div></div>	<div>Client</div> <div>MR &amp; MRS GELLERT</div>	<div>Project</div> <div>PROPOSED CARPORT 38 OWEN STREET EAST LINDFIELD</div> <div>Title</div> <div>ELEVATIONS</div>	<div>Scale</div> <div>1:100</div>	<div>Date</div> <div>DEC 04</div>	<div>Drawing No.</div> <div>DA 02</div>
	<div>amend description</div> <div>date</div>	<div>All dimensions are in millimetres. Verify all dimensions on site prior to commencement of work. Report discrepancies to Architect. Do not scale off drawing. Copyright remains the property of GGF Architects.</div>	<div>Project no.</div> <div>G0488</div>	<div>Drawn/Checked</div> <div>AF/CM</div>					





ARCHITECTS

GGF

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amend description

date

Client  
MR & MRS GELLERT

All dimensions are in millimetres. Verify all dimensions  
on site prior to commencement of work. Report  
discrepancies to Architect. Do not scale off drawing.  
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Project  
PROPOSED CARPORT  
38 OWEN STREET  
EAST LINDFIELD

Title  
ELEVATIONS

Scale  
1:100

Project no.  
G0488

Date  
DEC 04

Drawn/Checked  
AF/CM

Drawing No.

DA  
03



Item 4

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	9 TO 15 KINGS AVENUE, ROSEVILLE - DEMOLITION OF 4 DWELLINGS AND THE CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING CONTAINING 23 UNITS AND BASEMENT CAR PARKING FOR 41 VEHICLES.
<b>WARD:</b>	Roseville
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	1285/04
<b>SUBJECT LAND:</b>	9 to 15 Kings Avenue, Roseville
<b>APPLICANT:</b>	Colston Budd, Hunt & Kafes Pty Ltd
<b>OWNER:</b>	B Carbines, B Eschmann, J Teer and ETC Developments Pty Ltd
<b>DESIGNER:</b>	Fitzpatrick and Partners
<b>PRESENT USE:</b>	Residential dwellings
<b>ZONING:</b>	Residential 2(D3)
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	KPSO – LEP 194
<b>COUNCIL'S POLICIES APPLICABLE:</b>	KPSO - LEP 194, DCP31 - Access, DCP40 - Waste Management, DCP43 - Car Parking, DCP47 - Water Management
<b>COMPLIANCE WITH CODES/POLICIES:</b>	Yes
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP 55, SEPP 65
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Yes
<b>DATE LODGED:</b>	2 December 2004
<b>40 DAY PERIOD EXPIRED:</b>	11 January 2005
<b>PROPOSAL:</b>	Demolition of 4 dwellings and the construction of a residential flat building containing 23 units and basement car parking for 41 vehicles.
<b>RECOMMENDATION:</b>	Approval

Item 4

**DEVELOPMENT APPLICATION N<sup>o</sup>** 1285/04  
**PREMISES:** 9 - 15 KINGS AVENUE, ROSEVILLE  
**PROPOSAL:** DEMOLITION OF 4 DWELLINGS AND THE  
CONSTRUCTION OF A RESIDENTIAL FLAT  
BUILDING CONTAINING 23 UNITS AND  
BASEMENT CAR PARKING FOR 41  
VEHICLES.  
**APPLICANT:** COLSTON BUDD, HUNT & KAFES PTY LTD  
**OWNER:** B CARBINES, B ESCHMANN, J TEER AND  
ETC DEVELOPMENTS PTY LTD  
**DESIGNER** FITZPATRICK AND PARTNERS

**PURPOSE FOR REPORT**

To determine Development Application No.1285/04, which seeks consent for the demolition of 4 dwelling houses and the construction of a residential flat building containing 23 units and basement car parking for 41 vehicles.

**EXECUTIVE SUMMARY**

**Issues:** Southern side boundary setback of basement car park.

**Submissions:** Ninety-one (91) submissions have been submitted objecting to the application.

**Pre-DA Consultation:** Yes

**Land & Environment Court Appeal:** Not applicable.

**Recommendation:** Approval.

**HISTORY**

**Site history:**

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

**Development application history:**

*DA 1285/04*

**28 September 2004** The preliminary plans submitted in relation to the development of 9-15 Kings Avenue demonstrated a

Item 4

consideration of the suggested controls and guidelines provided by the Draft DCP – Nola Avenue, precinct.

**2 December 2004**

Application lodged.

**8 December 2004**

Request from Council for a detailed landscape plan.

**14 April 2004**

Applicant provides a planning and design response to matters raised by Council and submits a detailed landscape plan.

**17 August 2005**

Amendments to increase basement setback.

**THE SITE AND SURROUNDING AREA**

Zoning:	Residential 2(D3)
Visual Character Study Category:	1920-1945
Lot Number:	5, 6, 7 and 8
DP Number:	9613
Heritage Affected:	No
Bush Fire Prone Land:	Yes (500mm in width for a length of 6.1 metres in north-west corner of the site)
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The subject site is located on the eastern side of Kings Avenue and the western end of Maclaurin Parade, Roseville. The site is of an irregular shape with an area of 3320 square metres. It has frontages of 67.82 metres to Kings Avenue and 36.41 metres to Maclaurin Street. The site has depths of 45 metres along the southern property boundary and 71.99 metres along the eastern property boundary. The site has a cross-fall from south-east to north-west. The centre of the site falls 10 metres over a distance of 49.5 metres towards Maclaurin Parade with a gradient of 20%. A drainage depression crosses the site at its northern end.

The site comprises four (4) allotments as follows:

9 Kings Avenue	-	Lot 5 in DP 9613
11 Kings Avenue	-	Lot 6 in DP 9613
13 Kings Avenue	-	Lot 7 in DP 9613
15 Kings Avenue	-	Lot 8 in DP 9613

No.9 Kings Avenue contains a single dwelling with minimum setbacks of 7 metres to Kings Avenue, 2.5 metres to the southern boundary and 17 metres to the eastern boundary to No.1 Nola Road. An in-ground pool with timber deck and paved private open space area as well as a timber carport also exist on site.

**Item 4**

No.11 Kings Avenue contains a single storey dwelling. The dwelling is set back 9 metres from Kings Avenue and approximately 20 metres from the rear (eastern) property boundary.

No. 13 Kings Avenue contains a part two storey and part single storey dwelling, set back 10 metres from Kings Avenue and 15.5 metres from the rear (eastern) boundary.

No.15 Kings Avenue contains a part two storey and part single storey dwelling. The dwelling has setbacks of 11 metres to Kings Avenue and 10 metres to the rear (eastern property) boundary. A drainage line runs diagonally through the site and the existing dwelling is setback 5 metres from the drainage line.

The site is bound to the south and east by allotments zoned Residential 2(d3) which allows for multi-unit development. The site forms part of the Nola Road Precinct within Development Control Plan No.55 which is bound by Kings Avenue, Maclaurin Parade and Corona Avenue, Roseville.

**Surrounding development:**

The subject site is bound by Kings Avenue, Corona Avenue, Maclaurin Parade and includes Nola Road located to the north of the precinct which has been recently rezoned Residential 2(D3) to allow for multi-unit housing.

A development application has been lodged with Council for a residential flat building comprising 32 units, car parking and landscaping at the site 8 to 12 Nola Road, Roseville. This application was refused by Council on 23 August 2005.

To the immediate west of the site, are one and two storey dwelling houses with established gardens.

**Zoning history:**

In the preliminary draft LEP194 adopted by Council in October 2002, the site was incorporated as Special Area 1 which required a specific plan for the area to be created prior to the lodging of development applications.

The exhibited draft LEP194 included the site within the 2D(a) zone in which five storeys were permissible. It was retained as Special Area 1.

Following the exhibition of draft LEP194, the area was removed from the plan and retained as a 2A zone. This was submitted to the Department of Infrastructure, Planning and Natural Resources in November 2003.

When the LEP was gazetted by the Minister in May 2004, the Minister included the site and Nola Road Precinct within a 2(d3) zone (excluding any special area provisions). As a result of this, site specific controls were introduced within DCP55.

Item 4

## THE PROPOSAL

The proposal is to demolish four (4) dwelling houses and construct a six (6) storey residential flat building containing twenty-three (23) units and basement car parking for forty-one (41) vehicles. The residential flat building comprises two primary built elements with connecting walkways and a common lift with basement parking to each building and landscaped setbacks to all boundaries.

The main components of the development are as follows:

A total of twenty-three (23) residential units comprising 6 x 2 bedroom units, 9 x 2 bedroom units with study and 8 x 3 bedroom units with study.

A total of forty-one (41) car parking spaces comprising 31 residential spaces, 4 disabled spaces and 5 visitors' spaces plus one (1) disabled visitors' space, located on 2 basement levels.

A communal open space area of 356 square metres and 1693 square metres (51%) of deep soil area.

### Building A (northern element)

Building A is the northern element of the proposal and contains a total of nine (9) units. Unit 1.01 is accessed from a private entry to the north of the building and has direct access to Basement 1 which contains twenty-nine (29) car spaces. Access to the remainder of the units is via one central lobby providing lift access. Pedestrian and vehicular access is from Kings Avenue. Bicycle spaces are provided on the eastern side of basement 1.

Building A is set back 12 metres from Kings Avenue and has staggered setbacks from MacLaurin Parade, at distances of 15.2 metres, 15.0 metres and 13.5 metres respectively. The building is set back 12.8 metres from the eastern site boundary which is common to 1 Nola Road. Building A is connected to Building B via a lobby area containing two (2) lifts which have access to all levels.

### Building B (southern element)

Building B is the southern element of the proposal and contains a total of fourteen (14) units. All units have access via the lift to all levels. Basement 2 which has eighteen (18) car spaces and separate vehicular access to Kings Avenue is located directly below Building B.

Building B is set back 12 metres from Kings Avenue and 6 – 7.6 metres from the southern site boundary. It has a staggered setback from the eastern site boundary of 13.2 metres and 14.7 metres. Basement 2 is located below ground level and is set back 6 metres from the southern boundary.

## CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, owners of surrounding properties were given notice of the application.

In response, submissions in opposition from the following were received.

Item 4

Mr D and Mrs M Richards	"Woodley" 1 Alexander Parade	Roseville
Professor D Richards	"Woodley" 1 Alexander Parade	Roseville
D & M Richards	1 Alexander Parade	Roseville
Mr D & Mrs D Grosvenor	1 Nola Road	Roseville
E Y Medina-Malaver	1/4 Maclaurin Parade	Roseville
Mrs M Hill	10 Alexander Parade	Roseville
B J Hill	10 Alexander Parade	Roseville
E Mitchell	c/- 25 Foundry Road (10/8 Larkin Street, Roseville)	Seven Hills
PM & KJ Casey	11 Alexander Parade	Roseville
J & L Sieveking	11 Pockley Avenue	Roseville
Mrs J A Burns	12 Alexander Parade	Roseville
R & H Pottie	12 Pockley Avenue	Roseville
Geoff Warren	14 Alexander Parade	Roseville
Ms S Miller	14 Carona Avenue	Roseville
Mr M E & Mrs C A Fitjer	15 Alexander Parade	Roseville
Mrs P Shadwell	16 Alexander parade	Roseville
A Brennan	16 Lynwood Avenue	Killara
The Ryan Family	16 Pockley Avenue	Roseville
Mr S and Mrs A Gunns	16-18 Findlay Avenue	Roseville
Mr J Culvenor	17 Alexander Parade	Roseville
J Culvenor	17 Alexander Parade	Roseville
M & G Winnick	17 Corona Avenue	Roseville
Dr M Evans	17 Findlay Avenue	Roseville
J & H Drexler	17 Pockley Avenue	Roseville
Mr D and Mrs G Taylor	18 Alexander Parade	Roseville
Mr A and Mrs C Turner	19 Alexander Parade	Roseville
Mr S & Mrs J Wong	19 Corona Avenue	Roseville
Mr P & Mrs S Slater	2 Alexander Parade	Roseville
Mrs M Cornell	2 Kings Avenue	Roseville
Mrs M Stuckey	2/7 Nola Road	Roseville
A M & E Thomson	2-19-21 Larkin Street	Roseville
J Moore	21 Alexander Parade	Roseville
Mr P & Mrs P Verdich	22 Alexander Parade	Roseville
M J Roche	22 Corona Avenue	Roseville
Ann Jarvis	22 Findlay Avenue	Roseville
Mr L Martin	23 Alexander Parade	Roseville
Mrs J M Martin	23 Alexander Parade	Roseville
Ms A Woodhouse & Mr P Kenny	24 Alexander Parade	Roseville
Mr P Robertson	25 Alexander Parade	Roseville
Ms Sabina Donnelley	25 Alexander Parade	Roseville
Mr P Robertson	25 Alexander Parade	Roseville
Mr Bruce Ridley	26 Alexander Parade	Roseville
E Ridley	26 Alexander Parade	Roseville
A Sheppard	29 Alexander Parade	Roseville

Item 4

Mr S Drull	29 Alexander Parade	Roseville
A & M Love	3 Alexander Parade	Roseville
Thomas Johnson	3 Pockley Avenue	Roseville
Ms S Tredinnick	3 Pockley Avenue	Roseville
Mr B & Mrs G Wood	3/7 Nola Road	Roseville
Mr K & Mrs A Tunncliffe	30 Alexander Parade	Roseville
Mrs M Gale	303 Bobbin Head Road	North Turramurra
F & S Keaveny	31 Findlay Avenue	Roseville
Ms P Palermo	33 Alexander Parade	Roseville
Mr I Rabbitt	33 Alexander Parade	Roseville
J Lindquist	33A Alexander Parade	Roseville
Mr G Nicholson	33a Alexander Parade	Roseville
A Cheng	34 Findlay Avenue	Roseville
Mrs E Matthews	37 Alexander Parade	Roseville
M & J Benson	37 Findlay Avenue	Roseville
Mr M & Mrs A Hudson	38 Findlay Avenue	Roseville
J W H Matthews	39 Findlay Avenue	Roseville
Mr F Walker	4 Alexander Parade	Roseville
Mr D & Mrs D Putica	4 Corona Avenue	Roseville
Howard & Jennifer Badger	4 Kings Avenue	Roseville
Mr & Mrs G & J Watman	45 Findlay Avenue	Roseville
P R & S M Gill	47 Findlay Avenue	Roseville
Mr T Madsen	5 Alexander Parade	Roseville
Mrs E Madsen	5 Alexander Parade	Roseville
B & V Narula	5 Nola Road	Roseville
Mr D Delany	5 Pockley Avenue	Roseville
Mr A Wong	5 Pockley Avenue	Roseville
Ms H Larcombe	6 Alexander Parade	Roseville
W P Larcombe	6 Alexander Parade	Roseville
Mr P Ewen	6 Kings Avenue	Roseville
Mr R & Mrs B Gunn	6 MacLaurin Parade	Roseville
Ms M M Borger	6 Pockley Avenue	Roseville
Mr A J Borger	6 Pockley Avenue	Roseville
Dr D Allen & Dr A MacGibbon	64 Findlay Avenue	Roseville
Bill Kricker	6A MacLaurin Parade	Roseville
C W Raine	7 Alexander Parade	Roseville
K Raine	7 Alexander Parade	Roseville
F Dunn	7 Kings Avenue	Roseville
Ms S Water	7 Pockley Avenue	Roseville
Ms D Turner	8 Alexander Parade	Roseville
Mr J Turner	8 Alexander Parade	Roseville
Ms C M Turner	8 Corona Avenue	Roseville
Mr P & Mrs P White	8 MacLaurin Parade	Roseville
H Woon & L Harn	8 Pockley Avenue	Roseville
Mr D van der Klauw	80 Findlay Avenue	Roseville
Mr K & Mrs L Sansome	9 Pockley Avenue	Roseville

Item 4

Ms Patricia Brooks  
Ms G Winnick  
Howard Badger  
J M & L Martin

carlz\_10@hotmail.com  
ginabarina@yahoo.com.au  
howardbadger555@hotmail.com  
martin\_j@dodo.com.au

The submissions raised the following issues:

***Road and traffic problems***

Council's Development Engineer advises that,

*"the anticipated increase in traffic due to the subject development would be 10 to 15 trips per peak hour, an increase of approximately 10% over the counted peak hour traffic in Maclaurin Parade.*

*In terms of the impact of the development on the road network, this can be ascertained generally by the capacity of the affected intersections to cater for the increased traffic loading. This is usually determined by modelling the affected intersections at existing and post-developed use, using the INTANAL program. The results contained within the traffic report show that the surrounding road network would continue to operate at a 'good' level of service post development.*

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

*However no measures are in place to offset the effects of development in this area, since major improvements to the Highway are required, which is the responsibility of the Roads & Traffic Authority."*

***Out of character with the area***

Multi-unit residential developments are permissible under the zoning and are therefore anticipated within the area. The development complies with the prescribed standards of LEP 194, in particular maximum height, number of storeys and site coverage, and has adequate deep soil landscaping and large tree planting provision, consistent with the established landscape character of the area.

Adjoining properties to the south and east of the site are also zoned for multi-unit residential development. This proposal responds effectively to the objectives and development standards of LEP 194 and DCP 55 and is therefore in accordance with the desired future character of the area.

***The buildings are too high and contravene the height controls of LEP 194***

The development is permissible and complies with the prescribed requirements of LEP 194, and in particular with clauses 25 I (5), 25 I (8) and 25K in terms of maximum number of storeys and ceiling height.

Item 4

***Only part of the site is over 15° slope and should not justify greater height for the whole site***

The site slope as defined in DCP 55 means the proportion expressed as a frontage of the vertical difference in levels between the highest and lowest points of the ground level at the outer edge of the building footprint of the proposed development to the horizontal distance between those same two points. The highest point in this case is RL 89.52 and the lowest point is RL 78.86 which is a vertical difference of 10.66 metres. The horizontal distance between those two points is 51 metres. This results in a slope of 20.9%. It is noted that the objector has referenced slope in terms of degrees as opposed to a percentage as expressed in DCP 55.

***No.7 Kings Avenue will have reduced amenity, shading, loss of privacy and potential for disturbance to structural integrity***

The adjoining property No.7 Kings Avenue will retain at least three hours of sunlight to its habitable rooms and the principal portion of outdoor living area between 9.00am and 3.00pm on June 21.

Privacy will be preserved as the proposed balconies are oriented to the west and east and have full length walls at their ends to prevent overlooking of the adjoining southern property. The windows located along the southern elevation have sill heights a minimum of 2 metres above the floor level and, consequently, will prevent overlooking to the adjoining southern property.

The applicant has submitted a comprehensive geotechnical report from Douglas Partners, with recommendations in terms of excavation, construction and further review and inspections. The dwelling at 7 Kings Avenue is identified as the closest structure to the proposed works, being 8.4 metres from the basement car park, and a dilapidation report is recommended. Standard safeguards in terms of excavation, including a dilapidation report are included in the recommended conditions of consent (See Conditions Nos.15, 40, 41, 42, 44, 45, 83, 84, 85).

***Will established trees be planted on the nature strip?***

Six (6) super advanced *Eucalyptus saligna* (Bluegum) trees are to be established on the nature strip.

***The plant located on the roof will generate noise***

The air conditioning plant located on the roof at the southern end of Building B is located four storeys above ground level and is enclosed by a perimeter wall. Given the distance from adjoining properties of 10 and 15 metres and the enclosure provided, noise from the plant is unlikely to cause a nuisance. Notwithstanding the above, a suitable condition is recommended requiring that noise emission from the mechanical ventilation system is not to exceed the background noise level when measured at the nearest property boundary (See Condition No.64).

***The materials do not reflect the surrounds for the proposed urban conservation area***

The statement of significance for Urban Conservation Area 4 – West Roseville mentions that the area is characterised by a predominance of Federation and Interwar period residential development.

Item 4

The houses while, varied in architectural character, exhibit compatibility of form, massing and detailing. However, there is no mention of specific materials. The specific controls for the Nola Road Precinct, Roseville, and in particular, Design Control C-5V include the use of lightweight building materials such as timber, copper or stucco and glass. The proposal includes specific building elements that express warm textured materials such as stone and glass. These materials respond to the environment and contribute to the desired future character of the area.

***Review panels should be formed under SEPP65 to review and comment on design***

A review panel under the provisions of SEPP 65 has not been established at this time. However, Council utilises Mr Russell Olssen as an independent urban design consultant, until such time as a panel is constituted.

***The proposal does not comply with the setbacks and building articulation required under DCP 55***

The proposal complies with the setbacks and articulation as required by DCP 55. The applicant has submitted revised plans with the basement car park now being set back a minimum of 6.0 metres from the southern site boundary. The framed glass louvers to the east lobby façade has a wall plane area of 122 square metres instead of a maximum area of 81 square metres. These matters are considered later in the report under Policy Provisions.

***The building is too long in terms of DCP 55***

DCP 55 provides that the width of a single building on any elevation facing the street should not exceed 36 metres. Building A has a width of 20.5 metres, Building B has a width of 25.1 metres and the lobby has a width of 8 metres resulting in a total width of 53.6 metres. This non-compliance is assessed under DCP 55 considerations below.

***It is not clear how the garbage truck will exit the site in a forward direction***

The garbage truck will exit the site in a forward direction by utilising in the turning bays located on the western side of the garbage room.

***There is no discussion in the Statement of Environmental Effects on bushfire provisions***

There is no discussion in the Statement of Environmental Effects on bushfire provisions, however, as part of the site analysis, the applicant has provided details on land form and vegetation. The Rural Fire Service advises that it raises no concerns in relation to bushfire matters for the proposed development.

***There is no provision for restoration and maintenance of Blue Gum Creek***

The drainage reserve has been piped, however, the proposed landscape works result in the area being planted with riparian planting.

Item 4

*The detention tanks are totally inadequate*

Council's Development Engineer advises that the submitted Stormwater Management Plan has been designed in accordance with the Council requirements contained in Water Management DCP 47 and the proposed detention tanks are satisfactory and compliant with DCP 47.

*Removal of large canopy trees*

Council's Landscape Development Officer advises none of the twenty-one (21) trees identified on or associated with the site are proposed to be removed as the proposed development is located within the existing dwelling footprints. Notwithstanding the above, the consulting arborist has recommended the removal of three (3) indigenous trees, being numbers 7, 10 and 15, which have structural defects. It is also recommended that the mature coral trees located on site and within the drainage reserve be removed. The coral trees are exempt under Council's Tree Preservation Order and identified as an Urban Environmental Weed and their removal is required. In addition, due to the undergrounding of existing overhead wires and the repeated poor pruning that has been undertaken, it is proposed to remove the existing trees in front of the site and replace these with endemic tree species.

*No consideration of levels of asbestos or lead dust*

Suitable conditions are recommended in relation to the proper disposal of any asbestos materials, or material that may contain lead during the demolition process (**Refer Conditions Nos 52 and 60**).

*The top floor contributes to overshadowing of No.7 Kings Avenue*

The shadow diagrams submitted indicate that the top floor of Building B will contribute to the shadow cast upon No.7 Kings Avenue from around 11.30am until 3.00pm on the 21 June. However, No.7 Kings Avenue will still receive more than 3 hours of solar access on June 21.

*The proposal does not contemplate any performance bonding in relation to successful execution and completion of the excavation process*

No bond is imposed in relation to the excavation process. Relevant conditions in relation to excavation and geotechnical aspects have been included in the consent. Any unlikely problem with the excavation process is in the domain of the geotechnical consultant engaged by the applicant.

*Extensive use of glass and air conditioning will be inadequate*

Whilst the entry to the units is glazed, the vertical louvered panels will assist with cross ventilation. The inclusion of air conditioning will assist in climate control given that the unit design provides for cross ventilation. However, the provision of air conditioning and any impacts can be addressed through a condition (**Refer Condition No.64**).

*Loss of solar access to No.2 Kings Avenue*

No.2 Kings Avenue will be affected by shadow cast upon the south-eastern corner of the front garden from 9.00am to 10.00am. Therefore, No.2 Kings Avenue will not be adversely affected by shadow, and will receive more than 3 hours solar access on June 21.

Item 4

***The development is not suited to the elderly due to the steepness of Maclaurin Parade***

The proposed development is not intended solely for the use of the elderly.

***Local roads will be blocked during the construction period local***

The applicant has submitted an environmental Site Management Plan which includes measures for construction traffic. This matter is discussed later in the report under the Development Engineer's comment. The Environmental Site Management Plan states that construction traffic is to use Maclaurin Parade and Kings Avenue. Council's Strategic Traffic Engineer and Design Engineer consider this to be the most desirable route. A works zone will be required along the site frontage **(Refer Condition No.86)**.

***The corridor should be included in the footprint***

The corridor of the lobby area is included in the building footprint calculations.

***The DA omits information in relation to site coverage, deep soil, site slope and 60% top storey***

Plans have been submitted in relation to site coverage (refer drawing no.A-113), deep soil (refer drawing no. A-109). Reference to site slope and floor area compliance is included in the Statement of Environmental Effects.

***The lift well and lobby connects the two buildings to form one building***

Whilst the lift well and lobby connect the two buildings, the southern end of the lobby, where it connects to Building B, is 2 metres in width and maintains an appropriate connection between the two building elements.

***The development does not provide detailed hydraulic plans to assist in the calculation of site cover and deep soil zones***

Adequate plans have been provided by the applicant that demonstrate the calculation of site cover and deep soil zones.

***The location of the driveway to Building A is too close to the intersection of Kings Avenue, Maclaurin Parade and Pockley Lane***

Council's Development Engineer has not raised concern in relation to the location of either of the proposed driveways.

***The plan shows a pedestrian bridge across Blue Gum Creek reservation to Maclaurin Parade. Will Council be responsible for the bridge?***

The applicant has deleted the pedestrian bridge from the proposal.

Item 4

***The proposal includes a riparian zone of 10 metres from the creek, whereas DCP55 requires a zone of 15 metres***

The setback proposed by the applicant is to allow for rehabilitation of Blue Gum Creek as part of the natural landscape and to enhance and reinforce the character of Ku-ring-gai, as well as prevent pollution and contamination down stream. The drainage reserve has been piped and, as such, there is no formal requirement within Council's Riparian Policy for the existing gully to be planted as a riparian zone. Nevertheless, the applicant has still chosen to do this. Notwithstanding this, the proposed landscape works will result in the area being planted with riparian planting. Therefore, the natural landscape will be enhanced and the piped drainage reserve will prevent pollution and contamination down stream.

***No construction plan has been submitted***

The applicant has submitted an Environmental Site Management Plan to address construction management. This plan is addressed by Council's Development Engineer later in the report under Consultation within Council.

***The proposal will de-value surrounding properties***

This is not an issue for consideration under the Environmental Planning and Assessment Act 1979.

***The applicant has not prepared a preliminary contamination report***

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

***The proposal is inconsistent with the subjectives of Urban Conservation Area 4 – West Roseville***

Given that LEP 194 has been gazetted and Council has not adopted Urban Conservation Area 4 as a conservation area in a LEP, Council has little ability to manage the area as an urban conservation area.

***There is no discussion in the Statement of Environmental Effects as to the applicability of State Environmental Planning Policy 10, for Low Rental Accommodation***

State Environmental Planning Policy No. 10 – Retention of Low-Cost Rental Accommodation has the aim and objective to provide a mechanism for the retention of low cost rental accommodation. The demolition of the four (4) dwellings that form part of the proposal does not require consideration against SEPP10.

Item 4

*Any external lighting should be directed downwards and have minimal spill*

The spill from any external lighting should be contained within the property boundaries. A condition has also been recommended in this regard (**Refer to Condition No.30**).

*No mention of replacement of Wiananmatta shale derived soil, health of blue gums and interdependent species*

The Statement of Environmental Effects includes an Arboricultural Report and a Flora and Fauna Assessment in relation to the Blue Gum High Forest Community.

*The load upon utilities is not mentioned*

The load upon utilities is a matter for the respective authority such as Energy Australia or Sydney Water. Energy Australia have advised that it will be necessary to establish an electrical substation on the site.

*Concern in relation to air quality as each unit has two (2) fireplaces*

The applicant advises that the proposed fire places are electric, therefore air quality will not be adversely affected.

*Reflection of sunlight from glass in the afternoon*

There is some potential for sunlight reflection off the vertical panel lift glass façade and glass lobby façade located on the western side of the proposal. However, the greater areas of glass facing the units are either appropriately shaded by being recessed into the building, screened by landscaping or by sliding screens. **Condition No.112** is recommended to minimise any reflectivity.

*Loss of privacy to 1 Nola Road*

The eastern façade of the development is located a minimum of 24 metres from the dwelling at 1 Nola Road. The separation between buildings together with the significant stand of canopy trees and future landscaping will ensure that the privacy of 1 Nola Road is not adversely affected.

**Amended plans**

In accordance with Council's Notification Policy the amendment made to the development application was not re-notified as, being a contraction of the subterranean footprint of the building, the amendment would not have any greater impacts than the original proposal.

Item 4

## CONSULTATION - WITHIN COUNCIL

### Urban Design

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

#### ***"Principle 1 : Context***

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

#### ***Comment :***

*The site currently comprises four individual lots each with detached dwellings occupying the centre of the lots. Extensive existing trees are located to the north along the McLaurin Parade frontage and along the eastern boundary where the site adjoins neighbours which front Nola Road. There appear to be no significant trees between the existing houses, and few trees to the west frontage along Kings Avenue. The proposed development on the amalgamated site preserves the vast majority of the above trees within DCP 55 setbacks, whilst the proposed building footprint in the centre of the site is almost identical to the footprint of the existing four dwellings.*

#### ***Principle 2 : Scale***

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

#### ***Comment :***

*The adjoining sites are zoned 2(d3 ) and the proposed scale of development will relate to future adjoining developments. The scale of this development sits comfortably in the streetscape as it steps with the topography in an appropriate and skilled manner.*

*It should be noted that the building exceeds 5 (4.6) storeys in some parts to the height of 6 (5.6) storeys. LEP 194 allows this additional height on steeply sloping sites for up to 25% of the building footprint.*

#### ***Principle 3 : Built form***

*SEPP 65 : Good design achieves an appropriate built form for a site and the buildings*

Item 4

*purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.*

*Comment :*

*The entire western building frontage to Kings Avenue is set back 10m. DCP 55 requires that the building be set back 12m with only 40% of the frontage encroaching to 10m. The site boundary does not prevent the building moving back two metres from the street so that it is in line with future neighbouring developments. The eastern setback to properties that front Nola Road is shown as 10m. As this is a side setback in most part, this setback could be reduced to 6m under the LEP. Whilst there are significant trees in this part of the site that should be retained, it appears there may be some give in which to accommodate an increased setback.*

*The setback from the riparian corridor appears to be acceptable, however the actual riparian line and associated setback are not clearly located on any drawing and should be verified.*

*Basement 1 and Basement 2 car parks extend into the southern setback considerably. Whilst not obtrusive as they are completely buried, the extent of the encroachment leaves an inadequate width of deep soil for large tree planting on the boundary. The fire exit should be better located and integrated with the building.*

**Principle 4 : Density**

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

*Comment:*

*The density of development appears to be appropriate and in line with LEP 194. However, unit 1.01 appears to be substandard having been accommodated in the fall of the land at the bottom part of the site. Its amenity is reduced due to its proximity to the car park, its circuitous private entry from the street, and its lack of access to the lift core that gives access to the communal open space on site. In addition, the amount that the unit is buried provides for only high windows to both of the bedrooms. This is detrimental to the outlook from these rooms and may also pose a privacy problem from the garden area.*

*It is recommended that unit 1.01 be relocated to resolve the above issues. The Level 1 basement should be re-designed, so that the garbage room and car park entry are relocated, allowing Unit 1.01 to be located on the northern end of the building. This would provide a better street address to the unit, a northern aspect and would avoid the need for highlight bedroom windows.*

Item 4

***Principle 5 : Resource, energy and water efficiency***

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

*Comment:*

*Unit arrangement and circulation is good and provides for ventilation and north orientation to a good proportion of the units, even though heavy tree cover may prevent direct sunlight.*

*The inclusion of an air conditioning system is questionable and given that the unit design provides for cross ventilation, air conditioning may be unwarranted. The size and location of the plant room is of concern. In terms of elevation and building bulk the enclosure poses no problems however, the dual access path through units 7:01 and 7:02 is of concern. It is recommended that, if the air conditioning plant room is required, that access through units 7:01 and 7:02 is avoided.*

*(A general note – the fire stairs appear to open into unit 7:02 at their top flight). It is recommended that provision be made for bicycle parking in the car park.*

***Principle 6 : Landscape***

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

*Comment :*

*The architectural drawings refer to the landscape drawings for the details of the landscape area. In both sets of drawings, the limits of the private open space for the ground floor apartments are unclear.*

*It appears that the extent of the private outdoor space for the ground floor units, namely unit 1:01, 3:03, 3:04 and 3:05, is solely terrace area. The opportunity to provide ground floor apartments with gardens appears not to have been taken. Of primary concern here though, is that there are no details of privacy provisions for these apartments from the communal areas. No fences or the like have been clearly documented. The floor levels of unit 1:01 and 3:04 both suffer from being, in part, lower than or equal to the ground line outside allowing viewing down into living spaces. Units 3:03 and 3:04 have stairs directly from their terraces to the bbq areas provided with no fence or gate shown. The design of external private spaces needs to be further considered and privacy measures incorporated. It is recommended that the private and communal spaces be better defined.*

Item 4

*The landscape design proposes removal of all existing trees in the public domain along Kings Avenue, which is inconsistent with the perspective provided and again raises questions about maintenance of a cohesive street character.*

*The trees planted on the southern boundary do not have enough width of deep soil to accommodate them (see car park comments above). At best, these trees are at a disadvantage and will grow at an unequal rate with the rest of the new trees on site, whilst the majority of their roots will spread to the neighbouring property. It is important that the scale of these trees are equal to the heights of the buildings thus the position of the car park within this setback should be revised to accommodate them.*

*The pedestrian path through the riparian zone needs to be considered further, both in terms as an extension of the public domain and in terms of construction and environmental impact on the water course corridor.*

*The bbq areas and sun deck areas are appropriately located and designed, however their size is relatively diminutive. Given there are 23 units in the development it is recommended that these spaces increase in size slightly without losing their intimacy. The current design also indicates that units 3:03 and 3:04 have direct access to each of the BBQ spaces. This relationship has the tendency for the BBQs to be appropriated for private use and this should be mediated through privacy devices – fences, screens or the like.*

*No communal clothesline area is provided for resident's use and no provision of clothesline has been shown in the apartment design. This will encourage constant use of clothes dryers. It is recommended that drying balconies are provided, or a discreet drying area in the communal landscaped area.*

**Principle 7 : Amenity**

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

*Comment:*

*Amenity is generally very good. However, there exists a privacy conflict between the lift lobby and the living room of unit 7:02 which needs to be addressed.*

*An accessible unit plan has not been included in the DA set. Units which are adaptable should be nominated and the alternative adjusted layout provided to demonstrate compliance. In their current state, no units comply with accessibility standards.*

**Principle 8 : Safety and security**

*SEPP 65 : good design optimises safety and security, both internal to the development*

Item 4

*and for the public domain. This is achieved by maximising activity on the streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.*

*The isolated location of Unit 1.01 and its circuitous entry may create safety and security issues.*

**Principle 9 : Social dimensions**

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

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

*The mix and sizes of units are appropriate to the area.*

**Principle 10 : Aesthetics**

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

**Comments:**

*The articulation of these facades, their proportions, materials and colours are appropriate. The glass lift shaft and lift car appear to be unrealistic in their degree of transparency and would likely have to include spandrel separation between floors but in general, the scheme is well considered and is aesthetically acceptable.*

**Recommendations**

*It is recommended that:*

- *The building is set back to comply with the 40% building alignment at 10m setback, and the majority at 12m*
- *The Level 1 basement is re-designed, so that the garbage room and car park entry are re-located, allowing Unit 1.01 to be located on the northern end of the building. This would provide a better street address to the unit, a northern aspect and would avoid the need for highlight bedroom windows.*
- *The basement fire exit is better located and integrated with the building, to allow more deep soil area adjacent to the southern boundary and promote tree growth*

Item 4

- *The ground level private and communal spaces be better defined if the air conditioning plant room is required, that access through units 7:01 and 7:02 is avoided*
- *Drying balconies are provided, or a discreet drying area in the communal landscaped area.*
- *The privacy conflict between the lift lobby and the living room of unit 7:02 is resolved*
- *Detailed landscape design issues listed above are considered*

*This is generally a very good design which should be improved by these recommended amendments.”*

Comment:

The applicant has submitted amended plans to conform with the specific controls for the Nola Road Precinct, Roseville which allows a setback of between 10-12 metres. The building has been moved back 1100 mm except for the two basement level garages.

In relation to Unit 1.01, the unit is located at the north-east corner of the building at ground level. Privacy to the two bedrooms from the external communal area is provided by way of a screening wall within the garden area. The applicant has provided amended drawings to provide larger windows to the two bedrooms.

The basement fire stair has been relocated to the south-east corner of the building and set back 6 metres from the boundary to allow deep soil planting.

The air conditioning plant room is accessible through the fire stair thereby avoiding units 7.01 and 7.02.

Drying areas can be provided or balconies or a discreet drying area can be provided in the communal landscaped area (**Refer Condition No.31**).

The privacy concern between the lift lobby and the living room of Unit 7.02 has been addressed by the provision of a privacy screen in front of the lift and a planter bed at the edge of the unit.

A detailed landscape design has been submitted for consideration.

The above amendments/matters satisfactorily address the issues identified by Council's Urban Design Consultant.

### Heritage

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

#### ***UCA 4 – West Roseville***

*The site is included in UCA 4 – West Roseville. Council reviewed the area in 2003 after numerous requests were received from residents in the area, particularly Pockley Avenue.*

Item 4

*The immediate area is hilly with creek lines running through it and tall native trees following the creek lines. The immediate area has a very different character to most of Roseville mainly derived from the harmonious relationship of the modest and consistent scale of housing and the natural environment.*

*The final version of the UCA report recommended excluding parts of the National Trust UCA, including Corona Avenue, part of the Pacific Highway, Nola Road and part of MacLaurin Street. It did not recommend excluding any of Kings Avenue.*

*Given that LEP 194 has been gazetted and Council has not adopted UCA 4 as a conservation area in a LEP, Council has little ability to manage the area as a UCA. It is unfortunate that the rezoning has occurred. However, the majority of UCA 4 could be appropriately managed in the future.*

**Demolition**

*The UCA study commissioned by Council recommends that contributory items should be retained due to their significance and setting. The houses at No 9 & 11 Kings Avenue were graded as contributory to the UCA. The houses at 13 & 15 were graded as non contributory and thus demolition would not be prohibited.*

*It is noted that Council exhibited the study but has not adopted the report or any of its findings. No 11 Kings Avenue is a very intact brick cottage and its demolition would be regrettable. No 9 is relatively intact but has been painted and subject to some minor alterations. No 13 is a Post War house, although is somewhat similar in scale to the bungalows, but could not be considered contributory. No 15 appears to be a bungalow that has been altered, possibly on several occasions and has lost its ability to be considered contributory.*

*While I can not agree that demolition of No 9 & 11 is an acceptable activity, given rezoning on the site and the fact that Council has not adopted any of the recommendation in the UCA study, I can not oppose demolition. I recommend recording of all houses be undertaken before demolition to the Heritage Council guidelines for local significance. Records should be lodged with the local history section of the Gordon library, on Council's property files and with the Ku-ring-gai Historical Society.*

**Design of the proposed residential flat building**

*The building is clearly contemporary and in my opinion a good outcome given the constraints on the site and the objectives of DCP 55. The façades are well articulated and employ a range of materials and textures. There is good definition in the facades and the building would be perceived as three sections linked together with the glazed entry and vertical louvered panels. Colours are neutral and warm with some feature stonework at the base and timber panels over several floors.*

Item 4

**Conclusions**

*Demolition of No 9 & 11 Kings Avenue would be regrettable however as the sites have been rezoned and Council has not adopted UCA controls, I do not oppose demolition. All buildings should be recorded to the Heritage Council guidelines for local significance before demolition.*

*In my opinion the designers have tried to understand the site and its context and have prepared a well thought out design given the site constraints and Council's guidelines in DCP 55. In my opinion it is relatively successful."*

**Landscaping**

Council's Landscape and Tree Assessment Officer, Geoff Bird, has commented on the proposal as follows:

*"The site*

*It is proposed to demolish the existing dwellings and associated structures and construct a five storey residential flat building with basement parking on the existing amalgamated corner site of 3 320sqm with vehicular access from Kings Ave. The site is characterised by an established landscape setting with mature trees and shrubs within formal garden beds and lawn expanses. The site is reasonably steep and falls to a piped drainage reserve which traverses the site adjacent to the northwest/Maclaurin Parade site boundary. Large mature exotic and native trees (including some urban weed species) are located primarily within the reserve embankments and the rear site boundary. The front of the site is typically urban with modified garden settings with paving, retaining walls and pathways along with horticultural planting.*

*Impacts on trees/Trees to be removed/Tree replenishment*

*The proposed development will result in the removal of all existing vegetation within the central core of the site to accommodate the proposed building. As proposed the development will also result in the removal of the existing street tree planting.*

*Of the twenty-one trees identified as being located on or associated with the site, no trees are required for removal as a result of development as the proposed residential flat building is located within the existing dwelling footprints. However, the consulting arborist, Ian English of Sydney Arboricultural Services, recommends the removal of three indigenous trees, being #'s 7, 10, and 15 which have structural defects. In addition, it is recommended that the mature Coral trees (*Erythrina indica*) located on site within the drainage reserve also be removed. The Coral trees are exempt under Council's Tree Preservation Order and identified as an Urban Environmental Weed and as such their removal is required.*

*In addition, due to the under grounding of existing overhead wires, and the repeated poor pruning that has been undertaken, it is proposed to remove the existing street tree planting in*

Item 4

*front of the site. No objection is raised to the proposed street tree removal subject to them being replaced with a native endemic tree species as an evenly spaced, formal avenue planting that is consistent with the existing streetscape character.*

Arborist's report

*A fully detailed arborist's report by Sydney Arboricultural Services, Ian English, has been submitted as part of the development application. Landscape Services does not disagree with the recommendations made, and can support the recommended tree removal.*

Nature strip

*The submitted revised landscape plan has addressed previous concerns with regard to the nature strip. The existing landscape character is now to be retained with tree replacement as a result of the undergrounding of existing overhead wires. As the site interfaces with existing low density residential development, it is considered important that the streetscape character, which is reflective of the broader Ku-ring-gai character, be maintained. As such, it is required that the existing pedestrian footpath be maintained in situ and the proposed street tree planting in the nature strip be planted as a formal avenue planting within a grassed/turfed verge. Revised plans reflect this requirement.*

*The revised landscape plan submitted with the application has provided further detail with regard to proposed planting, addressing previous concerns. Due to the intended bushland character of the site, much of the mass planted areas are to be planted as tube stock, with advanced plantings of shrubs and super advanced tree planting.*

*From a design viewpoint, the new landscape proposes to reinstate the site as a Sydney Bluegum High Forest bush setting, which would be consistent with the original plant community of the site and immediate area. There is no objection raised to this design philosophy as it complies with Council's DCP55 requirements, but it must be considered in context with the surrounding urban setting that exists around the site. As a result of this, revised plans have maintained the nature strip as an open nature strip, consistent with the existing streetscape.*

*It is noted that the site is located on the outer edge of the '100m buffer zone' identified as Bushfire Prone Land mapping, with the buffer zone entering the site by approximately 1.0m. Concern is raised as to whether the proposed planting philosophy will result in the site becoming bushfire prone and ultimately result in a fire hazard. The development proposal has been referred to the RFS for comment.*

Riparian zone

*As the drainage reserve has been piped there is no formal requirement within Council's Riparian Policy for the existing gully to be planted as a riparian zone. However, it must be noted that the proposed landscape works will result in the area being planted with riparian planting. This can be supported.*

Item 4

Pedestrian path linkage

*The proposed timber pedestrian bridge proposed from Maclaurin Parade through the development site to Kings Ave, has been deleted and a new pedestrian link is proposed from Maclaurin Parade to the rear of the site. No objection is raised to the amended proposal. It should also be noted that it may be considered to be a 'structure' which will result in it being excluded from deep soil landscape area calculations particularly if it exceeds 1.0m width.*

Drainage plan

*Revised plans have deleted the impervious membrane from the bio-retention swales as the existing clay based soils will retain moisture. As such, as there are no structures proposed the bio-retention swales can be included within the deep soil area calculations. Previous concerns have been addressed.*

Deep soil landscaping

*The application states that 50.7% (1682sqm) of the site is calculated as deep soil landscaping, which numerically complies with the minimum requirements as stated within the LEP. Landscape Services is in agreement with the areas shown as being included within the calculable deep soil area.*

Special area

*The site is located within a nominated Special Area known as the Nola Road Precinct, Roseville, which is detailed within section 7.1 of DCP55. The proposed development due to its proposed planting philosophy (SBHF) and rehabilitation of Blue Gum Creek, generally complies with the DCP's future character and design objectives and design controls. One exception is that the landscape works proposes a retaining wall, within 15m of the centre line of Blue Gum Creek. No objection is raised to the location of the retaining wall as its location does allow for reinstatement of the SBHF plant community, without directly influencing Bluegum Creek, particularly as it has been piped in this locale.*

*The application can be supported by Landscape Services with conditions.*

**Engineering**

Council's Engineering Assessment Team Leader, Robin Howard, has commented on the proposal as follows:

*"In summary the application can be supported by Development Engineers, subject to the imposition of the recommended engineering conditions of consent.*

*A pre-DA meeting was held for this site at which the applicant was presented with assessment criteria related to the engineering aspects. Generally the applicant has had regard to the*

Item 4

*engineering issues raised at this pre-DA meeting, and has submitted the requested information.*

*The documentation considered consists of a Statement of Environmental Effects (SEE) and Environmental Site Management Plan prepared by Colston Budd Hunt & Kafes and a set of A3 size architectural drawings Fitzpatrick + Partners DA set November 2004.*

*The application is for a residential flat building comprising 23 units (15 x 2 bedroom and 8 x 3 bedroom). Two levels of basement car parking are proposed, with two separate vehicular entrances from Kings Avenue.*

*It is noted that the building footprint appears to be closer to Blue Gum Creek than the 15 metres nominated in DCP 55 Section 7.1.6, however the application was lodged prior to the adoption of DCP 55.*

*Subdivision*

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

*Traffic generation*

*The applicant has submitted a Traffic Report with the Development Application (Annexure J of the Statement of Environmental Effects, report by Colston Budd Hunt & Kafes). The report is generally satisfactory.*

*Based on LEP 194, the proposal requires a minimum of 31 resident spaces and 6 visitor spaces. The proposal provides 47 spaces and therefore complies.*

*The anticipated increase in traffic due to the subject development would be 10 to 15 trips per peak hour, an increase of approximately 10% over the counted peak hour traffic in Maclaurin Parade.*

*In terms of the impact of the development on the road network, this can be ascertained generally by the capacity of the affected intersections to cater for the increased traffic loading. This is usually determined by modelling the affected intersections at existing and post-developed use, using the INTANAL program. The results contained within the traffic report show that the surrounding road network would continue to operate at a 'good' level of service post development.*

*This analysis was done without taking into account the effect of traffic flow on the Pacific Highway and the Boundary Street and Clanville Road intersections either side. A traffic study prepared by Council for Special Area 1 in 2003 concludes instead that in the afternoon*

Item 4

*peak the Maclaurin Parade intersection is actually functioning at level of service F (unsatisfactory) because of these constraints.*

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

*Construction management*

*An environmental site management plan has been submitted to address Council's request for a construction management plan (Colston Budd Hunt & Kafes Ref: 5363).*

*Section 3.4.5 states that construction traffic is to use Maclaurin Parade and Kings Avenue only. This has been discussed with Council's Strategic Traffic Engineer and Design Engineer and is considered the most desirable route.*

*Accident history in the vicinity is restricted to one incident in September 2003 in which a motorcyclist lost control at the intersection of Kings Avenue and Maclaurin Parade. There is a hazard marker for traffic approaching in Maclaurin Parade and a double centreline around the bend, however during a site inspection today there was a vehicle parked near the bend, probably contrary to Rule 208(6) of the Australian Road Rules. Additional measures are not considered to be warranted for the traffic generated by the completed development. Construction traffic management will include warning signs in Maclaurin Parade, so vehicles are expected to be approaching the intersection with caution during the construction period.*

*Section 3.2.1 refers to a possible construction zone along the site frontage. A Works Zone will be required, and a condition has been recommended to that effect, including the need for approval by Traffic Committee and the payment of the necessary fees.*

*Vehicle access and accommodation layout*

*Proposed vehicle access and accommodation arrangements have been assessed against the Australian Standard 2890.1 2004 – "Off street Car Parking" and DCP 43 – "Car parking".*

*The northern driveway entrance (to the lower basement parking level) complies with AS2890.1 in relation to its location with respect to the corner. The traffic report contains a recommendation for trimming of vegetation at the corner. This should be done before commencement of construction and has been included in the recommended conditions.*

*The following table summarises Development Engineers assessment of the proposed parking arrangements against the Australian Standard 2890.1 - "Off-street car parking":*

<i>Aspect</i>	<i>Comment</i>
<i>Dimensions of spaces</i>	<i>Satisfactory</i>
<i>Internal aisle widths</i>	<i>Satisfactory</i>
<i>Driveway locations</i>	<i>Satisfactory</i>

Item 4

<i>Sight distances</i>	<i>Convex mirror to be provided at lower entry bend</i>
<i>Driveway widths</i>	<i>Satisfactory</i>
<i>Driveway grades</i>	<i>Satisfactory</i>
<i>Height clearance in parking area</i>	<i>Satisfactory</i>
<i>Circulation ramps and roadways</i>	<i>Satisfactory</i>

*Garbage collection*

*A waste storage and collection area is required internally under Council's DCP 40 for Waste Management. This has been provided in the lower basement parking area and there is adequate provision for Council's waste collection vehicle to enter the subject site, collect the garbage and then exit the site in a forward direction.*

*Impacts on Council infrastructure and associated works – comments*

*The site has a new footpath along most of the frontage, however it is understood that undergrounding of services will be required, which may be expected to damage the footpath and nature strip. Kings Avenue itself appears to have subsided slightly at a couple of locations in the middle of the road, possibly due to service trenches or other cause. The pavement is not expected to stand up to the type of loading associated with the demolition, excavation and construction works, so dilapidation surveys will be required before and after the works, with full restoration of any damage by the developer prior to the issue of an Occupation Certificate.*

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

*There is no kerb and gutter along Maclaurin Parade between Kings Avenue and Nola Road. There are four or five large eucalypts in the kerb line, and even if kerb was constructed in front of the trees on a different line, the associated earthworks would be expected to damage the root systems. For that reason, no additional kerb and gutter is required to be constructed with this development.*

*Site drainage comments*

*The submitted concept stormwater management plan (Patterson Britton & Partners Report Issue No. 1, dated November 2004) has been designed in accordance with the Council requirements contained in Water Management DCP 47. A stormwater retention requirement of 3000 litres per unit applies (total 69m<sup>3</sup>) – and this water is to be used for toilet flushing, laundry, car washing and irrigation.*

*Water quality measures have also been included, which is to be commended. Provided that the proposed devices can be accommodated with the deep soil zone, (see comments above), the system as laid out in the stormwater management plan should be satisfactory.*

Item 4

*A car washing bay will be required. The garbage collection vehicle parking area or one of the visitor spaces may be appropriate for this. The location can be shown on the Construction Certificate plans.*

*Flooding and overland flow comments*

*Blue Gum Creek adjacent to the development site is a formed channel with a low flow pipe. An overland flow assessment has been carried out by Patterson Britton which demonstrates that the basement garage will not be affected by overland flows during the standard flood event.*

*Geotechnical / structural comments*

*A geotechnical investigation has been carried out and the report, Douglas Partners report No. 37412, dated October 2004, is included in the SEE as Annexure O.*

*The report contains recommendations for excavation trials and vibration monitoring, excavation support and foundations. The dwelling at 7 Kings Avenue is identified as the closest structure to the proposed works and dilapidation reporting is recommended. This is included in the recommended conditions of consent.*

*Summary*

*There are no engineering objections to the proposed development."*

Comment:

The impermeable membranes for the bioretention swale and bioretention basins mentioned in Deep Soil are no longer required as the applicant's consultant engineer advises that the predominantly clayey subsoils will perform the same function.

## **CONSULTATION – OUTSIDE COUNCIL**

### **Rural Fire Services**

Under the provisions of Section 79BA of the Environmental Planning and Assessment Act 1979, the development has been referred to the Commissioner of the NSW Rural Fire Service who commented, as follows:

*"I refer to your letter dated 16 May 2005 seeking our advice in accordance with section S.79BA of the Environmental Planning and Assessment Act 1979 for the above property.*

*Bases upon an assessment of the plans and documentation received for the proposal, the NSW Rural Fire Service raises no concerns or special consideration in relation to bushfire matters for the proposed development."*

Item 4

**Energy Australia**

*“Thank you for the early notification of the Housing developments DA 1285/04 at Kings Avenue, and Maclaurin Parade. It will be necessary to establish an electrical substation on the premises and an area to satisfy Energy Australia’s conditions for a kiosk type substation that the developer may consider more appropriate. The developer should be made aware within the DA condition of Energy Australia requirement and space should be allocated that meets all the necessary statutory requirements. Final supply arrangements cannot be assessed until a comprehensive list of the electrical loading for the development is provided. Energy Australia request the Shire to add advice into the development application that early notification to all service providers be required to ensure supply can be made available at a suitable location to all parties.*

*Further to the State Government’s investigation into the installation of underground cables to replace overhead construction where it was considered that developers and individuals would be responsible of bearing the cost of this work where appropriate. Where large developments as these, the developer should be requested to arrange the underground of any overhead construction near their development or at the minimum install conduits within the footway along the property line of the development to accommodate future underground facilities.”*

The applicant has allowed an area for a kiosk located on the northern side of the entry to Basement 1 while still allowing a compliant area of deep soil landscaping.

**PROVISIONS OF RELEVANT LEGISLATION**

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

The following is a design statement by the project architect Fitzpatrick and Partners.

*Within close proximity of a major urban centre yet still within a traditional suburban context, Kings Avenue, Roseville provides an opportunity to expand on Sydney’s evolving medium density housing.*

*The design approach is intentionally contemporary. It does not attempt to mimic the surrounding detached cottages and residential forms; preferring to adopt modern environmental technologies, and a fresh, holistic approach to site, landscape and context. This creates a building which embraces the intrinsic characteristics of the site.*

*The building expresses a clear and honest expression of environment and circulation, function and materiality. It moves away from appliqué of any decoration.*

*Addressing the urban issue of scale and context, the built form has been split into 2 buildings with central open-air breezeways running through the development which for the central entry and main circulation, and brings the landscape through the building. Vertically the*

Item 4

*building form erodes further to respond to the ground plane, the surrounding contextual massing, and the backdrop of blue gum canopy trees.*

*The building has been designed to respond to the desired internal environments, with extensive use of sun shading devices such as vertical fins, deeply recessed balconies and operable shuttered screens, maintaining visual and acoustic privacy. This produces useable, breathable, controllable spaces. They allow the individual users to vary their spaces within from open to closed, light to dark, still to breezy, creating a living building, that changes with the seasons and the weather, allowing it to truly connect with it's surroundings.*

*Materials reflect a site sensitive yet contemporary and simple palette with largely clean and simple materials and colours. Specific buildings elements warm textured materials such as stone and timber, while interiors are clean, light and open.*

*The landscape design has been carefully crafted to continue the design intent from the internal to the external environment. Spaces have been designed to define the entrance and circulation, whilst still providing opportunities for private external living spaces. The street planting reinforces the design intent, providing a 'sea' of native plantings in which the buildings sit.*

*The deep soil planted garden space surrounds the building. Mature blue gum canopy trees have been maintained with the addition of extensive planting of new canopy species to contribute to the future of the particular character of this site. Ground level apartments open onto landscape terraces connecting directly with the surroundings.*

*The building responds directly to a most special site and context, and sets an example of contemporary, sensitive residential development.*

**Context:**

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

The development is permissible and largely complies with the prescribed requirements of LEP194, including maximum height, site coverage, number of storeys and deep soil landscaping. The building setbacks to Kings Avenue and Maclaurin Parade are in accordance with the specific controls for the Nola Road Precinct.

The built form has been split into 2 connected buildings with control open-air breezeways running through the development which form the central entry and main circulation and brings the landscape through the building. The low density (FSR of 0.92:1) and the fact that the development is located within the existing developed area of the dwellings reduces adverse impacts on the surrounding properties.

**Item 4**

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

The building design is responsive to the desired future character for this transitional precinct.

**Scale:**

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

Within the vicinity of the site there are a variety of building types comprising varying scales. The general character consists of one to two storey dwellings in nature in established gardens.

Given the slope of the land to the footprint of the building where the built form is contained and the appropriate scale and setbacks provided, the proposal represents a considered response to the scale identified for the desired future character of the area.

**Built form:**

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

The built form is acceptable in terms of its height and setbacks. Vertically, the building responds to the ground plane, the surrounding contextual massing and the backdrop of blue gum canopy trees. The proposal will have the appearance of approximately proportional buildings set in landscaped open space, due to a conservative density, a building that responds to its site and the substantial landscaping proposed.

**Density:**

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

The FSR of 0.92:1 is well below the DCP55 maximum of 1.3:1; representing a floor area of 1262m<sup>2</sup> less than the maximum permitted on the site by DCP55.

**Resource, energy and water efficiency:**

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

Item 4

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

**Landscape:**

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

The proposal provides for more than 50% of the site being in a deep soil zone which is compliant with the minimum requirement of 50%. The site is located within the special area known as the Nola Road Precinct, Roseville. The proposed planting philosophy (SBHF) and rehabilitation of the Blue Gum Creek, generally complies with the DCP's future character and design objectives and controls. The deep soil zone will be able to accommodate sufficient canopy trees to the satisfaction of Council's Landscape Development Officer.

**Amenity:**

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

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

The application provides good areas of private open space to each of the units. The balconies are generally greater than 16 m<sup>2</sup> for all units, with an average size of 29 m<sup>2</sup>, exceeding the requirements of DCP 55 and the Residential Flat Design Code.

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

**Safety and security:**

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

**Item 4**

There are no safety and security issues. The proposal provides for good levels of safety and security as the building design maximises surveillance of public and communal spaces whilst maintaining internal privacy. Direct access to the street is provided from the building to assist in activating the public domain to achieve a sense of ownership and security.

**Social dimensions:**

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

A reasonable mix of two and three bedroom apartments is provided to allow housing choice. The apartments are all of good sizes, ranging from 86 square metres to 166 square metres, and would provide high quality living environments for those residents within the local area who wish to "downsize" to an apartment.

**Aesthetics:**

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

The external appearance and composition of building elements, textures, materials and colours satisfactorily reflects the use, internal design and structure of the development. Specific building elements express warm textured materials such as stone and timber, while interiors are clean, light and open. These materials respond to the environment and contribute to the desired future character of the area.

**Residential Flat Design Code**

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

**Relating to the local context:**

The proposal, sited over four separate allotments, will require their consolidation. This amalgamation will result in a site of 3320m<sup>2</sup> which is capable of accommodating the proposed development.

The proposal has two building elements connected by the lift/lobby sharing two basement car parks. The development has an acceptable bulk and scale in relation to the desired future character of the area. The building envelope, in terms of building height, floor area, depth and setbacks, is satisfactory having regard to the desired future character of the locality.

Item 4

**Site analysis:**

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

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

The orientation of the development ensures adequate solar access to habitable areas and private open space, both internally and to adjoining residential development and it will also provide an appropriate frontage to Kings Avenue.

**Building design:**

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

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

**State Environmental Planning Policy No.55 – Remediation of Land**

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

**Ku-ring-gai Planning Scheme Ordinance – LEP 194**

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 1200 m <sup>2</sup>	3320 m <sup>2</sup>	YES
Deep landscaping (min): 50%	51%	YES
Street frontage (min): 30 m	67.82 m	YES
Number of storeys (max): 6	6 (4.6 and loft)	YES
Site coverage (max): 35%	33%	YES
Top floor area (max): 60% of level below	58.48% (Level 5)	YES
Storeys and ceiling height (max): 6 and 16.4 m	6 & 16.04 m	YES
Additional Storey: 25% of footprint	18.8%	YES

## Item 4

COMPLIANCE TABLE		
Development standard	Proposed	Complies
<b>Car parking spaces (min):</b>		
• 6 (visitors)	6	<b>YES</b>
• 31 (residents)	35	<b>YES</b>
• 37 (total)	41	<b>YES</b>
<b>Manegeable housing (min):</b> 3 (10%)	65% (15 units)	<b>YES</b>
<b>Lift access:</b> required if greater than three storeys	2 lifts proposed	<b>YES</b>

**Number of storeys:**

Clauses 25I(8) and 25K(a)(b) and (c) of LEP194 are the height controls. This proposal has an additional storey (Level 6) complying with Clause 25K(a) which allows up to 25% of the building footprint. Level 6 comprises 18.8% of the building footprint. The proposal satisfies Clause 25K(b) as the ceiling height of level 5 is below 16.4 metres.

**Heritage/Conservation areas (d.25c(2)(e) and 61D-61I):**

Neither the subject site nor adjacent properties are listed on the 'Register of the National Estate', nor are they subject to any conservation instrument under the provisions of the NSW Heritage Act 1977. The properties are not listed as heritage items nor located in a heritage conservation area identified under the provisions of the Ku-ring-gai Planning Scheme Ordinance. The site is located within a heritage conservation area identified by the National Trust of Australia (NSW), although such listing has no statutory provisions or requirements attached.

A condition is recommended requiring that recording of the existing buildings be undertaken prior to demolition (**Refer Condition No.63**).

Clause 25C(2)(e) and 61E of the Ku-ring-gai Planning Scheme Ordinance requires that development on land zone Residential 2(d3) has regard to its impact on any heritage items in the vicinity of that development.

The closest heritage listed property is located at No.1 MacLaurin Parade, approximately 110 metres to the north-east. The proposal will not result in any adverse impacts upon this property.

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

## Item 4

**POLICY PROVISIONS**

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

<b>COMPLIANCE TABLE</b>		
<b>Development control</b>	<b>Proposed</b>	<b>Complies</b>
<b>Part 3 Local context:</b>		
<b>Development adjacent to a heritage item:</b>	Structure no closer than 110 metres to any heritage item.	<b>YES</b>
<b>Part 4.1 Landscape design:</b>		
<b>Deep soil landscaping (min)</b> <ul style="list-style-type: none"> <li>150m<sup>2</sup> per 1000m<sup>2</sup> of site area = 498 m<sup>2</sup></li> </ul>	Min 730 m <sup>2</sup> (located at rear and northern side)	<b>YES</b>
<b>No. of tall trees required (min):</b> 12 trees	Exceeds 12 trees	<b>YES</b>
<b>Part 4.2 Density:</b>		
<b>Building footprint (max):</b> <ul style="list-style-type: none"> <li>35% of total site area</li> </ul>	32.98 %	<b>YES</b>
<b>Floor space ratio (max):</b> <ul style="list-style-type: none"> <li>1.3:1</li> </ul>	0.92:1	<b>YES</b>
<b>Part 4.3 Setbacks:</b>		
<b>Street boundary setback (min):</b> <ul style="list-style-type: none"> <li>10-12 metres (&lt;40% of the zone occupied by building footprint)</li> </ul>	10 - 12 m (38.6% of zone occupied by building footprint)	<b>YES</b>
<b>Rear boundary setback (min):</b> <ul style="list-style-type: none"> <li>6m</li> </ul>	11.7 m	<b>YES</b>
<b>Side boundary setback (min):</b> <ul style="list-style-type: none"> <li>6m</li> </ul>	6.0 m	<b>YES</b>
<b>Setback of ground floor courtyards to street boundary (min):</b> <ul style="list-style-type: none"> <li>8m/11m</li> </ul>	10 m	<b>YES</b>
<b>% of total area of front setback occupied by private courtyards (max):</b> <ul style="list-style-type: none"> <li>15%</li> </ul>	4.6 %	<b>YES</b>

Item 4

COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Part 4.4 Built form and articulation:</b>		
<b>Façade articulation:</b>		
• Wall plane depth >600mm	>600mm	<b>YES</b>
• Wall plane area <81m <sup>2</sup>	122 m <sup>2</sup>	<b>NO</b>
<b>Built form:</b>		
• Building width < 36m	53.6m	<b>NO</b>
• Balcony projection < 1.2m	1.2m	<b>YES</b>
<b>Part 4.5 Residential amenity</b>		
<b>Solar access:</b>		
• >70% of units receive 3+ hours direct sunlight in winter solstice	83 %	<b>YES</b>
• >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice	70 %	<b>YES</b>
• <15% of the total units are single aspect with a western orientation	17.3 %	<b>NO</b>
<b>Visual privacy:</b> Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 4		
• 12m b/w habitable rooms	12 m (7 Kings Avenue)	<b>YES</b>
• 9m b/w habitable and non-habitable rooms	No direct relationship	<b>YES</b>
• 6m b/w non-habitable rooms	No direct relationship	<b>YES</b>
5th Storey		
• 18m b/w habitable rooms	23.4 m (1 Nola Road)	<b>YES</b>
• 13m b/w habitable and non-habitable rooms	22.9 m (1 Nola Road)	<b>YES</b>
• 9m b/w non-habitable rooms	No direct relationship	<b>YES</b>

## Item 4

COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Internal amenity:</b> <ul style="list-style-type: none"> <li>Habitable rooms have a minimum floor to ceiling height of 2.7m</li> <li>Non-habitable rooms have a minimum floor to ceiling height of 2.4m</li> <li>1-2 bedroom units have a minimum plan dimension of 3m in all bedroom</li> <li>3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms</li> <li>Single corridors:               <ul style="list-style-type: none"> <li>- serve a maximum of 8 units</li> <li>- &gt;1.5m wide</li> <li>- &gt;1.8m wide at lift lobbies</li> </ul> </li> </ul>	2.7 m  2.7 m  >3m  >3m  3 units  1.5m >1.8m and 1.8m at Basement level 2	YES  YES  YES  YES  YES YES YES
<b>Outdoor living:</b> <ul style="list-style-type: none"> <li>ground floor apartments have a terrace or private courtyard greater than 25m<sup>2</sup> in area</li> <li>Balcony sizes:               <ul style="list-style-type: none"> <li>- 12m<sup>2</sup> – 2 bedroom unit</li> <li>- 15m<sup>2</sup> – 3 bedroom unit</li> </ul> </li> </ul> NB. At least one space >10m <sup>2</sup> <ul style="list-style-type: none"> <li>primary outdoor space has a minimum dimension of 2.4m</li> </ul>	<25m <sup>2</sup>   Minimum 16.64 m <sup>2</sup> Minimum 16.6 m <sup>2</sup>  >2.4m or <2.4m 9 units, 2.0m; 14 units >2.4	NO   YES YES  NO
<b>Part 4.7 Social dimensions:</b>		
<b>Visitable units (min):</b> <ul style="list-style-type: none"> <li>70%</li> </ul>	65 %	NO
<b>Housing mix:</b> <ul style="list-style-type: none"> <li>Mix of sizes and types</li> </ul>	15 x 2 bed and 8 x 3 bedroom units	YES
<b>Part 4.8 Resource, energy and water efficiency:</b>		
<b>Energy efficiency:</b> <ul style="list-style-type: none"> <li>&gt;65% of units are to have natural cross ventilation</li> </ul>	70 %	YES

## Item 4

COMPLIANCE TABLE		
Development control	Proposed	Complies
<ul style="list-style-type: none"> <li>single aspect units are to have a maximum depth of 10m</li> </ul>	>10m	YES
<ul style="list-style-type: none"> <li>25% of kitchens are to have an external wall for natural ventilation and light</li> </ul>	>25%	YES
<ul style="list-style-type: none"> <li>&gt;90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating</li> </ul>	4.5 star rating = 30% 3.5 star rating = 70%	NO YES
<b>Part 5 Parking and vehicular access:</b>		
<b>Car parking (min):</b>		
<ul style="list-style-type: none"> <li>31 resident spaces</li> </ul>	41 spaces	YES
<ul style="list-style-type: none"> <li>6 visitor spaces</li> </ul>	6 spaces	YES
<ul style="list-style-type: none"> <li>37 total spaces</li> </ul>	41 spaces	YES

**Part 4.4 Built form and articulation:**

Whilst the east-facing expanse of framed glass louvres to the eastern lobby façade is 122 m<sup>2</sup>, 41m<sup>2</sup> greater than the provision of DCP 55. The glass façade is effectively “internal” to the building being 11 metres inside of the building’s eastern face and its visibility to external view will be restricted by its limited width of 7 metres. The glass façade is set back approximately 24 metres from the site’s eastern boundary and well screened by both existing and proposed landscaping. Therefore, the glass façade will not have a significant adverse impact upon the soft landscape feature of the development and is acceptable in the circumstances.

Whilst the total width of the proposed development is 53.6 metres, it comprises Building A – 20.5 metres, Building B – 25.1 metres and the connecting lobby, 8 metres in width and 17 metres in depth. The two building elements are presented as separate buildings and satisfy the design controls of DCP55.

**Part 4.5 Residential amenity****Solar access:**

DCP55 provides that not more than 15% of the total units proposed shall be single aspect with a western orientation. The proposal has 17.3% or 4 units with a single aspect with a western orientation, and represents 0.55 of a unit in excess of the control. Given that the western facades have sun protection in the form of sliding screens located externally, the additional 2.3% of unit as balance is considered acceptable.

**Item 4**

**Outdoor living:**

Whilst three of the ground floor apartments have a terrace less than 25m<sup>2</sup> in area, that is, unit 1.01, 20m<sup>2</sup>; unit 3.03, 22 m<sup>2</sup> and unit 3.05, 15m<sup>2</sup>, the respective units have a minimum depth of 2 metres and satisfy the objectives of the Residential Flat Design Code. On this basis, the open space provided is therefore acceptable.

**Part 4.7 Social Dimension**

**Visitable units:**

Whilst 65% of units are visitable, rather than the 70% as prescribed by DCP 55, the development promotes accessibility and adaptability by ensuring that the number of accessible and visitable units are optimised as recommended by the Residential Flat Design Code. The 65% of visitable units is only a minor shortfall and is acceptable.

**Part 4.8 Resource, energy and water efficiency**

**Energy efficiency:**

DCP55 requires 90% of units to have a NatHERS rating of 4.5 stars. The environmental performance of the development is acceptable considering the east-west orientation of the site and the constraints created by the blue gum creek and existing large canopy trees located at the rear of the site. The proposal has achieved a climatic responsive outcome by stepping the building and by limited building depth. All units achieve a rating of 3.5 stars with 30% having a rating of 4.5 stars. Given that all of the apartments are provided with at least 3 hours of sunlight and that the majority will have at least two aspects with good cross ventilation, the NatHERS non-compliance is acceptable.

**Specific controls for nominated areas: Part 7.1 (Nola Road Precinct)**

**Desired future character and design objectives:**

The proposal provides for 50.7% of the site being for deep soil zone which is primarily common property provided to the rear (east side) and side (northern) of the development where its ability to accommodate large canopy trees will not be restricted. All of the existing significant trees are to be retained, while the type of landscaping proposed is consistent with the desired future character of the area, which seeks continuation of the indigenous Blue Gum Forest to soften the buildings and contribute to the streetscape.

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

The proposed development, due to its proposed planting philosophy (SBHF) and rehabilitation of Blue Gum Creek, generally complies with the DCP's future character and design objectives.

**Item 4**

**Lot amalgamation:**

The preferred lot amalgamation of properties 9 to 15 Kings Avenue has been achieved as per the pattern suggested in figure 17 of DCP 55.

**Built form:**

The articulation of the built form responds to the immediate urban context by breaking the building into smaller forms, thereby increasing the integration of the building and landscape. The building footprint has been placed to follow the existing house footprints, respect significant trees, step down the slope to the north and set back from Blue Gum Creek. Due to the nature of the site gradient the building will present as 4 to 6 storeys to the Kings Avenue frontage.

The majority of apartments are shallow in depth, with wide frontages and achieve good cross ventilation and dual access to light.

The balconies are located and detailed to be a continuous extension of living spaces. The design and framing of balconies contributes to the overall architectural form of the building. Large cantilevers in the roof provide shelter to the top apartments as well as creating shadow line or cornice around the top of the building. The use of a shallow pitched roof provides for a modern building appearance as promoted within the Residential Flat Design Code. The use of colour and texture highlight and promote an attractive residential environment.

**Building articulation:**

The proposal integrates into its landscape setting and is contextually responsive to the natural characteristics of the locality.

The built form has been split into 2 buildings with central open-air breezeways running through the development. Vertically, the building responds to the ground plane, the surrounding contextual massing and the background of blue gum trees.

The development is articulated in its design with extensive use of sun shading devices such as vertical fins, recessed balconies and operable shutter screens, maintaining visual and acoustic privacy.

The building is defined from bottom to top by the use of stone in the lower section with panelised cladding to the middle sections and the greater use of glass and aluminium at the upper portion. The materials used are simple and clean and are sensitive to the site. Specific areas of the building elements express warm textured material such as stone and timber.

**Blue Gum Creek**

The proposed development due to its proposed planting philosophy (SBHF) and rehabilitation of Blue Gum Creek, generally complies with the DCP's future character and design objectives. An

**Item 4**

exception is that the landscape works includes a retaining wall, within 15 metres of the centre line of the piped watercourse. The location of the retaining wall is acceptable as its location allows for the reinstatement of the SBHF plant community, particularly as the creek has been piped in that locality.

**Development Control Plan 31 – Access**

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

**Development Control Plan 40 – Construction and Demolition Waste Management**

Matters for assessment under DCP 40 have been taken into account in the assessment of this application against DCP 55 and the proposal is acceptable in this regard.

**Development Control Plan No.43 – Car Parking**

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

**Development Control Plan No.47 – Water Management**

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

**Section 94 Plan**

The development attracts a Section 94 contribution of \$432,201.07, which is required to be paid by **Condition No.79**.

**Likely Impacts**

All likely impacts have been assessed elsewhere in this report.

**Suitability of the Site**

The site is suitable for the proposed development.

**Any Submissions**

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

**Conditions No 15, 30, 52, 60, 64, 84, 102 and 103** have been imposed so as to address the concerns of objectors.

Item 4

**Public Interest**

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

**Any other Relevant Matters Considerations Not Already Addressed**

There are no other matters for discussion.

**CONCLUSION**

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

**RECOMMENDATION**

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

THAT the Council, as the consent authority, grant development consent to DA 1285/04 for the demolition of existing structures and the construction of a residential flat building comprising 23 units including basement parking on land at 9-15 Kings Avenue, Roseville, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

**GENERAL CONDITIONS**

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

Dwg No.	Rev.	Description	Author	Dated	Lodged
A-002	A	Photo Montage	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-003	A	Entry Perspective	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-101	A	Location Plan	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-102	A	Survey Plan	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-103	A	Site Analysis	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-104	A	Existing Building Use	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-105	A	Existing Circulation	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-106	A	Existing Open Space	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-107	A	Opportunities analysis	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-108	C	Building Edges	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-109	C	Landscape Response	Fitzpatrick & Partners	26 November 2004	18 July 2005
A-110	B	Building Performance	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-111	C	Deep Soil Planting	Fitzpatrick & Partners	26 November 2004	18 July 2005

Item 4

A-112	B	Access & Parking	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-113	D	Landscape Area & Site Cover	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-114	B	Sun Diagrams – equinox	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-115	C	Sun Diagrams – June	Fitzpatrick & Partners	8 July 2005	18 July 2005
SK24	A	Level 1 Basement	Fitzpatrick & Partners	17 August 2005	18 August 2005
SK25	A	Level 2 Basement	Fitzpatrick & Partners	17 August 2005	18 August 2005
SK26	A	Level 3 Entry	Fitzpatrick & Partners	17 August 2005	18 August 2005
A-204	C	Level 4	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-205	C	Level 5	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-206	C	Level 6	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-207	D	Level 7	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-208	C	Level 8	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-209	C	Roof	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-301	A	West Elevation Montage	Fitzpatrick & Partners	19 October 2004	18 July 2005
A-302	C	West Elevation	Fitzpatrick & Partners	26 November 2004	18 July 2005
A-303	E	East Elevation	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-304	C	North Elevation	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-305	C	South Elevation	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-401	D	Section A-A	Fitzpatrick & Partners	8 July 2005	18 July 2005
A-501	A	Detailed Entry Plan	Fitzpatrick & Partners	19 October 2004	18 July 2005
SK03	J	Landscape Plan	McGregor & Partners	December 2004	22 April 2005
SK06	A	Section B-B	Fitzpatrick & Partners	14 July 2005	18 July 2005
SK07	A	Section C-C	Fitzpatrick & Partners	14 July 2005	18 July 2005
SK08	B	Diagrammatic Section 1	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK09	B	Diagrammatic Section 2	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK10	B	Diagrammatic Section 3	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK27	A	Detail Section 5	Fitzpatrick & Partners	17 August 2005	18 August 2005
SK12	B	Area Diagram L5	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK13	B	Area Diagram L6	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK14	B	Area Diagram L7	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK15	B	Area Diagram L8	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK16	A	Typical Accessible Plan	Fitzpatrick & Partners	14 July 2005	18 July 2005
SK17	B	Front Boundary Setback Level 1 Basement	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK18	B	Front Boundary Setback Level 2 Basement	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK19	B	Front Boundary Setback Level 3 Entry	Fitzpatrick & Partners	5 July 2005	18 July 2005
SK20	B	Front Boundary Setback Level 4	Fitzpatrick & Partners	5 July 2005	18 July 2005

Item 4

2. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to Council's stormwater pipe in Maclaurin Parade via the approved site stormwater management system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
3. A mandatory rainwater re-use tank system of minimum volume 69m<sup>3</sup> as shown in Patterson Britton & Partners Stormwater Management Plan, together with the additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. DCP47 is available in hard copy at Council and on the Council website. A mains top-up shall be provided for periods of low rainfall.
4. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
5. A maintenance period of six (6) months shall apply to the work in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
6. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
7. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
8. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary

Item 4

erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

9. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 “Off-Street car parking”.
10. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.
11. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at [www.sydneywater.com.au](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.
12. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
13. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
14. A convex mirror is to be provided on the bend at the entry to the lower level carpark.
15. The works are to be carried out in accordance with the recommendations given in Douglas Partners Report 37412, dated October 2004, and subsequent geotechnical reports, including regular inspections during excavation works and geotechnical review of structural drawings and details.
16. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council’s Tree Preservation Order) without prior written consent of Council is prohibited.

Item 4

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

17. Landscape works shall be carried out in accordance with Landscape Drawing No 01 Rev L, & 03 Rev B prepared by McGregor Partners and dated April 2005 submitted with the Development Application, except as amended by the following:
  - The provision of substantial planting in the 6m wide deep soil area located on the southern side of the building.
  - The removal of the sun deck, seating area and associated decking in order to achieve the 1682 square metres of deep soil landscaping. The area being soft landscaped similar to the adjoining areas.
18. REMOVAL of the existing tree/s from Council's nature strip in front of the development site in Kings Ave shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000,000.
19. All disturbed areas, which are not to be built upon or otherwise developed, shall be rehabilitated to provide permanent protection from soil erosion within fourteen (14) days of final land shaping of such areas.
20. Canopy and/or root pruning of the following tree/s which is necessary to accommodate the approved building works shall be undertaken by an experienced Arborist/Horticulturist, with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate:

Tree/Location

#02 *Angophora costata* (Sydney Redgum)  
Adjacent to the north east site corner

#06 *Eucalyptus pilularis* (Blackbutt)  
Centrally located in rear garden

#08 *Eucalyptus saligna* (Bluegum)  
Centrally located in rear garden

#11 *Syncarpia glomulifera* (Turpentine)  
Adjacent to southern site boundary on the Kings Ave nature strip

21. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting

## Item 4

agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

22. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
#02 <i>Angophora costata</i> (Sydney Redgum) Adjacent to the north east site corner	5.0m
#04 <i>Eucalyptus paniculata</i> (Grey Ironbark) Adjacent to north eastern/rear site boundary	3.0m
#05 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to north eastern/rear site boundary	4.0m
#06 <i>Eucalyptus pilularis</i> (Blackbutt) Centrally located in rear setback	5.0m
#08 <i>Eucalyptus saligna</i> (Bluegum) Centrally located in rear garden	4.5m
#11 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to southern site boundary on the Kings Ave nature strip	3.0m

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

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

Tree/Location	Radius From Trunk
#08 <i>Eucalyptus saligna</i> (Bluegum) Centrally located in rear garden	8.0m
#11 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to southern site boundary on the Kings Ave nature strip	6.0m

Item 4

24. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
25. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Kings Ave. The trees are to be planted as a formal evenly spaced avenue planting. The tree/s used shall be 25 litre container size specimen/s grown from progeny stock.

Tree Species

*Eucalyptus saligna* (Bluegum) x 6

26. Following removal of the existing trees from Council's Kings Ave nature strip in front of the development site, the nature strip shall be rehabilitated to the satisfaction of Council's Director Open Space at no cost to Council.
27. 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.
28. The following noxious and/or undesirable plant species shall be removed from the property prior to completion of the proposed building works. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to the release of the final Compliance Certificate:

Plant Species

*Asparagus densiflorus* (Asparagus Fern)  
*Cinnamomum camphora* (Camphor laurel)  
*Cotoneaster sp.* (Cotoneaster)  
*Erythrina sp.* (Coral Trees)  
*Hedychium gardnerianum* (Ginger lily)  
*Hedera helix* (English Ivy)  
*Ligustrum lucidum* (Large-leaved Privet)  
*Ligustrum sinense* (Small-leaved Privet)  
*Lonicera japonica* (Honeysuckle)  
*Nephrolepis cordifolia* (Fishbone fern)  
*Tradescantia albiflora* (Wandering Jew)  
*Zantedeschia aethiopica* (Arum Lily)

29. The applicant is advised that Energy Australia advise that an electrical substation is to be established on the premises and an area to satisfy Energy Australia's conditions for a kiosk type substation or arrange for the construction of a building type substation that may be more appropriate.

Item 4

30. The spill from any lighting is to be maintained within the site in accordance with AS 4282-1997 : Control of obtrusive effects of outdoor lighting.
31. Drying areas being provided on balconies or a discreet drying area being provided in the communal landscaped area.
32. "Peep holes" shall be provided to enhance all units for personal safety.
33. 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.
34. 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.
35. 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.
36. 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.
37. **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.
38. 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.
39. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.

Item 4

40. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
41. 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.
42. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
  - a. The type and size of machinery proposed.
  - b. The routes of all trucks to convey material to and from the site.
  - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.

43. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
44. 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.

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

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

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

46. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Item 4

47. If the work involved in the erection or demolition of a building:
- is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

48. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
49. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
50. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
51. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
52. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.
- The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.
53. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
54. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.

Item 4

- a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
    - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
    - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
    - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
  - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
55. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
  56. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
  57. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
  58. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
  59. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
  60. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
  61. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - a. stating that unauthorised entry to the work site is prohibited, and
    - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

Item 4

This clause does not apply to:

- a. building work carried out inside an existing building, or
  - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
62. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
63. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
64. Noise emission from the mechanical ventilation system including fan units is not to exceed the background noise level when measures at the nearest property boundary.

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

65. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing four lots. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. The condition is imposed to ensure a continuous structure will not be placed across separate titles.
66. Prior to issue of the Construction Certificate, footpath and driveway levels for the required driveway crossings between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

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

Item 4

67. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).
68. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater retention/detention system. The storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. The design may be generally in accordance with the stormwater management plan Figure 2 prepared by Patterson Britton, advanced as necessary for construction issue purposes.
69. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, carwashing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use shall be shown on this design to a detail suitable for installation by the plumbing contractor. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
70. A dedicated carwashing area is to be shown on the Construction Certificate plans. The waste collection vehicle manoeuvring area or a visitor parking bay may be used for this facility. The plans are to be approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
71. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47. New connection points to the public drainage system must be shown accurately on the plan and shall be made in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004.
72. **Prior** to the issue of a Construction Certificate the applicant shall lodge a **\$50,000** (fifty thousand dollars) public infrastructure damage bond with Council. This bond is to cover the

Item 4

restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b) The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
- c) Works in the public road associated with the development are to an unacceptable quality.

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

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

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

74. A cash bond/bank guarantee of \$18 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

#01 Jacaranda mimosifolia (Jacaranda) \$1 000.00  
Adjacent to the south eastern site corner

Item 4

#02 Angophora costata (Sydney Redgum) \$2 000.00  
Adjacent to the north east site corner

#03 Eucalyptus saligna (Bluegum) \$2 000.00  
Adjacent to north eastern/rear site boundary

#04 Eucalyptus paniculata (Grey Ironbark) \$1 000.00  
Adjacent to north eastern/rear site boundary

#05 Eucalyptus pilularis (Blackbutt) \$2 000.00  
Adjacent to north eastern/rear site boundary

#06 Eucalyptus pilularis (Blackbutt) \$2 000.00  
Centrally located in rear setback

#08 Eucalyptus saligna (Bluegum) \$4 000.00  
Centrally located in rear garden

#11 Syncarpia glomulifera (Turpentine) \$2 000.00  
Adjacent to southern site boundary on the Kings Ave nature strip

#12 Eucalyptus saligna (Bluegum) \$2 000.00  
Adjacent to western site corner on Kings Ave nature strip

75. 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.

76. 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).

Item 4

77. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
78. 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.
79. 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 NINETEEN (19) ADDITIONAL DWELLINGS IS CURRENTLY \$432,201.07. 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 - Roseville	\$6,384.75
3. Sportsgrounds Works	\$1,318.32

## Item 4

4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

## OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

80. The decks to units 3.03, 4.03, 5.03, 6.01 and 7.01 being in accordance with drawings SK21, SK22 and SK23 so that they are not less than 4.5 metres from the centre of the trunk of tree number 8. The basement carpark being set back from the southern site boundary in accordance with drawings SK24A, SK25A, SK26A and SK27A. Details to be included with the Construction Certificate plans.

## CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

81. 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.
82. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council prior to the commencement of work.
83. Prior to the commencement of any works on site the applicant shall submit **to Council** a full dilapidation report on the visible (including photos) and structural condition of MacLaurin Parade, Corona Avenue and Kings Avenue including full road width, kerb and gutter, and the intersection. The report must be completed by a consulting structural/civil engineer. A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council. Other Council roads in the area are not available for construction traffic apart from vehicles less than 3.0 tonne gross unless written approval is received from Council and a dilapidation report has been completed on the roads.
84. Prior to the commencement of any works on site and prior to issue of the Construction Certificate, the applicant shall submit to the Principal Certifying Authority (PCA) and Council a full dilapidation report on the visible and structural condition of the existing structure at 7 Kings Avenue.

Item 4

The report must be completed by a consulting structural/geotechnical engineer. A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council.

85. Prior to the commencement of any excavation works on site, the applicant must submit to the Principal Certifying Authority the results of the excavation trials and vibration monitoring as recommended in section 6.2 of Douglas Partners Report 37412, dated October 2004. This is to ensure that vibration created by the method of construction does not adversely impact on the surrounding properties and infrastructure. A qualified and practising geotechnical engineer must oversee the excavation trials and all associated investigations. Excavation is to proceed in accordance with the recommendations of the geotechnical engineer.
86. Prior to the commencement of any works on site the applicant must submit, for review by Council Engineers, a **construction site layout plan**. This is to entail a plan view of the entire site and frontage roadways indicating scale locations for:
  - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and vehicles in the frontage roadway,
  - All traffic is to use Maclaurin Parade and Kings Avenue. No site traffic is to enter or leave via Corona Avenue.
  - Turning areas within the site for construction vehicles, allowing a forward egress for all construction vehicles on the site,
  - The locations of proposed Work Zones in Kings Avenue,
  - Warning signs in Maclaurin Parade of siteworks ahead;
  - A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
  - Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
  - The provision of an on-site parking for employees, tradesperson and construction vehicles

The construction site layout plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained and submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. The traffic management measures contained in the approved plan shall be implemented in accordance with the above plans prior to the commencement of any works on-site including excavation.

87. Prior to the commencement of any works on site, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install a 'Work Zone' along the Kings Avenue frontage of the site. Further, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed and the adopted fee paid prior to commencement of any

Item 4

works on the site. Where such a 'Work Zone' is not considered to be feasible by Council Traffic Engineers, the zone will not be required. This condition is to facilitate a dedicated on-street parking area for construction related vehicles during work hours. A need for a 'Work Zone' arises given the scale of the works, existing on-street parking restrictions around the site and the existing high demand for on-street parking in this location.

88. Prior to the commencement of any works on site, the Applicant must liaise with Council's Urban Forest Officer to arrange for the vegetation between the northern driveway entrance and Maclaurin Parade to be trimmed to provide a clear line of sight for vehicles manoeuvring into and out of the site.
89. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in Metres
#01 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to the south eastern site corner	5.0m
#03 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to north eastern/rear site boundary	8.0m
#05 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to north eastern/rear site boundary	6.0m
#06 <i>Eucalyptus pilularis</i> (Blackbutt) Centrally located in rear setback	5.0m
#11 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to southern site boundary on the Kings Ave nature strip	3.0m
#12 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site corner on Kings Ave nature strip	6.0m
#13 <i>Angophora costata</i> (Sydney Redgum) Adjacent to western site corner within Council's road reserve	6.0m
#18 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the northern site boundary	6.0m

Item 4

90. To preserve the ongoing health and vigour of tree #2 *Angophora costata* (Sydney Redgum) located adjacent to the eastern site boundary, protection fencing will require two stages. The first stage is to construct a 1.8m fence at a 2.8m metre distance from the base of the tree along the edge of the pool line and to a 9.0m radius in both directions, encompassing tree #2 and the Jacaranda #1 on the high side. Once the fence has been constructed, demolition of the swimming pool can proceed ensuring that the tree receives ample protection during the demolition of the pool.

Stage 2 protection requires fencing to a 6.0m radius on the trees northern side encompassing the preservation of the Jacaranda to the east of the tree. The fill left at the base of the tree as a consequence of the pools construction should be removed and the soil level reinstated to close to original grade. This is to be done under the direct supervision of the site Arborist to ensure roots are not exposed during the removal of the waste fill.

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

Tree/Location	Radius From Trunk
#08 <i>Eucalyptus saligna</i> (Bluegum) Centrally located in rear garden	4.0m

92. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
93. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

### CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

94. 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.
95. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:

Item 4

- a) Completion of the new driveway crossings in accordance with levels and specifications issued by Council.
- b) Reconstruction/ repair as necessary of the concrete footpath over the entire site frontage of Kings Avenue.
- c) Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to footway, turfed verge and upright kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
- d) Full repair and resealing of any road surface damaged during construction.
- e) Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

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

- 96. Prior to issue of an Occupation Certificate the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater retention/detention facilities (including all ancillary reticulation plumbing) on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88B instruments for protection of on-site retention/detention facilities (DCP47 appendix 14) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to issue of an Occupation Certificate.
- 97. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):
  - a) A copy of the approved Construction Certificate stormwater retention/detention design for the site, and
  - b) A copy of the works-as-executed drawing of the as-built on-site retention/detention system, and
  - c) The Engineer's certification of the as-built system.

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

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

Item 4

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

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

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

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

100. Prior to issue of an Occupation Certificate the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:
- a) Construction of the stormwater drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and
  - b) The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500.3.2, and
  - c) All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

Item 4

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

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

101. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” and the parking layout plans approved for the Construction Certificate.

102. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition full dilapidation report on the visible and structural condition of the existing structure at 7 Kings Avenue.

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

103. Prior to issue of the Occupation Certificate the applicant shall submit **to Council** a follow up dilapidation report on the visible (including photos) and structural condition of Maclaurin Parade, Corona Avenue and Kings Avenue including full road width, kerb and gutter, and the intersection. The report must be completed by a consulting structural/civil engineer. The structural conditions of all structures originally assessed prior to the commencement of works, must be assessed and the results submitted to Council.

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

105. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.

Item 4

106. On completion of the LANDSCAPE WORKS/TREE PLANTING OR SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.

**BUILDING CONDITIONS**

107. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
  - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
  - c. Retaining walls and associated drainage.
  - d. Wet area waterproofing details complying with the Building Code of Australia.
  - e. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
  - f. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
  - g. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
108. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
109. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
110. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:
- |                 |               |               |
|-----------------|---------------|---------------|
| Risers:         | Maximum 190mm | Minimum 115mm |
| Going (Treads): | Maximum 355mm | Minimum 240mm |

Item 4

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

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

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

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

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

112. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Wet area waterproofing details complying with the Building Code of Australia.
  - b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.
  - c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
  - d. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
  - e. A Compliance Certificate from a suitably qualified person that the Residential Flat Building complies with the relevant deemed to satisfy provisions of the Building Code of Australia.
  - f. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.
  - g. A Registered Surveyor's Report on completion of footings but before external walls are above floor level verifying compliance with this consent.
  - h. A Registered Surveyor's Report confirming approved levels of the ground floor.
  - i. A Registered Surveyor's Report confirming approved levels of the first floor.
  - j. Registered Surveyor's Report confirming that the 'height' of the building (as defined in the Ku-ring-gai Planning Scheme Ordinance 1971) does not exceed 8.0 metres.
  - k. A registered surveyors report confirming the deep soil landscaped area is no less than 50% of the site area (as defined in the Ku-ring-gai Planning Scheme Ordinance.
113. The reflectivity index (expressed as a percentage of the reflected light falling upon any surface) of external glazing for windows or walls of the proposed development is to be no greater than 20%. Written confirmation of the reflectivity index of materials is to be submitted with the Construction Certificate.

**Item 4**

G Bolton  
**Executive Assessment Officer**

R Kinninmont  
**Team Leader**  
**Assessment Team - South**

M Prendergast  
**Manager**  
**Development & Regulation**

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

**Attachments:**

- Site Location Plan - 526785**
- Site Analysis - 526787**
- Site Plan - 526796**
- Section Plans - 526805**
- Elevation Plans - 526807**
- Roof Plan - 526816**
- Shadow Diagrams - 526863**
- Zoning Extract – 526865**
- Confidential - Landscape Plan showing floor plans**
- Confidential Floor Plans**

# LOCATION SKETCH

## 9-15 KINGS AVENUE, ROSEVILLE NSW

### DEVELOPMENT APPLICATION No 1285/04



#### 33 OBJECTIONS WITHIN NOTIFICATION AREAS AND 58 OBJECTIONS FROM OUTSIDE NOTIFICATION AREA



AGREEMENT



OBJECTION



SUBJECT LAND



PETITION



SUBMISSION



CIRCULATED AREA






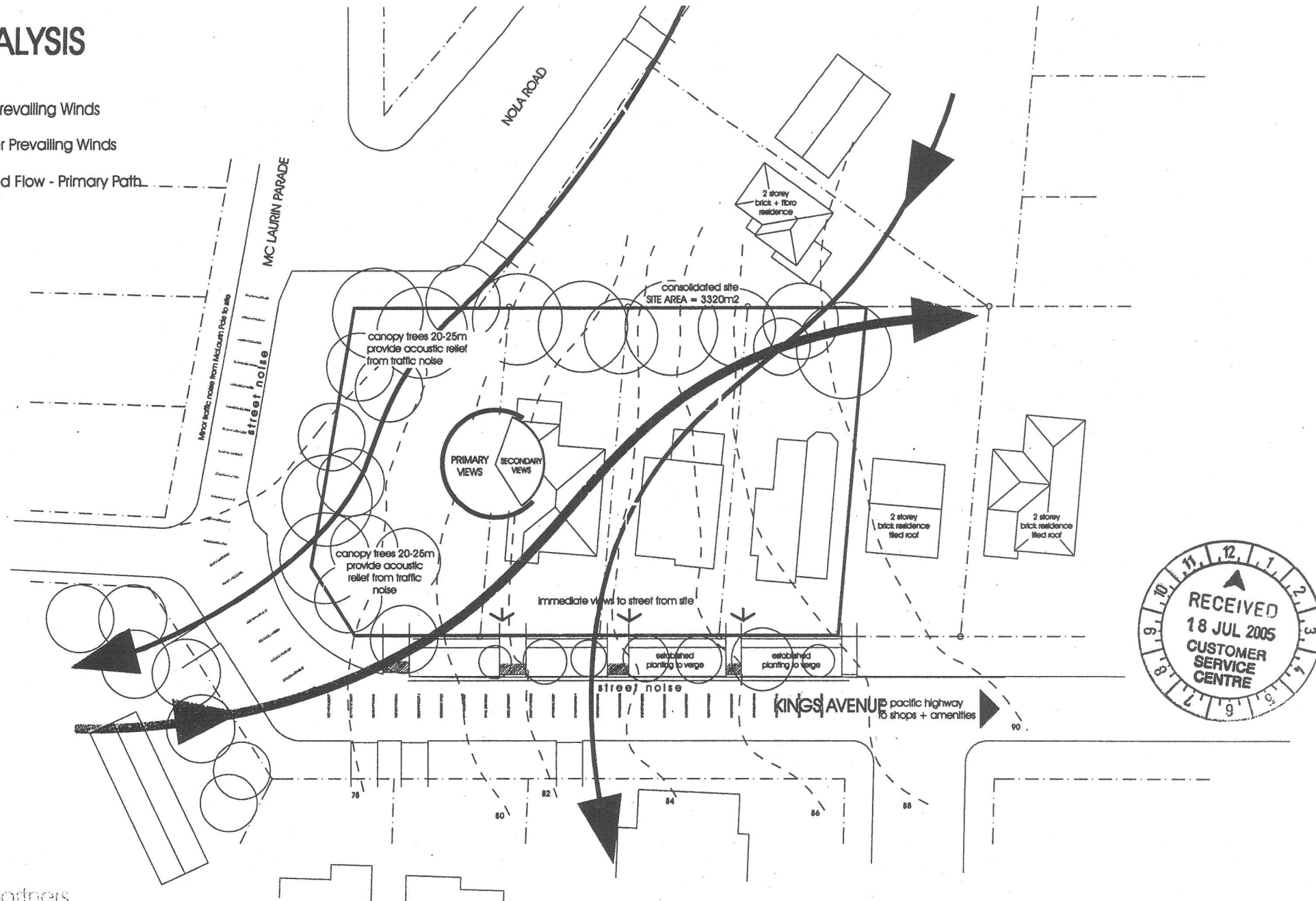
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26-05-2005



# SITE ANALYSIS

-  Winter Prevailing Winds
-  Summer Prevailing Winds
-  Overland Flow - Primary Path



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## NOTES

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## AMENDMENTS

Amd	Date	Description
A	04.10.19	Issued for I/A

Chk:

## KEY PLAN

## CLIENT

ETC Development Trust

## PROJECT

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## SCALE

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## PRINT DATE

14/07/2005  
APPROVED

## DRAWING

Site Analysis

## STATUS

development application

## PROJECT NO.

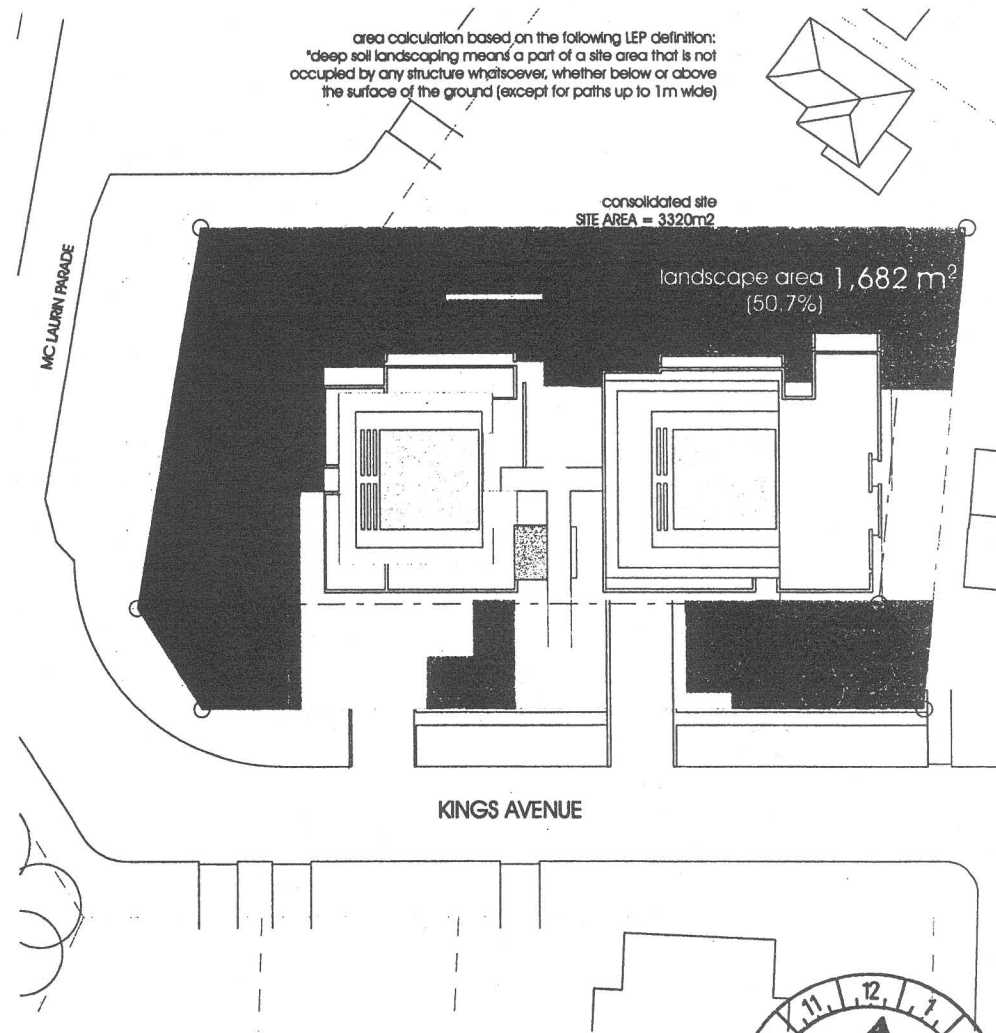
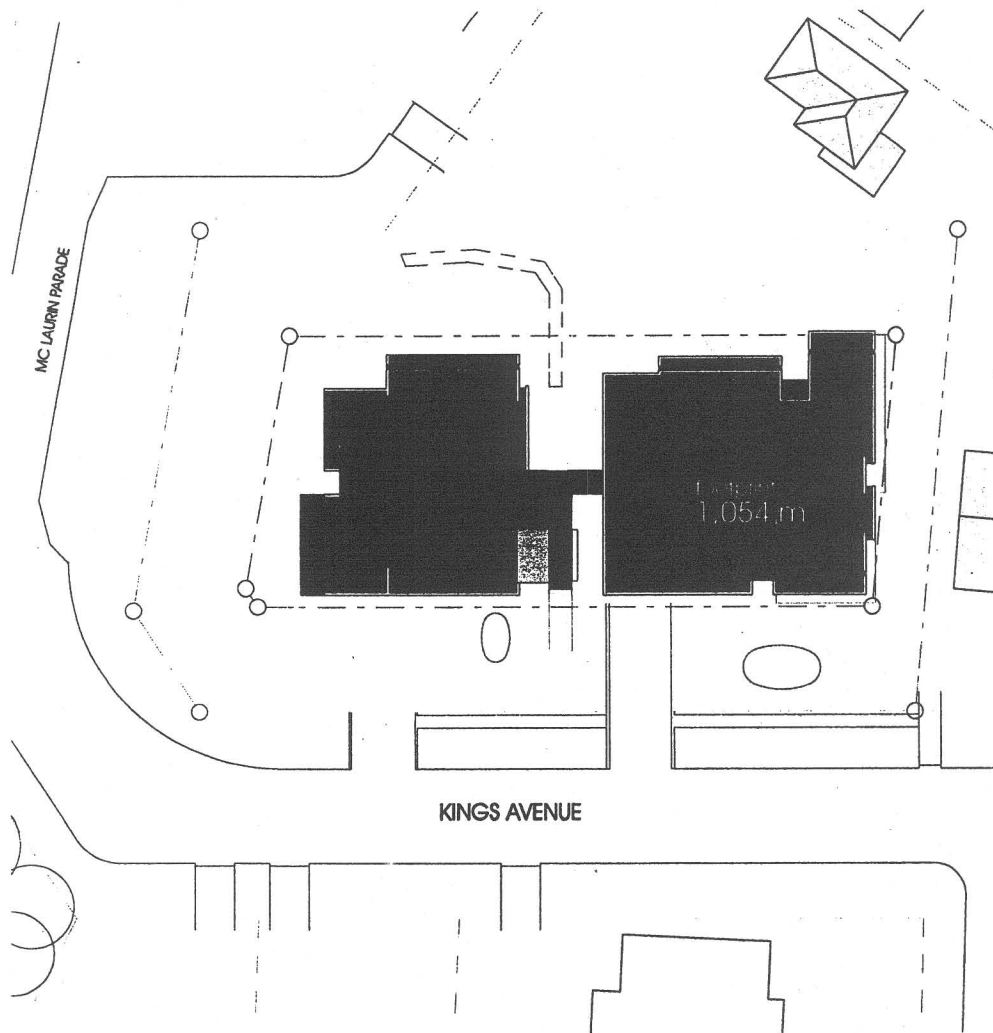
2334

## DRAWING NO.

A-103

## ISSUE

A



area calculation based on the following LEP definition:  
 "deep soil landscaping means a part of a site area that is not occupied by any structure whatsoever, whether below or above the surface of the ground (except for paths up to 1m wide)"

consolidated site  
 SITE AREA = 3320m<sup>2</sup>

landscape area 1,682 m<sup>2</sup>  
 (50.7%)

KINGS AVENUE

KINGS AVENUE

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#### AMENDMENTS

Amnd	Date	Description	Chk
A	04.10.19		
B	04.10.25	Issued for DA	
C	05.06.09	Issued for DA	
D	05.07.08	DA resubmission - front setback increased	

#### KEY PLAN

#### CLIENT

ETC Development Trust

#### PROJECT

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#### PRINT DATE

14/07/2005  
 APPROVED

#### STATUS

development application

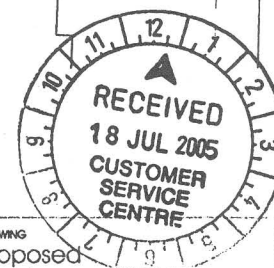
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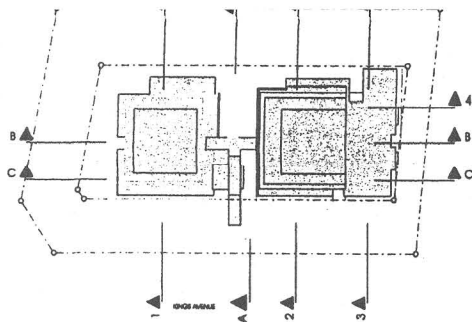
Proposed  
 Landscape + Site Cover

PROJECT NO.  
 2334

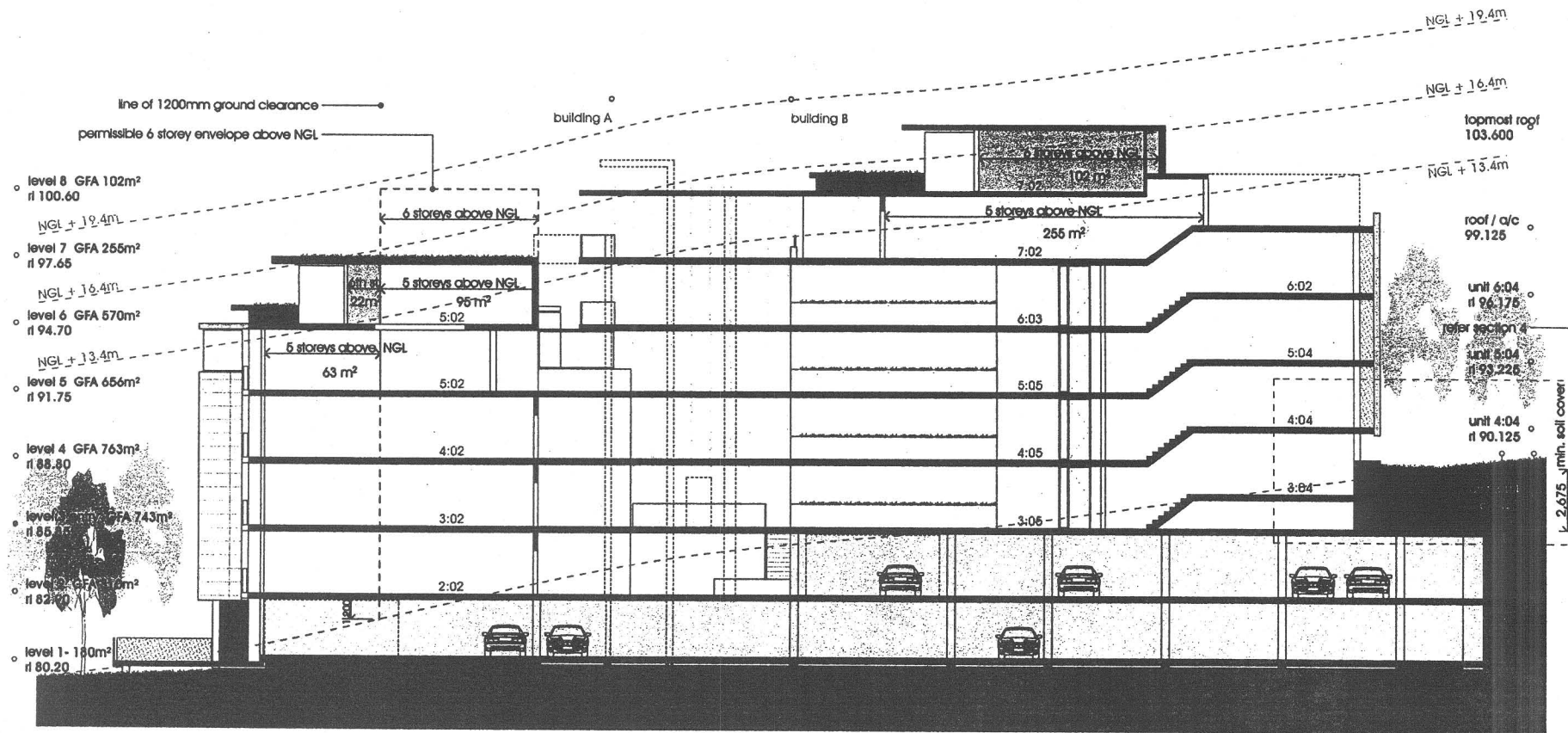
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ISSUE  
 D





Key Plan



DIAGRAMMATIC SECTION B-B

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AMENDMENTS

Am Date Description

Chk

KEY PLAN

CLIENT

ETC Development Trust

PROJECT

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DRAWING

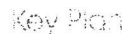
DA resubmission of  
section B

PROJECT NO.  
2334

DRAWING NO.  
SK06

STATUS  
development application





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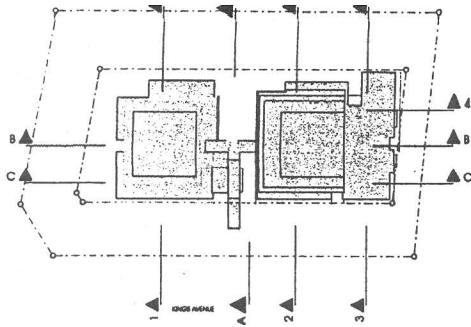
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Do not scale drawings. Check dimensions before commencing work.

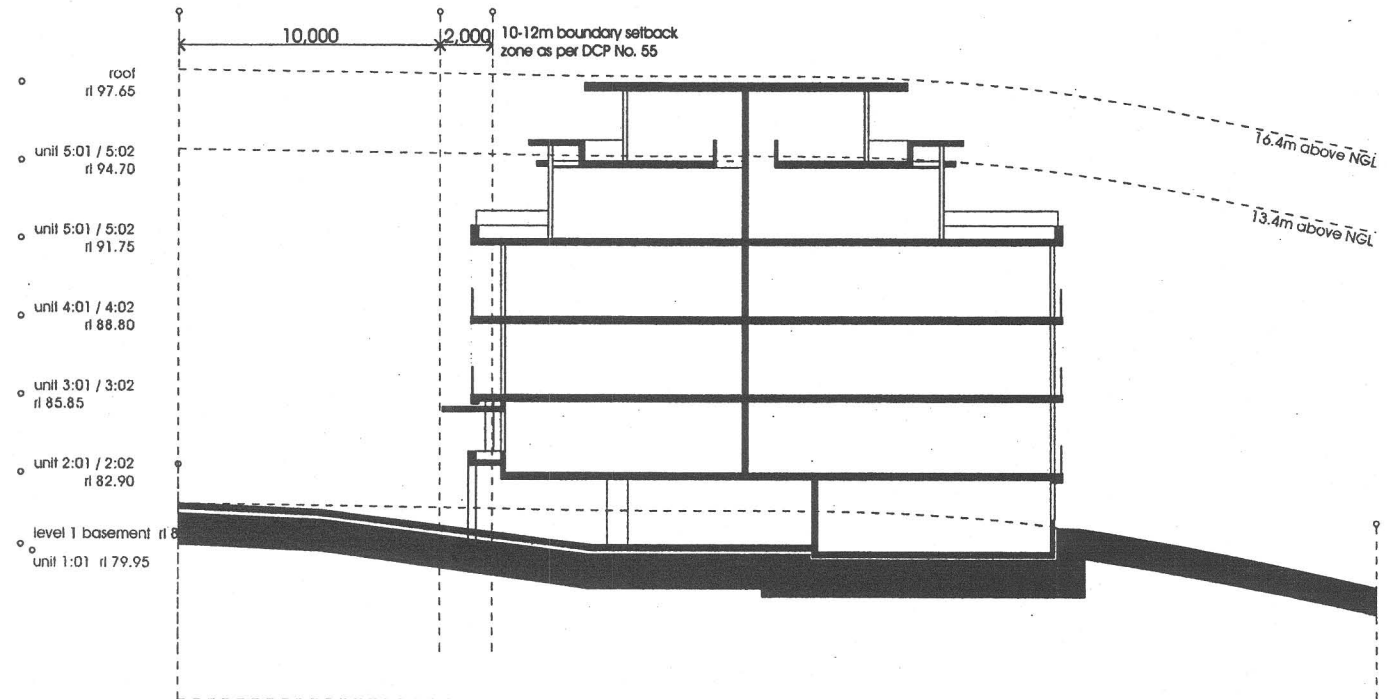
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ISSUE  
A





Key Plan



DIAGRAMMATIC SECTION 1



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Do not scale drawings. Check dimensions before commencing work.  
Inconsistencies are to be reported to fitzpatrick + partners.

AMENDMENTS

Am	Date	Description	Chk
B	05.07.08	DA resubmission - front setback increased	

KEY PLAN

CLIENT

ETC Development Trust

PROJECT

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STATUS  
development application

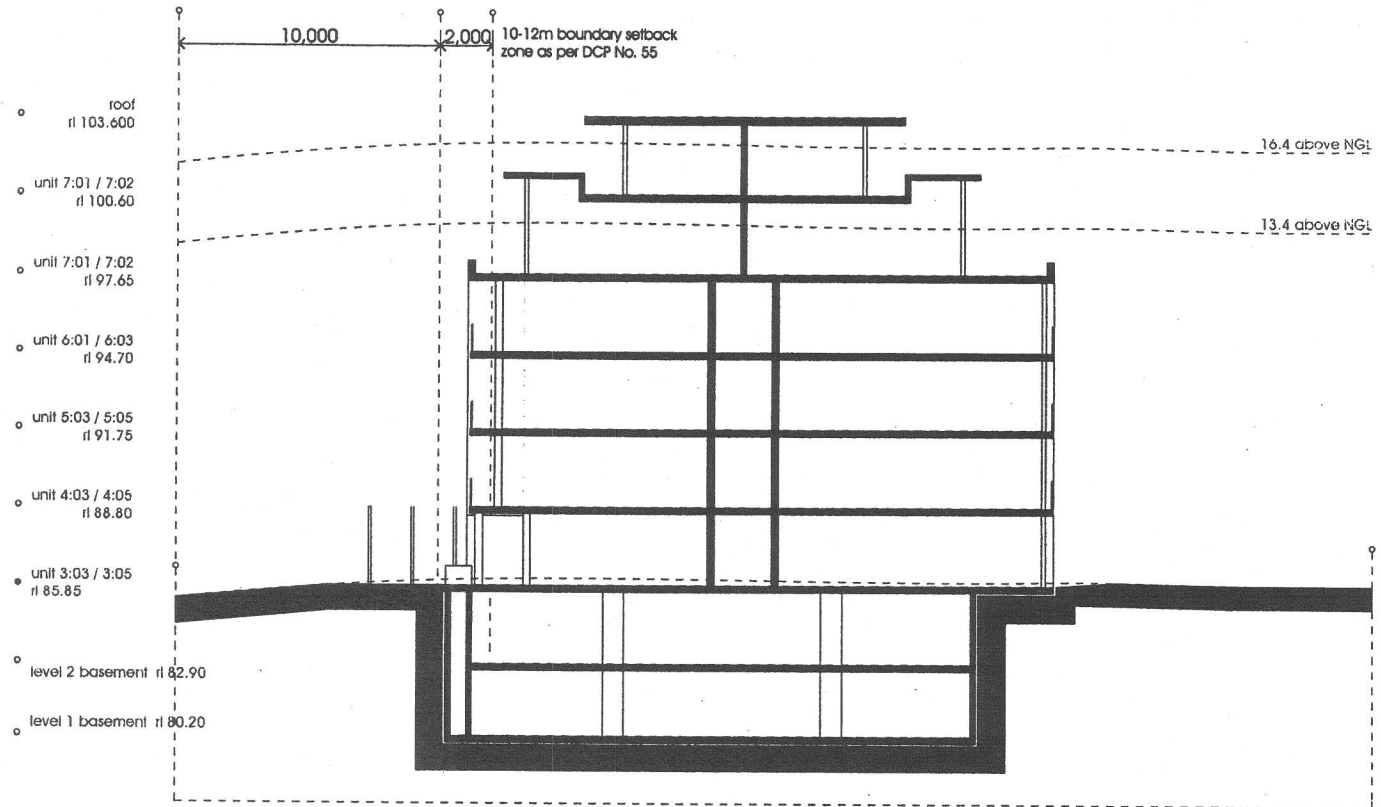
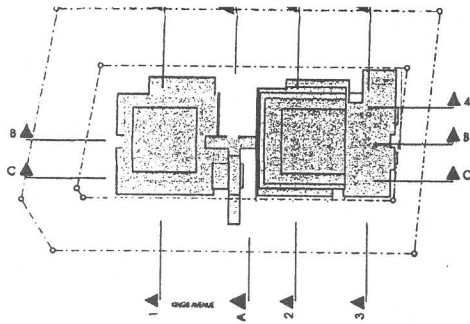
DRAWING

DA resubmissions  
diagrammatic section 1

PROJECT NO.  
2334

DRAWING NO.  
SK08

ISSUE  
B



DIAGRAMMATIC SECTION 2



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NOTES

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Inconsistencies are to be reported to fitzpatrick + partners.

AMENDMENTS

Amd	Date	Description	Chk
B	05/07/04	DA re-submission - front setback increased	

KEY PLAN

CLIENT

ETC Development Trust

PROJECT

Kings Ave Roseville

fitzpatrick + partners  
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P1 + 61 2 9880 2322 WJ www.fitzpatrickpartners.com

PROJECT NORTH



SCALE  
1:100 @ A1  
1:200 @ A3  
CHECKED

PRINT DATE  
14/07/2005  
APPROVED

1 50mm on original

STATUS

development application

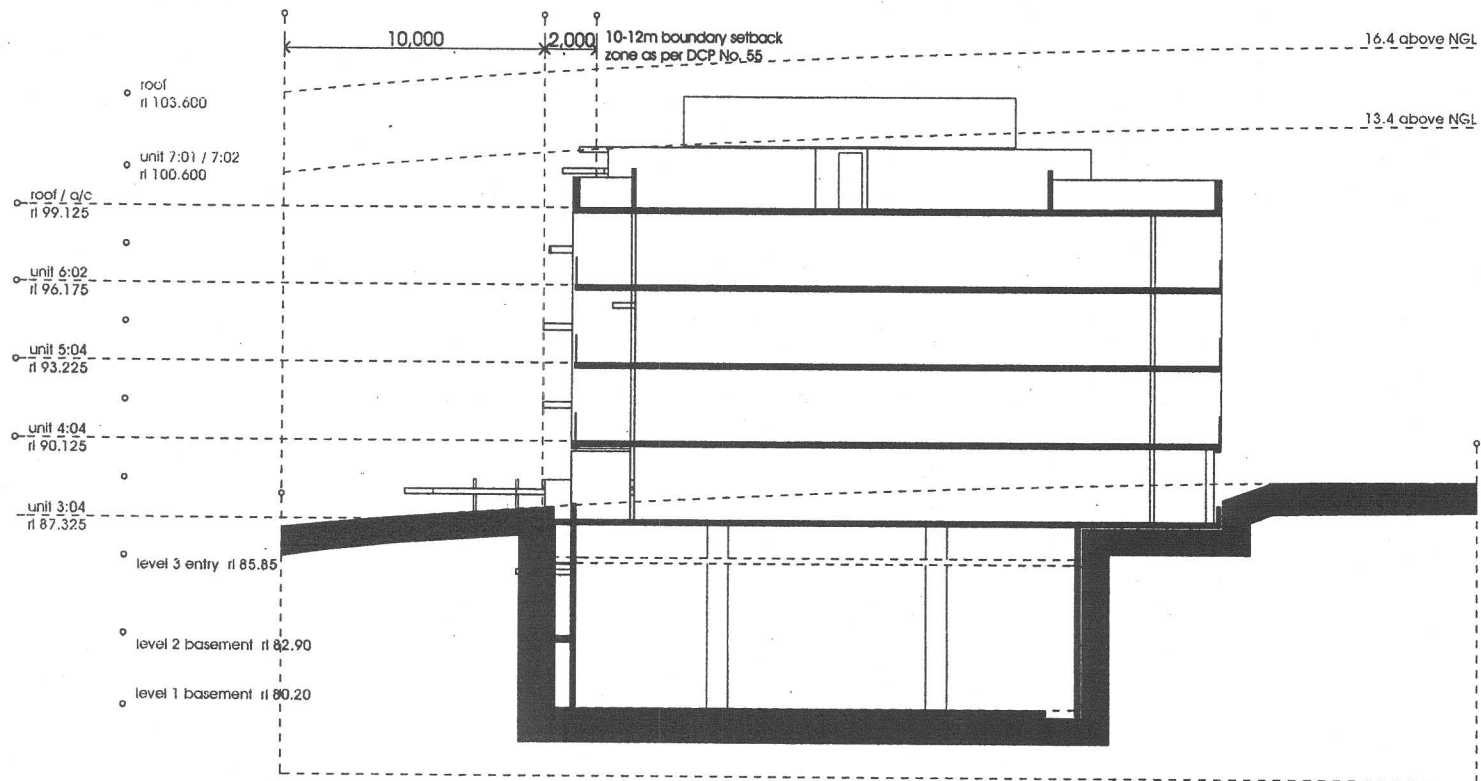
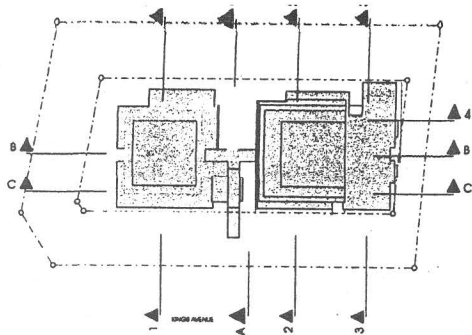
DRAWING

DA resubmissions  
diagrammatic section 2

PROJECT NO.  
2334

DRAWING NO.  
SK09

ISSUE  
B



DIAGRAMMATIC SECTION 3



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AMENDMENTS

Amend	Date	Description	Chk
R	05.07.08	DA resubmission - front setback increased	

KEY PLAN

CLIENT

ETC Development Trust

PROJECT

Kings Ave Roseville

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PROJECT NORTH



1:50mm on original

SCALE  
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1:200 @ A3  
CHECKED

PRINT DATE  
14/07/2005  
APPROVED

STATUS

development application

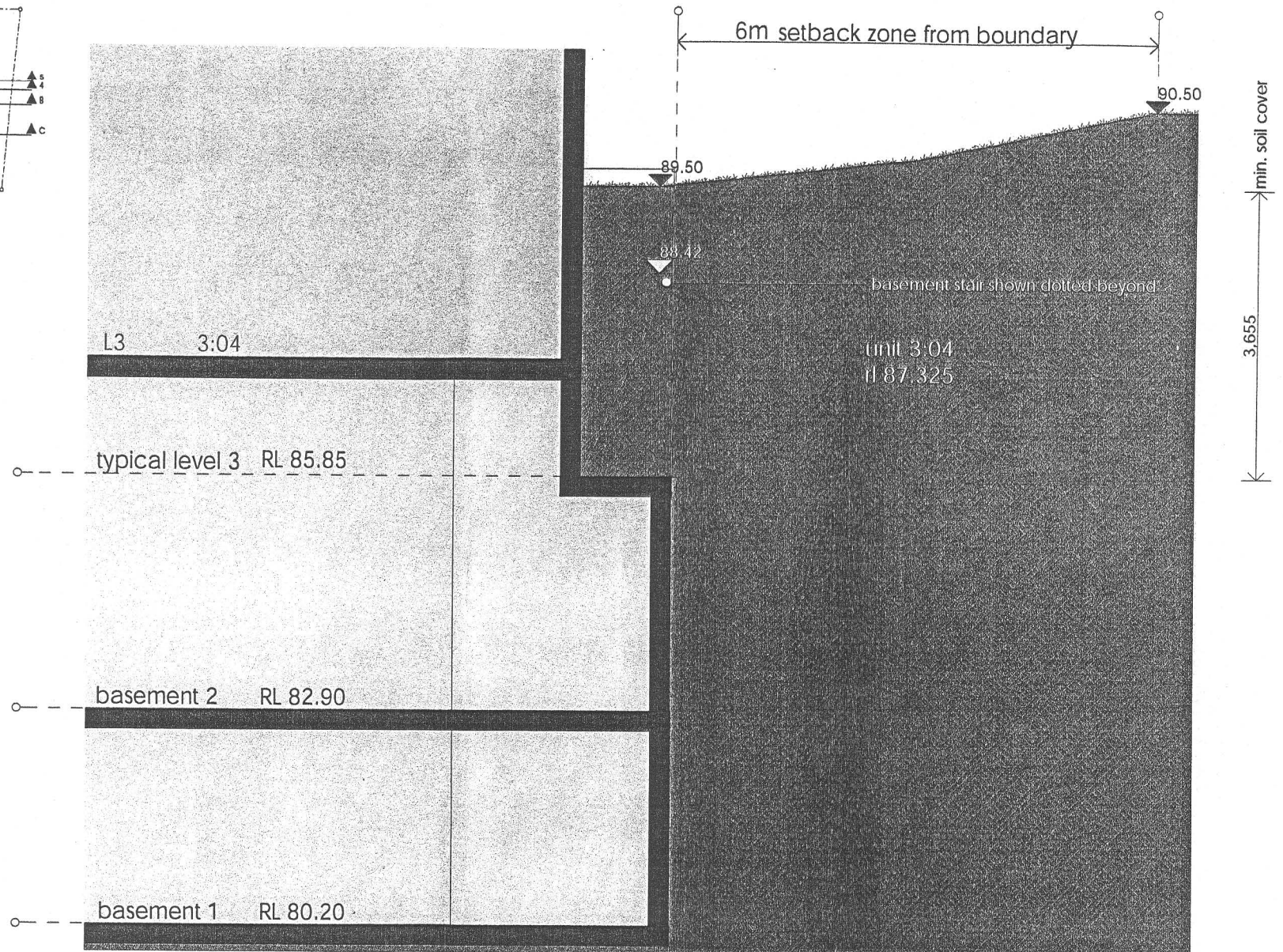
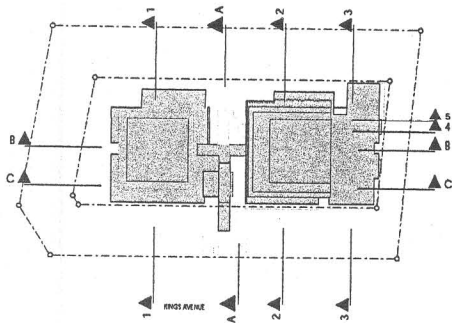
DRAWING

DA resubmissions  
diagrammatic section 3

PROJECT NO.  
2334

DRAWING NO.  
SK10

ISSUE  
B



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#### NOTES

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#### AMENDMENTS

Amd	Date	Description	Chk
A	05/04/17	DA resubmission - changes to basement	

#### KEY PLAN

#### CLIENT

ETC Development Trust

#### PROJECT

Kings Ave Roseville

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#### PROJECT NORTH



1:50m on original

SCALE  
1:25 @ A1  
1:50 @ A3  
CHECKED

#### PRINT DATE

17/04/2005  
APPROVED

STATUS  
development application

#### DRAWING

DA Resubmission  
detail section 5

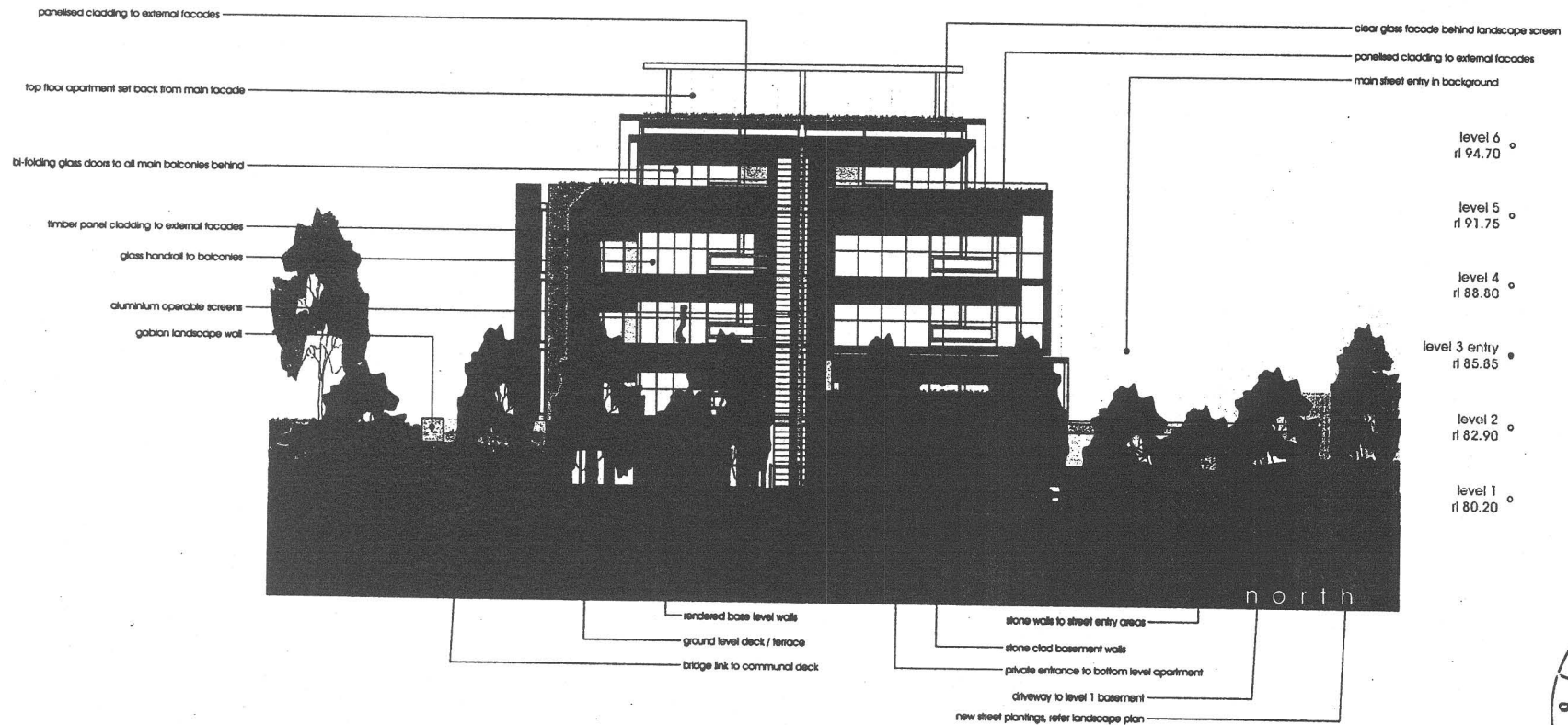
PROJECT NO.  
2334

DRAWING NO.  
SK27

ISSUE  
A





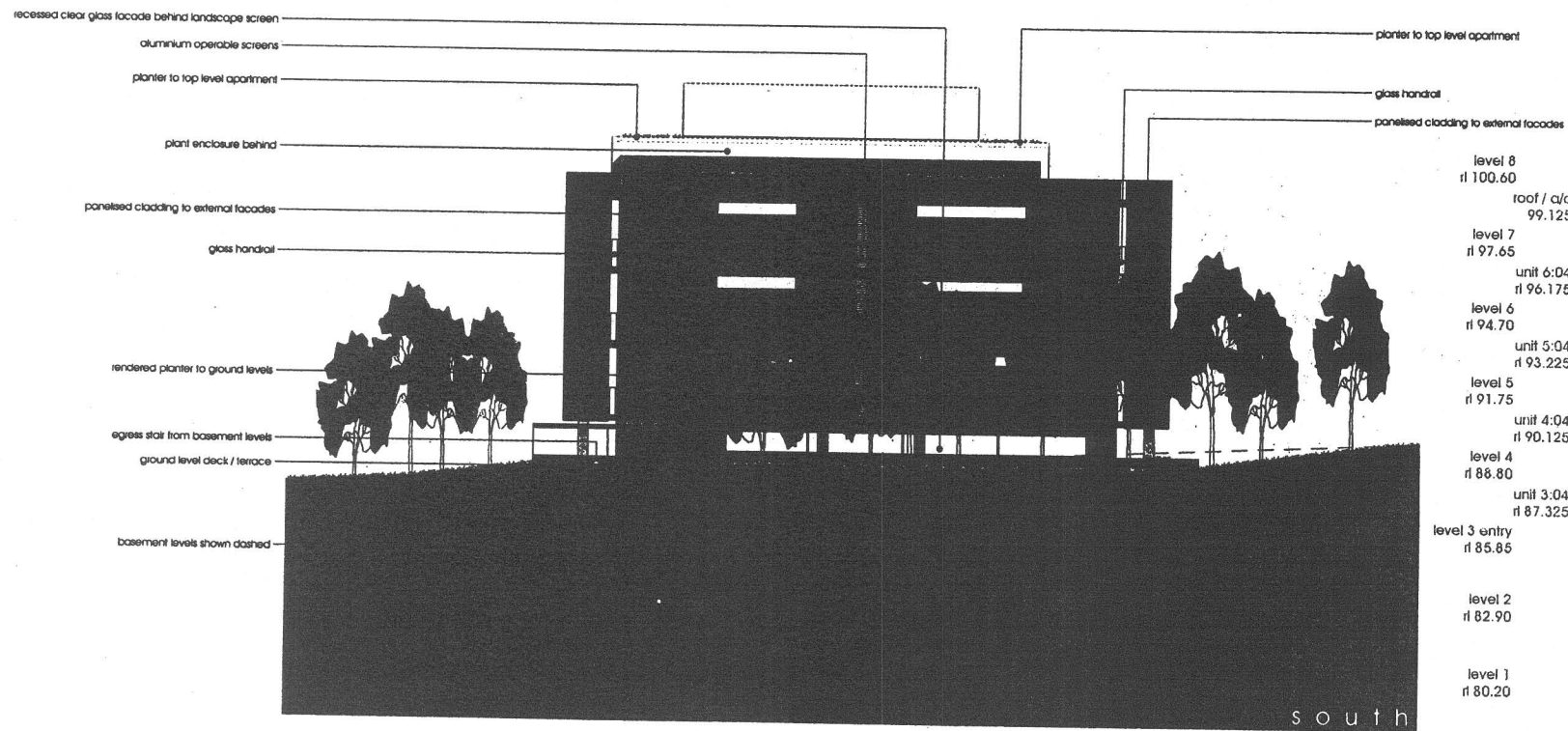


**NOTES**  
 The drawings are prepared for the purpose of providing information only and are not to be used for construction purposes. The drawings are not to be used for construction purposes. The drawings are not to be used for construction purposes. The drawings are not to be used for construction purposes.

ETC Development Trust

Kings Ave Roseville

PROJECT NO: 2334  
 DRAWING NO: A-304  
 DATE: 18 JUL 2005  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 APPROVED BY: [Name]



# NOTES

1. See drawing to confirm that the elevation is a full section, representing  
 a section through the building and not a section through the site.  
 2. All dimensions are in millimetres unless otherwise stated.  
 3. All dimensions are in millimetres unless otherwise stated.  
 4. All dimensions are in millimetres unless otherwise stated.  
 5. All dimensions are in millimetres unless otherwise stated.

## REVISIONS

Rev	Date	Description
1	18/07/05	Initial design
2	18/07/05	Revised design
3	18/07/05	Final design

## APPROVALS

Rev	Date	Description
1	18/07/05	Initial design
2	18/07/05	Revised design
3	18/07/05	Final design

## ISSUES

Rev	Date	Description
1	18/07/05	Initial design
2	18/07/05	Revised design
3	18/07/05	Final design

## STATUS

Rev	Date	Description
1	18/07/05	Initial design
2	18/07/05	Revised design
3	18/07/05	Final design

ETC Development Trust

Kings Ave Roseville

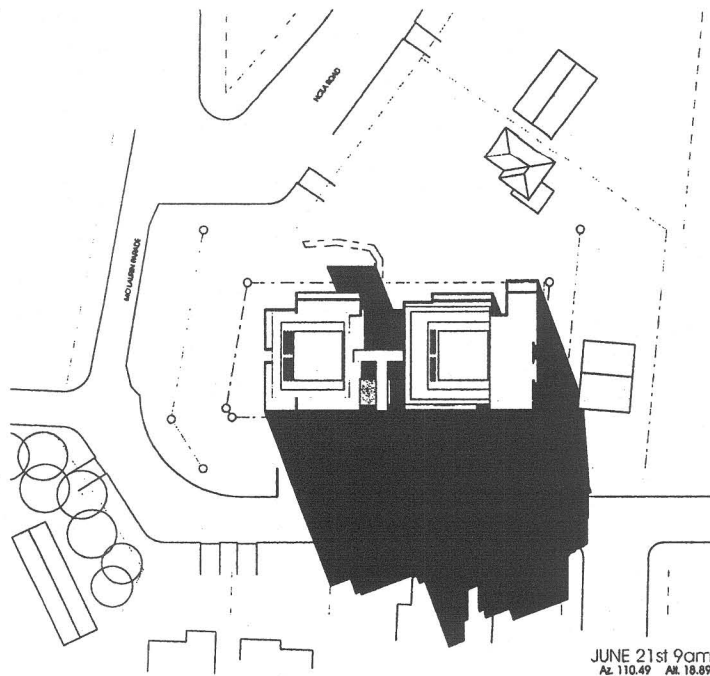
PROJECT NO: 2334  
 ELEVATION: South

DATE: 18/07/05  
 DRAWN BY: A-305

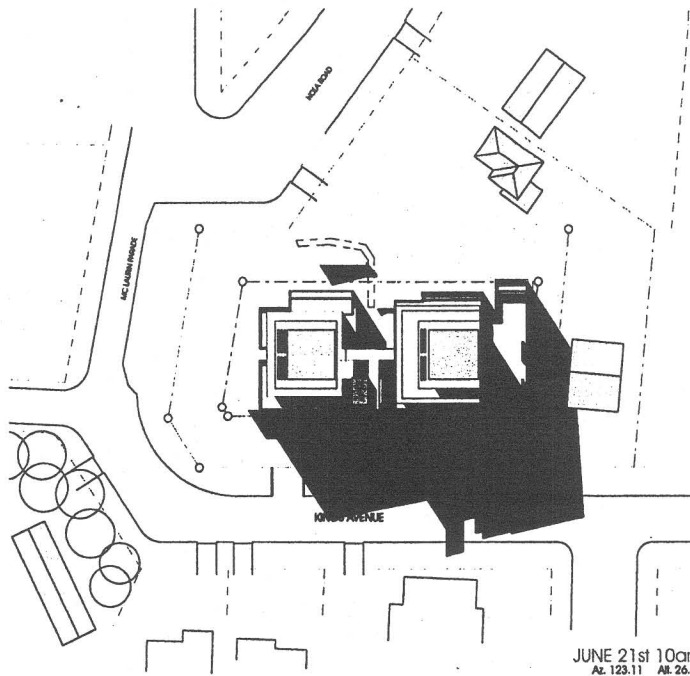
REVISION NO: 1  
 DATE: 18/07/05

C

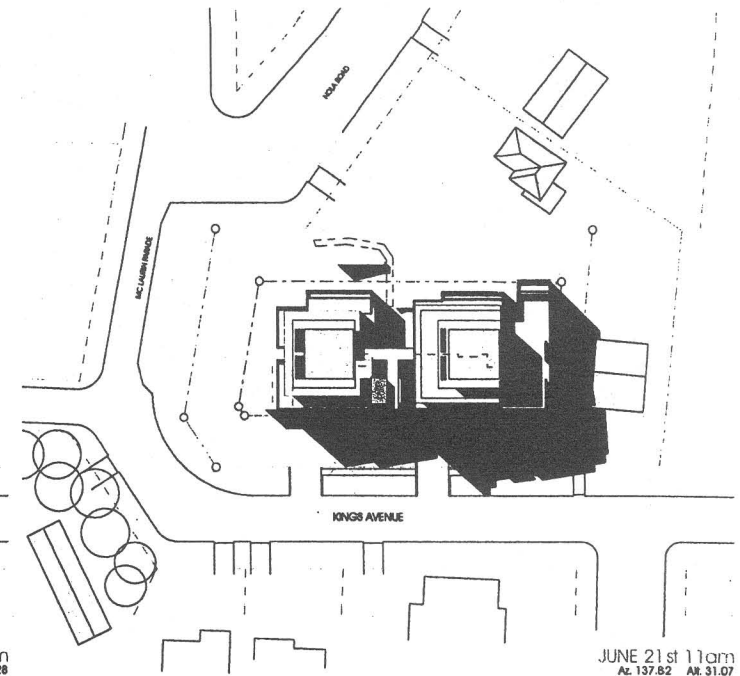




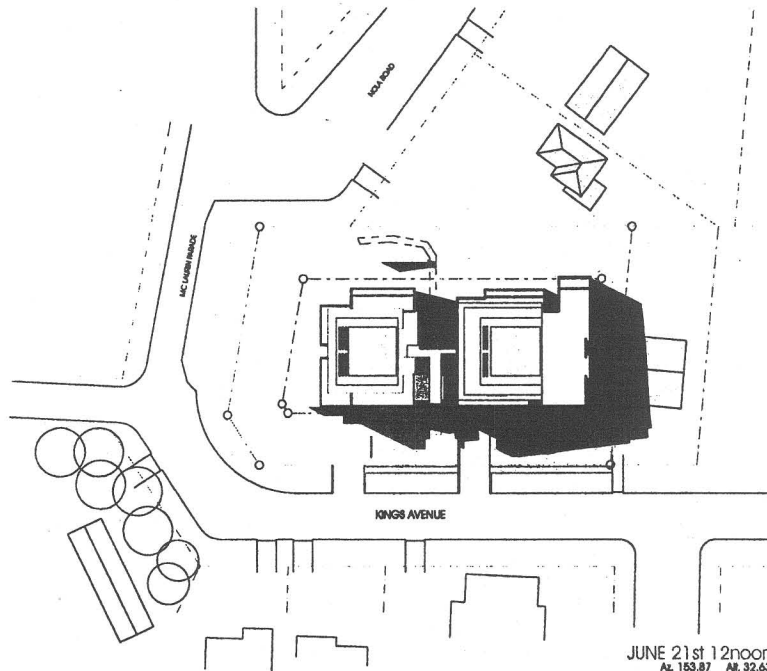
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Az. 110.49 Alt. 18.89



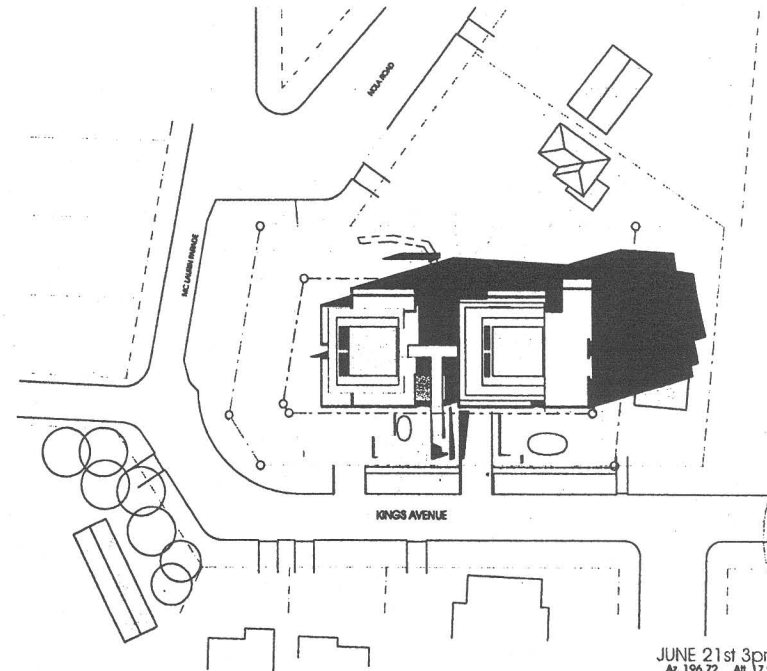
JUNE 21st 10am  
Az. 123.11 Alt. 26.28



JUNE 21st 11am  
Az. 137.82 Alt. 31.07



JUNE 21st 12noon  
Az. 153.87 Alt. 32.63



JUNE 21st 3pm  
Az. 196.72 Alt. 17.98



NOTES

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REVISIONS

Rev. No. Description  
1. 10/10/05 Initial Design  
2. 10/10/05 Revised Design  
3. 10/10/05 Final Design

APPROVALS

Rev. No. Description  
1. 10/10/05 Initial Design  
2. 10/10/05 Revised Design  
3. 10/10/05 Final Design

UNDO

Rev. No. Description  
1. 10/10/05 Initial Design  
2. 10/10/05 Revised Design  
3. 10/10/05 Final Design

REV. NO.

Rev. No. Description  
1. 10/10/05 Initial Design  
2. 10/10/05 Revised Design  
3. 10/10/05 Final Design

PROJECT ETC Development Trust

PROJECT Kings Ave Roseville

PROJECT NO. 2334

PROJECT NO. 2334

PROJECT NO. 2334

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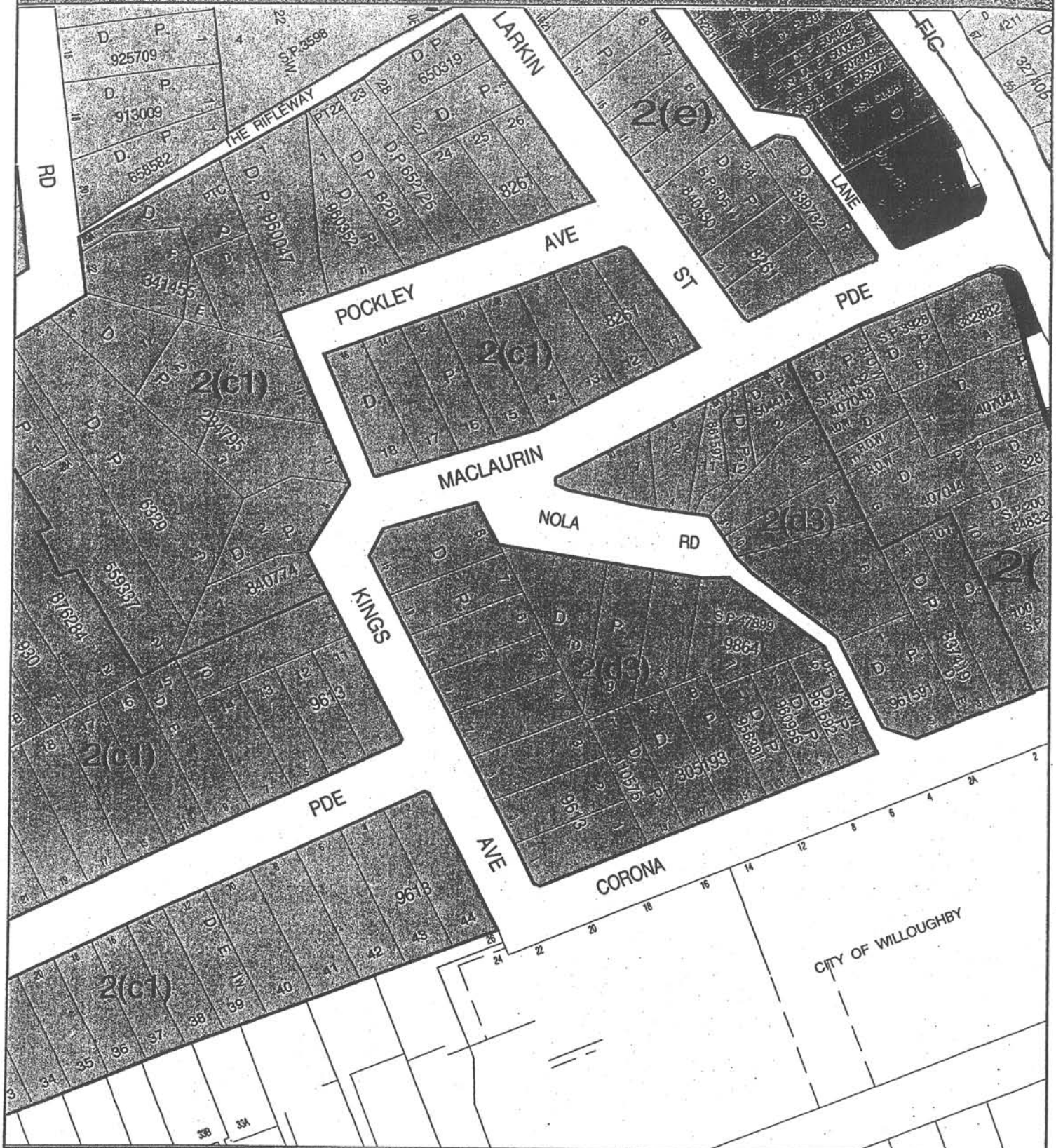
PROJECT NO. 2334

PROJECT NO. 2334

PROJECT NO. 2334

# Zoning Extract

## 9-11 KINGS AVENUE ROSEVILLE



- BUSINESS 3(a)-(A2)
- EXISTING COUNTY ROAD
- COUNTY ROAD WIDENING
- RECREATION EXISTING 6(a)
- RESIDENTIAL 2(c1)
- RESIDENTIAL 2(d)

- RESIDENTIAL 2(d3)
- RESIDENTIAL 2(e)



26-05-2005

Scale = 1:2000



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## 52 PENTECOST AVENUE, PYMBLE

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

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

**BACKGROUND:**

- Application lodged 8 December 2004.
- Council considered a report at its meeting on 19 July 2005.
- Consideration pending site inspection which took place on 30 July 2005.
- Minutes of the Inspection Committee presented for confirmation on 3 August 2005.

**COMMENTS:**

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

**RECOMMENDATION:**

Approval

## PURPOSE OF REPORT

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

## BACKGROUND

- Application lodged 8 December 2004.
- Council considered a report at its meeting on 19 July 2005.
- Consideration pending site inspection which took place on 30 July 2005.
- Minutes of the Inspection Committee presented for confirmation on 3 August 2005.

## COMMENTS

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

### 1. Vegetation

**It was requested that the following vegetation issues be clarified:**

- 1.1 The tree shown on the landscape plan as AF is not identified within the plant schedule. Staff to request details from the applicant, to ensure all proposed trees are properly identified.**

AF is *Angophora floribunda*. The landscape designer has been made aware of the error and **Condition No 48** has been included in the recommendation to correct the error.

- 1.2 Staff to address whether the location of the existing swimming pool precludes screen planting within the front setback. Staff to identify if additional street trees are required in the footpath area.**

The proposed screen planting, *Acmena smithii* 'Minor' (Lilly Pilly), has been provided to the northern and western boundary of the pool, in addition to the existing *Cupressus macrocarpa* 'Brunniana Aurea' / Tree 3 located on the north-west corner of the site. The proposed planting, in conjunction with the existing planting will provide for a good level of screening within the front setback to Pentecost Avenue and the location of the swimming pool does not restrict good screen planting being achieved.

The additional street tree planting of one *Jacaranda mimosifolia* will supplement existing street tree planting of *Liquidamber styraciflua* (Tree 2) along the Pentecost Avenue road frontage.

Item 5

**1.3 Tree No. 10 (Sydney Blue Gum in poor condition) should be replaced with a *Eucalyptus saligna* (Sydney Blue Gum).**

Council's Landscape Officer has advised that the existing overhead wires along Fairway Avenue would preclude the planting of larger street trees. Two locally occurring, native canopy trees, *Angophora floribunda* (Rough Barked Apple) are proposed within the property, west of Villa 1 and the pool.

**1.4 Staff to confirm that excavation beneath Villa No. 3 for the basement car park will not create an adverse impact on the root zone of Tree No's 19, 20, 21 and 22 on the adjoining properties in Fairway Avenue.**

Council's Landscape Officer advises that the setbacks of provided to Villa 3 and the basement car park are considered satisfactory and outside the critical root zone of Trees 19, 20, 21 and 22. The extent of the canopy spread is outside the proposed basement excavation and is to be retained at existing levels.

**1.5 Staff to confirm that the proposed timber deck adjoining Villa No. 3 will be of pier and beam construction (instead of being positioned above a concrete slab). Staff to confirm that the timber deck adjoining proposed Villa No. 3 has not been included as part of the deep soil zone calculations.**

The proposed deck to Villa 3 is to be pier and beam construction. All levels within canopy spread of Trees 19, 20 and 21 are to be retained as existing.

The deep soil zone calculation provided under clause 81(d) of the Council report identifies an area of 175m<sup>2</sup>. This calculation has, however, not taken into consideration the rear deck off Villa 3. Deducting this area from the deep soil zone calculation, the rear of the site has a total deep soil area of 157.6m<sup>2</sup>. The deep soil zone area for the site will still comply with the requirement for 15% of the site area and will therefore meet the requirements of clause 81(d) of the Seniors Living SEPP.

Villa 3 has a second area of private open space located to its north-west. The rear deck may be reduced in size by 1m in width to ensure compliance with this clause. This will result in an amended rear deep soil zone area of 163.4m<sup>2</sup>, which will ensure that two-thirds of the deep soil zone will be located at the rear of the site. An additional condition has been included in the recommendation ensuring compliance with this clause (**refer Condition No 48**).

**2. Streetscape**

**2.1 The applicant be requested to increase the setback between the boundary on Fairway Avenue to the first floor covered outdoor eating area adjoining Villa No. 4, by a minimum of 1 metre, with provision for additional screen planting within the front setback to reduce the streetscape impact of the proposal.**

The applicant advised Council by facsimile on 3 August 2005, that they were not prepared to make any further amendments to the proposed development (**see attachment**). The applicant

Item 5

argues that the setbacks provided to Fairway Avenue are in accordance with those controls applied to a single dwelling in section 5.1.3 building setbacks of DCP 38.

**3. Utility infrastructure**

**3.1 The applicant be requested to underground the existing power lines or as a minimum provide bundling along the street frontages of the development to ensure minimal disturbance to street trees.**

The applicant advised Council by facsimile on 3 August 2005, that they have discussed the undergrounding and bundling of power line with the owners of the site. The owners have advised they are not prepared to undertake this request (**see attachment**).

However, the imposition of a condition requiring the undergrounding of powerlines is warranted given the scale of the development (**refer Condition No 24a**).

**SUMMARY**

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

**RECOMMENDATION**

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

THAT the Council, as the consent authority, grant development consent to DA1317/04 for the demolition of the existing dwelling and associated structures and construction of five (5) Seniors Living villas, including basement parking for eleven (11) vehicles, modification of the existing swimming pool and landscaping on land at 52 Pentecost Avenue, Pymble, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

**GENERAL**

1. The development to be in accordance with Development Application No 1317/04 and Development Application plans prepared by Molnar Freeman Architects, reference number Job Number 226, drawing numbers DA001, DA002, DA003, DA101, DA102, DA103, DA201, DA202, DA301, DA302 (Rev A), dated December 2004 and lodged with Council on 8 December 2004
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.

Item 5

4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or stormwater drainage system is prohibited. These waters are to discharge via a permanent drainage line into the Sydney Water's sewer. Permission is to be obtained from the Sydney Water prior to the emptying of any pool to the sewer.
7. To ensure compliance with the relevant standards, an effective and approved safety fence with self closing gate complying with the minimum requirements of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools" shall be provided to the Principal Certifying Authority's satisfaction in the location indicated on the approved plans prior to any water being placed in the pool.
8. For stormwater control, provision shall be made for the collection and disposal of all run-off surface waters from paved areas, recontoured areas, pool overflow and higher levels. All collected waters are to be dispersed without causing nuisance to the adjoining properties.
9. For safety purposes, depth markers shall be provided at both ends of the pool.
10. For safety purposes, prior to the pool being filled a weather resistant poster detailing expired air resuscitation (mouth to mouth) methods shall be affixed within plain sight of the pool. A sign/notice with the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" shall be erected in clear view and in close proximity to the pool.
11. All filtration equipment shall be located in the position as shown on plan, unless as varied by this consent. Where the filtration and electrical equipment is located near a boundary, such equipment shall be positioned not closer than 150mm from the boundary fencing, if any, and electrical conduits and fittings or circulation pipes shall not be attached to any part of the fencing. Filtration or other equipment shall not be installed in the area of the side boundary setback of the dwelling or outbuilding unless that side boundary setback is greater than 1500mm. For the purpose of residential amenity, the filtration motor pump unit shall be housed in a sound attenuating enclosure and located where indicated on the approved plans or as varied by this consent.
12. The swimming pool is to be made safe during construction by the erection of temporary safety fence to the satisfaction of the Principal Certifying Authority.

Item 5

13. 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.
14. 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.
15. **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.

16. 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.
17. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
18. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
19. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
20. 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.

21. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
  - a. must preserve and protect the building from damage, and

Item 5

- b. if necessary, must underpin and support the building in an approved manner, and
- c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

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

- 22. 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.
- 23. If the work involved in the erection or demolition of a building:
  - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

- 24. 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.
- 24a. To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the Occupation Certificate.
- 25. The fence and footings shall be constructed entirely within the boundaries of the property.

Item 5

26. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
27. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
28. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
29. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
30. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

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

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

Item 5

33. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
34. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
35. To reduce or eliminate the transport of sediment from the construction site onto public roads, a temporary construction exit, together with necessary associated temporary fencing, shall be established prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.
36. To preserve and enhance the natural environment, all soil erosion and sediment control structures shall be inspected following each storm event and any necessary maintenance work shall be undertaken to ensure their continued proper operation. Sediment shall be removed from the soil erosion and sediment control structures when no more than forty percent (40%) capacity has been reached. These structures shall continue in proper operation until all development activities have been completed and the site fully stabilised.
37. For the protection of the health and safety of occupants, workers and the environment, any person renovating or demolishing any building built before the 1970's should be aware that surfaces may be coated with lead-based paint. Lead dust is a hazardous substance. Persons are required to follow the attached recommended guidelines to prevent personal and environmental contamination.
38. 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.
39. 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.
40. 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.
41. The creation of a Restriction as to use of land under Section 88E of the Conveyancing Act 1919, restricting the occupation of the premises to:
  - a. People 55 or over or people who have a disability;
  - b. People who live with people 55 or over or people who have a disability;
  - c. Staff employed to assist in the administration of and provision of services to housing provided in this development.
42. The development is to remain as Housing for Aged or Disabled Persons within the meaning of State Environmental Planning Policy Seniors Living 2004, at all times.

Item 5

43. All advertising, signage, marketing or promotion of the sale of the dwellings in this development shall make clear reference to the fact that this is a SEPP Seniors Living 2004 development and that at least one occupier shall be aged 55 years or over or have a disability.

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

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

45. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
46. The screen planting shall be completed prior to the issue of the final Certificate of Compliance and be maintained in a satisfactory condition at all times.
47. Canopy and/or root pruning of the following tree/s which is necessary to accommodate the approved building works shall be undertaken by an experienced Arborist/Horticulturist, with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate:

Tree/Location

*Eucalyptus saligna* (Sydney Blue Gum) Tree 1/north-east corner of site, nature strip  
*Eucalyptus saligna* (Sydney Blue Gum) Tree 11/western boundary, nature strip  
*Eucalyptus saligna* (Sydney Blue Gum) Tree 19, south-west corner, adj property  
*Eucalyptus pilularis* (Blackbutt) Tree 20, south west corner, adj property  
*Eucalyptus pilularis* (Blackbutt) Tree 21, south-west corner, adj property  
*Eucalyptus saligna* (Sydney Blue Gum) Tree 22, south-east corner, adj property  
*Liquidambar styraciflua* (Liquidambar) Tree 23, south-east corner, adj property

48. Landscape works shall be carried out in accordance with Landscape Drawing No L01/A prepared by Joanne Green Landscape Design and dated 26/04/05 submitted with the Development Application, except as amended by the following:
- *Angophora floribunda* and *Arbutus unedo* to be correctly notated.
  - All proposed canopy trees to be setback a minimum of 5 metres from building footprint
  - Proposed planting of *Westringia fruticosa* along southern boundary to be replaced with screen planting that can attain a height of 3 metres.
  - Landscape Specification to be provided.
  - Covered entrance structures on Pentecost Avenue and Fairway Avenue to be deleted. To preserve health and condition of following tree, no filling or new wall construction is permitted within the specified radius. All paving to be laid on grade.

Item 5

- The timber deck off the rear of Villa 3 is to be reduced in depth by 1 metre to allow for adequate deep soil planting.

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/western bdy, nature strip.	4m

The following tree is to be shown as being retained:

*Eucalyptus saligna* (Sydney Blue Gum) Tree 1/north-east corner of site, nature strip

49. Removal of Trees no. 4, 5, 6, 7, 7.1, 7.2, 7.3, 8, 8.1, 8.2, 8.3, 9, 9.1, 10, 12, 13, 14, 15, 16, 17 and 18 is permitted.
50. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
51. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 1/north-east corner of site, nature strip	5m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/western boundary, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	9m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	10m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 21, south-west corner, adj property	8m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 22, south-east corner, adj property	8m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 23, South-east corner, adj property	7m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 24, eastern bdy, adj property	4m

Item 5

52. The trees to be retained shall be inspected, monitored and treated during construction of driveway to ensure compliance with conditions of consent, by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Documentary evidence of compliance with this condition shall be submitted to Principal Certifying Authority with copy to Council prior to release of the Certificate of Occupation.

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

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 1/ north-east corner of site, nature strip	5m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 22, south-east corner, adj property	8m

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

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 24, eastern bdy, adj property	4m

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

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 1/ north-east corner of site, nature strip	5m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	9m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	10m

Item 5

*Eucalyptus pilularis* (Blackbutt) Tree 21,  
south-west corner, adj property 8m

*Eucalyptus saligna* (Sydney Blue Gum) Tree 22,  
south-east corner, adj property 8m

*Liquidambar styraciflua* (Liquidambar) Tree 23,  
south-east corner, adj property 7m

*Jacaranda mimosifolia* (Jacaranda) Tree 24,  
eastern bdy, adj property 4m

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

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree1/ North-east corner of site, nature strip	5m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree11/ western boundary, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	9m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	10m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 21, south-west corner, adj property	8m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 22, South-east corner, adj property	8m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 23, South-east corner, adj property	7m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 24, eastern bdy, adj property	4m

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

Item 5

58. On completion of the landscape works/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
59. 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.
60. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
61. A mandatory rainwater re-use tank system, together with the additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.
62. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided in front of the garage door and connected to the main stormwater drainage system. The channel drain shall have outlet of minimum diameter 150mm to prevent blockage by debris.
63. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.
64. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
65. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control*

Item 5

*Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

66. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
67. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking".
68. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.
69. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](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.
70. Stormwater quality control measures as described in chapter 8 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.
71. The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report 37548 by Douglas Partners, and subsequent reports prepared following further investigation. Over the course of the works a qualified geotechnical engineer must complete the following:
  - Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
  - Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
  - Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.

Item 5

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

72. 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.

73. 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).
74. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
75. 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.

Item 5

- 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.
76. To ensure structural stability, engineer's details (in duplicate) of retaining walls, prepared by a qualified practising structural engineer, shall be submitted to the Principal Certifying Authority for consideration prior to the issue of the Construction Certificate.
77. 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 FOUR (4) ADDITIONAL DWELLINGS IS CURRENTLY \$44,630.64. 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 - Pymble	\$6,574.28
3. Sportsgrounds Works	\$1,318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

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

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

Item 5

79. An amended landscape plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to is submitted to the Principal Certifying Authority and approved prior to release of Construction Certificate
80. The property shall support a minimum number of 10 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to the Principal Certifying Authority and approved prior to release of Construction Certificate.
81. The 7 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.
82. A CASH BOND/BANK GUARANTEE of \$10 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

83. A CASH BOND/BANK GUARANTEE of \$2 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Item 5

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m

84. To preserve the following tree/s, footings of the proposed Villa 3 shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 50mm shall be severed or injured in the process of any site works during the construction period. The beam shall be located on or above existing soil levels.

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

Tree/Location	Radius in Metres
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	9m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	10m

85. Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for approval by the Principal Certifying Authority (PCA). These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement parking slab. The driveway profiles must demonstrate the following:
- That vehicular access can be obtained using grades of 25% (1 in 4) maximum and
  - That all changes in grade (transitions) comply with Australian Standard 2890.1 –“Off-street car parking” (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.
  - That the transition between the vehicular crossing and the entry driveway (maximum slope 5% for the first 6 metres inside the property boundary) will not result in the scraping of the underside of vehicles.

The longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application.

86. Prior to issue of the Construction Certificate, submission of details and certification by a qualified civil/traffic engineer, for approval by the Principal Certifying Authority (PCA), that the parking provisions provided in common areas and within private parking areas comply with the following standards:
- The State Environmental Planning Policy for Seniors Living (particularly relating to height clearances and space dimensions) and
  - Australian Standard 2890.1 – 2004 “Off-street car parking”.
87. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance

Item 5

with the Landcom document “Managing Urban Stormwater – Soils and Construction, Volume 1” (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website). The design may be based on the concept plans 352394 C4 and C5 by AFCE Environment + Building, advanced for construction purposes.

88. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including garden irrigation, laundry and toilet flushing. The necessary pumping, housing, filtration and delivery plumbing equipment for re-use shall be shown on this design. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. These details may be incorporated on the overall stormwater management plan and design for the retention/detention system.
89. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components, including stormwater quality control measures. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 - Plumbing and Drainage Code.
90. The Applicant must carry out the following infrastructure works in the Public Road:

Construct footpaths to Council’s specification between the subject site and the nearest footpath, whether outside 50 Pentecost Avenue or 46-48 Pentecost Avenue.

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

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

Item 5

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

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

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

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

91. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$10,000 bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development or at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b. The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.

92. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater detention/retention system. The design may be generally based on the concept plan 352394 C1 to C3 by AFCE Environment + Building, advanced for construction purposes. The storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from a minimum 100m<sup>2</sup> roof area for each 5000 litres of storage. Overflow shall revert to the main drainage system. **Water quality measures are to be included as required by DCP47.** The design and construction plans, with all supporting documentation, are to be prepared by a

Item 5

qualified and experienced civil/hydraulic engineer and may be incorporated on the overall site drainage plan.

93. Prior to issue of the Construction Certificate footpath and driveway levels for the new vehicular crossing between the property boundary and road alignment must be obtained from Council. The footpath crossing is to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings". These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

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

Note 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.

Note 2: When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

94. 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.
95. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	4m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	6m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 21, south-west corner, adj property	7m

Item 5

*Eucalyptus saligna* (Sydney Blue Gum) Tree 22,  
south-east corner, adj property 6m

*Jacaranda mimosifolia* (Jacaranda) Tree 24, eastern  
bdy, adj property 2m

96. To preserve the following tree, no work shall commence until the area beneath the canopy of the following tree excluding the driveway is fenced off for the specified radius from the trunk to prevent any activities, storage or the disposal of any materials within the fenced area. The location of the fence is to allow for a minimum 1.2m pedestrian access at all times. The fence shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in metres
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m

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

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

99. Low level lighting shall be provided along the entrance pathway and the driveway to the front entries of each unit in accordance with the requirements of SEPP Seniors Living 2004. The lighting must provide at least 50 lux at ground level. Documentary evidence of such is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.
100. To ensure compliance with the requirements of SEPP Seniors Living 2004 and the documentation submitted with the development application the garages shall be provided with a power operated roller door. Additionally the visitor car parking spaces shall have a minimum dimension of 6 x 3.2 metres 98.
101. To ensure compliance with the requirements of SEPP Seniors Living 2004, every entry must have an entry door handle and other hardware that complies with AS 1428. Additionally all exterior doors for each dwelling shall be keyed alike. The entrance must comply with clauses 4.3.1 and 4.3.2 of AS 4299. Documentary evidence shall be submitted prior to the release of an Occupation Certificate.

Item 5

102. To ensure compliance with the requirements of SEPP Seniors Living 2004, each interior door must have a clearance of at least 820 millimetres, internal corridors must have a width of at least 1000mm and the width at internal door approaches must be at least 1200mm. Documentary evidence shall be submitted prior to the release of an Occupation Certificate.
103. To ensure compliance with SEPP Seniors Living 2004, the living room must have a circulation space of at least 2250mm in diameter as set out in clause 4.7 of AS4299 and a telephone adjacent to a general power point. Additionally the living and dining room must have a potential illumination of at least 300 lux.
104. To ensure compliance with the requirements of Clause 61 of SEPP Seniors Living 2004 the kitchen shall meet the following requirements:
- a. a width of at least 2.7 metres and a clear space between benches of at least 1 450 millimetres, and
  - b. a width at door approaches of at least 1 200 millimetres, and
  - c. benches that include at least one work surface:
    - i. that is at least 800 millimetres in length, and
    - ii. the height of which can be adjusted from 750 millimetres to 850 millimetres, and
  - d. a tap set:
    - i. that is located within 300 millimetres of the front of the sink, and
    - ii. that is a capstan tap set or that comprises lever handles or a lever mixer, and
  - e. a thermostatic mixing valve for the hot water outlet, and
  - f. cook tops:
    - i. with either front or side controls, and
    - ii. with controls that have raised cross bars for ease of grip, and
    - iii. that include an isolating switch, and
  - g. a worksurface adjacent to the cook top and at the same height and that is at least 800 millimetres in length, and
  - h. an oven that is located adjacent to a worksurface the height of which can be adjusted, and
  - i. "D" pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards, and
  - j. general power outlets: at least one of which is a double general power outlet within 300 millimetres of the front of a work surface, and one of which is provided for a refrigerator in such a position as to be easily accessible after the refrigerator is installed.

Documentary evidence shall be submitted prior to the release of an Occupation Certificate.

105. To ensure compliance with SEPP Seniors Living 2004, the main bedroom shall be provided with:
- a. 2 double general power outlets on the wall where the head of the bed is likely to be;
  - b. at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be;
  - c. a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet and a potential illumination level of at least 300 lux.

Item 5

- d. The bedroom must have an area sufficient to accommodate a wardrobe and a queen-size bed with a clear area at least 1200mm wide at the foot of the bed.

Documentary evidence shall be submitted prior to the release of an Occupation Certificate.

106. To ensure compliance with the requirements of clause 63 the bathrooms must comply with the following:

- a. an area that complies with AS 1428, and
- b. a slip-resistant floor surface, and
- c. a shower:
  - i. the recess of which is at least 1 160 millimetres × 1 100 millimetres, or that complies with AS 1428, or that complies with clause 4.4.4 and Figures 4.6 and 4.7 of AS 4299, and
  - ii. the recess of which does not have a hob, and
  - iii. that is waterproofed in accordance with AS 3740, and
  - iv. the floor of which falls to a floor waste, and
  - v. that can accommodate a grab rail that complies with Figure 4.6 of AS 4299 and AS 1428, and
  - vi. that has a tap set that is a capstan tap set or that comprises lever handles and that has a single outlet, and
  - vii. that has the tap set positioned so as to be easily reached from the entry to the shower, and
  - viii. that can accommodate an adjustable, detachable hand-held shower rose mounted on a slider grab rail or a fixed hook, and
  - ix. that can accommodate a folding seat that complies with Figure 4.6 of AS 4299, and
- d. thermostatic mixing valves for all hot water outlets, and
- e. a washbasin with clearances that comply with Figure 4.4 of AS 4299, and
- f. a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it, and
- g. a mirror, and
- h. a double general power outlet beside the mirror.

107. To ensure compliance with SEPP Seniors Living 2004, the laundry within each dwelling shall have a thermostatic mixing valve for all hot water outlets and a slip-resistant floor surface. There must also be a clear space in front of appliances of at least 1300 mm.

108. To ensure compliance with clause 68 a self-contained dwelling must be provided with a lined cupboard that is:

- a) able to be operated with one hand, and
- b) located between 900mm and 1100mm above floor level.

109. To ensure compliance with SEPP Seniors Living 2004, door handles for opening doors must be able to be operated with one hand and located between 900mm and 1100mm above floor level.

Item 5

110. To ensure compliance with SEPP Seniors Living 2004, all balconies and external paved areas must have slip resistant surfaces and switches must be located between 900mm and 1100mm above floor level. General purpose outlets must be located at least 600mm above floor level.
111. To ensure compliance with SEPP Seniors Living 2004, switches must be located between 900mm and 1100mm above floor level. General purpose outlets must be located at least 600mm above floor level.
112. "Peep holes" shall be provided to the entrance doors of units 2, 3 and 5 for personal security.
113. To ensure compliance with SEPP Seniors Living 2004, street signage incorporating house numbers must be provided at each intersection.
114. To ensure compliance with SEPP Seniors Living 2004, every entry (whether a front entry or not) to a self-contained dwelling, not being an entry for employees:
  - a) Must not have a slope that exceeds 1:40; and
  - b) Must comply with clause 4.3.1 and 4.3.2 of AS 4299, and
  - c) Must have an entry door handle and other hardware that complies with AS 1428.
115. To ensure compliance with SEPP Seniors Living 2004, an outside garbage storage area must be provided in an accessible location.
116. To ensure compliance with SEPP Seniors Living 2004, each self-contained dwelling must have a toilet on the ground floor:
  - a) That is a visitable toilet within the meaning of clause 1.4.12 of AS 4299, and
  - b) That is installed in compliance with AS 1428, and
  - c) That has a slip-resistant floor surface, and
  - d) The WC pan of which is located from fixed walls in accordance with AS 1428, and
  - e) That can accommodate a grab rail that complies with Figure 4.5 of AS 4299 and AS 1428.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

117. 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.
118. Prior to issue of an Occupation Certificate, the following works must be completed:

Item 5

- a. Construction of the new driveway crossing and layback in accordance with the levels and specifications issued by Council,
- b. Removal of all redundant driveway crossings, pipe crossing and/or kerb laybacks. Full reinstatement of these areas to footway, and/or turfed verge and/or kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
- c. Any sections of damaged grass verge are to be fully replaced with a non-friable turf of native variety to match existing.

Any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council. This shall be at no cost to Council.

119. Prior to issue of an Occupation Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention/retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention/ retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

120. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following must be provided to Council (attention Development Engineer):
  - a. A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
  - b. A copy of the works-as-executed drawing of the as-built on-site detention/retention system, and
  - c. The Engineer's certification of the as-built system.

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

121. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the approved road, footpath and/or drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the

Item 5

works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.

122. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
123. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit to the Principal Certifying Authority (PCA) certification from a suitably qualified and experienced traffic/civil engineer, that:
  - a. The dimensions of all as-constructed private carparking spaces meet the dimension requirements of the Seniors Living SEPP (as last amended), and
  - b. The as-constructed carpark complies with the approved Construction Certificate plans, and
  - c. The vehicular headroom requirements of:
    - the Seniors Living SEPP (as last amended) for accessible parking spaces, and
    - Australian Standard 2890.1 - "Off-street car parking", and are met from the public street into and within the applicable areas of the basement carpark, and
  - d. The gradients of the constructed access driveway from the public street to the basement carpark are in accordance with AS2890.1 and will not result in the scraping of the underside of cars.
124. Prior to issue of an Occupation Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the as-built on-site detention/ retention and re-use are to be submitted to the Principal Certifying Authority (PCA) for approval. Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor.

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

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

Item 5

- Top water levels of storage areas and RL's at overflow point(s)
125. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:
- a. Construction of the stormwater drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and
  - b. The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500, 3.2, and
  - c. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

- a. As built reduced surface and invert levels for all drainage pits and connection points.
  - b. As built reduced level(s) at the approved point of discharge to the public drainage system.
  - c. Gradients of drainage lines, materials and dimensions.
126. Prior to issue of the occupation certificate, the creation of a Restriction-on-Use under the Conveyancing Act, restricting the occupation of the premises to:
- a. People aged 55 years or over, or people with a disability as defined by the provisions of the State Environmental Planning Policy for Seniors Living.
  - b. People who live with such people as defined in (a) above.
  - c. Staff employed to assist in the administration of and provision of services to housing provided in this development.
127. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the existing structures originally assessed at 50 Pentecost Avenue:

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

If the structure(s) have been demolished under a separate development consent, then no follow-up report is required.

Item 5

BUILDING CONDITIONS

128. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and documentary evidence of compliance with the relevant terms of the approval/standards of construction detail in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:

- a. Reinforcement AND circulation lines in position prior to any concrete being poured, placed or sprayed.
- b. Drainage lines and circulation lines outside the pool area prior to any backfilling.
- c. Safety fences, gates and latches erected and installed - pools are not to be filled unless a satisfactory inspection of the pool fencing has been made.
- d. Final Inspection - on completion when all conditions of approval have been met including soundproof enclosures, resuscitation posters, depth markers installed and all landscaping completed.

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

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

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

- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
- b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
- c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
- d. Retaining walls and associated drainage.
- e. Wet area waterproofing details complying with the Building Code of Australia.
- f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
- g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

130. Any mechanical ventilation installed in a dwelling shall comply with the requirements of Part 3.8.5.0 of the Building Code of Australia Housing Provisions. Documentary evidence of compliance is to be obtained from a suitably qualified person and submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Item 5

131. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
132. To ensure compliance with this determination a Registered Surveyor's Report confirming reduced levels as shown on the approved plans with particular regard to the future finished level of the ground floor shall be submitted to the Principal Certifying Authority on completion of that floor.
133. All structural timber members subject to weather exposure shall have a durability class rating of 2 or better in accordance with Australian Standard 1684.2-1999 (National Timber Framing Code), or be preservative treated in accordance with Australian Standard 1604-1980 (Preservative Treatment for Sawn Timbers, Veneers and Plywood).
134. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
135. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

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

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

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

Item 5

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

137. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Wet area waterproofing details complying with the Building Code of Australia.
  - b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.
  - c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
  - d. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
  - e. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.

C Otto  
**Executive Assessment Officer**

S Cox  
**Team Leader**  
**Development Assessment - Central**

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

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

**Attachments:**

- Original Report dated 19 July 2005 - 514153**
- Location Sketch - 527259**
- Architectural plans - 527261**
- Stormwater plan - 527262**
- Landscape plan - 527266**
- Survey plan - 527274**

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	52 PENTECOST AVENUE, PYMBLE - CONSTRUCTION OF FIVE (5) SENIORS LIVING VILLAS INCLUDING BASEMENT PARKING AND MODIFICATION OF THE EXISTING SWIMMING POOL
<b>WARD:</b>	St Ives
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	1317/04
<b>SUBJECT LAND:</b>	52 Pentecost Avenue, Pymble DA1317/04DA1317/04DA1317/04
<b>APPLICANT:</b>	Mr A Freeman
<b>OWNER:</b>	Ms B Kavanagh
<b>DESIGNER:</b>	Molnar Freeman Architects
<b>PRESENT USE:</b>	Single dwelling - residential
<b>ZONING:</b>	Residential 2(c)
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER: COUNCIL'S POLICIES APPLICABLE:</b>	Ku-ring-gai Planning Scheme Ordinance KPSO DCP 31 - Access DCP 40 - Waste Management DCP 47 - Water Management
<b>COMPLIANCE WITH CODES/POLICIES: GOVERNMENT POLICIES APPLICABLE:</b>	Yes SEPP (Seniors Living) 2004 SEPP 55 - Remediation of Land
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Yes
<b>DATE LODGED:</b>	8 December 2004
<b>40 DAY PERIOD EXPIRED:</b>	17 January 2005
<b>PROPOSAL:</b>	Demolition of the existing structures and Construction of five (5) Seniors Living villas including basement parking and modification of the existing swimming pool and landscaping.
<b>RECOMMENDATION:</b>	Approval

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

1317/04  
52 PENTECOST AVENUE, PYMBLE  
CONSTRUCTION OF FIVE (5) SENIORS  
LIVING VILLAS INCLUDING BASEMENT  
PARKING AND MODIFICATION OF THE  
EXISTING SWIMMING POOL AND  
LANDSCAPING.

**APPLICANT:**  
**OWNER:**  
**DESIGNER**

MR A FREEMAN  
MS B KAVANAGH  
MOLNAR FREEMAN ARCHITECTS

**PURPOSE FOR REPORT**

To determine development application No. 1317/04, which seeks consent for construction of five (5) Senior Living villas including basement parking and modification of the existing swimming pool at 52 Pentecost Avenue, St Ives.

**EXECUTIVE SUMMARY**

**Issues:**

Resident issues (overshadowing, privacy and traffic impacts).

**Submissions:**

One (1) submission received.

**Land and Environment Court Appeal:**

NA

**Recommendation:**

Approval

**HISTORY**

**Site history:**

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

**Development application history:**

8 December 2004      Application lodged.

20 December 2004      Council requests the applicant to provide further information, as follows:

- Revised drainage details which demonstrate that all rainwater tank volume cancelling out the required OSD volume is used for toilet flushing, laundry as a minimum.

Item 1

DA notified to property owners for a period of 28 days in accordance with Council's Notification Policy.

5 January 2005

Submission of letter from applicant advising the development complies with the intentions of DCP 47.

16 March 2005

Council request the applicant to address issues raised by Council's Landscape Officer.

5 April 2005

Site meeting with Council Officer and applicant to discuss the following issues:

- Retention of swimming pool, certificate required prior to determination from structural engineer that the existing swimming pool can be retained with the amendments.
- Landscaping issues raised by Council's Landscape Officer.
- Setback of covered entrances from Pentecost Avenue and Fairway Avenue.
- Setback and bulk of corner of development facing Pentecost Avenue and Fairway Avenue.

15 April 2005

Submission of shadow diagrams.

20 May 2005

Submission of amended landscape plans.

26 May 2005

Request to the applicant to submit information as requested at the site meeting.

1 June 2005

Submission of letter from the applicant's engineer confirming the retention of the swimming pool.

2 June 2005

Submission of details in relation to compliance with clauses 25 (1) and (2(b)) and 71 of SEPP Seniors Living 2004.

**Land and Environment Court history:**

N/A

**THE SITE AND SURROUNDING AREA**

**The site**

Zoning:	Residential 2(c)
Visual Character Study Category:	1920-1945
Lot Number:	1
DP Number:	737475
Area:	1709m <sup>2</sup>

Item 1

Side of Street:	Southern
Cross Fall:	To Fairway Avenue to the west
Stormwater Drainage:	Drains to the street
Heritage Affected:	No
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The site is located on the southern side of Pentecost Avenue, Pymble, on the north-eastern corner of Fairway Avenue. The street frontage to Pentecost Avenue is 34.54m and the frontage to Fairway Avenue is 50.1m. The site has a length of 53.525m along the eastern side boundary.

The site has a gentle slope to the west towards Fairway Avenue. An existing single storey dwelling is situated approximately 15m and 19.5m from Pentecost Avenue boundary and 5.7m and 12.2m from the Fairway Avenue boundary. An inground swimming pool is located within the front setback facing Pentecost Avenue. A 1.8 metres high brick fence along both the Pentecost Avenue and Fairway Avenue boundaries.

The existing landscaping consists of over twenty trees on the site.

There are several large remnant endemic trees which overhang the rear of the site, these being two Blackbutts and a Sydney Blue Gum.

**Surrounding area:**

Surrounding development comprises a number of recently constructed SEPP 5 developments to the eastern (upper) end of Pentecost Avenue. To the west developments are predominately one and two storey detached dwellings constructed between the 1920s and 1960s. There are also a large number of more recent dwellings and other developments along Pentecost Avenue, including a number of SEPP 5 developments to the western (lower) end of Pentecost Avenue.

St Ives Shopping Centre is located within walking distance of the site. The shopping centre is approximately 460 metres from the subject site when travelling directly up Pentecost Avenue and north along Mona Vale Road. The shops support a large variety of businesses including two supermarkets, a variety of banks, restaurants, cafes, medical practices, hair and beauty salons, as well as a number of other services.

The 195 and 196 Forest Line Coaches bus service runs along Mona Vale Road in both directions. The north-bound bus stop is located directly outside 142 Mona Vale Road on its western side and the south-bound bus stop is located directly outside 147 Mona Vale Road on its eastern side. The 195 bus service connects through to the St Ives Village Shops and also runs through to the St Ives Chase Shops on the corner of Warrimoo Avenue and Dalton Road and down to Gordon Station. The 196 bus service runs through to Gordon Station to the south and up to Mona Vale Shopping Centre to the north.

Item 1

## THE PROPOSAL

The proposal is for the demolition of the existing dwelling and associated structures and the construction of a two storey development comprising of five (5) seniors living villas each containing three (3) bedrooms. All five of the proposed villas are wheelchair accessible.

Villa 3, located at the rear of the development, is single storey, while the remaining villas are two storey.

The villas are generally orientated to face towards Pentecost Avenue to allow for sufficient solar access. Villa 3 is orientated towards the southern (rear) of the property, however, an additional, north-facing courtyard has also been included in the villa design to ensure appropriate solar access.

Basement car parking is provided for eleven (11) vehicles. Two (2) car spaces in a lock up garage are provided in the basement for each villa and an additional one (1) visitor space. Secure storage areas ranging in size, are also accommodated within the secure lock-up garages. Lift access is provided to the basement level.

Vehicular access is provided from a single entry/exit point along Fairway Avenue.

Access throughout the development is provided by accessible pathways off Pentecost Avenue and a lift. With the inclusion of the lifts, the units and common areas are all wheelchair accessible.

The development has a setback to Pentecost Avenue of 12 metres to the front wall of the development. The existing swimming pool has a setback to Pentecost Avenue of 4 metres. The setback to Fairway Avenue varies between 3.8 metres for the balconies of Units 1 and 4 and up to 10 metres to the facade of the villas. The eastern (side) boundary adjoining 50 Pentecost Avenue has a setback between 2.8 metres to 6.8 metres. Unit 3, located at the rear of the site, has a setback to the rear boundary which varies between 5.2 metres to 6.9 metres.

Pedestrian access is provided via the main entrance off Pentecost Avenue, a secondary side access off Fairway Avenue is also provided. A new pedestrian pathway is proposed from the Pentecost Avenue entrance to join the existing pathway along Pentecost Avenue. This work is located upon Council land and will be subject to Council's regulations and design requirements.

The existing brick fencing along Pentecost and Fairways Avenues is proposed to remain.

The existing swimming pool is to be modified to a lap pool design surrounded by timber decking, landscaping and appropriate fencing. Access to the swimming pool is to be available to all residents of the development.

## CONSULTATION - COMMUNITY

In accordance with Council's Notification Policy, adjoining owners were given notice of the application. In response, a submission from the following was received:

1. P & L Ting - 54 Pentecost Avenue, Pymble.

The submission made the following comments:

***Overshadowing to property at 54 Pentecost Avenue.***

The property of 54 Pentecost Avenue is located across Fairway Avenue to the west of the subject site. Any overshadowing cast by the proposed development at 9am will fall onto the road reserve and Fairway Avenue, not 54 Pentecost Avenue. By 12 noon on the winter solstice, any shadow cast by the development is cast to the rear of the property.

***Loss of privacy to property at 54 Pentecost Avenue.***

The proposed development is located directly across Fairway Avenue to the east of the residents at 54 Pentecost. A distance of approximately 24m – 28m will separate the existing dwelling at 54 Pentecost Avenue from the proposed development. Villas 1 and 4 are located along Fairway Avenue. The main private open space for each of these villas are situated directly off the living rooms and face west, with views also to the north and south. The remaining windows facing towards the west include two (2) dining room windows and six (6) sliding doors off the bedrooms which open onto small balconies.

Given that the two properties are separated by a road and have substantial setbacks, the level of privacy provided is reasonable and, with the inclusion of extensive landscaping along the Fairway Avenue frontage, the privacy between the two properties is satisfactory (**refer Condition No. 48**).

***Traffic impact on the surrounding streets.***

Council's Development Engineer has reviewed the traffic impacts associated with the proposed development. No concerns are raised in relation to this issue with the inclusion of conditions (**refer Conditions Nos. 65, 67, 85, 93 and 121**).

**CONSULTATION - WITHIN COUNCIL**

**Landscaping**

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

*"An inspection of the property was conducted on 24/1/05.*

*The proposal is supported with conditions.*

*The site is located just off Mona Vale Road at the top of Pentecost Avenue. There are several large remnant trees which overhang the rear of the site.*

**Impact on Existing Trees**

*A tree report prepared by Footprint Green, dated 23/11/04 has been submitted with the application. Tree numbers refer to this report.*

Item 1

*There are 20 trees covered by Council's TPO on the site, of which 2 are proposed to be retained:*

- *Cupressus macrocarpa (Monterey Cypress) north-west corner, 11H, 6S, 500DBH – over mature, visually prominent.*
- *Angophora floribunda (Rough Barked Apple) western boundary, 13H, 6S, 2x300DBH – limbs pruned to past to clear roof and wires, poor specimen, described by arborist of being of moderate health with fair vigour with a SULE of 3 – proposed to be removed. Removal supported.*

*Tree 17 displays good form and vigour and, and with corrective pruning, is a good specimen in terms of size and form. The significance however, of this tree is reduced by its location to the rear south-east corner of the site.*

*Pyrus ussuriensis (Manchurian Pear) Tree 17/southern boundary – proposed to be removed. Removal is supported.*

*There are several large remnant endemic trees located on the southern boundary, adjoining properties. The impacts on these trees of the proposal are as follows:*

- *Trees 19-21, canopy spread much large than shown – Villa 3 encroaches within the canopy spread of these trees.*
- *Trees 22-23, design has been amended to preserve existing levels to extent of canopy area.*
- *Tree 19, Eucalyptus saligna (Sydney Blue Gum), south-western corner, adjoining property, 25H, 800DBH.*
- *Tree 20, Eucalyptus pilularis (Blackbutt), south-western corner, adjoining property, 22H, 3x400DBH.*
- *Tree 21, Eucalyptus pilularis (Blackbutt), south-western corner, adjoining property, 25H, 900DBH.*

*Impact on Trees on Nature Strip*

- *Tree 1, Eucalyptus saligna (Sydney Blue Gum), north-eastern corner of site, nature strip, 22H, 10S, 800DBH – proposed to be removed. Removal of this tree has been referred to Council's Tree Management Officer. Removal is not supported, tree to be retained.*
- *Tree 10, Eucalyptus saligna (Sydney Blue Gum), western boundary, nature strip, 10H, 5S, 300DBH - proposed to be removed. Removal of this tree has been referred to Council's Tree Management Officer and removal is supported.*
- *Tree 11, Eucalyptus saligna (Sydney Blue Gum), western boundary, nature strip, 18H, 12S, 600DBH, good health and condition - proposed to be retained, driveway 2.3m from tree and conditions provided to minimise impact.*

Item 1

*The Landscape Plan shows an additional tree on the nature strip Tree 2, Liquidambar styraciflua (Liquidambar to be removed. This tree is described by the arborist as having moderate health and of moderated landscape significance. Tree 2 is to be retained.*

*An amended Landscape Plan has been submitted including the following,*

- *Trees 19-23 located correctly on plan. Existing levels to canopy spread of existing trees to be retained.*
- *Paved area on fill to Villa 3 deleted and replaced with larger area of timber deck. Pier and beam construction with drop edge beams to be conditioned.*
- *Planting bed along eastern boundary widened to provide sufficient area for screen planting to dwellings to eastern boundary that can attain 6m in height.*

*Other comments*

*The proposed minimum rear setback reduces the ability to provide deep soil zone at the rear of the property that can sustain a mid block corridor of trees. Two thirds of deep soil area located at the rear of the property is preferred. This minimum area of deep soil zone is further compromised by proposed large eaves. Refer Site/Roof Plan, Dwg DA002A, Molnar Freeman Architects."*

**Refer Condition Nos 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 79, 80, 81, 82, 83, 84, 95, 96, 97 and 98.**

**Engineering**

Council's Development Engineer, Kathy Hawken, commented on the proposal as follows:

*"It is proposed to demolish the existing dwelling and construct a Seniors Living development comprising 5 dwellings, with basement carpark and an access driveway off Fairway Avenue.*

*The following documents were used for the engineering assessment:*

*Statement of Environmental Effects prepared by Molnar Freeman Architects Pty Ltd;  
Access Report prepared by Molnar Freeman Architects Pty Ltd;  
Architectural Plans prepared by Molnar Freeman Architects Pty Ltd;  
Survey by N. L. Hayes Pty Ltd;  
Stormwater – AFCE Environment + Building Drawings 352394C1 to C4 Rev. A.*

*There is no subdivision associated with this application.*

*Traffic*

*The dimensions and layout of the basement car park comply with the recommendations of AS2890.1-2004, with the exception of the entry drive, which should have a maximum slope of 20% for the first 6 metres inside the property.*

Item 1

*The slope of the driveway over the nature strip appears to be approximately 11%, which would result in a change in grade of 18% at the boundary. This would not allow satisfactory vehicular access, and a condition has been included that the driveway grades be amended on the Construction Certificate plans. The garage dimensions comply with the SEPP Seniors Living in terms of width, length and headroom.*

*Internal garbage collection is not required since the number of units is less than six.*

*A construction and traffic management plan will be required prior to commencement of works, including excavation, as well as a dilapidation report on the road and Council infrastructure outside the site.*

Stormwater drainage

*The site has gravity drainage to the street drainage system. A concept stormwater and environmental management plan was submitted, AFCE Environment + Building Drawing 352394 C1 to C5. The plan demonstrates that compliance with DCP 47 can be achieved. Water quality measures will be required as described in Chapter 8 of DCP 47. These specific requirements are included in the recommended conditions.*

Access

*The access report confirms that the site is within 400 metres of a bus stop, and levels shown on the survey and architectural plans indicate that grades are generally less than 7%. At present, a concrete footpath exists outside 46-48 Pentecost Avenue. An application for a SEPP 5 development at 50 Pentecost Avenue has been approved in the Land and Environment Court, however if that development does not go ahead first, then a footpath to meet the existing will have to be constructed in conjunction with the subject development. The conditions include this requirement.*

Geotechnical report

*Douglas Partners Report No. 37548, dated November 2004, is based on the results of a hand auger investigation. It is likely that the site is underlain by shale, and recommendations are included for further investigation, excavation and support and dilapidation survey of nearby structures. The need for vibration monitoring during excavation has not been confirmed, so the consultant's recommendation for further investigation works has been included in the conditions below. A dilapidation survey is required for the dwelling at 50 Pentecost, but it is possible that this structure may be demolished under DA 165/03, so a further report will not be required if this has occurred during the construction period."*

**Refer Conditions Nos 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 78, 85, 86, 87, 88, 89, 90, 91, 92, 93, 118, 119, 120, 121, 122, 123, 124, 125, 126 and 127.**

**PROVISIONS OF RELEVANT LEGISLATION****State Environmental Planning Policy (Seniors Living) 2004**

**Clause 18** of SEPP (Seniors Living) 2004 states that development may be carried out only with development consent unless another planning instrument allows the development without consent. The proposed development requires the consent of Council pursuant to the provisions of Ku-ring-gai Planning Scheme Ordinance.

**Clause 25** of SEPP (Seniors Living) 2004 requires that Council must not consent to a development application made pursuant to this chapter unless satisfied by written evidence of certain site related requirements have been met. Compliance with the requirements are indicated in the table below.

Clause	Requirement	Compliance
Clause 25(1)(2)	<ul style="list-style-type: none"> <li>Access to shops, banks, other retail and commercial services, community services and the practice of a general medical practitioner</li> </ul>	<b>YES</b>
	<ul style="list-style-type: none"> <li>Located at a distance of not more than 400m from the site of the proposed development or is within 400m of public transport which will take the residents to the above mentioned services</li> </ul>	<b>YES</b> (located approximately 170m from bus stops on Mona Vale Road.)
	<ul style="list-style-type: none"> <li>Is available both to and from the development at least once</li> </ul>	<b>YES</b>

**Clause 27(1)** of SEPP (Seniors Living) 2004 states that Council must not consent to a development application unless satisfied by written evidence that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewerage.

The site is currently connected to the sewer system and reticulated water is also provided.

**Clause 28** of SEPP (Seniors Living) 2004 requires a site analysis be carried out and submitted to the consent authority. A site analysis was submitted to Council, prepared by Molnar Freeman Architects. This analysis, together with other documentation of the development application, provides all the necessary information for assessment purposes under this clause.

**Clause 30** of SEPP (Seniors Living) 2004 requires that consent must not be granted unless Council is satisfied that adequate regard has been given to the following principles:

**Clause 31 - Neighbourhood amenity and streetscape**

The proposed development has been designed to be in keeping with the established front and side setbacks of the existing locality. All significant trees within the subject site and adjoining properties

Item 1

will be retained where possible and additional canopy planting provided. The setbacks to both Pentecost Avenue and Fairway Avenue are not identical but sympathetic to the existing residential setbacks along each street frontage. The development provides a high level of articulation to both street frontages and uses materials and finishes in keeping with the surrounding area. The site will also retain the significant vegetation at the southern end of the site and will be in keeping with the existing development and any future redevelopment of the surrounding properties.

**Clause 32 - Visual and acoustic privacy**

The proposed development has been designed with sufficient setbacks and landscape screening along the front and side boundaries. The balconies to Villas 1, 3 and 4 have been orientated away from adjoining properties and windows along the eastern (side) boundary have been minimised where possible. Villas 2 and 5 have private open space in the form of elevated balconies located on the north-eastern corner of the development with a setback of 3.5 metres to the adjoining eastern boundary. The location of these balconies will not compromise the amenity and privacy of the adjoining dwelling at 50 Pentecost Avenue due to the level of landscaping and the natural fall of the land away from the adjoining property.

The adjoining dwelling at 50 Pentecost Avenue also has a SEPP 5 development approved for six units (DA0165/03). The approved plans have a minimum setback of 2.54m to the subject site. This setback, with the addition of appropriate landscaping along the eastern boundary of the site, will ensure appropriate visual and acoustic privacy is provided for both the residents of the proposed development and those of the adjoining residents (**refer Condition No 48**).

**Clause 33- Solar access and design for climate**

Additional solar access plans prepared by Molnar Freeman Architects demonstrate that four out of five units will achieve a minimum of 3 hours solar access to at least 50% of their courtyards during the winter solstice. The future residents of the proposed development will receive adequate daylight to the principle living and private open space areas during the winter period.

**Clause 34 - Stormwater**

Council's Development Engineer has reviewed the proposed drainage plans prepared by AFCE Environment + Building Drawing 352394 C1 to C5 and advised that the plans as a concept are satisfactory and that compliance with DCP 47 can be achieved. These specific requirements are included in the recommended conditions (**refer Conditions Nos 60, 61, 62, 70, 87, 88, 89 and 92**).

**Clause 35 - Crime prevention**

The units should be designed so that approaching persons can be viewed from within the unit. An assessment of the proposed unit layouts indicates that some amendments are required to the front entrance of each of the units to allow appropriate level of surveillance (**refer Conditions Nos 99 and 112**).

## Item 1

**Clause 36 - Accessibility**

An access assessment report, prepared by Molnar Freeman Architects, has been submitted. The report indicates that the proposed development satisfies all policy objectives of SEPP Seniors Living 2004 and the technical requirements of AS1428 and AS4299 for adaptable housing.

**Clause 37 - Waste management**

Waste management will be required to comply with Council's Development Control Plan 40. As the development proposes 5 units, one collection point is required. The garbage bin storage area is located along the Fairway Avenue and will be located directly behind a 1.8m brick fence. This fencing will be in keeping with the existing fencing of the site. The setback is considered reasonable as it is located along the vehicular entrance to the site and is capable of being sufficiently screened with the extension of the brick fence over the existing driveway area.

**Part 4 Development standards**

**Clause 38(i)** provides that a consent authority must not consent to a development application made pursuant to this chapter unless the proposed development complies with the standards specified in this clause.

Clause	Standard	Proposal	Compliance
38(2) - Site size	Minimum 1000m <sup>2</sup>	1709m <sup>2</sup>	<b>YES</b>
38(3) - Site Frontage	20 metres	34.5 metres to Pentecost Avenue 50.1 metres to Fairway Avenue	<b>YES</b> <b>YES</b>
38(4) - Height in zones where residential flat buildings are not permitted	8 metres or less	6.0-7.8 metres at its highest point	<b>YES</b>
38(4)(b) - Height in zones where residential flat buildings are not permitted	Not more than 2 storeys in height adjacent to a boundary of the site.	2 storeys	<b>YES</b>
38(4)(c) - Height in zones where residential flat building are not permitted	A building located in the rear 25% area of the site must not exceed 1 storey in height.	Unit 3 is single storey in height	<b>YES</b>

Item 1

**Clause 51** provides that a consent authority must not consent to a development application made pursuant to this chapter unless the proposed development complies with the following standards:

Clause	Standard	Proposal	Compliance
52(1) -Wheelchair access	If the site has a gradient of less than 1:10, 100% of dwellings to have wheelchair access to public road or internal road.	The site has a gradient of more than 1:10	N/A
52(2) –Wheelchair access	If the whole site does not have a gradient of less than 1:10, 50% of the dwellings must have wheelchair access by a continuous path of travel (within the meaning of AS1428) to an adjoining public road.	All dwellings have wheelchair access by a continuous path of travel to Pentecost Avenue.	YES
52(3) – Road access	At least 10% of dwellings which meet requirements of subclause (1) must have wheelchair access by a continuous path of travel (within the means of AS1428) to an adjoining public road.	All dwellings have access to an adjoining public road.	YES
52(4) -Common areas	Wheelchair access to be available to all common areas and facilities.	Wheelchair access available to all common areas and facilities.	YES
53 -Identification	If the site includes more than one street, street signage incorporating house numbers must be provided at each intersection.	The signage addressing unit numbers will be provided at the entrance to the development at the Pentecost Avenue entrance ( <b>refer Condition No. 113</b> ).	YES
54 -Security	Pathway lighting must be designed and located to avoid glare.	No details provided. Capable of compliance by condition ( <b>refer Condition No. 99 and 112</b> ).	YES
55 -Letterboxes	Must be lockable and situated on a hard standing area and be wheelchair accessible.	Letterboxes have been located at the Pentecost Avenue frontage on the direct pedestrian access path to the dwellings.	YES
56 -Private car accommodation	Car parking spaces must have: be not less than 6m x 3.2m or being capable of adapted. internal clearance of 2.5 metres height at entry 2.3 metres any garage must have a power-operated roller door, or a power point to allow the above at a later date	Car parking spaces have: area 6m x 3.2m  internal clearance of 2.5 metres Height at entry 2.5 metres basement level has its own power-operated entry roller door ( <b>refer Condition No. 100</b> ).	YES  YES  YES  YES
57 -Accessible entry	Every entry must: not have a slope that exceeds 1:40	Proposal will be constructed so as to comply with requirements ( <b>refer Condition No. 102</b> ).	YES

## Item 1

Clause	Standard	Proposal	Compliance
	comply with clauses 4.3.1 & 4.3.2 of AS 4299 have entry hardware which complies with AS 1428		
58 - Exterior doors	All external doors to a dwelling must be keyed alike.	All external doors to each unit will be keyed alike and may be conditioned as part of the consent ( <b>refer Condition No. 101</b> ).	<b>YES</b>
59 - Interior general	internal doors must have a clearance of 800mm internal corridors must have a width of at least 1000mm the width at internal door approaches must be at least 1200mm	All internal doors to each of the individual units will be keyed alike as required. A condition of consent will be imposed as part of the consent ( <b>refer Condition No. 102</b> ).	<b>YES</b>
60 - Living room & dining room	A living room in a self contained dwelling must have: a circulation space of at least 2250mm in diameter and as set out in clause 4.7 of AS 4299 a telephone adjacent to a general power outlet a potential illumination level of 300 lux	Meets the circulation requirements and details regarding the telephone outlets can be conditioned as part of the consent ( <b>refer Condition No. 103</b> ).	<b>YES</b>
61 - Kitchen	A kitchen in a self contained dwelling must have: a width of at least 2.7 metres and a clear space between benches of 1450mm a width at door approaches of 1200mm benches that include one work surface that is at least 800mm in length and the height of which can be adjusted from 750mm to 850mm a tap set that is located within 300mm of the front of the sink and comprises of a lever type mixing tap a thermostatic mixing valve for the hot water outlet a cook top with either front or side controls which have a raised cross bar. The stove is also to be provided with an isolating switch a work surface adjacent to the cook top which is at the same	Internal benches and fittings detailed in the plans comply with the requirements. A condition of consent is recommended to ensure specifications meet the minimum standards required ( <b>refer Condition No. 104</b> ).	<b>YES</b>

Item 1

Clause	Standard	Proposal	Compliance
	<p>height and at least 800mm in length</p> <p>an oven that is located adjacent to a work surface the height of which can be adjusted</p> <p>"D" pull cupboard handles</p> <p>General power outlets at least one is a double outlet within 300mm of the front of a work surface and one which is for a refrigerator which can be readily accessed once installed</p>		
62 - Main bedroom	<p>At least one bedroom within the dwelling must have:</p> <p>an area sufficient to accommodate a wardrobe and a queen sized bed, with an area at least 1200mm wide at the foot of the bed</p> <p>2 double general power outlets adjacent to the head of the bed</p> <p>1 general power outlet on the wall opposite the bed</p> <p>a telephone outlet and power outlet next to the bed on the side closest to the door</p> <p>a potential illumination of 300 lux</p>	<p>The plans indicate the main bedrooms are capable of complying with these requirements. A condition of consent is recommended to ensure specification meet the minimum standards (<b>refer Condition No. 105</b>).</p>	<b>YES</b>
63 - Bathroom	<p>A bathroom must have:</p> <p>an area that complies with AS 1428</p> <p>a slip resistant floor</p> <p>a shower recess at least 1160mm x 1100mm or that complies with AS 1428 or clause 4.4.4 and figures 4.6 and 4.7 of AS4299. the recess shall incorporate the following:</p> <ul style="list-style-type: none"> <li>o no hob</li> <li>o waterproofing</li> <li>o floor waste</li> <li>o the ability to provide a grab rail</li> <li>o suitable taps</li> <li>o can accommodate a hand held shower on a slider rail</li> <li>o can accommodate a folding seat</li> <li>thermostatic mixing valves to</li> </ul>	<p>The bathrooms in each of the units are capable of complying with the requirements of this clause. A condition of consent is recommended to ensure specifications meet the minimum standards required (<b>refer Condition No. 106</b>).</p>	<b>YES</b>

Item 1

Clause	Standard	Proposal	Compliance
	all hot water outlets a washbasin which complies with AS4299 an illuminated wall cabinet a mirror a double power outlet beside the mirror		
64 - Toilet	A dwelling must have a toilet: that is a visitable toilet in accordance with AS4299 that is installed in accordance with AS1428 has a slip resistant floor surface the WC pan is located from fixed walls in accordance with AS1428 that can accommodate a grab rail in accordance with AS4299 & AS1428	The toilets have been included within the bathroom plan for each of the dwellings. A condition of consent is recommended to ensure specifications meet the minimum standards required ( <b>refer Condition No. 116</b> ).	<b>YES</b>
65 -Access to kitchen, main bedroom, bathroom & toilet	A kitchen, main bedroom, bathroom and toilet must be provided on the ground floor of a multi level dwelling.	All units are of single level design.	<b>YES</b>
66 -Lifts in multi storey buildings	Lift access provided to all dwellings above the ground level of the building.	Lift access is provided to all levels from the basement car park.	<b>YES</b>
67 - Laundry	A self contained dwelling must have a laundry which: has provision for a washing machine has the provision for the installation of a clothes dryer has a clear space in front of appliances of 1300mm has a slip resistant floor surface has an accessible path of travel to any external clothes line.	The floor plans for units 1, 3 and 4 indicate that they will only have a clearance of 1200mm, not the required 1300mm. To ensure compliance with this clause, a condition of consent is recommended to ensure specifications meet the minimum standards required ( <b>refer Condition No. 107</b> ).	<b>YES</b>
68 -Storage	A self-contained dwelling must be provided with a linen cupboard: that is at least 600mm wide has adjustable shelving	A complying linen cupboard is provided in each of the units.	<b>YES</b>
69 - Doors	Door hardware provided for opening doors must be: able to be operated with one hand located between 900mm and	The floor plans for each of the proposed units indicated that the development is capable of meeting the requirement of this Clause. A condition of consent is	<b>YES</b>

## Item 1

Clause	Standard	Proposal	Compliance
	1100mm above floor level	recommended to ensure specifications meet the minimum standards (refer Condition No. 109).	
70 - Surface finishes	Balconies and external paved areas must have slip-resistant surfaces.	A condition of consent is recommended to ensure specifications meet the minimum standards required (refer Condition No. 110).	YES
71 - Ancillary items	switches must be located between 900mm and 1100mm above floor level general purpose outlets must be located at least 600mm above floor level	Compliance with this clause is required by a condition of consent to ensure minimum standards are met (refer Condition No. 111).	YES
72 - Garbage	An outside garbage storage area must be provided in an accessible location.	The proposed garbage area is accessible from all units. A condition of consent has been recommended to ensure compliance with this Clause (refer Condition No. 115).	YES

**Part 7 Development standards that cannot be used as grounds to refuse consent**

Clause 81 of SEPP (Seniors Living) 2004 stipulates standards which cannot be used to refuse development for self-contained dwellings. These standards are as follows:

Clause	Standard	Proposed	Compliance
Clause 81(a) – Building height	Height to be less than 8.0 metres	7.8 metres at its highest point	YES
Clause 81(b) - Density & scale	0.50:1 (854.5m <sup>2</sup> )	0.42:1 (726.6m <sup>2</sup> )	YES
Clause 81(c) - Landscaped area	Minimum 30% of the site to be landscape area = 512.7m <sup>2</sup>	37.5% landscaped area = 642m <sup>2</sup>	YES
Clause (d) - Deep soil zones	Minimum 15% site area (256.3m <sup>2</sup> ) to be deep soil zone. 2/3 (169.1m <sup>2</sup> ) being located at the rear of the site with a minimum dimension of 3m.	36.8% (629m <sup>2</sup> ) deep soil area	YES
		175m <sup>2</sup> located at the rear of the site	YES
Clause (e) - Solar access	Min 70% or 3.5 dwellings receive minimum 3 hours direct sunlight between 9am-3pm in mid-winter.	80% or 4 units receive a minimum of 3 hours due to the northern orientation of the units.	YES
Clause (f) - Private open space for in-fill housing	Single level or ground floor dwellings = 15m <sup>2</sup> (incl. Area 3m x 3m accessible from living area)	Unit 1 = 18m <sup>2</sup> (min dimension 4m x 4m) Unit 2 = 18m <sup>2</sup> (min 4m x 4m) Unit 3 = 50m <sup>2</sup> + (min 5m x 10m)	YES YES YES
	All other dwellings = balcony	Unit 4 = 15m <sup>2</sup> (min 4m x 3m)	

## Item 1

Clause	Standard	Proposed	Compliance
	min. 10m <sup>2</sup> (not less than 2m in length and accessible from a living area)	Unit 5 = 14m <sup>2</sup> (3m x 4m)	YES YES
Clause (g) - Visitor parking	1 visitor space for development comprising 6 or less dwellings, with maximum parking period of 4 hours	Proposal includes 1 visitor parking space.	YES
Clause (h) - Parking	5 resident spaces required	10 resident spaces provided.	YES

**State Environmental Planning Policy No 55 - Remediation of Land**

SEPP 55 aims to set an approach for the remediation of contaminated land. Clause 7 of the SEPP requires Council to consider whether the land is likely to be contaminated prior to issuing development consent.

The site is currently occupied by a single dwelling and has had a long history of residential use. There is no evidence that indicates the site is contaminated nor would this be likely given the long established residential use. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

**Ku-ring-gai Planning Scheme Ordinance**

The site is zoned Residential 2(c) under the provisions of Ku-ring-gai Planning Scheme Ordinance (KPSO) and the erection of a residential flat building is prohibited within the zone. However, the provisions of SEPP (Seniors Living) 2004 override the controls of KPSO and the proposed Seniors Living development is permissible pursuant to clause 4 of SEPP (Seniors Living) 2004.

SEPP (Seniors Living) 2004 also provides controls in relation to streetscape character, amenity, solar access, tree replacement etc. These matters are also referred to in SEPP (Seniors Living) 2004 and the assessment of the proposed development against such controls has resulted in the consideration that the proposed development meets these aims and objectives.

**POLICY PROVISIONS****Development Control Plan 40 - Waste Management**

The site makes adequate provision of a waste and recycling storage area and provides for adequate access to this storage area by Council's garbage collection vehicles.

**Development Control Plan 43 - Car Parking**

The provisions of SEPP (Seniors Living) 2004 in relation to parking, override any other parking requirements where in conflict. An assessment of the proposal's parking provision in relation to SEPP (Seniors Living) 2004 is provided previously within this report and the application complies with the relevant controls.

## **Development Control Plan No 47 - Water Management**

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

### **Section 94 Plan**

The development attracts a section 94 contribution of \$44,630.64 which is required to be paid by **Condition No. 77.**

This is calculated utilising Ku-ring-gai Section 94 Contributions Plan 2004-2009 Residential Development adopted 30 June 2004.

### **LIKELY IMPACTS**

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

### **SUITABILITY OF THE SITE**

The site is suitable for the proposed development.

### **ANY SUBMISSIONS**

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

### **PUBLIC INTEREST**

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

### **ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED**

There are no other matters for assessment.

### **CONCLUSION**

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

### **RECOMMENDATION**

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

THAT the Council, as the consent authority, grant development consent to DA1317/04 for the demolition of the existing dwelling and associated structures and construction of five (5) seniors living villas, including basement parking for eleven (11) vehicles, modification of the existing

Item 1

swimming pool and landscaping on land at 52 Pentecost Avenue, Pymble, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL

1. The development to be in accordance with Development Application No 1317/04 and Development Application plans prepared by Molnar Freeman Architects *Error! No document variable supplied.*, reference number Job Number 226, drawing numbers DA001, DA002, DA003, DA101, DA102, DA103, DA201, DA202, DA301, DA302 (Rev A), dated December 2004 and lodged with Council on 8 December 2004
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or stormwater drainage system is prohibited. These waters are to discharge via a permanent drainage line into the Sydney Water's sewer. Permission is to be obtained from the Sydney Water prior to the emptying of any pool to the sewer.
7. To ensure compliance with the relevant standards, an effective and approved safety fence with self closing gate complying with the minimum requirements of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools" shall be provided to the Principal Certifying Authority's satisfaction in the location indicated on the approved plans prior to any water being placed in the pool.
8. For stormwater control, provision shall be made for the collection and disposal of all run-off surface waters from paved areas, recontoured areas, pool overflow and higher levels. All collected waters are to be dispersed without causing nuisance to the adjoining properties.
9. For safety purposes, depth markers shall be provided at both ends of the pool.
10. For safety purposes, prior to the pool being filled a weather resistant poster detailing expired air resuscitation (mouth to mouth) methods shall be affixed within plain sight of the pool. A sign/notice with the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN

Item 1

USING THIS SWIMMING POOL" shall be erected in clear view and in close proximity to the pool.

11. All filtration equipment shall be located in the position as shown on plan, unless as varied by this consent. Where the filtration and electrical equipment is located near a boundary, such equipment shall be positioned not closer than 150mm from the boundary fencing, if any, and electrical conduits and fittings or circulation pipes shall not be attached to any part of the fencing. Filtration or other equipment shall not be installed in the area of the side boundary setback of the dwelling or outbuilding unless that side boundary setback is greater than 1500mm. For the purpose of residential amenity, the filtration motor pump unit shall be housed in a sound attenuating enclosure and located where indicated on the approved plans or as varied by this consent.
12. The swimming pool is to be made safe during construction by the erection of temporary safety fence to the satisfaction of the Principal Certifying Authority.
13. 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.
14. 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.
15. **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.

16. 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.
17. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.

Item 1

18. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
19. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
20. 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.

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

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

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

22. 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.
23. If the work involved in the erection or demolition of a building:
  - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

Item 1

24. 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.
25. The fence and footings shall be constructed entirely within the boundaries of the property.
26. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
27. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
28. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
29. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
30. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

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

31. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
32. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
  - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
    - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
    - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;

Item 1

- iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
  - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
- 33. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
- 34. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
- 35. To reduce or eliminate the transport of sediment from the construction site onto public roads, a temporary construction exit, together with necessary associated temporary fencing, shall be established prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.
- 36. To preserve and enhance the natural environment, all soil erosion and sediment control structures shall be inspected following each storm event and any necessary maintenance work shall be undertaken to ensure their continued proper operation. Sediment shall be removed from the soil erosion and sediment control structures when no more than forty percent (40%) capacity has been reached. These structures shall continue in proper operation until all development activities have been completed and the site fully stabilised.
- 37. For the protection of the health and safety of occupants, workers and the environment, any person renovating or demolishing any building built before the 1970's should be aware that surfaces may be coated with lead-based paint. Lead dust is a hazardous substance. Persons are required to follow the attached recommended guidelines to prevent personal and environmental contamination.
- 38. 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.
- 39. 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.
- 40. 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.
- 41. The creation of a Restriction as to use of land under Section 88E of the Conveyancing Act 1919, restricting the occupation of the premises to:

Item 1

- a. People 55 or over or people who have a disability;
  - b. People who live with people 55 or over or people who have a disability;
  - c. Staff employed to assist in the administration of and provision of services to housing provided in this development.
42. The development is to remain as Housing for Aged or Disabled Persons within the meaning of State Environmental Planning Policy Seniors Living 2004, at all times.
43. All advertising, signage, marketing or promotion of the sale of the dwellings in this development shall make clear reference to the fact that this is a SEPP Seniors Living 2004 development and that at least one occupier shall be aged 55 years or over or have a disability.
44. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.
- Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.
45. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
46. The screen planting shall be completed prior to the issue of the final Certificate of Compliance and be maintained in a satisfactory condition at all times.
47. Canopy and/or root pruning of the following tree/s which is necessary to accommodate the approved building works shall be undertaken by an experienced Arborist/Horticulturist, with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate:
- Tree/Location  
*Eucalyptus saligna* (Sydney Blue Gum) Tree 1/north-east corner of site, nature strip  
*Eucalyptus saligna* (Sydney Blue Gum) Tree 11/western boundary, nature strip  
*Eucalyptus saligna* (Sydney Blue Gum) Tree 19, south-west corner, adj property  
*Eucalyptus pilularis* (Blackbutt) Tree 20, south west corner, adj property  
*Eucalyptus pilularis* (Blackbutt) Tree 21, south-west corner, adj property  
*Eucalyptus saligna* (Sydney Blue Gum) Tree 22, south-east corner, adj property  
*Liquidambar styraciflua* (Liquidambar) Tree 23, south-east corner, adj property
48. Landscape works shall be carried out in accordance with Landscape Drawing No L01/A prepared by Joanne Green Landscape Design and dated 26/04/05 submitted with the Development Application, except as amended by the following:

Item 1

- *Angophora floribunda* and *Arbutus unedo* to be correctly notated.
- All proposed canopy trees to be setback minimum 5 metres from building footprint
- Proposed planting of *Westringia fruticosa* along southern boundary to be replaced with screen planting that can attain a height of 3 metres.
- Landscape Specification to be provided.
- Covered entrance structures on Pentecost Avenue and Fairway Avenue to be deleted. To preserve health and condition of following tree, no filling or new wall construction is permitted within the specified radius. All paving to be laid on grade.

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree11/western bdy, nature strip	4m

The following tree is to be shown as being retained:

*Eucalyptus saligna* (Sydney Blue Gum) Tree1/north-east corner of site, nature strip

49. Removal of Trees no. 4, 5, 6, 7, 7.1, 7.2, 7.3, 8, 8.1, 8.2, 8.3, 9, 9.1, 10, 12, 13, 14, 15, 16, 17 and 18 is permitted.
50. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
51. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 1/ north-east corner of site, nature strip	5m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree11/ western boundary, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	9m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	10m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 21, south-west corner, adj property	8m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 22, south-east corner, adj property	8m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 23, South-east corner, adj property	7m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 24, eastern bdy, adj property	4m

52. The trees to be retained shall be inspected, monitored and treated during construction of driveway to ensure compliance with conditions of consent, by a qualified Arborist before,

## Item 1

during and after completion of development works to ensure their long term survival. Documentary evidence of compliance with this condition shall be submitted to Principal Certifying Authority with copy to Council prior to release of the Certificate of Occupation.

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

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 1/ north-east corner of site, nature strip	5m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 22, south-east corner, adj property	8m

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

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 24, eastern bdy, adj property	4m

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

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 1/ north-east corner of site, nature strip	5m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	9m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	10m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 21, south-west corner, adj property	8m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 22, south-east corner, adj property	8m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 23, south-east corner, adj property	7m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 24, eastern bdy, adj property	4m

## Item 1

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

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 1/ North-east corner of site, nature strip	5m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	9m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	10m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 21, south-west corner, adj property	8m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 22, South-east corner, adj property	8m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 23, South-east corner, adj property	7m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 24, eastern bdy, adj property	4m

57. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
58. On completion of the landscape works/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
59. 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.
60. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
61. A mandatory rainwater re-use tank system, together with the additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.

Item 1

62. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided in front of the garage door and connected to the main stormwater drainage system. The channel drain shall have outlet of minimum diameter 150mm to prevent blockage by debris.
63. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.
64. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
65. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
66. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
67. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking".
68. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or

Item 1

where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.

69. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at [www.sydneywater.com.au](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.
70. Stormwater quality control measures as described in chapter 8 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.
71. The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report 37548 by Douglas Partners, and subsequent reports prepared following further investigation. Over the course of the works a qualified geotechnical engineer must complete the following:
  - Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
  - Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
  - Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.

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

72. 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.

73. 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

Item 1

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).

74. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
75. 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.
76. To ensure structural stability, engineer's details (in duplicate) of retaining walls, prepared by a qualified practising structural engineer, shall be submitted to the Principal Certifying Authority for consideration prior to the issue of the Construction Certificate.
77. 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 FOUR (4) ADDITIONAL DWELLINGS IS CURRENTLY \$44,630.64. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

## Item 1

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 - Pymble	\$6,574.28
3. Sportsgrounds Works	\$1,318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

## OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

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

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

79. An amended landscape plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to is submitted to the Principal Certifying Authority and approved prior to release of Construction Certificate
80. The property shall support a minimum number of 10 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to the Principal Certifying Authority and approved prior to release of Construction Certificate.
81. The 7 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.

Item 1

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

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

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

83. A CASH BOND/BANK GUARANTEE of \$2 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m

84. To preserve the following tree/s, footings of the proposed Villa 3 shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 50mm shall be severed or injured in the process of any site works during the construction period. The beam shall be located on or above existing soil levels.

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

Tree/Location	Radius in Metres
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	9m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	10m

Item 1

85. Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for approval by the Principal Certifying Authority (PCA). These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement parking slab. The driveway profiles must demonstrate the following:
- a. That vehicular access can be obtained using grades of 25% (1 in 4) maximum and
  - b. That all changes in grade (transitions) comply with Australian Standard 2890.1 –“Off-street car parking” (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.
  - c. That the transition between the vehicular crossing and the entry driveway (maximum slope 5% for the first 6 metres inside the property boundary) will not result in the scraping of the underside of vehicles.

The longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application.

86. Prior to issue of the Construction Certificate, submission of details and certification by a qualified civil/traffic engineer, for approval by the Principal Certifying Authority (PCA), that the parking provisions provided in common areas and within private parking areas comply with the following standards:
- a. The State Environmental Planning Policy for Seniors Living (particularly relating to height clearances and space dimensions) and
  - b. Australian Standard 2890.1 – 2004 “Off-street car parking”.
87. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the Landcom document “Managing Urban Stormwater – Soils and Construction, Volume 1” (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website). The design may be based on the concept plans 352394 C4 and C5 by AFCE Environment + Building, advanced for construction purposes.
88. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including garden irrigation, laundry and toilet flushing. The necessary pumping, housing, filtration and delivery plumbing equipment for re-use shall be shown on this design. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. These details may be incorporated on the overall stormwater management plan and design for the retention/detention system.
89. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components, including stormwater quality control measures. The

Item 1

property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 - Plumbing and Drainage Code.

90. The Applicant must carry out the following infrastructure works in the Public Road:

Construct footpaths to Council's specification between the subject site and the nearest footpath, whether outside 50 Pentecost Avenue or 46-48 Pentecost Avenue.

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

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

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

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

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

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

Item 1

91. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$10,000 bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development or at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
  - a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
  - b. The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
92. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater detention/retention system. The design may be generally based on the concept plan 352394 C1 to C3 by AFCE Environment + Building, advanced for construction purposes. The storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from a minimum 100m<sup>2</sup> roof area for each 5000 litres of storage. Overflow shall revert to the main drainage system. **Water quality measures are to be included as required by DCP47.** The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer and may be incorporated on the overall site drainage plan.
93. Prior to issue of the Construction Certificate footpath and driveway levels for the new vehicular crossing between the property boundary and road alignment must be obtained from Council. The footpath crossing is to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings". These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

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

Note 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.

## Item 1

Note 2: When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

## CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

94. 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.

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

Tree/Location	Radius From Trunk
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 19, south-west corner, adj property	4m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 20, south-west corner, adj property	6m
<i>Eucalyptus pilularis</i> (Blackbutt) Tree 21, south-west corner, adj property	7m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 22, south-east corner, adj property	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 24, eastern bdy, adj property	2m

96. To preserve the following tree, no work shall commence until the area beneath the canopy of the following tree excluding the driveway is fenced off for the specified radius from the trunk to prevent any activities, storage or the disposal of any materials within the fenced area. The location of the fence is to allow for a minimum 1.2m pedestrian access at all times. The fence shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in metres
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 11/ western boundary, nature strip	6m

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

Item 1

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

99. Low level lighting shall be provided along the entrance pathway and the driveway to the front entries of each unit in accordance with the requirements of SEPP Seniors Living 2004. The lighting must provide at least 50 lux at ground level. Documentary evidence of such is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.
100. To ensure compliance with the requirements of SEPP Seniors Living 2004 and the documentation submitted with the development application the garages shall be provided with a power operated roller door. Additionally the visitor car parking spaces shall have a minimum dimension of 6 x 3.2 metres 98.
101. To ensure compliance with the requirements of SEPP Seniors Living 2004, every entry must have an entry door handle and other hardware that complies with AS 1428. Additionally all exterior doors for each dwelling shall be keyed alike. The entrance must comply with clauses 4.3.1 and 4.3.2 of AS 4299. Documentary evidence shall be submitted prior to the release of an Occupation Certificate.
102. To ensure compliance with the requirements of SEPP Seniors Living 2004, each interior door must have a clearance of at least 820 millimetres, internal corridors must have a width of at least 1000mm and the width at internal door approaches must be at least 1200mm. Documentary evidence shall be submitted prior to the release of an Occupation Certificate.
103. To ensure compliance with SEPP Seniors Living 2004, the living room must have a circulation space of at least 2250mm in diameter as set out in clause 4.7 of AS4299 and a telephone adjacent to a general power point. Additionally the living and dining room must have a potential illumination of at least 300 lux.
104. To ensure compliance with the requirements of Clause 61 of SEPP Seniors Living 2004 the kitchen shall meet the following requirements:
  - a. a width of at least 2.7 metres and a clear space between benches of at least 1 450 millimetres, and
  - b. a width at door approaches of at least 1 200 millimetres, and
  - c. benches that include at least one work surface:
    - i. that is at least 800 millimetres in length, and
    - ii. the height of which can be adjusted from 750 millimetres to 850 millimetres, and
  - d. a tap set:
    - i. that is located within 300 millimetres of the front of the sink, and
    - ii. that is a capstan tap set or that comprises lever handles or a lever mixer, and
  - e. a thermostatic mixing valve for the hot water outlet, and
  - f. cook tops:
    - i. with either front or side controls, and
    - ii. with controls that have raised cross bars for ease of grip, and

Item 1

- iii. that include an isolating switch, and
- g. a worksurface adjacent to the cook top and at the same height and that is at least 800 millimetres in length, and h. an oven that is located adjacent to a worksurface the height of which can be adjusted, and
- h. ``D'' pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards, and
- j. general power outlets: at least one of which is a double general power outlet within 300 millimetres of the front of a work surface, and one of which is provided for a refrigerator in such a position as to be easily accessible after the refrigerator is installed.

Documentary evidence shall be submitted prior to the release of an Occupation Certificate.

105. To ensure compliance with SEPP Seniors Living 2004, the main bedroom shall be provided with
- a. 2 double general power outlets on the wall where the head of the bed is likely to be;
  - b. at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be;
  - c. a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet and a potential illumination level of at least 300 lux.
  - d. The bedroom must have an area sufficient to accommodate a wardrobe and a queen-size bed with a clear area at least 1200mm wide at the foot of the bed.

Documentary evidence shall be submitted prior to the release of an Occupation Certificate.

106. To ensure compliance with the requirements of clause 63 the bathrooms must comply with the following:
- a. an area that complies with AS 1428, and
  - b. a slip-resistant floor surface, and
  - c. a shower:
    - i. the recess of which is at least 1 160 millimetres × 1 100 millimetres, or that complies with AS 1428, or that complies with clause 4.4.4 and Figures 4.6 and 4.7 of AS 4299, and
    - ii. the recess of which does not have a hob, and
    - iii. that is waterproofed in accordance with AS 3740, and
    - iv. the floor of which falls to a floor waste, and
    - v. that can accommodate a grab rail that complies with Figure 4.6 of AS 4299 and AS 1428, and
    - vi. that has a tap set that is a capstan tap set or that comprises lever handles and that has a single outlet, and
    - vii. that has the tap set positioned so as to be easily reached from the entry to the shower, and
    - viii. that can accommodate an adjustable, detachable hand-held shower rose mounted on a slider grab rail or a fixed hook, and
    - ix. that can accommodate a folding seat that complies with Figure 4.6 of AS 4299, and

Item 1

- d. thermostatic mixing valves for all hot water outlets, and
  - e. a washbasin with clearances that comply with Figure 4.4 of AS 4299, and
  - f. a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it, and
  - g. a mirror, and
  - h. a double general power outlet beside the mirror.
107. To ensure compliance with SEPP Seniors Living 2004, the laundry within each dwelling shall have a thermostatic mixing valve for all hot water outlets and a slip-resistant floor surface. There must also be a clear space in front of appliances of at least 1300 mm.
108. To ensure compliance with clause 68 a self-contained dwelling must be provided with a lined cupboard that is:
- a) able to be operated with one hand, and
  - b) located between 900mm and 1100mm above floor level.
109. To ensure compliance with SEPP Seniors Living 2004, door handles for opening doors must be able to be operated with one hand and located between 900mm and 1100mm above floor level.
110. To ensure compliance with SEPP Seniors Living 2004, all balconies and external paved areas must have slip resistant surfaces and switches must be located between 900mm and 1100mm above floor level. General purpose outlets must be located at least 600mm above floor level.
111. To ensure compliance with SEPP Seniors Living 2004, switches must be located between 900mm and 1100mm above floor level. General purpose outlets must be located at least 600mm above floor level.
112. "Peep holes" shall be provided to the entrance doors of units 2, 3 and 5 for personal security.
113. To ensure compliance with SEPP Seniors Living 2004, street signage incorporating house numbers must be provided at each intersection.
114. To ensure compliance with SEPP Seniors Living 2004, every entry (whether a front entry or not) to a self-contained dwelling, not being an entry for employees:
- a) Must not have a slope that exceeds 1:40; and
  - b) Must comply with clause 4.3.1 and 4.3.2 of AS 4299, and
  - c) Must have an entry door handle and other hardware that complies with AS 1428.
115. To ensure compliance with SEPP Seniors Living 2004, an outside garbage storage area must be provided in an accessible location.
116. To ensure compliance with SEPP Seniors Living 2004, each self-contained dwelling must have a toilet on the ground floor:

Item 1

- a) That is a visitable toilet within the meaning of clause 1.4.12 of AS 4299, and
- b) That is installed in compliance with AS 1428, and
- c) That has a slip-resistant floor surface, and
- d) The WC pan of which is located from fixed walls in accordance with AS 1428, and
- e) That can accommodate a grab rail that complies with Figure 4.5 of AS 4299 and AS 1428.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

117. 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.
118. Prior to issue of an Occupation Certificate, the following works must be completed:
- a. Construction of the new driveway crossing and layback in accordance with the levels and specifications issued by Council,
  - b. Removal of all redundant driveway crossings, pipe crossing and/or kerb laybacks. Full reinstatement of these areas to footway, and/or turfed verge and/or kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
  - c. Any sections of damaged grass verge are to be fully replaced with a non-friable turf of native variety to match existing.

Any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council. This shall be at no cost to Council.

119. Prior to issue of an Occupation Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention/retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention/ retention facility, in relation

Item 1

to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

120. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following must be provided to Council (attention Development Engineer):
- a. A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
  - b. A copy of the works-as-executed drawing of the as-built on-site detention/retention system, and
  - c. The Engineer's certification of the as-built system.

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

121. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the approved road, footpath and/or drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.
122. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
123. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit to the Principal Certifying Authority (PCA) certification from a suitably qualified and experienced traffic/civil engineer, that:
- a. The dimensions of all as-constructed private car parking spaces meet the dimension requirements of the Seniors Living SEPP (as last amended), and
  - b. The as-constructed car park complies with the approved Construction Certificate plans, and
  - c. The vehicular headroom requirements of:
    - the Seniors Living SEPP (as last amended) for accessible parking spaces, and
    - Australian Standard 2890.1 - "Off-street car parking", andare met from the public street into and within the applicable areas of the basement car park, and

Item 1

- d. The gradients of the constructed access driveway from the public street to the basement car park are in accordance with AS2890.1 and will not result in the scraping of the underside of cars.

124. Prior to issue of an Occupation Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the as-built on-site detention/ retention and re-use are to be submitted to the Principal Certifying Authority (PCA) for approval. Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor.

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

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

125. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:
  - a. Construction of the stormwater drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and
  - b. The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500, 3.2, and
  - c. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

- a. As built reduced surface and invert levels for all drainage pits and connection points.

Item 1

- b. As built reduced level(s) at the approved point of discharge to the public drainage system.
  - c. Gradients of drainage lines, materials and dimensions.
126. Prior to issue of the occupation certificate, the creation of a Restriction-on-Use under the Conveyancing Act, restricting the occupation of the premises to:
- a. People aged 55 years or over, or people with a disability as defined by the provisions of the State Environmental Planning Policy for Seniors Living.
  - b. People who live with such people as defined in (a) above.
  - c. Staff employed to assist in the administration of and provision of services to housing provided in this development.
127. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the existing structures originally assessed at 50 Pentecost Avenue:

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

If the structure(s) have been demolished under a separate development consent, then no follow-up report is required.

**BUILDING CONDITIONS**

128. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and documentary evidence of compliance with the relevant terms of the approval/standards of construction detail in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. Reinforcement AND circulation lines in position prior to any concrete being poured, placed or sprayed.
  - b. Drainage lines and circulation lines outside the pool area prior to any backfilling.
  - c. Safety fences, gates and latches erected and installed - pools are not to be filled unless a satisfactory inspection of the pool fencing has been made.
  - d. Final Inspection - on completion when all conditions of approval have been met including soundproof enclosures, resuscitation posters, depth markers installed and all landscaping completed.

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

Item 1

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

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

Item 1

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

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

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

136. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:

- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
- b. Smoke alarms which:
  - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
  - ii. are connected to the mains and have a standby power supply; and
  - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

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

137. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Wet area waterproofing details complying with the Building Code of Australia.
  - b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.
  - c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
  - d. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
  - e. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.

C Otto  
Executive Assessment Officer

S Segall  
Acting Team Leader  
Development Assessment - Central

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

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

**Attachments:**      **Locality plan**  
                             **Architectural plans**  
                             **Stormwater plan**  
                             **Landscape plan**  
                             **Survey plan**

**29-06-2005**

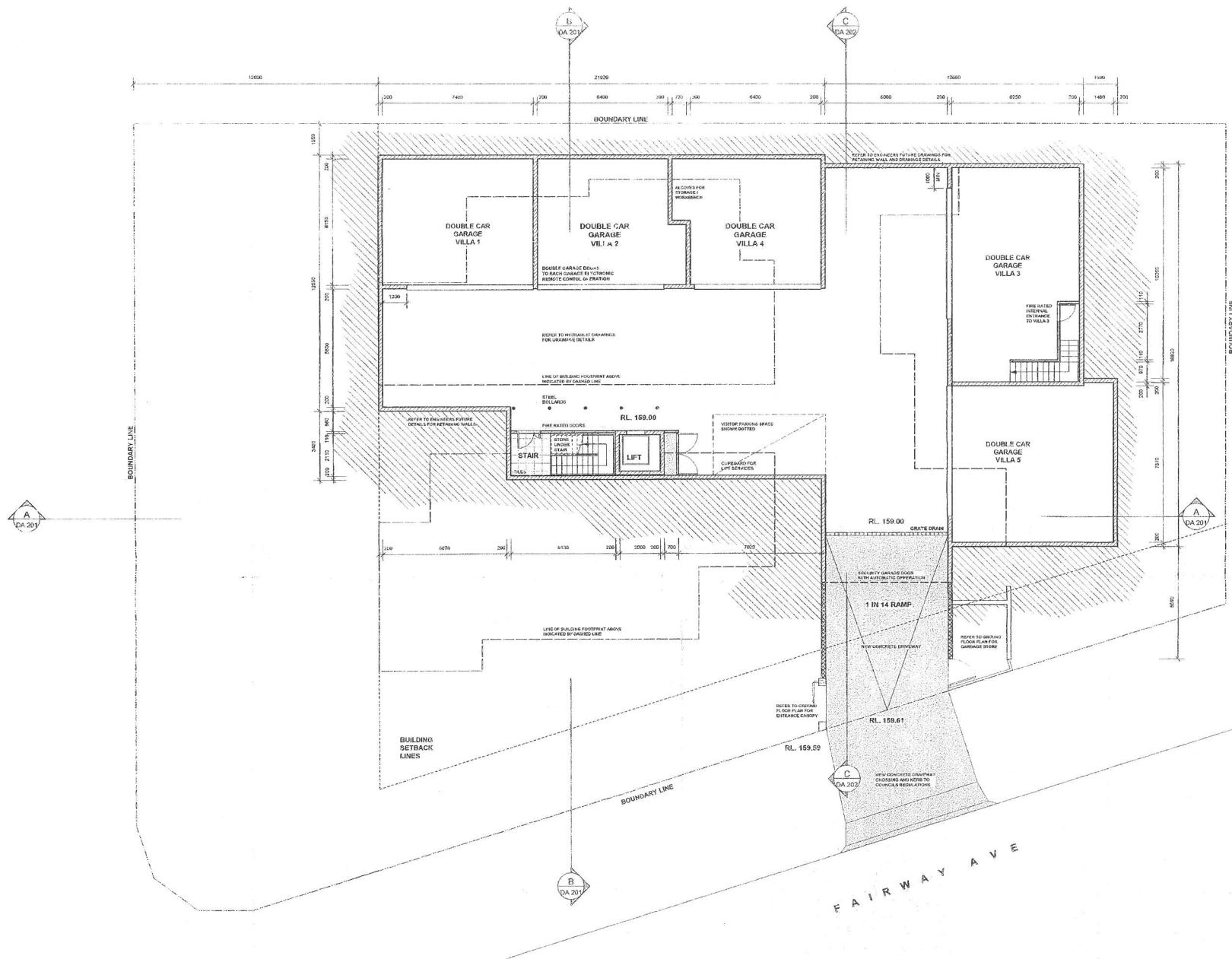
OBJECTION

SUBJECT LAND

## SUBMISSION

CIRCULATED AREA





NOTES:  
REFER TO HYDRAULIC ENGINEERS  
DRAWINGS FOR RETAINING WALL DETAILS

REVISIONS		
NO.	DESCRIPTION	DATE
A	DEVELOPMENT APPLICATION ISSUE	DEC 2004

LEGEND	
	EXISTING BRICK BOUNDARY FENCE WALL
	NEW STONE WALL, SAND STONE OR SIMILAR
	NEW RENDERED BRICK WALLS
	NEW CONCRETE BLOCK WALLS
	NEW LOW HEIGHT WALLS
	NEW TILED OUTDOOR AREAS
	NEW TILES TO WET AREAS
	NEW TONGUE AND GROOVE FLOORING
	NEW CARPET ON CONCRETE SLAB

	EXISTING BRICK BOUNDARY FENCE WALL
	EXISTING BRICK BOUNDARY FENCE WALL

FOR AUTHORITY APPROVAL ONLY  
NOT TO BE USED FOR CONSTRUCTION

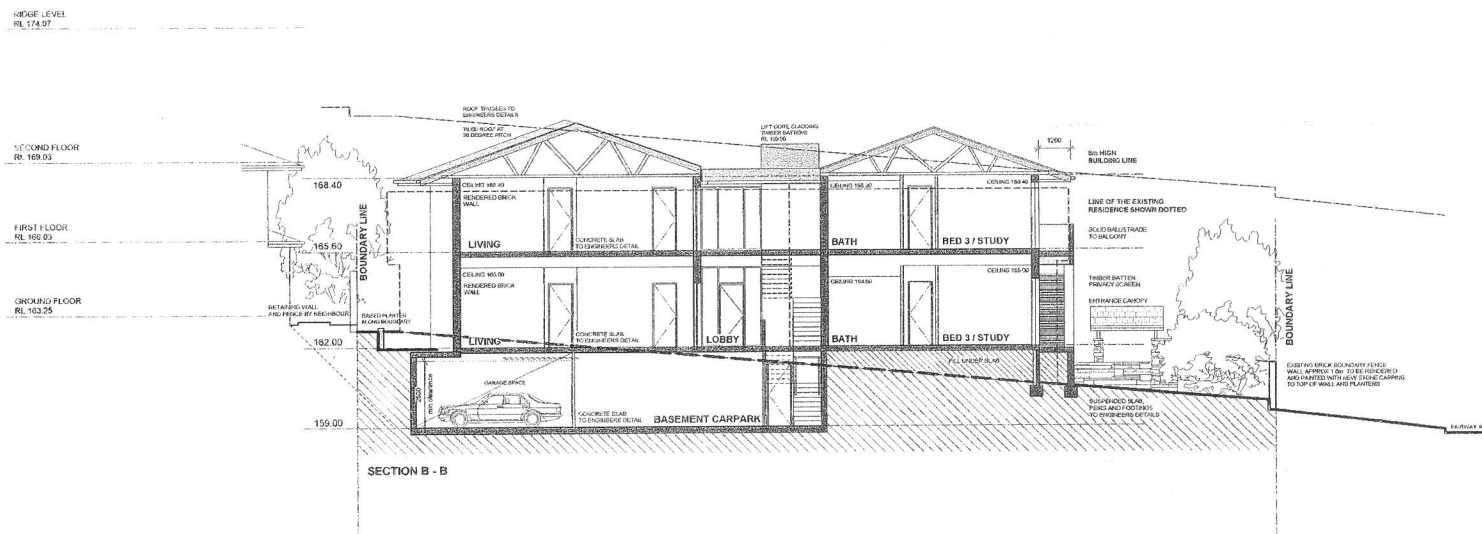
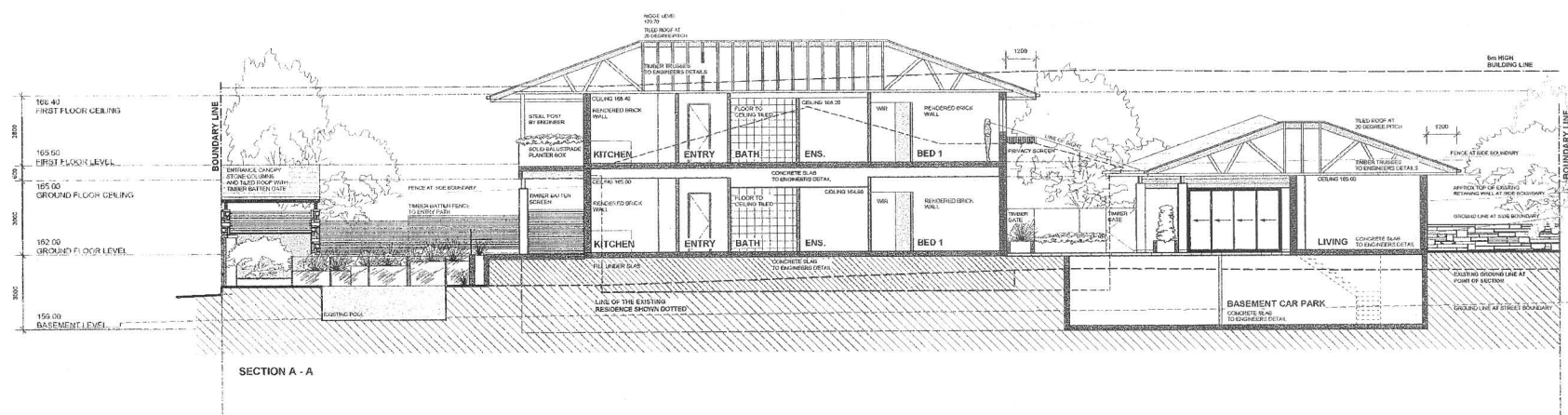


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project  
**SENIORS LIVING DEVELOPMENT**  
52 PENTECOST AVE  
PYMBLE NSW 2073  
drawing title:  
**BASEMENT FLOOR PLAN**  
job no.: 226  
drawing no.: 1/1/1/1







REVISIONS		
NO.	DESCRIPTION	DATE
A	DEVELOPMENT APPLICATION ISSUE	DEC 2004

LEGEND	
	NEW DARK GREY TILED ROOF
	PAINTED WEATHERBOARD
	PAINTED RENDERED BRICK WALLS
	EXISTING GROUND IN SECTION
	NEW FILL IN SECTION
	EXISTING RESIDENCE BEING DEMOLISHED
	MAX BRANCH RUNNING LINE ELEVATION

**FOR AUTHORITY APPROVAL ONLY**  
**NOT TO BE USED FOR CONSTRUCTION**

architect

**MOLNAR FREEMAN ARCHITECTS, PTY LTD**

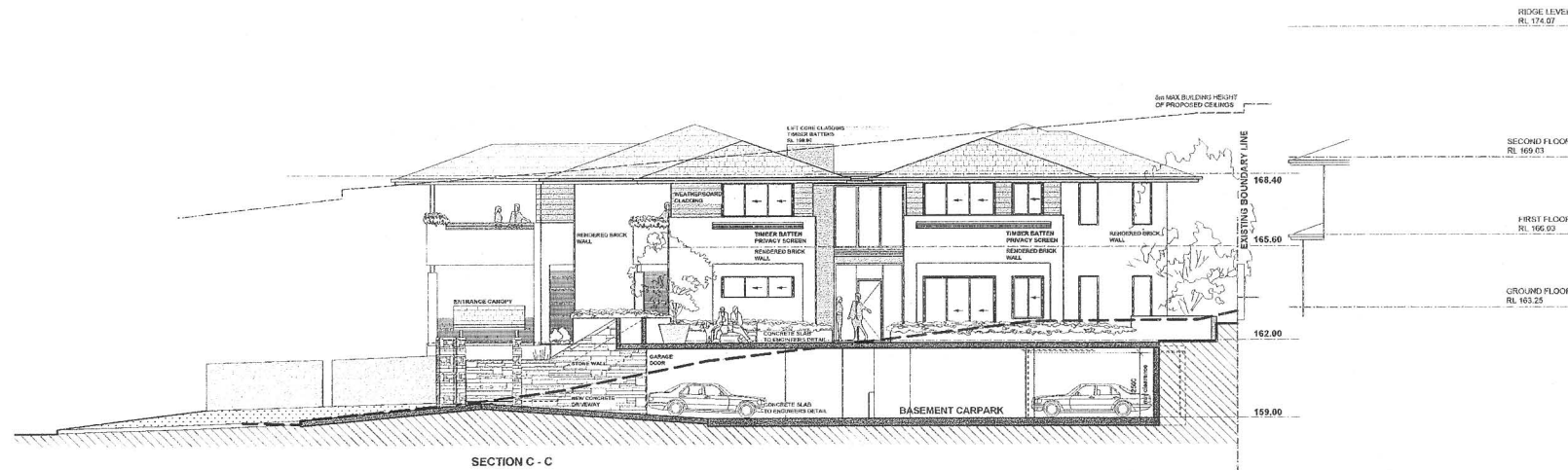
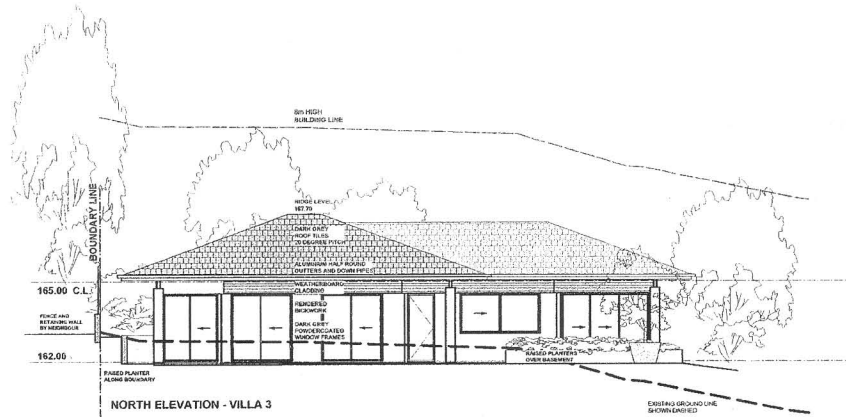
ABN:11 001 245 761

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project: **SENIORS LIVING DEVELOPMENT**  
52 PENTECOST AVE.  
PYMBLE NSW 2073

drawing title	
<b>SECTIONS</b>	
<p>This drawing and the ideas contained herein are hereby assigned, in whole or in part, to the undersigned or assigned herein, notwithstanding ownership in writing. Any license will be construed to the extent of the work to be completed, they will go to the inventor. Computers used very often are used in the home (including any work or study) are drawings.</p>	
job no.	drawing no.
226	226



REVISIONS		
NO.	DESCRIPTION	DATE
A	DEVELOPMENT APPLICATION ISSUE	DEC 2024

LEGEND	
	NEW DARK GREY TILED ROOF
	PAINTED WEATHERBOARD
	PAINTED RENDERED BRICK WALLS
	NEW STONE WALLS
	EXISTING GROUND IN SECTION
	NEW FILL IN SECTION
	EXISTING RESIDENCE BEING DEMOLISHED
	MAX 8M HIGH BUILDING LINE FOR CEILINGS

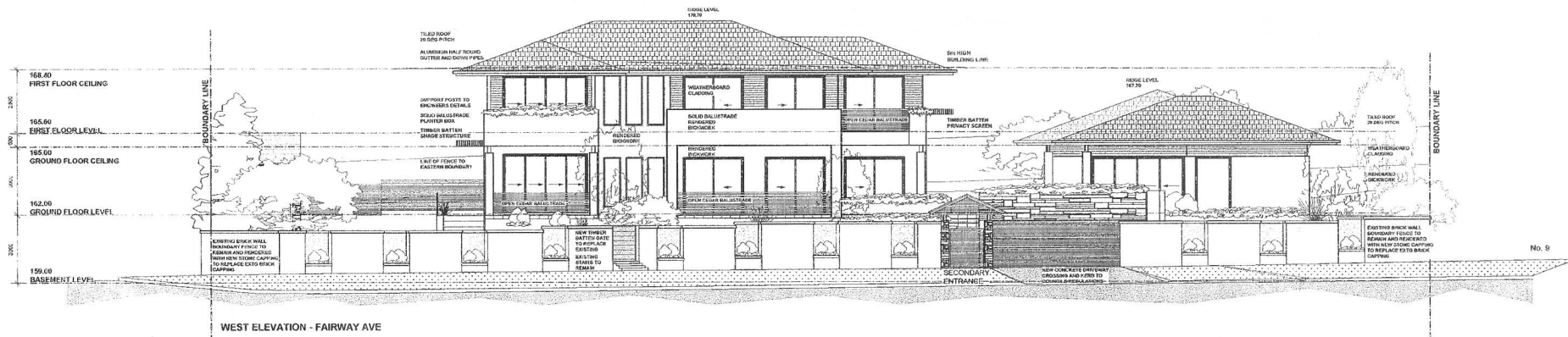
FOR AUTHORITY APPROVAL ONLY  
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project **SENIORS LIVING DEVELOPMENT  
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PYMBLE NSW 2073**

Drawing title: **SECTIONS**

DATE: 22/11/2024 DRAWING NO: D0202 SCALE: 1:50



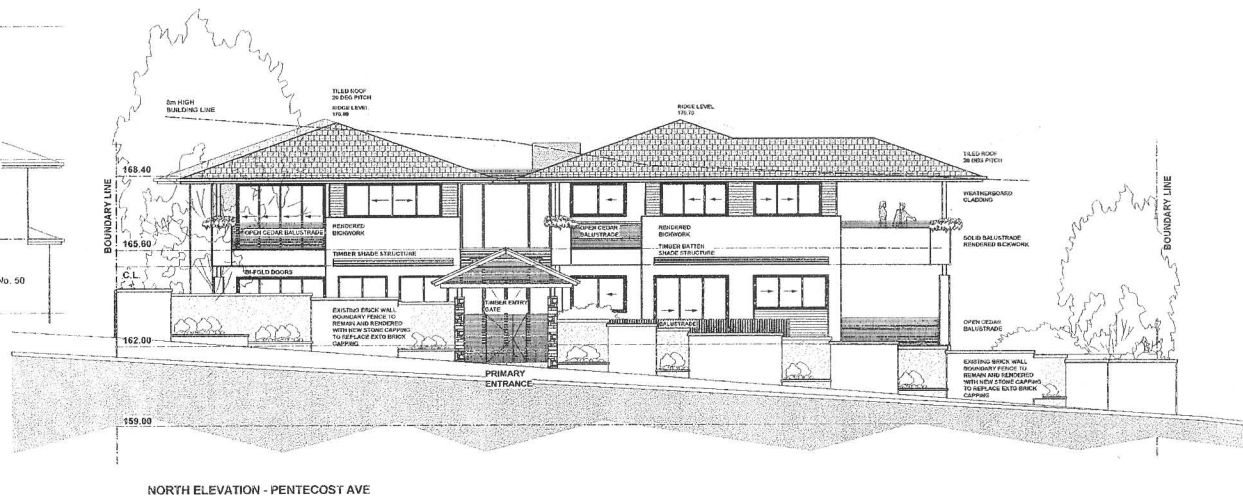
TREBLE LEVEL  
RL 174.97

SECOND FLOOR  
RL 169.03

FIRST FLOOR  
RL 165.02

GROUND FLOOR  
RL 163.25

No. 50

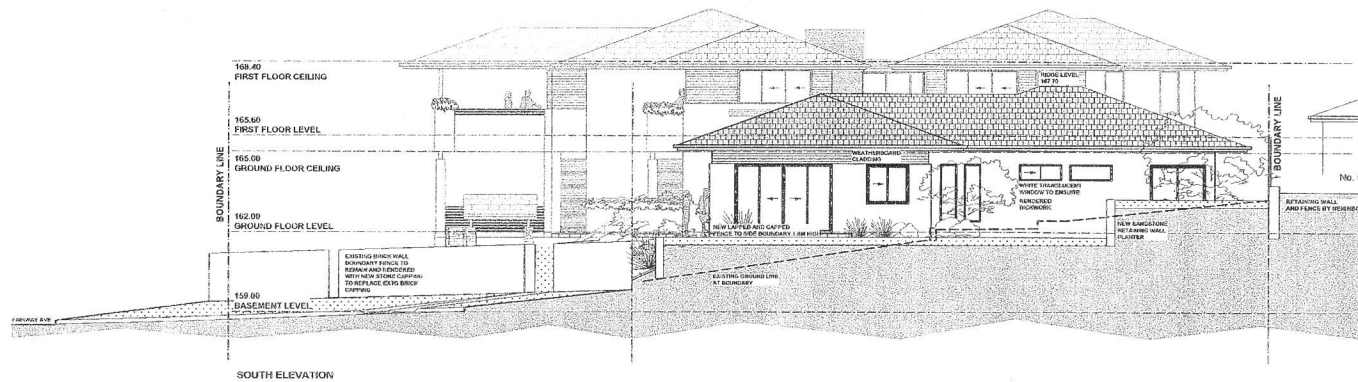
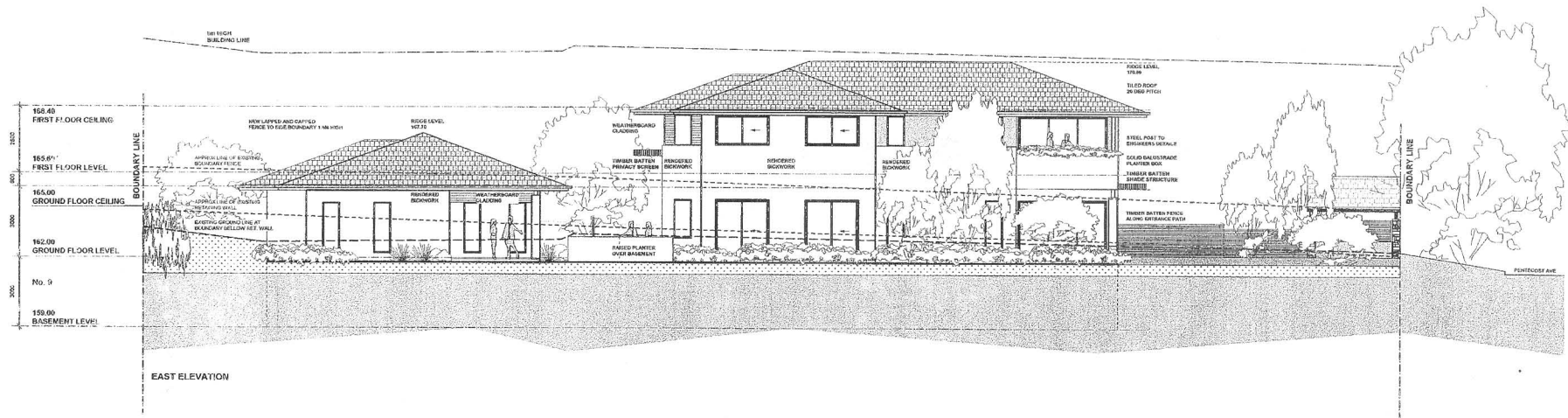


REVISIONS		
NO.	DESCRIPTION	DATE
A	DEVELOPMENT APPLICATION ISSUE	DEC 2004

LEGEND	
	NEW DARK GREY TILED ROOF
	PAINTED WEATHERBOARD
	PAINTED RENDERED BRICK WALLS
	NEW DARK GREY TILED ROOF

FOR AUTHORITY APPROVAL ONLY  
NOT TO BE USED FOR CONSTRUCTION

architect	MOLNAR FREEMAN ARCHITECTS, PTY LTD	project	SENIORS LIVING DEVELOPMENT 62 PENTECOST AVE PYMBLE NSW 2073
drawing title	ELEVATIONS	job no.	226
scale	1:100	date	18 DEC 2004
telephone	(02) 9327 1326	facsimile	(02) 9327 1946



REVISIONS		
NO.	DESCRIPTION	DATE
A.	DEVELOPMENT APPLICATION ISSUED	DEC 2004

LEGEND	
	NEW DARK GREY TILED ROOF
	PAINTED WEATHERBOARD
	PAINTED RENDERED BRICK WALLS
	NEW STONE WALL

FOR AUTHORITY APPROVAL ONLY  
NOT TO BE USED FOR CONSTRUCTION

architect  
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Project: **SENIORS LIVING DEVELOPMENT  
52 PENTECOST AVE  
PYMBLE NSW 2073**

Drawing title: **ELEVATIONS**

Job no.: 226 Drawing no.: DAC002

# PROPOSED SEPP 5 DEVELOPMENT #52 PENTECOST AVENUE PYMBLE STORMWATER MANAGEMENT CONCEPT PLANS

PROPOSED DEVELOPMENT : TYPE 5 - MULTI-UNIT DEVELOPMENT				
	DCP 47 REQUIREMENT	CLAUSE	PROPOSAL AND CALCULATIONS	COMPLIANCE WITH DCP 47
STORMWATER DISPOSAL	HIGH LEVEL PROPERTY - MAY DISCHARGE TO STREET GUTTER - MAX. 25 L/s - MAY DISCHARGE TO STREET DRAINAGE PIPE	5.4.1 5.4.2	DRAINAGE BY GRAVITY TO STREET DRAINAGE	YES
	LOW LEVEL PROPERTY - PIPE MAY NOT EXTEND ACROSS NEIGHBOURS STREET FRONTAGE - ON-SITE ABSORPTION/DISPERSION NOT PERMITTED FOR DISCHARGE TO BUSHLAND. NO RUNOFF DAYS TO NOT INCREASE AND BIA RESTRICTED TO 35% - CHARGED SYSTEMS NOT PERMITTED - EASEMENT REQUIRED WATERCOURSE/EASEMENT AVAILABLE - MAY DISCHARGE TO NATURAL W/C OR APPURTENANT EASEMENT	5.4.1 5.7.7 5.6, 4.4.3 5.7.8 6.9(k)		
STORMWATER MANAGEMENT	- RAINWATER TANK 3000 L PER UNIT TO TOILETS & LAUNDRY - OSD REQUIRED. STORAGE MAY BE REDUCED BY CORRESPONDING PROVISION OF ON-SITE RETENTION VOLUME. - WHERE BACKING ONTO BUSHLAND: - OSD NOT PERMITTED - ADDITIONAL ON-SITE RETENTION REQUIRED - GREATER OF: ROOF AREA x 20mm OR 5000 L - WHERE DISCHARGE IS DIRECT TO AN INTERALLOTMENT EASEMENT OSD MAY BE MANDATORY.	6.4 6.7 6.8 6.9	DETERMINE RAINWATER TANK PROVISION No UNITS : 5 RAINWATER TANK PROVISION : SINGLE TANK SERVICING ALL UNITS RAINWATER TANK STORAGE : = No UNITS x 3000 L = 15 m <sup>3</sup> DETERMINE OSD REQUIREMENT SITE AREA = 1709 m <sup>2</sup> COUNCIL CATCHMENT CODE: BC1 REQUIRED STORAGE VOLUME = 416 m <sup>3</sup> /ha = 0.1709 x 60% x 416 = 43 m <sup>3</sup> CONCLUSION PROVIDE 45 m <sup>3</sup> RAINWATER RE-USE OSD THEN NOT REQUIRED	YES

SHEET INDEX	
SHEET No.	DESCRIPTION
C1	COVER SHEET AND NOTES
C2	STORMWATER MANAGEMENT CONCEPT PLAN
	- GROUND FLOOR LEVEL
C3	STORMWATER MANAGEMENT CONCEPT PLAN
	- BASEMENT LEVEL
C4	ENVIRONMENTAL SITE MANAGEMENT CONCEPT NOTES
C5	ENVIRONMENTAL SITE MANAGEMENT CONCEPT PLAN

THIS DRAWING REVISION IS FOR DEVELOPMENT APPLICATION PURPOSES ONLY AND IS NOT TO BE ISSUED FOR CONSTRUCTION

## GENERAL NOTES

- ALL WORK SHALL BE CARRIED OUT IN ACCORDANCE WITH AS 1500.3.2.1998 AND THE REQUIREMENTS OF THE LOCAL COUNCIL'S POLICES AND CODES.
- THE MINIMUM SIZE OF STORMWATER DRAINS SHALL NOT BE LESS THAN ONE FOR CLASS 1 BUILDINGS AND TWO FOR OTHER CLASSES OF BUILDING OR AS REQUIRED BY THE REGULATORY AUTHORITY.
- THE MINIMUM GRADIENT OF STORMWATER DRAINS SHALL BE AS GIVEN IN THE TABLE BELOW:  

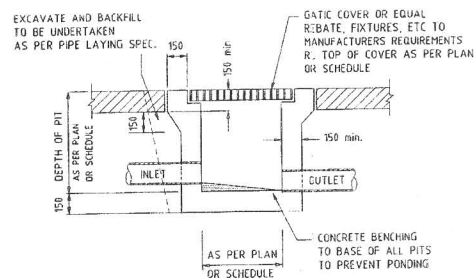
NOMINAL SIZE	MIN GRADIENT
mm	%
DN 90	1.00
DN 100	1.00
DN 150	1.00
DN 225	0.5
DN 300	0.40
DN 375	0.35
- COUNCIL'S TREE PRESERVATION ORDER IS TO BE STRICTLY ADHERED TO. NO TREES SHALL BE REMOVED UNTIL PERMIT IS OBTAINED.
- PUBLIC UTILITY SERVICES ARE TO BE ADJUSTED AS NECESSARY AT THE CONTRACTORS EXPENSE.
- ALL PITS TO BE BENCHED AND STREAMLINED. PROVIDE STEP IRONS FOR ALL PITS OVER 1200 DEEP.
- CATCH DRAINS ARE TO BE CONSTRUCTED AS REQUIRED BY COUNCIL'S ENGINEER.
- MAKE SMOOTH JUNCTION WITH ALL EXISTING WORK.
- VEHICULAR ACCESS AND ALL SERVICES TO BE MAINTAINED AT ALL TIMES TO ADJOINING PROPERTIES AFFECTED BY CONSTRUCTION.
- SUITABLE EASEMENTS TO DRAIN WATER TO BE PROVIDED OVER DRAINAGE LINES THROUGH ALLOTMENTS AND SUBSEQUENT PIPE TO BE CENTRALLY LOCATED WHERE REQUIRED BY DESIGN.
- ALL BUSHES, SHEDS, BUILDINGS AND FENCES TO BE REMOVED. SERVICES SHOWN ON THESE PLANS HAVE BEEN LOCATED FROM INFORMATION SUPPLIED BY THE RELEVANT AUTHORITIES AND FIELD INVESTIGATIONS AND ARE NOT GUARANTEED COMPLETE OR CORRECT AND ARE TO BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.
- ADEQUATE PROVISION TO BE MADE FOR SCOURING AND SEDIMENTATION TO ALL DRAINAGE WORKS AS DIRECTED.
- ANY VARIATION TO THE WORKS AS SHOWN ON THE APPROVED DRAWING ARE TO BE CONFIRMED BY THE DESIGN ENGINEER PRIOR TO THEIR COMMENCEMENT.

EXISTING	PROPOSED
KERB AND GUTTER	---
ROAD CENTRELINE	---
DRAINAGE PIPELINE (ROAD)	---
DRAINAGE PIPELINE (PROPERTY)	---
INLET PIT (ROAD)	---
INLET PIT (PROPERTY)	---
JUNCTION PIT (ROAD)	---
SURFACE LEVEL	-672.0
SURFACE CONTOUR	-672.0
WATERMAIN	---
UNDERGROUND POWER CABLES	---
GAS MAIN	---
UNDERGROUND PHONE CABLES	---
POWER POLES	---
SEWER	---
INDICATES PIPE RISERS	---
INDICATES SERVICE TYPE	---
INDICATES SERVICE SIZE	---
INDICATES SERVICE DROPPERS	---

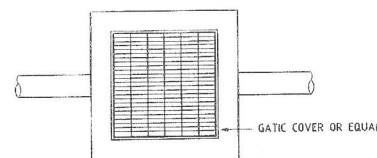
PRINT ISSUED  
1.8 11/11/2004

BASE SCALE  
FOR AT PLAN  
1:100

## KU-RING-GAI COUNCIL DCP 47 ASSESSMENT



TYPICAL SECTIONAL ELEVATION



PLAN

TYPE 1 - GRATED STORMWATER INLET PIT

## MINIMUM PIPE COVER - TABLE C1

LOCATION	CAST IRON, DUCTILE IRON, GALVANISED STEEL	UPVC
	MINIMUM DEPTH OF COVER	
NOT SUBJECT TO VEHICULAR LOADING		
(a) FOR CLASS 1 BUILDINGS	NIL	300
(b) FOR OTHER THAN CLASS 1 BUILDINGS	NIL	300
SUBJECT TO VEHICULAR LOADING		
(a) OTHER THAN ROADS	300	450
(b) ROADS	300	REFER TO NOTE A
(i) SEALED	300	
(ii) UNSEALED	300	
SUBJECT TO CONSTRUCTION EQUIP.	300	

### NOTE A

STORMWATER DRAINS CONSTRUCTED OF OTHER THAN CAST IRON, DUCTILE IRON OR GALVANISED STEEL HAVING COVER LESS THAN THAT SPECIFIED IN TABLE C1 SHALL BE COVERED WITH AT LEAST 50mm OVERLAY AND SHALL BE PAVED WITH AT LEAST

(a) 100mm THICKNESS OF REINFORCED CONCRETE WHERE SUBJECT TO HEAVY VEHICULAR LOADING

A	CLIENT REVISIONS	CF	11/2004
0	ISSUED FOR DEVELOPMENT APPLICATION	CF	10/2004
	REVISION DETAILS	DRAWN	APPR. DATE

**AFCE Environment + Building**  
A DIVISION OF APLEYARD FORREST CONSULTING ENGINEERS Pty Ltd  
ABN 46 193 475 686  
88 HILLS STREET, WARRAND NSW 2200  
UNIT 35, 7 ANDREA AVENUE, CASTLE HILL NSW 2154  
SUITE 1, 147-149 BONG BONG STREET, BONG BONG NSW 2574  
TEL 02 1336 3199 FAX 02 1336 3951  
TEL 02 1336 4337 FAX 02 924 9544  
TEL 02 4842 1037 FAX 02 4842 1048

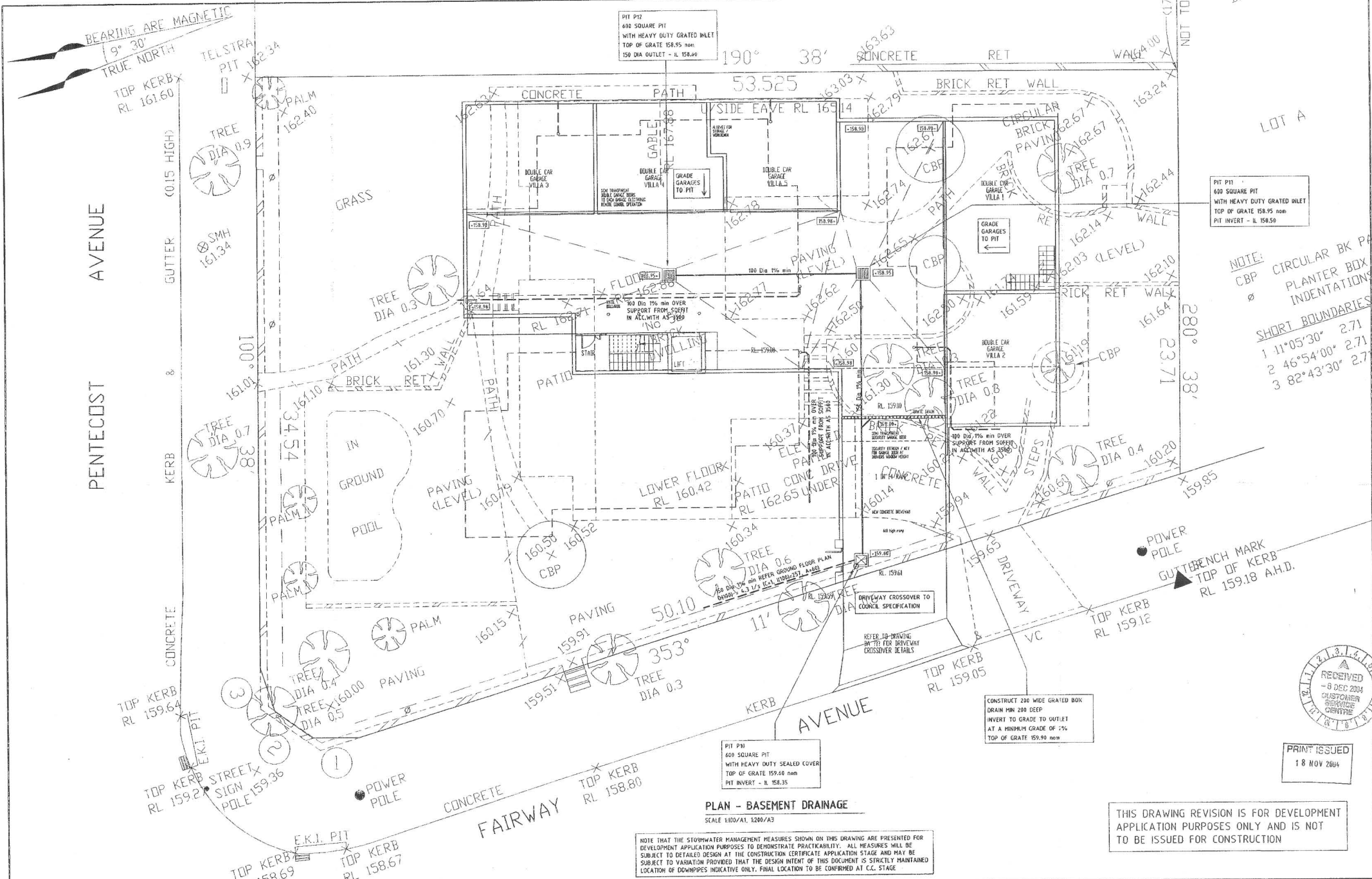
CLIENT/BUILDER:  
**FAIRWAY DEVELOPMENTS**

PROJECT:  
**PROPOSED SEPP 5 DEVELOPMENT  
#52 PENTECOST AVENUE PYMBLE**

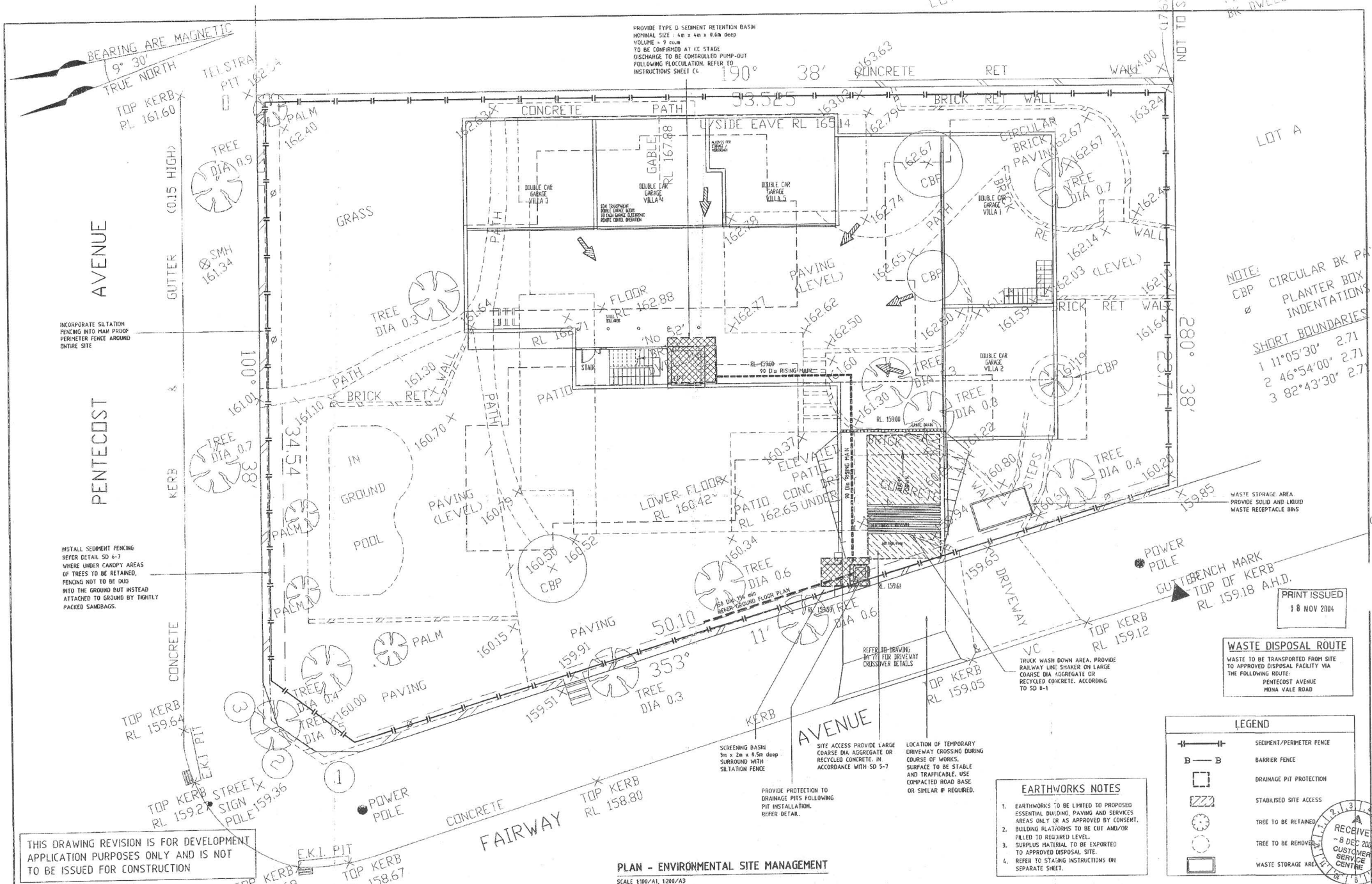
DRAWING TITLE:  
**COVER SHEET AND NOTES**

DRAWN	CF	10/2004	APPROVED FOR DEVELOPMENT APPLICATION ONLY
DESIGNED	CF	10/2004	
CHECKED	BAK/LDA		
JOB NO.	352394	SHEET 1 OF 5	DRAWING NO. 352394/C1 REV. A









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NO	ISSUED FOR DEVELOPMENT APPLICATION	CF	11/2004
0	ISSUED FOR DEVELOPMENT APPLICATION	CF	11/2004

**AFCE**  
Environment + Building  
5th FLOOR, 7 WELLS STREET, CASTLE HILL, NSW 2154  
TEL 02 461 451 349 FAX 02 461 451 354  
TEL 02 461 451 355 FAX 02 461 451 356  
TEL 02 461 451 357 FAX 02 461 451 358

**CLIENT/BUILDER:**  
FAIRWAY DEVELOPMENTS

**DRAWING TITLE:**  
ENVIRONMENTAL SITE MANAGEMENT CONCEPT PLAN

**PROJECT:**  
PROPOSED SEPP 5 DEVELOPMENT #52 PENTECOST AVENUE PYMBLE

**DRAWN:** CF  
**DESIGNED:** CF  
**CHECKED:** BAK/LDA  
**JOB No.:** 352394  
**SHEET 5 OF 5**  
**DRAWING No.:** 352394/C5  
**REV. 0**

APPROVED FOR DEVELOPMENT APPLICATION ONLY

11/2004

11/2004

L.D. APPEYARD PLE. AUST. (NPL-3)

(CIVIL AND STRUCTURAL)

# PLANT SCHEDULE

STR.	SPECIES NAME	COMMON NAME	POT SIZE	SPACING	NO	HEIGHT	WIDTH	STAKE
<b>TREES</b>								
AP	Acacia pycnantha	Japanese Maple	75 L	As Shown	2	4.0m	3.0m	Yes
AB	Arbutus unedo	Rough Barked Apple	75L	As Shown	6	18.0m	10.0m	Yes
GA	Gordonia ovata	Irish Strawberry Tree	75 L	As Shown	2	6.0m	4.0m	Yes
LI	Lagerstroemia indica	Crape Myrtle	75 L	As Shown	2	6.0m	8.0m	Yes
JH	Jacaranda mimosifolia	Jacaranda	75 L	As Shown	2	15.0m	8.0m	Yes
UP	Ulmus parvifolia	Chinese Elm	100 L	As Shown	5	15.0m	10.0m	Yes
<b>SHRUBS / PERENNIALS</b>								
AS	Arctostaphylos uva-ursi	Ulay Plant	300 mm	1.0m	48	5.0m	2.0m	No
AZ	Azalea 'Alba Magna'	Azalea	200 mm	0.75m	13	1.0m	1.0m	No
BJ	Buxus microphylla japonica	Japanese Box	200 mm	0.4m	150	0.5m	0.5m	No
CA	Camellia japonica 'Uwajima'	Camellia	300 mm	0.8m	5	2.0m	1.0m	Yes
CS	Camellia sasanqua 'Setugetsu'	Camellia	300 mm	0.8m	7	2.0m	1.0m	Yes
CW	Callistemon citrinus 'White Anzac'	Bottlebrush	200mm	0.6m	22	1.5m	2.0m	No
GR	Gardenia augusta 'Variegata'	Gardenia	200 mm	0.75m	35	1.0m	1.0m	Yes
GB	Grevillea lewisii	Cong Solder Flower	200mm	0.5m	24	1.5m	1.5m	No
GCC	Grevillea 'Columbus Gem'	Grevillea	200 mm	1.2m	6	3.5m	2.0m	Yes
GCI	Grevillea 'Cascadur Ice'	Grevillea	200 mm	1.2m	4	3.5m	2.0m	Yes
GMP	Grevillea 'Missy Piss'	Grevillea	200 mm	1.2m	4	3.5m	2.0m	Yes

LB	Leucopogon brownii	Cushion Bush	150 mm	As Shown	19	0.4m	0.5m	No
MP	Myrica pennicillata	Port Wine Magnolia	300 mm	2.0m	9	3.0m	2.0m	Yes
ND	Nandina domestica	Myrica	300 mm	0.8m	43	2.5m	1.5m	No
PH	Pittosporum tobira 'Miss Muffet'	Sacred Bamboo	300 mm	0.8m	21	1.5m	1.0m	No
PC	Psychotria elaeagnifolia	Tabebuia	300 mm	0.75m	30	1.0m	0.5m	No
PT	Pharbitis nil 'Bronze Bulb'	Pharbitis	300 mm	2.0m	6	3.0m	2.0m	Yes
RE	Rhipsalis cuneata	NZ Flax	200 mm	0.75m	18	0.7m	0.7m	No
WF	Wisteria frutescens	Lady Palm	350 mm	1.3m	18	2.0m	1.5m	No
		Coastal Rosemary	200 mm	0.75m	76	1.5m	1.0m	No
<b>CLIMBERS / GROUNDCOVERS</b>								
AG	Asparagus 'Snowball'	Mini White Asparagus	150 mm	0.4m	20	0.3m	0.5m	No
CA	Clivia miniata	Raffia Lily	150 mm	0.5m	47	0.5m	0.5m	No
GH	Gazania hybrids	Treasure Flower	150 mm	0.4m	12	0.3m	0.5m	No
LEG	Limnium maculatum 'Emerald Giant'	Elly Lily	150 mm	0.4m	111	0.5m	0.5m	No
LH	Limonium hybrid	Mal Bush	150 mm	0.5m	113	0.5m	0.5m	No
OJ	Ophiopogon japonicus	Giant Mondo Grass	150 mm	0.4m	149	0.4m	0.4m	No
TT	Trachospermum linearifolium	Thunberg Star Jasmine	200 mm	0.8m	35	2.0m	1.0m	No

## SCHEDULE OF EXISTING TREES

No.	SPECIES NAME	COMMON NAME	HEIGHT	SPREAD	CONDITION	ACTION
1	Eucalyptus saligna	Sydney Blue Gum	22m	10m	Fair	Retain
2	Liquidambar styraciflua	Liquidambar	14m	14m	Good	Retain
3	Cupressus macrocarpa	Monterey Cypress	11m	6m	Fair	Retain
4	Brumelia Aerea	Liquidambar	14m	10m	Poor	Remove
5	Arecastrum romanzoffiana	Cocos Palm	9m	8m	Fair	Remove
6	Arecastrum romanzoffiana	Cocos Palm	8m	8m	Fair	Remove
7	Arecastrum romanzoffiana	Cocos Palm	7m	4m	Fair	Remove
7.1	Sapium sebiferum	Chinese Tallow	7m	4m	Poor	Remove
7.2	Thoucasia werneri	Lantana	6m	5m	Poor	Remove
7.3	Thoucasia werneri	Lantana	4m	5m	Poor	Remove
8	Fraxinus excelsior 'Aurea'	Golden Ash	10m	10m	Fair	Remove
8.1	Pittosporum eugenioides 'Variegatum'	Tarata	7m	2m	Fair	Remove
8.2	Pittosporum eugenioides 'Variegatum'	Tarata	9m	4m	Good	Remove
8.3	Pittosporum eugenioides 'Variegatum'	Tarata	7m	2m	Fair	Remove
9	Arecastrum romanzoffiana	Cocos Palm	8m	4m	Fair	Remove
9.1	Arecastrum romanzoffiana	Cocos Palm	8m	4m	Fair	Remove
10	Eucalyptus saligna	Sydney Blue Gum	10m	5m	Poor	Remove
11	Eucalyptus saligna	Sydney Blue Gum	18m	12m	Good	Retain
12	Angophora floribunda	Rough Barked Apple	13m	6m	Fair	Remove
13	Cedrus deodara	Deodar Cedar	16m	8m	Good	Remove
14	Brachychiton acerifolius	Blowhard Flame Tree	14m	4m	Fair	Remove
15	Nyssa sylvatica	Wax Tree	9m	8m	Fair	Remove
16	Celtis africana	White Sinkerwood	12m	12m	Good	Remove
17	Pyrus ussuriensis	Asian Pear	12m	12m	Fair	Remove
18	Cupressus nivalis	Leiland Cypress	7m	2m	Fair	Remove
19	Eucalyptus saligna	Sydney Blue Gum	25m	15m	Good	Retain
20	Eucalyptus saligna	Blackbutt	22m	10m	Fair	Retain
21	Eucalyptus saligna	Blackbutt	25m	12m	Fair	Retain
22	Eucalyptus saligna	Sydney Blue Gum	25m	16m	Fair	Retain
24	Jacaranda mimosifolia	Jacaranda	18m	8m	Good	Retain

## LEGEND

- TREES OF SIGNIFICANCE ON ADJACENT PROPERTY
- EXISTING TREES TO BE RETAINED
- EXISTING TREES TO BE REMOVED
- PROPOSED TREE PLANTINGS
- LAWNS WITH STEEL EDGING
- DECO-GRANITE WITH STEEL EDGE
- MASONRY WALLS
- STONE FEATURE WALL
- LARGE FORMAT PAVY STEPPING STONE PATHS IN GRAVEL
- GARDEN MULCH
- EXISTING SPOT LEVELS
- PROPOSED SPOT LEVELS
- NEW SHRUB PLANTINGS
- NEW GROUNDCOVER PLANTING

**JOANNE GREEN LANDSCAPE DESIGN P/L**

COMMERCIAL & RESIDENTIAL DESIGNERS & CONTRACTORS

101 Princes Pk. Warriewood NSW 2107  
Ph (02) 9979 5363 Fax (02) 9979 6767  
EMAIL: jg@jgdesign.com.au  
WEBSITE: www.joannegreen.com.au  
ABN 50 002 219 829 A/CN 002 219 829 LIC No. 42446

CLIENT: **L.H. BUILDING SERVICES**

PROJECT: **52 PENTECOST AVENUE PYMBLE NSW 2073**

DRAWING: **LANDSCAPE PLAN**

DATE: 28 October 2024 DRAWN: J.G.J.

BEARING ARE MAGNETIC  
9° 30'  
TRUE NORTH

FLOOR X  
RL 165.10  
'No 50'  
TWO STOREY  
BK DWELLING  
U/SIDE EAVE  
RL 170.18  
ROOF  
RL 174.23

L. G. A. KU-RING-GAI

PLAN OF LOT 1 IN D.P. 737475  
SHOWING LEVELS & FEATURES LOCATED  
(52 PENTECOST AVENUE, PYMBLE)

RED. RATIO: 1/200

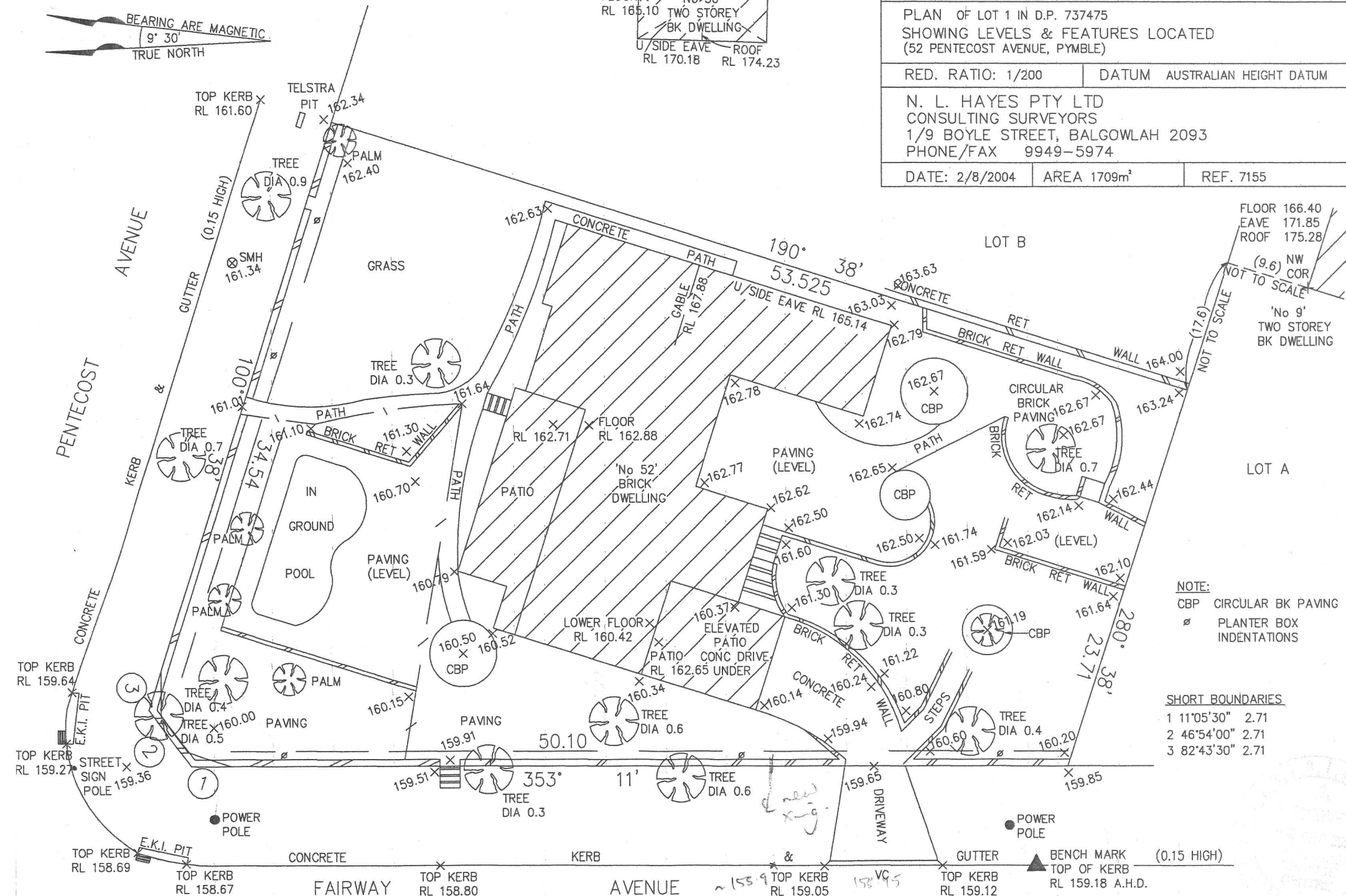
DATUM AUSTRALIAN HEIGHT DATUM

N. L. HAYES PTY LTD  
CONSULTING SURVEYORS  
1/9 BOYLE STREET, BALGOWLAH 2093  
PHONE/FAX 9949-5974

DATE: 2/8/2004

AREA 1709m<sup>2</sup>

REF. 7155



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## 11 GREGORY STREET, ROSEVILLE

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

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

**BACKGROUND:**

On 9 August 2005 Council at its Ordinary Meeting resolved to defer consideration of the proposed development at 11 Gregory Street Roseville pending a site inspection. The site inspection was held on 13 August 2005.

**COMMENTS:**

Information in response to the issues raised during the site inspection is contained within the report.

**RECOMMENDATION:**

Refusal

## PURPOSE OF REPORT

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

## BACKGROUND

On 9 August 2005 Council, at its Ordinary Meeting, resolved to defer consideration of the proposed development at 11 Gregory Street, Roseville pending a site inspection. The site inspection was held on 13 August 2005 and the following issues/matters were raised:

### 1. Possibility of increasing the front setback

- a) The applicant explained that increasing the front setback would require the carport structure to be integrated with the house. The applicant dismissed this approach as it would detract from the symmetry of the house.

### 2. Locating the carport within the side setback

- a) The applicant explained the difficulties of locating a carport within the side setback, behind the building line including their disabled access requirements, as follows:
  - i) Access into rear of the dwelling difficult due to a level difference of 1.83 metres between the ground level and proposed floor level;
  - i) A ramp with a grade of 1:14 requires a ramp length of 17 metres; and
  - ii) Length of ramp increases built upon area.
- b) Raising floor level of the carport explored but dismissed by the applicant for reasons of bulk and privacy impacts to the neighbouring property.

### 3. Front setback and height of carport opposite

- a) Staff to advise on the height and roof pitch of the recently completed carport at 8 Gregory Street opposite the subject site.

### 4. Side setback of proposed carport

- a) Staff to advise whether a reduced north-western side setback from 2.5 metres down to 1.5 metres would comply with DCP 38.
- b) Potential impacts on trees discussed.

## ADDITIONAL INFORMATION

The following comments are provided in response to the issues raised at the site inspection:

### 1. Possibility of increasing the front setback

Increasing the front setback would require the integration of the carport with the dwelling. The integration of the car-parking structure with the house is a preferred outcome in comparison with a stand alone carport located forward of the dwelling.

## Item 6

DA0188/05  
19 August 2005**2. Locating carport within side setback**

The existing dwelling is set back 4.1 metres from the eastern boundary, which would allow ample space to locate a single car-parking structure within the side setback and integrate it with the house. The ground level at the eastern boundary at the front building line is at RL 88.23. The floor level of the dwelling is at RL 89.48. This results in a height difference of 1.25 metres. A carport at ground level in this location would require a ramp of approximately 17 metres.

However, the option of a raised carport in conjunction with a shorter ramp could be explored. Alternative locations within the side setback accessing either the front or the rear may also be possible. For instance, there may be potential for integrated car accommodation in the approximate location of the study, which would allow a ramp to the front porch which meets the required disability standards. Such a structure may have a floor level lower than the study as proposed and would therefore result in less visual bulk impact than the current proposal.

Any additional ramp area would increase the built upon area, however, the built upon area could be reduced in other areas of the site. In particular, the paved area around the pool could be reduced, especially to the east of the pool.

**3. Front setback and height of carport opposite**

The height of the eaves to the front of the carport at 8 Gregory Street, opposite the subject site, is 2.6 metres. To its ridge the height is 4.2 metres. The pitch of the roof is 30 degrees. The carport posts are set back between 4.1 and 4.4 metres from the front boundary.

**4. Side setback of proposed carport**

Under DCP 38, the setbacks from the carport to the side boundary are considered in relation to the side setbacks for buildings in general. Buildings on a site of this size require a setback of 1.5m. A side setback of 1.5 metres for a carport behind the building line would comply with the standards of DCP 38.

The re-location of the carport to 1.5 metres from the boundary would result in the removal of the *Ulmus parvifolia* (Chinese elm) on the western boundary. Council's landscape officer has stated that the tree is not in good condition and could be removed.

**ADDITIONAL COMMENTS**

In addition to the issue of the carport location, the proposed stormwater management on the site remains unsatisfactory. As stated in the assessment report to the Council report of 9 August 2005, the submitted concept stormwater plans by Complete Consultants (refer Job No. 0021-1, Revision No. 1, dated 9/6/2005) were not supported by Development Engineers for the following reasons:

- *All eight downpipes draining to the rainwater tank operate via pressure rather than via gravity (preferred).*

*A charged system functions via pressure. The downpipes/pipes are constantly filled with water and require the elevation/height of the building (known as head) to force the water uphill to connect to the street system. Charged systems are undesirable for the following reasons:*

Item 6

DA0188/05  
19 August 2005

- i) permanently contain water;*
- ii) are susceptible to blockage by debris and sediment;*
- iii) need to remain fully sealed during its operating life; and*
- iv) require a very high maintenance regime to ensure efficient operation.*

*Therefore, a limit of two (2) charged downpipes is permissible in accordance with Section 5.7.8 from Council's Water Management DCP47.*

This requirement was highlighted to the consulting engineer during a pre-DA assessment. The preferred method of stormwater disposal, in the absence of a drainage easement, would incorporate the following:

- At least 47m<sup>2</sup> of roof area directed to the street via gravity or pressure.
- The remaining site coverage directed via gravity to a dispersal trench system located in the eastern corner of the site (lowest point).
- Any proposed rainwater tank located on/below ground and fed via gravity (downpipe). Overflow would be directed to a formal drainage system.

This system would ensure that the site's impervious area draining to the rear doesn't change, thus resulting in minimal impact upon the downstream environment. However, as the applicant is reluctant to relocate the proposed swimming pool from the lowest point on the site, this option is not available and Council, should it approve the application, would also be supporting the use of a charged system for stormwater disposal.

## 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.188/05 for the alterations and additions, plus pool and carport on land at 11 Gregory Street, Roseville, as shown on plans prepared by H.Lloyd, Sheets 3/8 to 7/8, dated 2 December 2004, lodged 8 March 2005; Sheet 2/8, dated January 2005; Sheet 8/8, dated 15 February 2005 and lodged with Council on 20 June 2005; plans showing detail, levels and driveway long section Sheets 1 and 2, lodged 27 June 2005; for the following reasons:

### Streetscape and character

1. The proposed development will have a significant adverse impact on the streetscape
  - a) The siting and design of the proposed carport would be incompatible with the environmental character of the locality and would not respond sympathetically to the prevailing settings or maintain the existing harmonious relationship with adjoining properties. (Refer KPSO Schedule 9 1(a) and (b));
  - b) The proposal would result in a utilitarian structure that dominates the site and, from the street, obstructs the view of the dwelling which contributes to the character of the street and the Roseville National Trust Urban Conservation Area (Refer DCP 38, s.4.2.9);
  - c) The proposal fails to comply with Council's Visual Character Statement which discourages reduced setbacks and seeks to retain the proportions of open space (S. 5.1.1 of DCP 38);

Item 6

DA0188/05  
19 August 2005

- d) The proposal fails to comply with the minimum front setback provisions of Development Control Plan 38, in that the proposed minimum front setback is 4 metres (Refer s.5.1.3 of DCP 38);
- e) The proposal fails to comply with Development Control Plan 38 in that a carport will dominate the dwelling and the site (Refer s.5.5.3);
- f) The proposal fails to comply with Development Control Plan 38 in that a carport is proposed forward of the building line (Refer s.5.5.4 of DCP 38).

**Inadequate car parking**

- 2. The proposal fails to provide adequate car parking on the site
  - a) The proposal fails to comply with Development Control Plan 38 and 43 in that only 1 car space is provided, where two are required (Refer s.5.5.1 of DCP 38 and s.3.1 of DCP 43).

**Stormwater**

- 3. The proposed stormwater system has the potential to result in adverse impacts to downstream properties, and the residents of the subject site
  - a) The proposal fails to comply with Development Control Plan 47 in that the stormwater system provides for eight charged downpipes, where a maximum of two charged downpipes is allowed under the DCP (Refer s.5.7.8 of DCP 47);
  - b) The proposal fails to comply with Development Control Plan 38 in that the built-upon area exceeds the maximum provision of 30% required where connection to an easement is not provided (Refer s.5.6.3).

T Southwell  
**Development Assessment Officer**

R Kinninmont  
**Team Leader**  
**Assessment Team - South**

M Prendergast  
**Manager**  
**Development & Regulation**

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

**Attachments:**      **Original Assessment Report, 9 August 2005 - 517952**  
                             **Location Sketch - 527343**  
                             **Architectural plans - 527348**  
                             **Stormwater plan - 527350**  
                             **Confidential plans**

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	11 GREGORY STREET, ROSEVILLE - ADDITIONS & ALTERATIONS PLUS POOL & CARPORT
<b>WARD:</b>	Roseville
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	188/05
<b>SUBJECT LAND:</b>	11 Gregory Street, Roseville
<b>APPLICANT:</b>	D Lloyd, A Gourlay
<b>OWNER:</b>	D Lloyd, A Gourlay
<b>DESIGNER:</b>	Heather Lloyd
<b>PRESENT USE:</b>	Residential dwelling
<b>ZONING:</b>	Residential 2(a)
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	Development Control Plans 38, 40, 43, 47
<b>COMPLIANCE WITH CODES/POLICIES:</b>	No
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP 55
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Yes
<b>DATE LODGED:</b>	8 March 2005
<b>40 DAY PERIOD EXPIRED:</b>	17 April 2005
<b>PROPOSAL:</b>	Additions & alterations, plus pool & carport
<b>RECOMMENDATION:</b>	Refusal

**DEVELOPMENT APPLICATION N<sup>o</sup>** 188/05  
**PREMISES:** 11 GREGORY ST ROSEVILLE  
**PROPOSAL:** ADDITIONS & ALTERATIONS PLUS POOL  
& CARPORT  
**APPLICANT:** D LLOYD, A GOURLAY  
**OWNER:** D LLOYD, A GOURLAY  
**DESIGNER** HEATHER LLOYD

## PURPOSE FOR REPORT

To determine development application No. 188/05, which seeks consent for a detached single carport, a swimming pool and alterations and additions to the existing dwelling.

This matter has been called by Councillor Shelley.

## EXECUTIVE SUMMARY

Issues: Streetscape  
Submissions: No submissions were received  
Recommendation: Refusal

## HISTORY

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

## THE SITE AND SURROUNDING DEVELOPMENT

### The site

Zoning: Residential 2(a)  
Visual Character Study Category: 1920-1945  
Lot Number: 40  
DP Number: 9475  
Area: 826.1m<sup>2</sup>  
Side of Street: North-eastern  
Cross Fall: West to east  
Stormwater Drainage: To street  
Heritage Affected: No  
Required Setback: 9 metres  
Integrated Development: No  
Bush Fire Prone Land: No  
Endangered Species: No  
Urban Bushland: No  
Contaminated Land: No

## Item 4

The allotment measures 18.14m wide with a depth of 45.72m and contains a single storey dwelling with a carport and garage, set back from its boundaries as follows:

Front setback (to wall)	13.3m
Front setback (to porch)	10.5m
Side setback (north-western boundary)	0.35m
Side setback (south-eastern boundary)	0.6m
Side setback (dwelling wall, south-eastern boundary)	4.2m
Rear setback	12m

There is a cement block garage behind the dwelling with a carport in front between the dwelling and the south-eastern boundary. This is accessed via a driveway off Gregory Street on the southern end of the site. There is a low block wall at the front boundary. There is a Chinese elm and a Tupelo in the front setback adjacent to the north-west boundary, and a Magnolia in the rear, behind the existing garage.

### Surrounding development

The surrounding area is described in the Ku-ring-gai Visual Character Study as being characterised by single dwellings on single lots, with the majority of construction being within the period 1920 to 1945. A mix of architectural styles and periods are evident within the wider streetscape. The predominant housing style in the street is a mix of single and double storey dwellings, with well landscaped front setbacks. Garages/carports are generally setback behind the building line or integrated within the lower level of the building flush with the front building line. No. 8 Gregory Street contains a double carport in the front setback approved in 2001. Other exceptions within the street are generally long established and pre-date the current DCP.

Setbacks to dwellings on the north-eastern (low) side of Gregory Street vary between 6m and 10m, while the setbacks on the south-western (high) side vary between 10 and 15m except at the corners which have smaller setbacks.

### THE PROPOSAL

The proposal seeks:

1. Demolition of the existing carport, garage and fibro utility room, shed, kitchen and family room to the rear of the dwelling and the bedroom/ensuite extension to the north-western side of the dwelling.
2. A detached single carport on a concrete slab, new driveway, paving and ramp within the front yard. The carport measures 3.6m by 6m deep and is setback 4m from the front boundary. The carport has a hipped tiled roof to match the existing dwelling.
3. Additions to the dwelling, entailing the construction of a ramp for wheelchair access to the front door, a new larger family kitchen and dining area, a study, extended bedroom and new main bedroom, bathrooms, laundry and storage. A hipped tiled roof is proposed consistent with the

Item 4

existing dwelling. A partially covered deck and ramp are also proposed. It is proposed to drain the stormwater from the dwelling and carport to the street.

4. A swimming pool at the rear with a paved surround set back 2m from the rear site boundaries. A 1.4m high wall is included to the rear of the pool. The pool area is not connected to a formal drainage system.

**Amended plans**

Amended plans were provided in relation to stormwater and the driveway profile.

**CONSULTATION - COMMUNITY**

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

No comments or objections have been received.

**CONSULTATION - WITHIN COUNCIL**

**Engineering**

The following comments were made on the application as originally submitted.

*Following a review of the submitted plans and site inspection, Development Engineers have the following concerns:*

**1. Gravity drainage towards the street**

*The Applicant has proposed to direct a large portion of the roof area to the street drainage system, via the rainwater tank system. However, concern is expressed that the line between the southern corner of the site (given as RL88.51) and the kerb outlet (given as RL88.52) will be significantly higher than existing ground level, resulting in either an exposed pipe or need to significantly re-grade (fill) the public verge. Therefore, Council will require the submission of a revised stormwater regime in accordance with DCP47.*

**2. Driveway grades**

*Due to the lack of information provided on the site survey, Council will require a longitudinal surface profile of the proposed driveway to ensure that the underside of vehicles will not scrape. The profile is to start from the kerb and be along the worst case edge of the proposed driveway. Gradients and transitions are to be in accordance with AS/NZS 2890.1 (2004) – "Off-street car parking". Particular attention is to be paid to the change in grades at the property boundary and pedestrian footpath. The driveway profile submitted to Council must be to scale and contain all relevant details: levels, grades and distances. **Note: Council will not approve a cross-fall adjustment in the verge area to***

## Item 4

***allow construction of a new driveway crossing due to obligations under Disabilities Discriminations Act.***

The following comments were made in response to the amended plans and subsequent discussions with the applicant and the consultant engineer:

*Following our discussions on the above-mentioned property, Development Engineers have outlined the following non-compliances in lieu of the revised drainage plans:*

- *Eight (8) charged downpipes are proposed, which does NOT satisfy Section 5.7.8b) from DCP 47. No more than two (2) charged downpipes are permissible for the reason stated in this section of the DCP 47. Council Engineers are of the opinion that a more practical drainage design can be incorporated on the site, which address the objectives of DCP 47. An example of this would be charging a maximum of two (2) downpipes to the street (the equivalent area of the additions) and placing a rainwater tank above ground. Dispersal trenches would also be required.*

Comment: Amended plans would be required to demonstrate feasibility.

**Landscaping**

Council's Landscape Officer was consulted and had no concerns in relation to any impact on the trees at the front of the site, subject to conditions.

**STATUTORY PROVISIONS****State Environmental Planning Policy No. 55**

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

**Ku-ring-gai Planning Scheme Ordinance (KPSO)**

<b>COMPLIANCE TABLE</b>		
<b>Development Standard</b>	<b>Proposals Numeric Compliance</b>	<b>Complies</b>
<b>Building height</b> 8m (max)	4.5m	<b>YES</b>
<b>Built-upon area</b> 60% (max)	52.6%	<b>YES</b>

**Aims and objectives for residential zones:**

The proposed development is contrary to the aims and objectives for residential development as stated in Clause 1(a), 1(b) of Schedule 9 of the KPSO in the following respects:

**Visual impacts**

## Item 4

- The proposed carport is inconsistent with the existing streetscape and detracts from the visual character of the locality, in that it is located 4 metres from the front boundary and forward of the predominant building line on site.
- The proposal will result in a dominant structure within the front setback area of the dwelling and is not consistent with the predominant setback pattern for carparking structures within the street.

## Diminished landscape quality

- The proposed carport and paving in the front setback will result in a structure that dominates the natural landscape setting in the street and a footprint that fails to maintain the landscape quality of the locality.

## POLICY PROVISIONS

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

COMPLIANCE TABLE		
Development Control	Proposals Numeric Compliance	Complies
<b>5.1 Streetscape:</b>		
<b>Building setbacks (s.5.1.3)</b>		
<ul style="list-style-type: none"> <li>Front setback: 9m (min) – 25% front elevation 11m (Ave) -75% front elevation</li> </ul>	4m to carport 10.5m to porch 13.3m to dwelling	<b>NO</b>
<ul style="list-style-type: none"> <li>Side setback: Ground floor: 1.5m(min) 1<sup>st</sup> floor: 2.7 m (min)</li> </ul>	1.5m 1.5m (south-east)	<b>YES</b>
<ul style="list-style-type: none"> <li>Rear setback: 11.43m(min)</li> </ul>	12m	<b>NO</b>
<b>5.2 Building Form:</b>		
<b>FSR (s.5.2.1)</b> 0.39:1 (max)	0.295:1	<b>YES</b>
<b>Height of building (s.5.2.2)</b>		
<ul style="list-style-type: none"> <li>2 storey (max) and 7m (site &lt;20° slope)</li> </ul>	2 storey (technically) & 4.5m	<b>YES</b>
<b>Building height plane (s.5.2.3)</b> 45° from horizontal at any point 3m above boundary	0.2m (eave south-west side)	<b>YES</b>
<b>Roof Line (s.5.2.6)</b>		
<ul style="list-style-type: none"> <li>Roof height (5m – single storey)</li> </ul>	3.4m	<b>YES</b>
<ul style="list-style-type: none"> <li>Roof pitch 35° (max)</li> </ul>	27°	<b>YES</b>
<b>Built-upon area (s.5.2.7)</b> 30% (max) (low site -shale)	48%	<b>YES</b>
<b>Unrelieved wall length (s.5.2.8)</b> 12m (min)(based on single storey)	13.7m to north-west	<b>YES</b>
<b>Cut &amp; fill (s.5.2.15)</b>		
<ul style="list-style-type: none"> <li>Max cut 900mm</li> </ul>	0mm	<b>YES</b>
<ul style="list-style-type: none"> <li>max cut &amp; fill across building area of 1800mm and 900mm</li> </ul>	1.4m	<b>YES</b>
<ul style="list-style-type: none"> <li>no cut or fill within side setbacks</li> </ul>		<b>Existing</b>

## Item 4

<b>5.3 Open space &amp; landscaping:</b>		
<b>Soft landscaping area (5.3.3)</b> 44%) (min)	47.4%	<b>YES</b>
<b>Tree replenishment (s.5.3.6)</b> 5 Trees required	2 trees provided	<b>NO</b>
<b>Landscaping cut &amp; fill (5.3.7)</b> <ul style="list-style-type: none"> <li>max cut or fill 500mm relative to natural ground</li> <li>no cut &amp; fill within 2m of boundary</li> </ul>	200mm	<b>YES</b>  <b>N/A</b>
<b>Useable open space (s.5.3.8)</b> Min depth 5m and min area 50m <sup>2</sup>	Depth 12m    Area >200m <sup>2</sup>	<b>YES</b>
<b>5.5 Access &amp; parking:</b>		
<b>No. of car parking spaces (s.5.5.1)</b> 2 spaces behind building line	1 space in front of building line	<b>NO</b>
<b>Size of car parking space (s.5.5.2)</b> 2.7m x 5.4m	3.6m x 6m	<b>YES</b>
<b>Driveway width (s.5.5.6)</b> 3.5m	2.6m	<b>NO</b>
<b>5.7 Ancillary facilities:</b>		
<b>Swimming pools (s.5.7.1)</b> <ul style="list-style-type: none"> <li>Setback from boundary: 2m</li> <li>Pool coping &lt;500mm above ground level</li> <li>Pool excavation not below the canopy of trees</li> </ul>	2m (from water) 500mm	<b>YES</b> <b>YES</b> <b>YES</b>

**Part 5.1 Streetscape:**

The site is a contributory item in the Roseville National Trust Urban Conservation Area and is located within the Visual Character Category identified as 1920-45. The proposed additions to the dwelling itself are consistent in style, scale and bulk with the overall streetscape and the subject dwelling and will not result in significant adverse impacts on the character of the locality or on the streetscape. However, the proposed location of the carport will result in adverse impacts on the streetscape and on the significance of the contributory item.

While the street includes a scattering of newer dwelling styles, the predominant character includes a well vegetated front setback area. On the north-eastern side of the street, the front setbacks of dwellings are generally between 6 and 10 metres, with the subject dwelling set back over 13m from the front boundary to the main building facade. The carport is proposed to be set back 4m from the front boundary and well forward of the existing dwelling and porch. The proposed setback of 4 metres to Gregory Street is a significant departure from the numerical controls and the predominant setback pattern in the street and cannot be justified. The carport would compete with the dwelling as the dominant structure on the site, and this utilitarian structure would become a dominant element in the streetscape.

The proposal would also reduce the dwelling's existing landscaped setting. The proposed carport and paved area would result in an increase of over 30m<sup>2</sup> of built-upon area in the front yard.

Item 4

Together with the front porch, this results in a built-upon area of approximately 27% of the 250.2m<sup>2</sup> front setback, thereby significantly reducing the available area for planting that would allow the development to harmonise with the front setback pattern of the street.

The Visual Character Study encourages development within localities categorised as 1920-45 to retain open space proportions and to avoid reduced setbacks in order to retain the character of the locality. The proposal therefore fails to conserve or enhance the visual character of the street as identified in the Study as required in Section 5.1.1 of the DCP.

**Part 5.2 Building form:**

The minor visual bulk impact of the non-compliance with the building height plane on the eastern side is acceptable. The proposed demolition of the existing garage and carport will also reduce the visual bulk impact in this area. The proposed unrelieved wall on the north-east side of the dwelling is set back further than that part of the existing wall proposed to be demolished and will allow the inclusion of some planting to soften the development in an area which is currently built upon.

The site falls from the street and it is not proposed to access any easement for drainage. Accordingly, the built-upon area requirement under the DCP is 30% unless adequate measures can be undertaken to drain the site in accordance with DCP 47. Council's Engineer is not satisfied that the measures proposed are adequate, therefore the proposed built upon area of 48% is excessive and will result in unacceptable impacts from stormwater runoff to downstream properties.

**Part 5.3 Open space and landscaping:**

The driveway is proposed to be located under the outer canopy of large trees on the nature strip and a smaller tree within the site. The carport is also proposed under the outer canopy of a tree. The canopy spread of the trees, especially those on the nature strip, is inaccurate. Council's Landscape Officer has informally advised that the setbacks to the trees are adequate provided the driveway is at grade and conditions regarding tree protection measures are included. Permeable paving on the driveway would further reduce any impact on the trees. The landscape plan shows only 2 tall trees. Additional trees in accordance with Council's tree replenishment policy could be required by condition.

There is a small retaining wall proposed at 900mm to the boundary beside the pool and the pool is paved right up to this wall. To maintain neighbouring privacy, a condition could be imposed to increase the setback to the retaining wall to 1.5m. This would also reduce the impact from stormwater runoff from the paved area around the pool, as this is not connected to a formal drainage system.

**Part 5.4 Privacy and security:**

The study window obliquely overlooks only minor windows of the neighbouring development and a tiny porch, which appears to be rarely used. The landscape plan includes screen planting which would reduce the privacy impact on the porch.

**Part 5.5 Access and parking:**

Item 4

Sections 5.5.3 and 5.5.4 of DCP 38 require that development be appropriately located to maintain the streetscape character and discourages the provision of garages, carports or other structures forward of the building line. While there are other carports within the front setback in the street, they are located on corner sites, integrated within the structure of the dwelling, or pre-date DCP 38. The most recent carport in the streetscape is located opposite the site. This carport clearly demonstrates the impact on the street of such poor design. The proposed carport is 4m from the front boundary and well forward of the main building line and the porch and will dominate the dwelling, resulting in an unacceptable impact on the streetscape.

The existing dwelling includes a carport and garage in the side setback, well behind the building line. The applicant is seeking to include a ramp from the carport to the front entry to enable wheelchair access. Further, discussion with the applicant and the architect have shown that a carport could be designed at the side of the dwelling, which would allow wheelchair access via a covered ramp to the rear portion of the dwelling. Therefore, alternative siting for car accommodation behind the building line is available on the site and could be designed to meet the applicant's requirements for disabled access.

Section 5.5.2 of DCP 38 and Section 3.1 of DCP 43 require the provision of 2 parking spaces for a single dwelling. The site currently supports two covered car spaces. The proposal includes the removal of the existing driveway and car parking structures on the eastern side of the lot and the provision of a new driveway and single carport on the western side. The reduction of one car parking space is not supported.

The lack of a second car space is exacerbated by the proximity of the carport to the front boundary, which results in a driveway length of only 4 metres. The use of the space in front of the carport for the parking of a second car, or for the accessible van which regularly required to access the site, would result in a parked car extended beyond the boundaries of the site and intruding upon the footpath.

**Part 5.6 Water management:**

Stormwater from the existing dwelling runs off to a dispersal trench. The additional built-upon area would require connection to recognised drainage system to prevent adverse stormwater impacts under DCP 47. It is proposed to partially connect the development to the street system via a rainwater tank and a charged system. The proposed system fails to comply with DCP 47 due to the susceptibility of charged systems to fail due to blockage and a high maintenance regime, resulting in overtopping and increased potential for flooding/damp problems within or adjacent to the site.

The extension is proposed over the sewer line and will require approval from Sydney Water.

**Part 5.7 Ancillary facilities:**

The setback to the pool paving and retaining wall on the south-eastern side is only 900mm adjacent to neighbouring private open space and a swimming pool. A condition of consent could be imposed requiring the setback to be increased to 1.5m and appropriately planted to maintain neighbouring amenity and acoustic privacy.

### **Part 6 Managing construction:**

Conditions could be imposed in regard to noise, sediment control and demolition impacts during construction.

### **Other DCPs or policies**

DCPs 43 and 47 are addressed in the consideration of DCP 38 above.

#### **DCP 40 –Waste Management**

A condition of consent could be imposed requiring a revised waste management plan in accordance with the DCP prior to the release of the Construction Certificate.

### **Likely Impacts**

All likely impacts have been addressed elsewhere in this report.

### **Suitability of the Site**

The site is considered suitable for development associated with a dwelling house, however, the proposal is unacceptable in a number of areas and is therefore recommended for refusal.

### **Any Submissions**

No submissions were received.

### **Public Interest**

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

### **Other matters**

There are no other matters for consideration.

### **CONCLUSION**

Having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be satisfactory. Therefore it is recommended that the application be refused.

### **RECOMMENDATION**

THAT Council, as the consent authority, refuse development consent to Development Application No. 188/05 for the alterations and additions, plus pool and carport on land at 11 Gregory Street Roseville as shown on plans prepared by H. Lloyd, Sheets 3/8 to 7/8, dated 2 December 2004,

Item 4

lodged 8 March 2005; Sheet 2/8 dated January 2005; Sheet 8/8 dated 15 February 2005 and lodged with Council on 20 June 2005; plans showing detail, levels and driveway long section Sheets 1 & 2, lodged 27 June 2005; for the following reasons:

**Streetscape and character**

1. The proposed development will have a significant adverse impact on the streetscape
  - a) The siting and design of the proposed carport would be incompatible with the environmental character of the locality and would not respond sympathetically to the prevailing settings or maintain the existing harmonious relationship with adjoining properties. (Refer KPSO Schedule 9 1(a) and (b));
  - b) The proposal would result in a utilitarian structure that dominates the site and, from the street, obstructs the view of the dwelling which contributes to the character of the street and the Roseville National Trust Urban Conservation Area (Refer DCP 38, s.4.2.9);
  - c) The proposal fails to comply with Council's Visual Character Statement which discourages reduced setbacks and seeks to retain the proportions of open space (S. 5.1.1 of DCP 38);
  - d) The proposal fails to comply with the minimum front setback provisions of Development Control Plan 38, in that the proposed minimum front setback is 4 metres (Refer s. 5.1.3 of DCP 38);
  - e) The proposal fails to comply with Development Control Plan 38 in that a carport will dominate the dwelling and the site (Refer s. 5.5.3);
  - f) The proposal fails to comply with Development Control Plan 38 in that a carport is proposed forward of the building line (Refer s. 5.5.4 of DCP 38).

**Inadequate car parking**

2. The proposal fails to provide adequate car parking on the site
  - a) The proposal fails to comply with Development Control Plan 38 and 43 in that only 1 car space is provided, where two are required (Refer s.5.5.1 of DCP 38 and s. 3.1 of DCP 43).

**Stormwater**

3. The proposed stormwater system has the potential to result in adverse impacts to downstream properties, and the residents of the subject site
  - a) The proposal fails to comply with Development Control Plan 47 in that the stormwater system provides for eight charged downpipes, where a maximum of two charged downpipes is allowed under the DCP (Refer s. 5.7.8 of DCP 47);

Item 4

- b) The proposal fails to comply with Development Control Plan 38 in that the built-upon area exceeds the maximum provision of 30% required where connection to an easement is not provided (Refer s. 5.6.3).

Terri Southwell  
**Development Assessment Officer**  
**Development Assessment South**

Richard Kinninmont  
**Team Leader**  
**Development Assessment South**

Matthew Prendergast  
**Manager**  
**Development Assessment Services**

Michael Miocic  
**Director**  
**Development and Regulation**

**Attachments:**      **Location Sketch - 517953**  
                             **Site plan - 517953**  
                             **Elevations - 517953**  
                             **Stormwater Management Plan - 517953**

# LOCATION SKETCH

## 11 Gregory Street, ROSEVILLE NSW

### DEVELOPMENT APPLICATION No 188/05



**No submissions received**



AGREEMENT



OBJECTION



SUBJECT LAND



PETITION



SUBMISSION



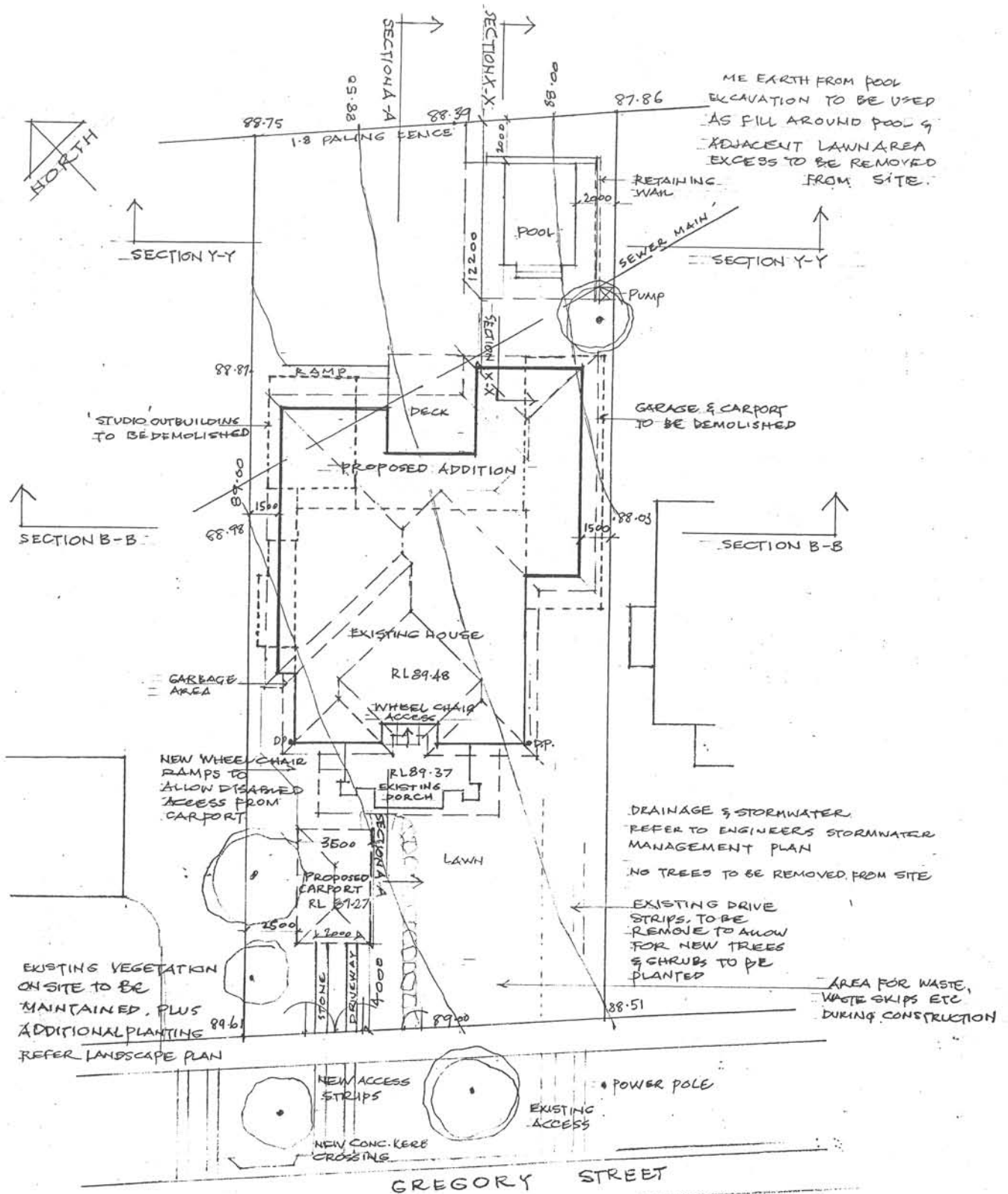
CIRCULATED AREA



**Scale : 1:2000**

**29-07-2005**





**SITE PLAN &  
ENVIRONMENTAL MANAGEMENT  
SITE PLAN -**

**ALTERATIONS & ADDITIONS FOR D. LLOYD & A. GOURLAY  
11 GREGORY ST. ROSEVILLE LOT 40 DP 9475**

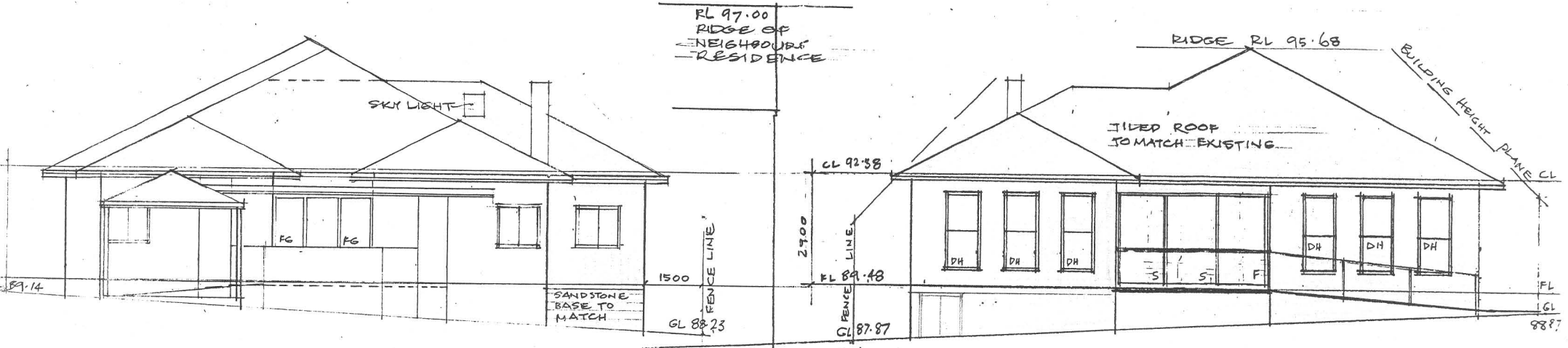
**SCALE 1:200**

10 METRES

----- EXISTING STRUCTURE  
TO BE REMOVED

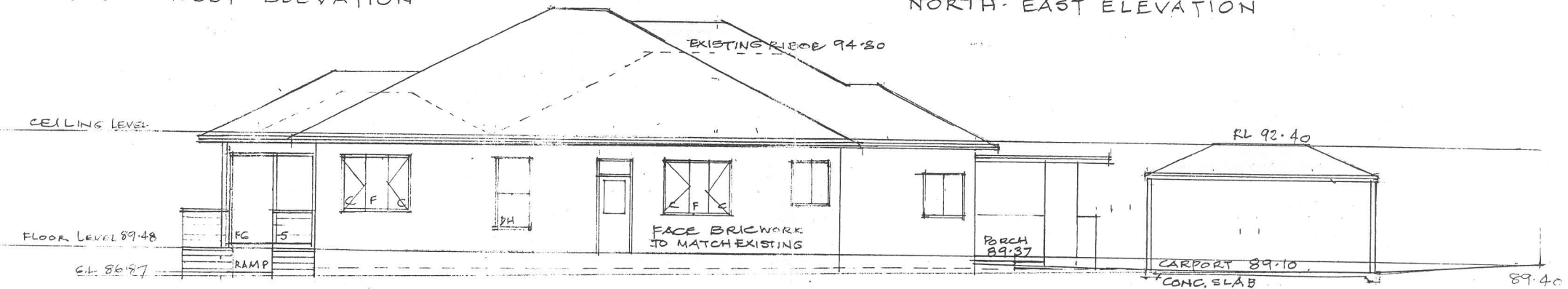
NEW BUILT UPON AREA - 345.8 m<sup>2</sup>  
LANDSCAPED AREA - 54%  
SIZE OF SITE - 826.1 m<sup>2</sup>

DRAWN: H. LLOYD  
DATE: 2.12.04

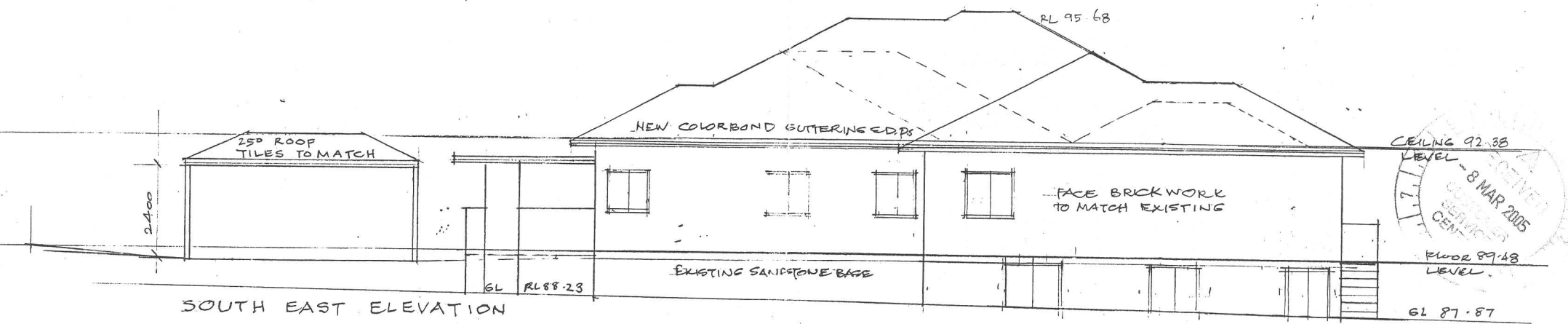


SOUTH-WEST ELEVATION

NORTH-EAST ELEVATION



NORTH-WEST ELEVATION



SOUTH EAST ELEVATION

PROPOSED ALTERATIONS & ADDITIONS 11 GREGORY ST. ROSEVILLE. LOT 40 - DP9475  
ELEVATIONS FOR D. LLOYD & A. GOURLAY

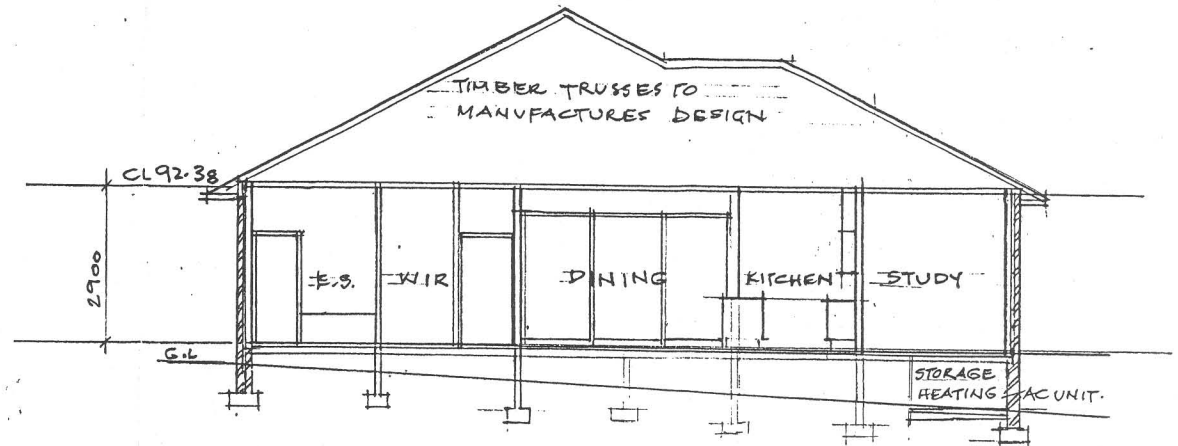
SCALE 1:100  
H.C. LLOYD  
JANUARY 05

5/9

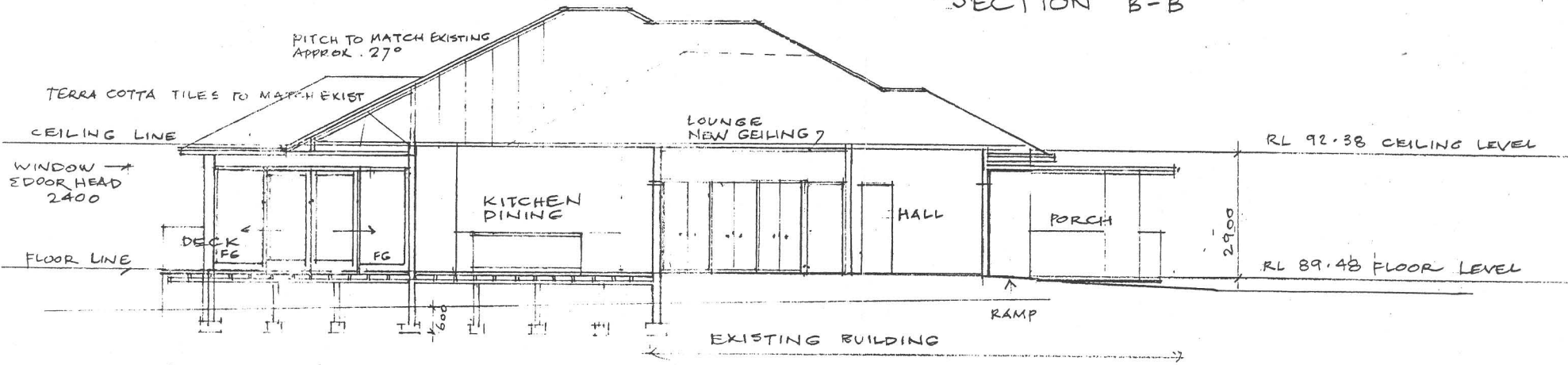
R 2.5 INSULATION TO CEILINGS  
R 1.5 INSULATION TO EXTERNAL WALLS

PLASTER BOARD INTERNAL WALL &  
CEILING LINING

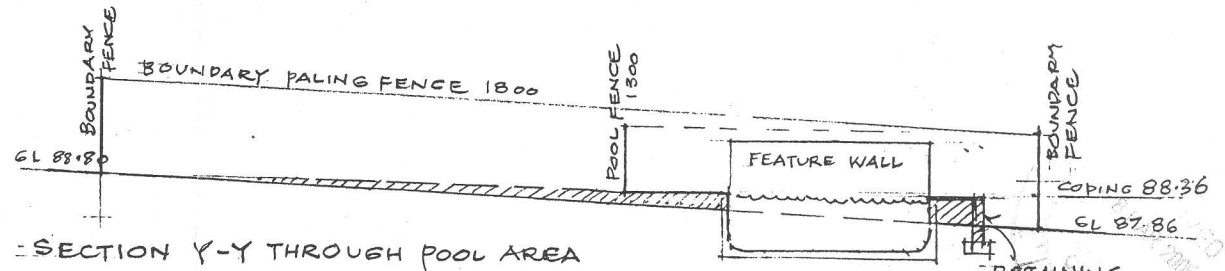
KPHW TONGUE & GROOVE TIMBER FLOORING  
POLISHED



SECTION B-B

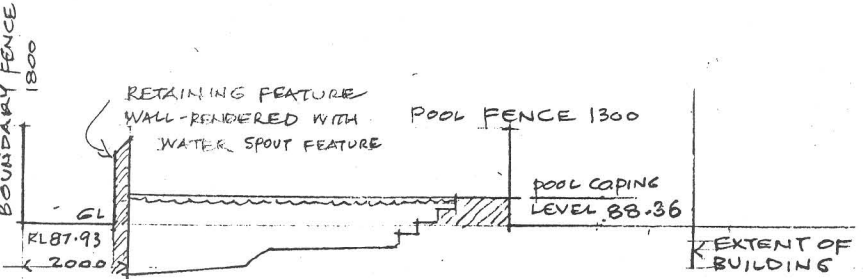


SECTION A-A



SECTION Y-Y THROUGH POOL AREA

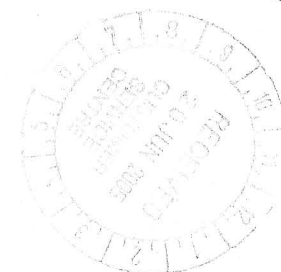
SWIMMING POOL SECTIONS



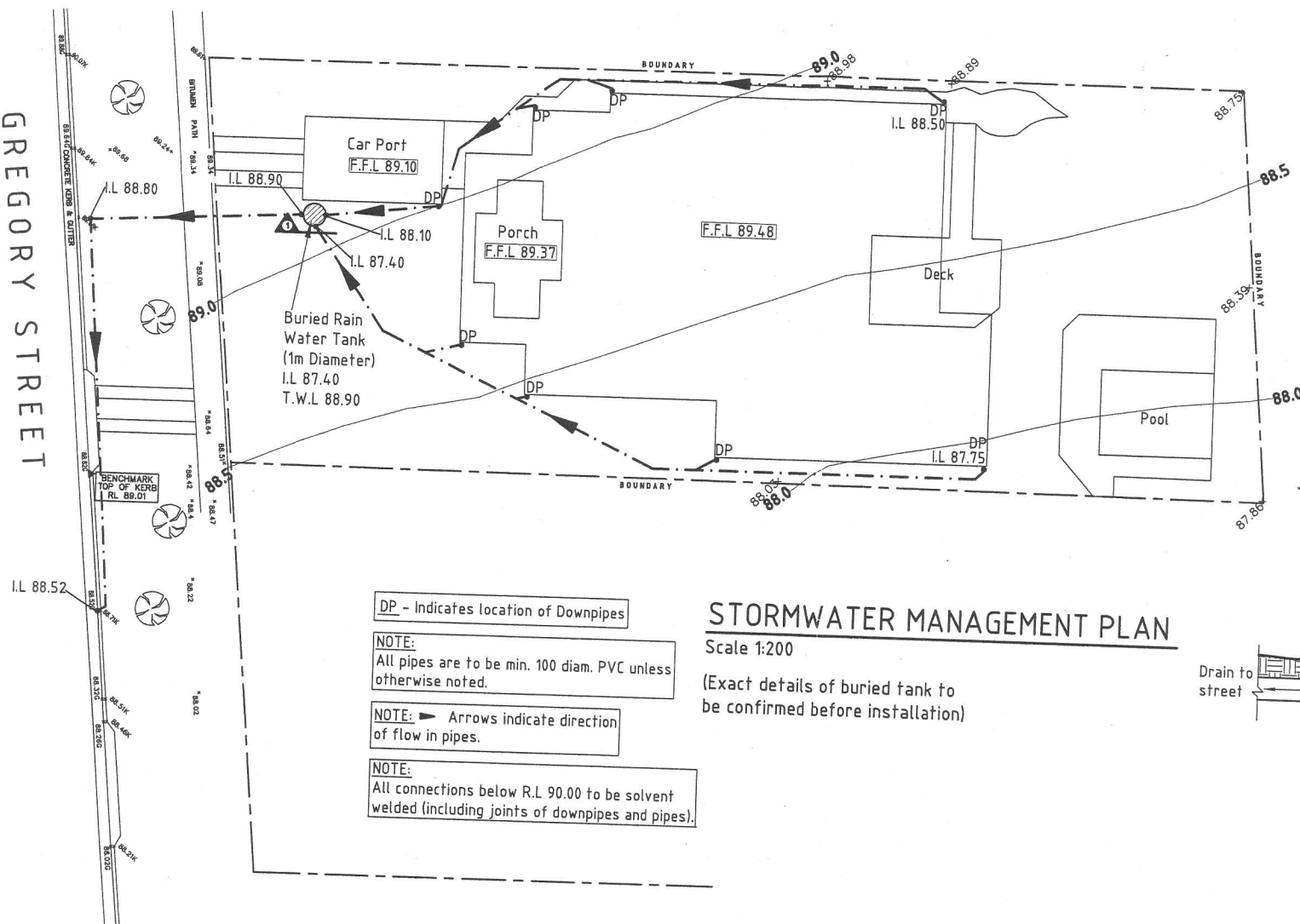
SECTION X-X THROUGH POOL AREA

SECTIONS - PROPOSED ALTERATIONS & ADDITIONS FOR D. LLOYD & A. GOURLAY  
11 GREGORY STREET - ROSEVILLE - LOT 40 DP 9475

SCALE 1:100  
DRAWN - JAN 05  
H.C. LLOYD



GREGORY STREET



DP - Indicates location of Downpipes

NOTE:

All pipes are to be min. 100 diam. PVC unless otherwise noted.

NOTE: ➤ Arrows indicate direction of flow in pipes.

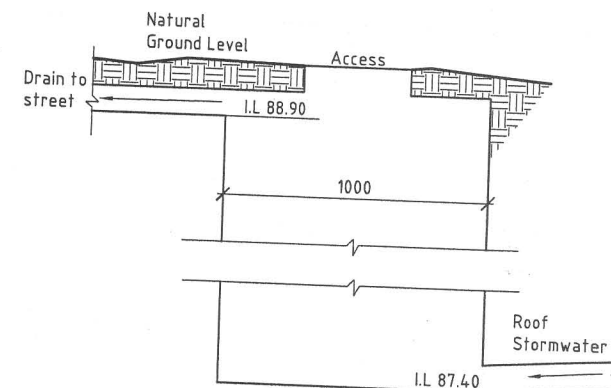
NOTE:

All connections below R.L. 90.00 to be solvent welded (including joints of downpipes and pipes).

## STORMWATER MANAGEMENT PLAN

Scale 1:200

(Exact details of buried tank to be confirmed before installation)



## SECTION 1 - RAINWATER TANK

<div><div><div>Complete Consultants</div><div>INTEGRATED BUILDING DESIGN SERVICE</div></div></div>			BUILDING DESIGNERS STRUCTURAL AND STORMWATER ENGINEERS 86 Yarrara Rd., PENNANT HILLS 2120 www.completeconsultants.com.au Ph: 9484-1877 Fax: 9484-1977 ABN 34 107 147 080		PROJECT 11 Gregory St ROSEVILLE		DRAWING STORMWATER MANAGEMENT PLAN	
1	Pipe layouts and levels changed.	9-6-05	APPROVED Date: 15-02-05 Robert Springett (CPEng)		DESIGNER SI		JOB No.: 0021-1	
No.	Revision Description	Date						

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## 1691 TO 1693 PACIFIC HIGHWAY, WAHROONGA

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To determine DA 124/05 for the demolition of existing dwelling and the construction of a residential flat building containing 31 units, basement car parking for 40 cars and landscaping.

Supplementary report to Council

**BACKGROUND:**

Application reported to Council 9 August 2005 and deferred to site meeting of 13 August 2005.

**COMMENTS:**

This report addresses issues raised and questions asked by councillors at the site meeting.

**RECOMMENDATION:**

Approval

Item 7

## PURPOSE OF REPORT

To determine DA 124/05 for the demolition of existing dwelling and the construction of a residential flat building containing 31 units, basement car parking for 40 cars and landscaping.

Supplementary report to Council.

## BACKGROUND

Development Application No. 124/05 involves the demolition of an existing dwelling and the construction of a four (4) storey residential flat building containing thirty-one (31) dwellings, basement car parking for forty (40) cars and landscaping.

The planning assessment report prepared for the application was considered by Council at its meeting of 9 August 2005 (Item 10) and is attached. Determination of the application was deferred for consideration at a site meeting. The site meeting took place at 10.45am on 13 August 2005.

The following corrections to the assessment report (Item 10, Ordinary Meeting of Council - 9 August 2005) should be noted.

### Page 6

In 'Consultation- Community' A McClelland – resides at 4/16 **Woonona** Avenue, Wahroonga not Woniara Avenue as indicated in the report.

### Page 30

In the 'Compliance Table' Part 4.2 Density, the floor space ratio proposed is 1.08:1 where DCP 55 Section 4.2 C-4 stipulates a maximum of 1:1 for a site measuring between 1800-2399m<sup>2</sup> and proposed to be developed with a residential flat building.

The table should indicate 'No' in third column titled 'Complies'.

The 1:1 floor space ratio is a design control however is applied with some flexibility based on design merits and circumstances of the case.

Section 4.2, contains the following design objective (O-1) for the floor space ratio control:

*"Development density that is in keeping with the optimum capacity of the site and the desired future landscape and built character of the area".*

The applicant has given the following rationale for the .08 breach:

- *The innovative design which provides two divided wings and dual oriented units results in an extensive network of internal walkways which create a socially vibrant communal area. If the wall heights of the walkways were only 1.4 metres then this floor area would be excluded from FSR calculations.*
- *No balconies are located on the ground floor (east wing), Level 1 (west wing 2 storey units), Level 2 (east wing 2 storey units) which maximises gross floor area.*

Item 7

The proposal complies with all the non-discretionary development standards contained within LEP 194 and represents the optimum development potential for the site, consistent with the zoning and desired future landscaped/built character established by LEP 194.

The departure is marginal and is not considered to have any significant impact on the overall scale and presence of the building. The non-compliance does not affect the area of the site available for deep soil landscaping. Given the constraints of the site and the design response adopted, the non-compliance is acceptable.

**Page 32**

*Compliance Table/Part 5- Car parking and vehicular access.* Typographical error. **39** total spaces are required rather than 49 as indicated in the table.

## **COMMENTS**

This report is prepared in response to the issues raised and questions asked at the site meeting.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

Council's Landscape Development Officer and Senior Strategic Planner have been consulted in preparing this advice.

## **QUESTIONS/RESPONSES**

1. ***Ramp gradient - staff to advise of the gradient of the ramp underneath the building leading out of the basement and clearance to the natural ground level.***

Council's Development Engineer has provided the following advice in this regard:

*'The ramp gradient of the curved ramp leading to the basement, measured along the inside edge, is found to be approximately 1 in 6.8 (14.9%). This gradient is depicted on the architectural drawings and complies with Section 2.5.3 of Australian Standard 2890.1 (2004) - "Off-street car parking".*

*The height between the finished floor level of Unit 16 to the finished level of the basement directly below is found to be approximately 2.72 metres. A minimum height clearance of 2.4 metres is achievable if an upturn concrete beam is provided at the basement entry.'*

2. ***Height of ground floor above natural ground level – staff to provide the height of the ground floor level at all corners of the building. The architect advised that he would prepare a further plan to assist in clarifying this question.***

The applicant has provided an additional plan (No. 22/A) detailing the finished floor levels at each corner of the building. A copy of this plan is attached. The building will achieve finished floor levels ranging from 310mm above natural ground level at the western side, 810mm to the eastern side and 1180mm at the north-western corner of the east wing. No part of the

Item 7

basement level exceeds 1200mm above natural ground level and the proposal complies with the storey/height control as defined by LEP 194.

3. ***Landscaped area – staff to confirm whether the courtyards have been assessed as part of deep soil landscape area.***

The courtyard areas within the side setbacks have been included as deep soil landscaping.

The landscaping plans are consistent with LEP 194 Clause 25I(2) ‘Minimum Standards for Deep Soil Landscaping’ in that deep soil landscaping of a minimum dimension of 2 metres is provided around the periphery of the development. The courtyards areas are not hard paved and contain mass plantings and small trees. These trees will attain a height of 8-10 metres.

The development is consistent with the intent of LEP 194 and DCP 55 with regard to deep soil landscaping, the establishment of canopy trees, landscaped screening and landscape amenity.

4. ***Western boundary setback – the proposal assumes that the western setback of the F3 off ramp is a side setback with a required setback of 6 metres under DCP 55. Staff to investigate why the F3 off ramp is not considered a street and therefore require a street boundary setback of between 10-12 metres under DCP 55.***

DCP 55, Section 4.3 (Setbacks) specifies that buildings must be set back 10-12 metres from street boundaries. The primary objective of this control is to maintain “a consistent urban form providing definition of the street edge” (objective 0-4). The off-ramp forms part of the freeway. Under the Roads Act, freeways are defined separately to public roads. Given the objectives of the control and the fact that the freeway is not listed as being exempt from more stringent setback control as are other than main roads in the municipality (ie the Pacific Highway, Mona Vale Road, Boundary Street). It is considered that the freeway was not classified as a street frontage in the drafting of the controls.

The property is located on the Pacific Highway with the primary street frontage along this southern boundary. The development has been designed to address this frontage as pedestrian access will be gained from the Pacific Highway. The western side of the development adjoins a road reserve along the eastern side of the F3 Freeway off ramp. This boundary is not usable for the purpose of access and is located adjacent a densely landscaped 1 metre high embankment/batter. The imposition of the 10-12 metres setback would be inconsistent with the objective of the control, as development to the freeway is identifiably a side frontage and has no identifiable urban street edge.

Sufficient tall trees and landscaping are located along the freeway and inside the side setback to effectively screen the development. Refer to additional discussion under ‘Setbacks’ in assessment report.

5. ***Detention Tank – staff to provide advice regarding the safety of the detention tank given its close proximity to the Blue Gums to be retained.***

Council’s Development Engineer has provided the following comment in this regard:

Item 7

*It is the opinion of the Engineering Assessment Unit that the safety of the detention tank will not be compromised by the proximity of the trees. The plans show that the detention tank is incorporated into the proposed building footprint and is located under Unit 6. The tank is not a 'stand along' structure and can be properly designed by a suitably qualified and experienced structural engineer to withstand normal loading associated with urban conditions (ie. tree roots).*

**6. *Street setback of 10-12 metres for 1689 Pacific Highway – staff to advise whether a 10-12 metre street boundary setback would apply to both frontages of the corner property at 1689 Pacific Highway.***

DCP 55 requires a street boundary setback of between 10-12 metres. On corner sites, the minimum street boundary setback is to apply on both street frontages (DCP 55, Section 4.3 C-5). Section 4.3, C-1(c), provides for the proportional reduction of the front setbacks where the road reserve width is less than 12 metres, however the setback shall be no less than 6 metres.

Any future proposal at No. 1689 Pacific Highway would need to address the amenity of both street frontages and provide for landscaped screening and deep soil planting within all setbacks in accordance with LEP 194. The 10-12 metres front setback would need to be observed along both street frontages. An appropriate transitional setback, addressing the corner would be expected in the design so as to soften and screen the development.

**7. *Side setback between habitable rooms – staff to clarify the side setback requirements of DCP 55 between habitable and non-habitable rooms of adjacent developments in reference to the proposal and the concept plans prepared by the application for 1689 Pacific Highway.***

Privacy impacts are addressed in detail within the assessment report presented to Council on 9 August 2005.

The development adjoins an existing single storey dwelling, No. 1689 Pacific Highway located to the east.

DCP 55, Section 4.5.2 C-2 requires 12 metres between two habitable rooms, 9 metres between a habitable and non-habitable room and 6 metres between two non-habitable rooms. The development fully complies with the required 6 metres side setback along the eastern side and the eastern adjoining dwelling is located some 3.5 metres from the boundary. A mixture of living and bedrooms are provided along the eastern side of the development. No detail is provided as to the room types located along the western side of the adjoining dwelling.

The proposal complies with the required separation between non-habitable/habitable rooms and two non-habitable rooms. Furthermore, a dense, three metres high *Syzygium australe* hedge and a row of Chinese Pistachio and *Angophora floribunda* (refer recommended **condition No. 4**) is proposed for the extent of the boundary. As a consequence, it will be unlikely that any direct privacy impacts (between rooms) to occur between the ground floor level of the proposed east wing and the existing dwelling.

Item 7

Questions from Councillor Hall

8. *Has the applicant satisfactorily addressed the planning principles and associated processes set down by the Land and Environment Court in regards to isolated sites in particular the judgements of C Brown and C Tuor in the cases of Melissa Grech v Auburn Council [2004] NSWLEC 40, Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189 and Karavellas v Sutherland Shire Council [2004] NSWLEC 251?*

The objector has raised the issue of planning principles handed down by the NSW Land and Environment Court in relation to the isolation of sites.

Each of these principles have been considered in the assessment.

In *Melissa Grech v Auburn Council*, Commissioner Brown found three main planning principles when considering whether or not a site is isolated by a proposed development.

In summary:

- Negotiations should start early in the process prior to the lodgement of an application.
- Where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.
- The level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979.

These findings were expanded upon in *Cornerstone Property Group Pty Ltd v Warringah Council*. The following additional questions should be asked:

- Is amalgamation of the sites feasible (considering planning principles above);
- Can 'orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible.

No additional relevant Planning Principles were found in *Karavellas v Sutherland Shire Council*.

The applicant approached the adjoining property owner early in the process (July 2003) and attempted on numerous occasions to incorporate the objector's property in the development. Attached is a copy of correspondence made to the applicant, including offers for the purchase of No. 1689 Pacific Highway. The adjoining property owner refused to accept the offers made. Council staff are not in a position to determine if the offers made to the applicant are

Item 7

reasonable having regard to the property market and current climate. The negotiation process has been undertaken by the applicant in a reasonable manner which accords with the abovementioned planning principles.

In the event that the sites were amalgamated, development would likely entail two x 5 storey buildings. However, no amalgamation of the sites would still provide for development of the sites, as follows:

- No. 1691-1693 Pacific Highway would comprise a 4 storey residential flat building (development as proposed and the subject of this DA);
- No. 1689 Pacific Highway could be developed for the purposes of a 3 storey residential flat development. Given the dimensions of the site, development of the site whilst restricted, would still be possible. In fact, strict adherence of Council's controls would allow for a footprint that could generate a FSR of 0.7:1. An FSR of 0.7:1 is the maximum FSR allowed for residential flat buildings on land with an area less than 1800m<sup>2</sup>, as is the case with No. 1689 Pacific Highway. On this basis, as development of the site can meet the requirements of Council's LEP 194 and DCP 55, development of the site is considered to be an orderly and economic use of the site having regard to the site's specific constraints.

In addition, the amalgamation of the lots is therefore not feasible. The applicant has acceptably demonstrated that this property will not be isolated or 'underdeveloped'.

**9. *Does the application create and isolated site at No. 1689 Pacific Highway Wahroonga contrary to the provisions of DCP 55 Section 6 'Consideration of Isolated Sites'?***

An isolated site as identified in DCP 55, is a site zoned residential 2(d3) with an area of less than 1200m<sup>2</sup> or a street frontage of less than 23m. No. 1689 Pacific Highway has an area of 1350m<sup>2</sup>, a frontage of 67.005 metres to Bundarra Avenue and a frontage of 22.04 metres to Pacific Highway. On the basis of the frontage to Pacific Highway not being 23 metres, No. 1689 Pacific Highway is an isolated site pursuant to one of these criteria.

Under the provisions of LEP 194 multi-unit housing may be carried out within Zone No. 2(d3) on a "small site" with an area of less than 1,200 m<sup>2</sup> square metres or a street frontage of less than 23 metres, if the proposed development complies with all other requirements of LEP 194 (LEP 194 Clause 25I(4)). No. 1689 Pacific Highway measures 1350m<sup>2</sup> in area and the applicant has provided conceptual plans showing a generally compliant multi-unit housing development for the adjoining site.

**10. *Does the isolated site at 1689 Pacific Highway Wahroonga have a street frontage to Pacific Highway of less than the 23m minimum street frontage required by the provisions of Clause 25I(3) of LEP 194?***

No. 1689 Pacific Highway has a frontage of 22.04 metres to Pacific Highway.

Item 7

**11. *Can the isolated site at 1689 Pacific Highway Wahroonga be developed to fully comply with the provisions of DCP 55 as required by objective O-1, Section 6 of DCP 55?***

Despite being an isolated site, the site can be development having regard to the provisions of LEP 194 and DCP 55.

The applicant has provided a development scenario for No. 1689 Pacific Highway pursuant to DCP 55, Section 6, C-2. The plans demonstrate compliance with the primary development standards and controls contained within LEP 194 and DCP 55 including setbacks, car parking, floor space ratio, height and deep soil landscaping. No. 1689 Pacific Highway can be developed for the purposes of a residential 2(d3) multi-unit housing development and the proposal is consistent with Section 6, objective O-1.

**12. *Will the isolated site at 1689 Pacific Highway Wahroonga be left underdeveloped as a result of the of the proposed development of 1691-1693 Pacific Highway Wahroonga in contravention of Section 6 Clause C-1 of DCP 55?***

No. 1689 Pacific Highway can be developed in accordance with LEP 194 and DCP 55, Section 6, C-1.

**13. *Does the material submitted by the applicant demonstrate satisfactory economically viable development of an isolated site or can a development be undertaken to comply with the provisions of DCP 55, LEP 194, SEPP 65 and the Residential Flat Design Code.***

The applicant provided a development concept for No. 1689 Pacific Highway in context with LEP 194, DCP 55 and SEPP 65. Refer to discussion of Part 6 DCP 55 (Isolated Sites) of the assessment report (p38). The applicant has provided information which effectively demonstrates that No. 1689 Pacific Highway may be developed to comply with Clause C-2.

The plan provided details a three storey townhouse development comprising 5 dwellings with a floor space ratio of 0.5:1, 58% deep soil landscaping and compliant car parking, setbacks and courtyard areas. This indicates that the site can be developed as a medium density housing development consistent with the residential 2(d3) zoning of the site. Alternative design solutions may generate greater or lesser yield depending on the design philosophy. Furthermore, Council's DCP specifies that FSR for this site should not exceed 0.7:1.

The planning assessment has determined that the site can be redeveloped to increase dwelling yield on No. 1689 Pacific Highway five fold. The evaluation does not account for economic/market considerations.

On planning grounds, the site can be developed to provide quality and marketable medium density housing within a landscaped setting, pursuant to the objectives and design requirements of LEP 194 and DCP 55. The future development of this site would be economically viable with the increased dwelling yield.

Item 7

It would ultimately be the responsibility of the owner/developer to design an economically efficient and viable proposal.

- 14. *Does the submitted material demonstrate that the development will contribute positively to the streetscape and not detract from the character of the neighbourhood and required by Section 6 Clause C-2 of DCP 55?***

A 3 storey multi unit housing development within a landscaped curtilage, as indicated, will contribute positively to the streetscape and will not detract from the area character in accordance with Section 6, DCP 55.

- 15. *Does the submitted material propose a development that will achieve a development of appropriate urban form with an acceptable level of amenity?***

The indicative development proposed by the applicant for No. 1689 Pacific Highway accords with the objectives of LEP 194 in relation to urban form and residential amenity.

- 16. *Does the submitted material propose the removal of a large Sydney Blue Gum and impacts upon other trees that could otherwise be retained by consolidation of 1689 Pacific Highway into the proposal? Is the development consistent with DCP 55 Section 3.3 Clause C-1, C-2, C-3?***

The submitted material is schematic with the purpose of demonstrating development potential and a redevelopment scenario for the site. The issue of tree removal would be considered in the assessment of any future development application involving No. 1689 Pacific Highway.

- 17. *Could site difficulties and constraints identified for the subject site be overcome with a development incorporating the isolated site at 1689 Pacific highway?***

As detailed within the assessment report presented to Council, the applicant has undertaken extensive and protracted negotiations with the owner of No. 1689 Pacific Highway. The owner of No. 1689 Pacific Highway did not accept any of the offers or options provided by the applicant. Consequently, the current application has been lodged with Council for consideration. It is unreasonable for the adjoining property owner to request the amalgamation of No. 1689 Pacific Highway at this late stage in the process. This consideration cannot be considered in the assessment of the current development application.

- 18. *Would the proposal, presently before Council, without the inclusion of 1689 Pacific Highway Wahroonga be considered orderly development in that the residential flat development envisaged by LEP 194 will not be achieved by isolation of 1689 Pacific Highway.***

As indicated in the assessment report presented to Council, the application complies with LEP 194 and SEPP 65 and is largely compliant with DCP 55. The proposal therefore constitutes orderly development.

Item 7

**19. Will the development impact upon existing large Sydney Blue Gum trees on site by excavation within close proximity to the trunks of these trees and building under the existing canopy? Does the proposal comply with DCP 55 Section 3.3, C-3?**

Impact on the Sydney Blue Gums on the site has been considered by Council's Landscape Development Officer. The objector organised an independent tree assessment immediately prior to the Council meeting. This submission was prepared by Arborist Mr Ian English and raised concern in relation to the health of trees No.'s 10 and 12.

The submission has been examined by Council's Landscape Development Officer with the following additional comment provided:

*'Impacts to Tree 12 (driveway)*

*From measurements taken on site, the tree trunk diameter is approximately 800-900mm which would result in critical root zone (CRZ) between 4.0 and 4.5 metres as measured from the centre of the trunk. The proposed driveway is located approximately 6.0m at the nearest point, which is outside of the CRZ. Root mapping undertaken in this location discovered four roots, three 50mm diameter and one 100mm, which will be required to be severed to accommodate the works, As these roots are minor in nature and being located outside of the CRZ it is the opinion of Council staff that there would not be any significant impact upon the long term health and stability of the subject tree.*

*It should be noted that Ian English has also stated that a 6.0m incursion on the eastern side of the tree could be considered. The proposed development complies with this recommendation in addition to the proposed building being located outside of the specified 9.0m radius to the south as per Ian English's recommendations.*

*Impacts to Tree 10 (courtyard)*

*I have spoken directly with Ian English regarding his concerns, and he has advised that he does not have concerns regarding the proposed building footprint with regard to tree 10. The areas of concern are in regard to the proposed sunken courtyard, to tree 10, particularly, the high target area that will result due to the outdoor living area proposed, and the severance of two structural tensile roots (R2 and R3) for the courtyard wall and subsequent loss of a significant area of the trees primary absorption zone due to the root severance.*

*A further site inspection has shown that the levels at the base of the tree are higher due to root flaring and that existing levels, where the courtyard is proposed within the tree protection zone, are lower. A proposed the courtyard area is approximately 10cm (100mm) lower than the level shown at the base of the tree within the primary root zone (PRZ) and impacts due to excavation in this area would be minimal and will not result in the severance of roots R2 and R3. The courtyard area in question is also a heavily compacted gravel/decompressed granite driveway to the existing dwelling, and it is not considered that the proposed landscape treatment in this area would be detrimental to*

Item 7

*the tree. It is considered that the available primary absorption zone around the tree will be improved, particularly to the west and south west due to the removal of the existing driveway and the reinstatement of 'soft' landscape area.*

*Numerous conditions of consent that are to be applied to the development protect the ongoing health of the subject tree and other trees located on site to be retained. These include No. 5 that requires any root/canopy pruning to be undertaken by an Arborist or suitably qualified Horticulturalist; No. 6 requires rooting hormones to be applied to cleanly severed roots less than 50mm; No. 7 prohibits the removal of tree roots greater than 50mm within the trees CRZ (which results in the proposed minor retaining wall and fence to be located over the subject tensile roots); No. 8 requires regular inspections/assessment and treatment to existing retained trees, prior, during and after development works; No. 9 requires no mechanical excavation within 7.0m of tree No. 10 until root pruning by hand is undertaken; No. 10 requires hand digging to be undertaken within a 4.0m radius of the tree; and no. 12 prohibits storage of materials beneath the tree's canopy drip line. Many of these conditions are applied concurrently and will ensure (within Council's control) that the two tensile roots R2 and R3 are retained.*

*It is considered that these conditions in conjunction with protective fencing requirements, protective bonds (\$4,000.00 per tree), mulching and irrigation requirements, and the sites existing ground levels around the subject trees address issues raised by Ian English to ensure the ongoing health, stability and viability of the subject trees.'*

**20. Does the development comply with DCP 55 in relation to setbacks on corner sites. DCP 55 Section 4.3, C-5, C-7, C-8?**

DCP 55, Clause 4.3 C-5 stipulates that on corner sites the minimum street boundary setbacks given in C-1 and C-2 shall apply on both street frontages (10-12 metres).

As previously detailed, the eastern verge of the F3 freeway Wahroonga off ramp is not considered to constitute a 'street frontage'. The proposal generally complies with the 6 metres side setback as indicated within the assessment report.

C-7 does not apply as the 13-15 metres front setback does not apply to sites fronting the Pacific Highway.

As indicated in the *Compliance Table* provided in page 30 of the assessment report, less than 10% of proposed courtyards occupy the front setback where 15% is the maximum given in C-8. The proposal therefore complies.

**21. Are the setbacks on the western frontage to the site less than 6 metres for a substantial part of the building and do they comply with the provisions of DCP 55, Section 4.3 C-1?**

Excerpt from p34 of the assessment report in relation to DCP 55, Section 4.3 - Setbacks:

Item 7

*'Due to the curved western boundary and the corresponding curved footprint and elevation of the building, a variable setback is provided along this side. The proposed building setback varies between 5.5 metres and 9 metres. Thus, some sections of the building come forward of the required 6 metres. However, the average setback achieved is 6.3 metres. The areas providing additional setback provide extra space for the provision of landscaping.'*

*The design objectives of DCP 55 in relation to setbacks include: to set buildings behind landscaping to soften built form, to ensure adequate space between sites, to provide building separation and protect residential amenity and to provide a consistent urban form and define the street edge. The design of the western elevation provides definition to the freeway edge. No adjoining properties will be adversely affected by the non-compliance and sufficient area is retained for the purpose of landscaping. The proposal is consistent with the objectives of the setback control.'*

**22. *Have the setbacks been privatised with courtyards? Does the proposal comply with DCP 55 Section 4.3 Clauses C-4, C-7?***

There is no control indicated in DCP 55 relating to the provision of courtyards within the side setbacks. Sufficient area exists within the side and rear setback to provide for deep soil landscaping and tall tree planting. As previously discussed, the proposal complies with C-4 in that 10% of courtyards are provided within the front setback where 15% is the maximum allowed.

**23. *Does the deep soil landscaping area include private courtyards that will be hard paved? Does the proposal comply with LEP 194 25D(2)(c)?***

The proposed courtyards will not be hard paved but finished with decomposed granite mulch which provides for a permeable/absorbent surface. The proposal complies with LEP 194 Clause 25D(2)(c). These areas have been excluded by Council's Landscape Development Officer from the calculation of deep soil landscaping.

Council's Landscape Development Officer offered the following comment in this regard:

*'By the applicant's calculations the proposed development will result in a deep soil landscaping area of 1158.4m<sup>2</sup> or 50.1% of the site area. As shown, the deep soil landscape area includes the decomposed granite mulch areas within the private courtyards. It could be argued that the decomposed granite courtyard areas should also be excluded, as they do not allow for soft landscape planting, but it must be noted that these areas are unsuitable for tree planting due to their close proximity to the building and their location outside of doorways. It is therefore considered that the development complies with the intent of both LEP 194 and DCP 55 with regard to deep soil landscaping and the establishment of tall 'canopy' trees and landscape amenity.'*

Item 7

**24. *The setbacks to the F3 include deep soil landscaping. Does this meet the requirements of LEP 194?***

LEP 194 requires the provision of deep soil landscaping with a minimum width of 2 metres and with an area of at least 50% for a site of 1,800m<sup>2</sup> or more in area. The site is provided with 50% landscaping around the perimeter of the development. The deep soil landscaping provided along each boundary has a minimum dimension of 2 metres.

The tall tree planting proposed along the western boundary is considered by Council's Landscape Development Officer to:

*'complement the existing 'urban forest' planing within the Freeway road reserve, along with additional medium sized trees adjacent to the eastern site boundary and screen planting greater than 3.0m high.'*

Subject to conditions, the proposal is considered consistent with the objectives and requirements of LEP 194 in relation to deep soil planting.

**25. *Are there future road works (tunnelling) envisaged by the RTA that require further setbacks to the F3 (western side of the proposal).***

The RTA have been notified of the proposal as adjoining land owners. No objection or comment was received from the RTA. No advice has been received in relation to proposed tunnelling.

## RECOMMENDATION

That the Council, as the consent authority, grant development consent to DA 124/05 for the demolition of existing dwellings and the construction of a residential flat building, containing 31 units, basement car parking and landscaping, at 1691-1693 Pacific Highway Wahroonga for a period of two (2) years for the date of the Notice of Determination, subject to the following conditions:

### GENERAL CONDITIONS

1. The development must be carried out in accordance with plans numbered DA01-AA, DA-2-AA, DA03-AA, DA04-AA, DA05-BB, DA06-BB, DA07-AA, DA08-BB, DA09-AA, DA10-AA, DA11-AA, DA12-AA, DA13-AA, DA14-AA, DA15-AA, DA16-AA and DA17-AA, dated July 04, drawn by Jones Sonter Architects and Urbanism and Landscape PlanWL1-05, dated 20 January (amended 15 June 2005); drawn by CAB Consulting Pty Ltd, endorsed with Council's approval stamp, except where amended by the following conditions:
2. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

Item 7

3. Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.
4. Landscape works shall be carried out in accordance with Landscape Drawing No WL1-05 prepared by CAB Consulting and dated 15 June 2005 submitted with the Development Application, except as amended by the following:

The proposed planting of *Pistacia chinensis* (Chinese Pistacio) is to be changed to a 50% mix of *Angophora floribunda* (Rough Barked Apple) and *Angophora costata* (Sydney Redgum). Pot size is to be reduced to minimum 50 Litre, locations and quantities are to remain the same as originally proposed.

The proposed planting of *Angophora costata* (Sydney redgum) within the nature strip along the Pacific Hwy in front of the site is to be changed to six *Eucalyptus pilularis* (Blackbutt) with a minimum pot size of 25 litres.

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

Tree/Location

#4 *Cedrus deodar* (Himalayan Cedar)

Adjacent to southern/Pacific Hwy site frontage

#10 *Eucalyptus saligna* (Bluegum)

Adjacent to northern site boundary

6. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
7. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location

#4 *Cedrus deodar* (Himalayan Cedar)

Adjacent to southern/Pacific Hwy site frontage

Radius From Trunk

5.0m

#10 *Eucalyptus saligna* (Bluegum)

Adjacent to northern site boundary

5.5m

Item 7

#11 *Eucalyptus saligna* (Bluegum) 7.0m  
Adjacent to northern site boundary

#12 *Eucalyptus saligna* (Bluegum) 6.0m  
Adjacent to northern site boundary

8. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the principal certifying authority shall be required at quarterly/three monthly intervals. Documentary evidence of compliance with this condition shall be submitted to the principal certifying authority with the Occupation Certificate.
9. No mechanical excavation of the proposed structure shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning by hand along the perimeter line of such works is completed:

Tree/Location	Radius From Trunk
#4 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to southern/Pacific Hwy site frontage	7.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	7.0m
#12 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	7.0m

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

Tree/Location	Radius From Trunk
#4 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to southern/Pacific Hwy site frontage	5.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	4.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	5.0m
#12 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	5.0m

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

Item 7

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

Tree/Location	Radius From Trunk
#4 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to southern/Pacific Hwy site frontage	5.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	4.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	5.0m
#12 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	5.0m

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

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

Tree Species  
*Eucalyptus pilularis* (Blackbutt) x 6

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

Plant Species  
*Cinnamomum camphora* (Camphor laurel)  
*Ligustrum lucidum* (Large-leaved Privet)  
*Ligustrum sinense* (Small-leaved Privet)

15. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.
16. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the freeway drainage system over the RTA land, via the approved site stormwater management system. New drainage line connections shall

Item 7

conform and comply with the requirements described in Ku-ring-gai Council Water Management Development Control Plan 47 and RTA specifications.

17. A mandatory rainwater re-use tank system comprising rainwater tanks of minimum total volume **93m<sup>3</sup>**, must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. A mains top-up shall be provided for periods of low rainfall, with a void space left for runoff storage purposes.
18. A mandatory on-site detention system comprising stormwater detention tanks of (minimum) total volume **22m<sup>3</sup>** must be provided for the development.
19. For stormwater control, 200mm wide grated channel/trench drains with heavy-duty removable galvanised grates are to be strategically placed to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drains shall outlets of minimum diameter 150mm to prevent blockage by debris.
20. A maintenance period of six (6) months shall apply to any works on Council property carried out by the applicant, **after** works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
21. Where required, the adjustment or additions of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
22. All public footways and accessways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Certified traffic controllers must be utilised wherever a conflict may occur. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
23. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps

Item 7

must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

24. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 “Off-Street car parking”.
25. For the purpose of any further plan assessment and works inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final sign-off from Council.
26. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Applicant shall refer to “Your Business” section of Sydney Water’s web site at [www.sydneywater.com.au](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.
27. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
28. Geotechnical aspects of the development works, particularly excavation, support, retention and hydrogeological considerations must be undertaken in accordance with the recommendations of a Geotechnical report to be prepared under the conditions of this consent. Over the course of the works a qualified Geotechnical / hydrogeological Engineer must complete the following:
  - Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
  - Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
  - Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.
29. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.

Item 7

30. All construction traffic control and management measures shall be implemented in accordance with an approved *Construction Traffic Management Plan* to be submitted and approved by Council prior to the commencement of works. The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works, and shall pay particular attention to traffic control during school drop off and collection hours. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.
31. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, no doors or gates shall be provided in the access driveways to the basement car park which would prevent this service.
32. All new public utility services, or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.
33. 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.
34. 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.
35. **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.
36. 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.
37. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.

Item 7

38. To maintain existing ground levels all excavated material shall be removed from the site.
39. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- must preserve and protect the building from damage, and
  - if necessary, must underpin and support the building in an approved manner, and
  - must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

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

40. 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.
41. If the work involved in the erection or demolition of a building:
- is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

42. All noise generating equipment mechanical equipment 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.

Item 7

43. Noise emission from the mechanical ventilation system including fan units is not to exceed the background noise level when measures at the nearest property boundary.
44. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
45. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
46. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
47. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

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

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

Item 7

50. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
51. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
52. 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.

53. 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).
54. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
55. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
  - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.

Item 7

- 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.
56. The access for demolition and construction vehicles off Bundarra Avenue should be situated as far away as possible from the Pacific Highway for construction activities.
57. Consideration should be given to a cattle grid type structure (approximately 500mm deep) being provided at the exit driveway (within the subject site) to ensure that dirt is not transported by construction and demolition vehicles existing the subject site on to the road. Alternatively, a truck wash facility should be provided within the site to prevent dirt from being tracked on to the road.
58. The layout of the car park associated within the subject development (including driveways, turn paths, sight distance requirements, aisle widths, and parking bay dimensions) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002.
59. All vehicles should be able to enter and exit the site in a forward direction.
60. Any redundant driveways along Pacific Highway frontage to be removed and kerb and gutter re-instated to match existing.
61. The post development storm water discharge from the subject site into the RTA drainage system does not exceed the pre-development discharge.
62. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RTA for approval, prior to the commencement of any works.

Details should be forwarded to:-

The Sydney Asset Management  
PO Box 558  
Blacktown NSW 2148

A plan checking fee may/will be payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirements please contact the RTA's Project Engineer, External Work Ph. 8814 2111.

63. The proposed development should be designed such, that road traffic noise from Pacific Highway is mitigated by durable materials, in accordance with EPA criteria for new land use development (The Environmental Criteria for Roads and Traffic Noise, May 1999). The

Item 7

RTA's Environmental Noise Management Manual provides practical advice in selecting noise mitigating treatments.

Where the EPA external noise criteria would not practically or reasonably be met, the RTA recommends that Council applies the following internal noise objectives for all habitable rooms under ventilated conditions complying with the requirements of the Building Code of Australia;

- \* All habitable rooms other than sleeping rooms: 45dBA Leq (15hr) and 40DdBA Leq (9hr) and;
- \* Sleeping rooms: 35dBA Leq(9hr)

64. All works associated with the subject development shall be at no cost to the RTA.

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

65. 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 IS CURRENTLY \$534,832.10.

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 - Wahroonga	\$6,574.28
3. Sportsgrounds Works	\$1,318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

**OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES**

Small dwelling (under 75m <sup>2</sup> )	1.27 persons
Medium dwelling (75 - under 110m <sup>2</sup> )	1.78 persons
Large dwelling (110 - under 150m <sup>2</sup> )	2.56 persons

Item 7

Very Large dwelling (150m <sup>2</sup> or more)	3.48 persons
New Lot	3.48 persons
SEPP (Seniors Living) Dwelling	1.3 persons

66. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a plan detailing the required trenches for services. The plan shall show distances from proposed and existing trees. All new public utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.

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

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

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

68. A cash bond/bank guarantee of \$16, 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

#4 *Cedrus deodar* (Himalayan Cedar) \$4,000.00  
Adjacent to southern/Pacific Hwy site frontage

#10 *Eucalyptus saligna* (Bluegum) \$4,000.00  
Adjacent to northern site boundary

#11 *Eucalyptus saligna* (Bluegum) \$4,000.00  
Adjacent to northern site boundary

Item 7

#12 *Eucalyptus saligna* (Bluegum) \$4,000.00  
Adjacent to northern site boundary

69. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), registered title documents demonstrating that the subject site is benefited by the necessary easement(s), licence or equivalent approval issued by the Road and Traffic Authority for stormwater drainage connection to the freeway drainage system over the RTA's land. This information is to include, as a minimum, registered Title documents demonstrating the benefit and burdens, together with the instruments describing the terms of necessary drainage easement(s).
70. Prior to issue of the Construction Certificate the Applicant shall submit, for approval by the Principal Certifying Authority (PCA), a scale dimensioned and delineated layout plan for all aspects of the vehicle access and accommodation arrangements. A qualified civil/traffic engineer must provide specific written certification with these parking layout plans that:
- a) All parking space dimensions, driveway and aisle widths, grades, transitions, circulation ramps, blind aisle situations and trafficked areas comply with Australian Standard 2890.1 – 2004 “Off-street car parking”.
  - b) A clear height clearance of 2.5 metres headroom is provided for waste collection trucks over the designated basement garbage collection truck manoeuvring areas.
  - c) No security doors, gates, grilles or the like are provided in the access driveways to the basement car park which would prevent full and unrestricted access for internal garbage collection from the basement garbage storage area.

This condition is required to ensure safe and efficient vehicular access and accommodation arrangements for future residents and service providers within the site.

71. Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for approval by the Principal Certifying Authority. These profiles are to be at 1:100 scale along the middle of the driveway of the proposed driveway, starting from **the centreline of the frontage street carriageway** to the proposed basement floor level. The traffic engineer shall provide specific written certification on the plans that:
- Vehicular access can be obtained using grades of 20% (1 in 5) maximum and
  - All changes in grade (transitions) comply with Australian Standard 2890.1 – “Off-street car parking” (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.

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

72. Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will comprise the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval

Item 7

of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.

73. Prior to issue of the Construction Certificate any security gate, grille or door shown on the DA plans, which would prevent unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, must be deleted from the plans to be approved with the Construction Certificate. Such details shall be to the satisfaction of the Principal Certifying Authority (PCA).
74. Prior to issue of the Construction Certificate, a plan detailing services trenches in accordance with the relevant supply authorities (including electricity, gas, telephone, water and sewerage), shall be submitted for approval by the Principal Certifying Authority (PCA). The notice of requirements for Sydney Water must be obtained prior to issue of the Construction Certificate.
75. Prior to issue of the Construction Certificate the Applicant shall contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to Construction Certificate issue. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia shall be met in full prior to issue of the Occupation Certificate.
76. Prior to issue of any Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of all neighbouring buildings within the 'zone of influence' of the excavation. As a general rule (to be verified based on founding material), this is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal, subsoil conditions and recommendations contained in the Geotechnical report prepared for construction. The report shall have regard to protecting the Applicant from spurious claims for structural damage and shall be verified by all stakeholders as far as practicable.
77. Prior to issue of the Construction Certificate, footpath and driveway levels for the required driveway crossing between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

Item 7

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.** The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

78. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Ku-ring-gai Council Water Management DCP 47.
79. 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** (minimum volume to be 93m<sup>3</sup>). 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), holding wells and ancillary plumbing to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47 (minimum uses toilet flushing, laundry in each unit).
  - Details of the required **on-site detention** tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, locations, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements).
  - The required basement stormwater pump-out system to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).

Item 7

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The plans may be generally based on the Stormwater Plans by AFCE, plans 342821/C1A-C4A dated 2/2005 submitted with the development application, to be revised and advanced as necessary for construction issue purposes.

80. Prior to the issue of a Construction Certificate the applicant must lodge a **\$25,000** (twenty five thousand dollar) public infrastructure damage bond with Council. This bond is applied pursuant to Section 97 of the *Local Government Act 1993* to cover the cost of:

Making good any damage that may be caused to any public infrastructure as a consequence of doing or not doing any thing to which this approval relates.

Completing any public infrastructure works that are required in connection with this approval. The bond shall be lodged in the form of a deposit or bank guarantee and will be fully refundable following satisfactory completion of all works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions, upon approval by Council's Engineers. Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b) The applicant has not repaired nor commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
- c) Works in the public road associated with the development are to an unacceptable quality.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

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

Tree/Location	Radius in Metres
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	4.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	7.0m
#12 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern site boundary	4.5m

Item 7

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

Tree/Location	Radius From Trunk
#4 <i>Cedrus deodard</i> (Himalayan Cedar)	7.0m
Adjacent to southern/Pacific Hwy site frontage	

83. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
84. Tree protection signage is to be attached to each tree Protection Zone and displayed in a prominent position and the sign repeated at 10m intervals or closer where the fence changes direction. Each sign to advise as minimum details, the following:  
Tree Protection Zone  
This fence has been installed to prevent damage to the trees and their growing environment both above and below ground, and access is restricted.  
If encroachment or incursion into this Tree Protection Zone is deemed to be essential the consulting Arborist should be informed prior to the undertaking of such works  
Name, address, and telephone number of the developer.
85. The area of the Tree Protection Zone is to be mulched to a depth of 100mm with organic material being 75% leaf litter and 25% wood, and this being composted material preferably from the same genus and species of tree as to that where the mulch is to be applied, ie species specific mulch. The depth of mulch and type as indicated, to be maintained for the duration of the project.
86. No services either temporary or permanent are to be located within the Tree protection Zone. If services are to be located within the Tree Protection Zone, special details will need to be provided by a qualified consulting Arborist for the protection of the tree regarding the location of the service/s.
87. In the event of prolonged dry periods, or where a tree has been transplanted, or where excavation nearby, especially up slope, leads to drying out of soil profiles closest to the tree/s, the tree/s is to be deep root watered thoroughly at least twice a week. The need for such watering is determined readily by observing the dryness of the soil surface within the dripline of the tree by scraping back some mulch. Mulch to be reinstated afterwards. In the event of disrupted ground or surface water flows to the tree due to excavation, filling or construction, an irrigation system may be required to be installed, consideration must be given to volume, frequency, and drainage of water delivered, and this should be in consultation with a qualified consulting Arborist.
88. If a tree is growing down slope from an excavation, a silt fence located along the contours of the site in the area immediately above the Tree Protection Zone fencing may be need to be

Item 7

installed and regularly maintained to prevent burial and asphyxiation of the roots of the tree. To allow for the maintenance of both fences, the silt fence must be constructed separately to the tree protection fence and the two fences must be constructed independently of each other and stand alone. To reduce competition the Tree Protection Zone is to be kept free of weeds for the duration of the development works.

89. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
90. Prior to the commencement of any works on site the applicant shall submit **to Council** a full dilapidation report on the visible (**including photos**) and structural condition of the following public infrastructure:
  - a) Full road pavement width, including kerb and gutter, of Pacific Highway and Bundarra Avenue over the site frontage, including twenty metres either side of the site frontage.
  - b) All driveway crossings and laybacks opposite the subject site.

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

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

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

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

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

- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage any pedestrians and construction related vehicles in the frontage roadways,
- Turning areas within the site for construction and spoil removal vehicles allowing a forward egress for all construction vehicles on the site,
- The locations of any Work Zones in the frontage roadways,
- Location of proposed crane standing areas

Item 7

- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles.

**2. Traffic Control Plan(s) for the site**

- All traffic control devices installed in the road reserve must be in accordance with the RTA publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each. The name and certificate number of the traffic control designer must be shown on the Traffic Control Plan.

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

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

In addition, the plan must address:

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

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

Item 7

92. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. The application must be made at least 15 days prior to the commencement of any works on site approved under this consent. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.
93. Prior to the commencement of **any** excavation works the applicant must submit, for approval by the Principal Certifying Authority (PCA), a Geotechnical/Civil Engineering report which addresses (but is not limited to) the following:
  - a) The type and extent of substrata formations by the provision of a minimum of three (3) representative borehole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the borehole logs shall be related to Australian Height Datum.
  - b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations shall be discussed and ameliorated.
  - c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site).
  - d) The existing groundwater levels in relation to the basement structure, where influenced.
  - e) The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flowpath is constructed, artificial drains such as perimeter drains and through drainage may be utilised.
  - f) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to

Item 7

nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by a consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting. It is the responsibility of the engaged geotechnical specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report shall contain site specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate. The design principles for the geotechnical report are as follows:

- No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.
- No changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- No changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- Vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development.
- Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles.
- An adverse impact can be assumed to be crack damage which would be classified as Category 2 or greater damage according to the classification given in Table C1 of AS 2870 – 1996.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

94. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
95. On completion of the landscape works/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.
96. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified by the required geotechnical report and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
97. 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:

Item 7

- New double width concrete driveway crossing in accordance with levels and specifications issued by Council.
- Removal of **all** redundant driveway crossings, gutter bridge crossings, piped gutter crossings 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).
- Trimming of Bundarra Ave road shoulder to accommodate adjusted levels resulting from the removal of redundant gutter crossings.
- 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. A **written** acknowledgment from Council with respect to this condition being satisfied must be obtained by the Principal Certifying Authority prior to issue of the Occupation Certificate.

98. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
99. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:
  - a) That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
  - b) That the minimum retention (93m<sup>3</sup>) and on-site detention storage volume (22m<sup>3</sup>) requirements of have been achieved in full.
  - c) That retained water is connected and available for uses including all toilet flushing and laundry uses.
  - d) That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.
  - e) That all grates potentially accessible by children are secured.
  - f) That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 2003 and the BCA, and

Item 7

- g) All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

- Rainwater retention certification sheet contained at appendix 13 of Water Management DCP 47.
  - On-site detention certification sheet contained at appendix 4 of Water Management DCP 47.
100. Prior to issue of the Occupation Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage and management systems. The WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. The WAE survey must indicate:
- As built (reduced) surface and invert levels for all drainage pits.
  - Gradients of drainage lines, materials and dimensions.
  - As built (reduced) level(s) at the approved point of discharge to the public drainage system.
  - As built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site.
  - The achieved storage volumes of the installed retention and detention storages and derivative calculations.
  - As built locations of all access pits and grates in the detention and retention system(s), including dimensions.
  - The size of the orifice or control fitted to any on-site detention system.
  - Dimensions of the discharge control pit and access grates.
  - The maximum depth of storage possible over the outlet control.
  - Top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system.

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

101. Prior to the issue of an Occupation Certificate the following must be provided to Ku-ring-gai Council (attention Development Engineers):
- A copy of the approved Construction Certificate stormwater drainage plans which show the retention and on-site detention systems.
  - A copy of all the works-as-executed drawings as specified in this consent relating to drainage and stormwater management.

Item 7

- All Engineer's certifications specified in this consent.

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

102. Prior to issue of an Occupation Certificate the applicant must submit certification from a suitably qualified and experienced traffic/civil engineer to the Principal Certifying Authority. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:
  - a) That the as-constructed car park complies with the approved Construction Certificate plans.
  - b) That the completed vehicle access and accommodation arrangements comply in full with Australian Standard 2890.1 – 2004 "Off-Street car parking".
  - c) That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
  - d) That no doors, gates, grilles or other structures have been provided in the access driveways to the basement car park, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.
  - e) That a 2.5m height clearance for waste collection trucks (refer Ku-ring-gai Council DCP 40) are met from the public street into and within the applicable areas of the basement car park.
103. Prior to issue of the Occupation Certificate the provision of separate underground electricity, gas, phone cable, sewer and water services shall be provided for the development in accordance with those utility providers. A suitably qualified and experienced engineer or surveyor is to provide certification to the Principal Certifying Authority that the development has ready underground access to the services of electricity, gas, phone cable, sewer and water. Alternatively, a final compliance letter from the respective supply authorities may be supplied for approval by the Principal Certifying Authority.

N Richter  
**Executive Assessment Officer**

M Leotta  
**Team Leader**  
**Development Assessment - North**

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

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

Item 7

**Attachments:**      **Original Assessment Report to Council 9 August 2005 - 517966**  
                         **Location Sketch - 527394**  
                         **Zoning Extract - 527394**  
                         **Landscape Plan - 527396**  
                         **Architectural Plans - 527397**  
                         **Plan showing finished floor levels - 527401**  
                         **Confidential - Record of negotiations Staldone Developments**  
                         **Confidential - Floor Plans, etc**

Item 10

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

**REPORT TITLE:**

1691 TO 1693 PACIFIC HIGHWAY,  
WAHROONGA - DEMOLITION OF  
EXISTING DWELLINGS AND  
CONSTRUCTION OF A RESIDENTIAL  
FLAT BUILDING CONTAINING 31  
UNITS, PARKING FOR 31 CARS AND  
LANDSCAPING

**WARD:**

Wahroonga

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

124/05

**SUBJECT LAND:**

1691 to 1693 Pacific Highway, Wahroonga

**APPLICANT:**

Steve Donellan - Bundarra Avenue Pty Ltd

**OWNER:**

No 1691 - Mr John Younis, Mrs Christine  
Younis, Mr Leba Younis and Mrs Gloria  
Younis  
No. 1693 – Bundarra Avenue Pty Ltd

**DESIGNER:**

Jones Sonter Architects

**PRESENT USE:**

Residential

**ZONING:**

Residential 2(d3)

**HERITAGE:**

No

**PERMISSIBLE UNDER:**

Ku-ring-gai Planning Scheme Ordinance

**COUNCIL'S POLICIES APPLICABLE:**

KPSO - LEP 194, DCP 31 - Access, DCP 40  
- Waste Management, DCP 43 - Car Parking,  
DCP 47 - Water Management

**COMPLIANCE WITH CODES/POLICIES:**

Yes

**GOVERNMENT POLICIES APPLICABLE:**

SEPP 1, SEPP 55, SEPP 65, SREP 20

**COMPLIANCE WITH GOVERNMENT POLICIES:**

Yes

**DATE LODGED:**

15 February 2005 - Amended: 16 June 2005

**40 DAY PERIOD EXPIRED:**

27 March 2005

**PROPOSAL:**

Demolition of existing dwellings and  
construction of a residential flat building  
containing 31 units, parking for 31 cars and  
landscaping

**RECOMMENDATION:**

Approval

Item 10

**DEVELOPMENT APPLICATION N<sup>o</sup>** 124/05  
**PREMISES:** 1691-1693 PACIFIC HIGHWAY,  
WAHROONGA  
**PROPOSAL:** DEMOLITION OF EXISTING DWELLINGS  
AND CONSTRUCTION OF A RESIDENTIAL  
FLAT BUILDING CONTAINING 31 UNITS,  
PARKING FOR 31 CARS AND  
LANDSCAPING  
**APPLICANT:** STEVE DONELLAN - BUNDARRA AVENUE  
PTY LTD  
**OWNER:** NO 1691 - MR JOHN YOUNIS, MRS  
CHRISTINE YOUNIS, MR LEBE YOUNIS  
AND MRS GLORIA YOUNIS  
**DESIGNER** JONES SONTER ARCHITECTS

**PURPOSE FOR REPORT**

To determine development application no. 124/05, which seeks consent for the demolition of two (2) existing dwellings and the erection of a four (4) storey residential flat building, basement carparking and landscaping.

**EXECUTIVE SUMMARY**

**Issues:** Urban Design;  
Streetscape;  
Privacy;  
Building separation; and  
Development of adjoining 'smaller' site.

**Submissions:** Six (6), including three (3) on behalf of one owner.

**Pre DA:** Yes, 20 December 2004.

**Land and Environment Court Appeal:** No

**Recommendation:** Approval

**HISTORY**

The site has historically been zoned and developed for the purpose of low density residential.

Local Environmental Plan No. 194 was gazetted on 28 May 2004, rezoning the site for the purpose of medium density housing.

Item 10

**Development Application history:**

- Pre DA meeting held with Council 20 December 2004.
- 15 February 2005, application lodged.
- 22 February 2005, a detailed landscaping plan requested.
- 22 February 2005, application referred to the Roads and Traffic Authority.
- 2 March – 4 April 2005, surrounding property owners notified of the development.
- 18 May 2005, the applicant was requested to provide evidence that the property at No. 1689 was not 'isolated' under the provisions of DCP 55.

**THE SITE**

Zoning:	Residential 2(d3)
Visual Character Study Category:	1920-45
Lot Number:	Lots 3 and 4
DP Number:	DP 714035
Area:	2289m <sup>2</sup>
Side of Street:	Northern (Pacific Highway), Eastern (Bundarra Avenue)
Cross Fall:	5 metres
Stormwater Drainage:	No easement required
Heritage Affected:	No
Required Setback:	10-12 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

**SITE DESCRIPTION**

The development site comprises two existing lots known as No. 1691-1693 Pacific Highway, totalling 2889m<sup>2</sup> in area. Two (2) single storey dwellings, a free standing garage and an in-ground swimming pool exist on the site. Access is gained via a 6 metres wide right of carriageway from Bundarra Avenue. This driveway extends 22.5 metres adjacent the northern boundary of No. 1689 Pacific Highway and the southern boundary of No. 2 Bundarra Avenue.

The site is trapezoidal in shape, with a curved edge created by the F3 Freeway corridor. The site is bounded by No. 2 Bundarra Avenue to the north, No. 1689 Pacific Highway to the east, Pacific Highway to the south and the F3 Sydney/Newcastle Freeway to the west.

The site is directly adjoined by circa 1920's single storey brick bungalows and is surrounded by residential development of a comparable scale and age. The site is located within walking distance of the Wahroonga Village Shopping Centre, service stations and the Wahroonga North Shore Railway station. The site has recently been rezoned to Residential 2(d3) to allow medium density development so that the character of the area is in transition.

Item 10

Development along Bundarra Avenue generally comprises older, low density, housing. Medium density housing, in the form of walk-up flats, is located between the site and the nearby Wahroonga Village Shopping area along Woonona Avenue South, Neringah Avenue South, Coonanbarra Road and Redleaf Avenue. Buildings are a mixture of 1930's (along Warwilla Avenue), and 1950's-60's (along Pacific Highway). Garaging is generally located underground or behind the building line.

The Pacific Highway is located upon a ridgeline, with adjoining land falling away gradually to the north and south. The streetscape is dominated by large, mature trees. Housing is visually recessive, behind substantial vegetation.

A number of mature significant trees exist on the site including one (1) Himalayan Cedar (18 metres tall), one (1) Blue Atlas Cedar (16 metres tall) along the Pacific Highway frontage and three (3) 24-25 metres tall Sydney Blue Gums, adjacent the northern boundary.

## THE PROPOSAL

The proposal involves the demolition of two (2) existing dwellings and associated outbuildings, amalgamation of two existing allotments and construction of a four (4) storey residential flat building containing three (3) levels of basement car parking for forty (40) cars with thirty-one (31) residential units above.

The proposal consists of two (2) four (4) storey buildings referred to as the 'east wing' and 'west wing'.

The 'east wing' runs parallel with the eastern boundary and No. 1689 Pacific Highway. The building is rectangular in shape, measures 34 metres in length (as viewed from No. 1689 Pacific Highway and Bundarra Avenue beyond) and 7.5 metres in width (as viewed from No. 2 Bundarra Avenue to the north and Pacific Highway to the south). Access stairs are provided on the inside of this building, facing the 'west wing' opposite.

The 'west wing' adjoins the F3 Freeway, forms a curved semi-circular shape and is four (4) storeys in height, with the widest point measuring 16.5 metres (facing the Pacific Highway), reducing to less than 1 metre as it curves to the northern end. The design approach was adopted to respond to the curved boundary (Freeway), to break up the overall built form and minimise potential visual impact associated with one large building.

Two pedestrian connections/walkways are provided to connect the two wings at ground and first floor levels. A landscaped courtyard area is proposed in the area between the buildings (refer details on Landscape Plan).

The proposed buildings are of contemporary design. The materials and finishes consist of rendered and painted masonry, with a combination of western red cedar external cladding and "Bowral Blue" face brickwork. The external curved western wall (west wing) is constructed of clear anodised aluminium louvres. These louvres are provided to screen the elevation and west-facing balcony areas from the sun and traffic noise. The louvres are openable.

Item 10

Due to the sloping topography, the ground floor of the west wing, identified on the submitted plans as the 'lower ground floor', has a finished floor level of between RL195.390 and RL194.390. The ground floor of the 'eastern wing' is indicated on the 'ground level' plan with a finished floor level of between RL196.890 and RL196.630.

Ground floor courtyard units are provided within the eastern, western and southern setbacks. The landscape plan submitted proposes a mixture of locally occurring indigenous planting mixed with some introduced species.

Vehicle access to the building is via Bundarra Avenue via an 6 metre wide right-of-way over the adjoining property No 1689 Pacific Highway.

Following are details of the proposed floor plans:

*Basement Level 3 (Basement 2 and 3 split level following the gradient of the site)*

Dual carriageway access ramp;  
Twenty (20) car parking spaces (including 1 car wash bay);  
Eighteen (18) storerooms;  
One (1) plant room.

*Basement Level 2:*

Sixteen (16) parking spaces - including four (4) accessible spaces and five (5) visitor spaces (one accessible);  
Thirteen (13) storerooms;  
Bicycle storage rack.

*Basement Level 1:*

An externally located garbage/recycling storage room;  
Vehicle turning areas;  
On-site stormwater detention tank;  
Visitor bicycle rack;  
Three externally located (3) visitor parking spaces.

*Lower Ground Level:*

Units Nos. 1-5, which are one (1) bedroom units and Unit No. 6 (2 bedrooms ) with external courtyard areas, are located on the lower ground level of the 'western wing' of the building.

*Ground Level:*

Units Nos. 7-16, which are one (1) bedroom 'manageable' courtyard units, are located on the ground floor of the 'eastern wing'.

Item 10

Units Nos. 9-13, which are one (1) bedroom courtyard units and Unit 14 which is a two (2) bedroom courtyard unit are located at ground level of the 'western wing'.

*Level 1:*

The Ground of split level Units Nos. 17, 18, 26 and 27, which comprise a mix of one (1) and two (2) bedrooms, 'eastern wing'.

Bedroom areas of split level one (1) bedroom Units Nos. 19-25, 'western wing'.

*Level 2:*

Living areas of split level Units Nos. 28-31, containing two bedrooms plus study, 'eastern wing'.

Living areas of split level Units Nos. 19-25, containing one bedroom plus sitting room, 'western wing'.

*Level 3*

Second floor level for Units Nos. 28-31 'eastern wing'.

Clerestory roof 'western wing'.

The mix of units is 19 x 1 bedroom, and 12 x 2 bedroom.

## CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, owners of 113 surrounding properties were notified of the proposal response, submissions from the following were received:

1. *A McClelland - 4/16 Woniora Avenue Wahroonga*
2. *Mr B Arnett - 1/17a Woonona Avenue, Wahroonga*
3. *Chris Young Planning on behalf of, 1689 Pacific Highway, Wahroonga*
4. *David Wilkins and Elke Wagener, 1689 Pacific Highway Wahroonga (x2)*
5. *Stephanie Tong - 2 Bundarra Avenue, Wahroonga*

The submissions raised the following issues:

### ***Increase in traffic in local area***

Concern was raised in relation to the impact of the development on local traffic movements and congestion within Wahroonga Village shopping area.

A Traffic and Parking study undertaken by *Transport and Planning Associates* was submitted with the application. The study assessed the increased dwelling yield relative to surrounding traffic

Item 10

conditions and volumes and Council's car parking controls. The following comments were made in respect of the development;

*"The traffic generation circumstances relative to the proposed development in the morning and afternoon peak periods are as follows:*

*Existing 2 dwellings – 2 vehicle trips per hour (vtpH)  
Proposed 31 Units – 15-20 vtpH*

*Thus potential additional peak generation (as a consequence of the development of some 13 to 18 vtpH represents a relatively minor movement of only 1 vehicle movement every 3 minutes and these movements will largely be in the same direction (ie OUT in the morning in IN during the evening). The projected traffic generation will be 'in keeping with the surrounding residential development and will not act to create any discernable traffic increase let alone any significant (or unacceptable) traffic congestion or conflict either at the vehicle access point or at adjacent intersections.*

*The proposed vehicle access arrangement for the development will involve a 5.5 metre wide driveway on the Bundarra Avenue South frontage enabling accessing vehicles to pass and this arrangement accords with AS 2890.1. Satisfactory sight distance is available at the proposed driveway location and regular lengthy gaps are available in the Bundarra Avenue South traffic flow facilitating ingress/egress movements. The existing access driveways on the Highway frontage will be removed and the footway/kerb and gutter reinstated."*

The conclusion states:

*"The traffic generation of the proposed development will be consistent with other existing developments in the area;*

*The traffic generation of the proposed development will not present any adverse traffic implications;*

*The traffic generation will not create any traffic related environmental impacts; and*

*The proposed access, internal circulation and parking arrangements will be appropriate to current design standards."*

Council's Development Engineer has assessed the proposed development in relation to traffic volumes. The following assessment was made:

*"The net increase of 14 trips (post developed rates less pre-developed rates) during the peak hour, generated by the subject development (in and out combined), is not considered significant in this location on the corner of Pacific Highway.*

*The traffic generating impacts of the development are considered satisfactory. "*

Item 10

The proposed development is considered to provide suitable access and parking to service the additional dwellings. Traffic and parking congestion will not result from the development and the application is acceptable in this regard.

***Parking pressure on Bundarra Avenue***

Concern was raised in relation to visitor parking and pressure for on-street parking along Bundarra Avenue.

Refer to above discussion of traffic impacts.

Basement car parking and visitor parking is provided in compliance with Council's controls. The additional dwelling yield is adequately catered for as part of the development. The occasional pressure on visitor/on-street parking generated by any party or meeting occurring within the building would not be unreasonable or unduly impact upon existing residents.

A more detailed discussion is provided under DCP 55 and DCP 43 - Car Parking.

***Design***

Comment was made that the development was 'ugly'. Concern was directed to the expansive 'uninterrupted' wall of glass along the western elevation.

The recent rezoning of the site from low density residential to residential 2(d3) allows the development of denser and larger scale building. The development is proposed under a new set of density, setback and height controls contained in LEP 194 and DCP 55.

The proposal is generally consistent with the design and density controls contained in SEPP 65, the Residential Flat Design Code, LEP 194 and DCP 55. The design has been adopted in response to the large western boundary and building alignment with the freeway. Consideration has been given to preventing adverse acoustic and amenity impacts for future occupants.

The proposal has been assessed by Council's Urban Design consultant whose comments are included below. The proposal represents an appropriate design response to the site constraints.

The building will also be screened by existing tall trees along the freeway corridor and new tall replenishment tree planting around the western site boundary, blending the building with the surrounding 'treed' environment.

The development is consistent with the elements of 'good design' articulated in SEPP 65 and DCP 55.

Item 10

***Compliance with Council controls in relation to floor space ratio/density/setbacks, car parking dimension requirements, balcony dimensions, landscaping and private open space requirements, bedroom dimensions***

Objectors raised concern over the proposal's compliance with various DCP 55 controls.

The application has been carefully considered against the design objectives and controls contained in LEP 194 and DCP 55, with the expressed concerns in mind.

As indicated in the *Compliance Table*, the proposal involves some minor breaches of DCP controls. However, the applicant has endeavored to comply with the controls wherever possible. Given the site and locational constraints, the design approach adopted is suitable for the site. The departures are considered to be minor in nature and will not detrimentally impact upon the natural environment, area character or enjoyment of surrounding properties. Further justification is provided within the discussion of DCP 55 below.

***Concern over non-compliance with setback adjacent the F3 Freeway***

Concern was raised over the proposed breach of the 6 metres setback control along the western site boundary, adjacent to the F3 Freeway. Objection was raised to reliance of the proposal on existing landscaping along the freeway corridor for visual screening.

The curved western elevation of the 'western wing' follows the western side boundary. The western setback ranges from 5.5 metres to 9.5 metres and averages 6.3 metres.

DCP 55 specifies a 6 metres side and rear boundary setback control. The objectives of the setback control include: to set buildings back behind landscaping to soften built form, provide adequate space between sites for effective landscaping and to provide separation between buildings to achieve maximum residential amenity.

With the exception of the western boundary, the proposal fully complies.

The western elevation of the building is located adjacent to the freeway off ramp and will not be directly or easily viewed from any public place or private property. Dense landscaping exists along the freeway corridor. Additional tall canopy tree planting and landscaping is also proposed within the western setback. This landscaping will effectively screen the built form. The development is consistent with the above objectives and, in this instance, the non-compliance is acceptable.

***Whether the proposed development leaves No. 1689 Pacific Highway 'isolated' under the definition of DCP 55***

LEP 194 and DCP 55 require the consideration of the amalgamation of rezoned development sites with a view to preventing sites from becoming isolated and underdeveloped.

The owners of No. 1689 Pacific Highway have objected on the basis that the proposal will render their property isolated and underdeveloped.

Item 10

A detailed discussion of this issue is provided within the assessment of LEP 194 and DCP 55.

The applicant has provided documentary evidence of numerous offers made to the owner of the eastern adjoining property since 15 July 2003. After some attempt at written negotiation, the offers made to the owner of No. 1689 Pacific Highway were not considered acceptable for the purchase and inclusion of this property in the proposal. Consequently, the application was prepared and lodged for the two secured properties.

The remaining site at No. 1689 Pacific Highway is classified as a 'smaller' site under Clause 25I(4) of LEP 194 being less than 1,200m<sup>2</sup> in area with a frontage of less than 23 metres. Development may be carried out on this site if consistent with all other requirements of LEP 194.

Clause 6 of DCP 55 requires the applicant to consider amalgamation where a site with the above area and dimensions may potentially be left underdeveloped. The applicant has attempted amalgamation which has not been achievable in this case. Clause 6, C-2 requires that, where a proposal results in an adjoining 'smaller site', the applicant is to demonstrate that the adjoining allotment can be developed in accordance with the provisions of LEP 194 and DCP 55.

On 18 May 2005, the applicant was requested to provide this information. Details have been provided to demonstrate that No. 1689 Pacific Highway can be developed for the purpose of a townhouse development which achieves an appropriate density and complies with LEP 194 and DCP 55.

Sufficient evidence has been advanced to demonstrate that no reasonable agreement has been achievable between the two owners but that 1689 Pacific Highway could still be developed in accordance with the objectives and design controls of LEP 194 and DCP 55. The site is not therefore considered to be isolated.

***Privacy impacts***

Concern was raised over potential overlooking of adjoining properties and insufficient opportunity for landscaping within the side setbacks. Concern was also raised over the intensified use of the existing right of carriageway adjacent No. 2 Bundarra Avenue for vehicles and acoustic impacts associated with mechanical equipment.

The proposed setbacks along the northern and western boundaries comply with Council's controls. Sufficient separation is provided and sufficient screening is provided to prevent overlooking.

There will be an increase of vehicular movements along the right of carriageway and some noise generated by the basement car park electronic doors opening and closing. Given the zoning of Bundarra Avenue for the purpose of medium density development and the likely redevelopment of the directly adjoining property for a similar purpose in the future, the impacts are not considered unreasonable.

Item 10

Conditions of consent are included in the recommendation requiring acoustic amelioration of mechanical equipment to prevent adverse amenity impacts. Refer to **Conditions Nos. 42-43**.

***Excavation within 2 metres of the side boundary, adjacent No. 1689 Pacific Highway***

Refer to details in discussion of DCP 55. Refer also to Development Engineer's comments in relation to *Geotechnical/structural comments below*.

Excavation does not extend beyond 2 metres of the common side boundary with No. 1689 Pacific Highway.

However, to protect the adjoining building, **Condition No. 76** is recommended, requiring the preparation of a dilapidation survey in respect of the adjoining building.

**Conditions Nos. 28, 38, 54, 90 and 93** also address geotechnical issues.

***Overshadowing***

Concern was raised in relation to overshadowing and its effect on the amenity of the eastern adjoining property (No. 1689 Pacific Highway).

Shadow diagrams have been submitted with the application. These have been checked and are considered to be accurate. The development will cast shadow over the corner of the Pacific Highway and the Freeway between 9am and 12 noon on June 21 and moves to within the front setback of the proposed development.

At 3.00pm in the afternoon on June 21, shadow will be cast over the roofline of the existing house at No. 1689 Pacific Highway and approximately one third of the rear outdoor area associated with this dwelling. This area is already affected by the existing large Eucalyptus located in the centre of the back garden (of that site).

DCP 55 requires that development retains at least 3 hours of sunlight to the principle portion of outdoor living area and internal habitable rooms between 9 am and 3pm on June 21. Three hours of morning and early afternoon sunlight remains available to the eastern adjoining property and the proposal is acceptable with respect to solar access.

***Impact on trees***

One objection raised the issue of impact on the root zone of three large *Eucalyptus saligna* located on the site and associated safety issues of de-stabilising trees of this height.

Council's Landscape Development Officer, Geoff Bird, has assessed the development in relation to impact on existing trees and replenishment planting. The trees in question are to be retained. Council's Landscape Development Officer is satisfied that, subject to Conditions requiring tree

Item 10

protection measures, the trees will not be de-stabilised or adversely affected. Refer to recommended Conditions Nos. 2-3, 89, 10, 11, 12, 66-68 and 81-89.

## CONSULTATION - WITHIN COUNCIL

### Urban Design Consultant

Council's Urban Design Consultant, Mr Russell Olssen, has commented on the proposal as follows:

#### 'Principle 1 – Context

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

#### **Comment:**

*The existing site context has particular issues which need to be addressed in any development. These include:*

- *The site size and development controls, which could generate an excessively deep building floor plate;*
- *The traffic noise levels from the Pacific Highway and the freeway off-ramp;*
- *The north-south axis of the site, which leads to east-west oriented apartments;*
- *The one entry point for car access to the site;*
- *Substantial existing visual screening y landscape from the freeway; and*
- *The existence of large existing trees in the southern and north-western end of the site.*

*These major issues are noted in the site analysis diagrams provided. The design responds to these issues by:*

- *Creating 2 buildings, which avoid the excessively deep floor plate;*
- *Creating a primary solid elevation to the primary noise source of the Pacific Highway. It is unclear how the noise from the freeway off-ramp has been addressed, and whether the proposed glass louvred façade will mitigate noise;*
- *The north-south site axis allows for a sunny courtyard and east-west sun access to the apartments. The issue of excessive heat load from the western sun has been addressed with the tinted glass louvres;*
- *the single car entry point has dictated the access, however a positive design approach has been the location of the ramp under the building;*
- *the substantial visual screening with trees along the western boundary, and the atypical street frontage of the freeway off-ramp, allow for a reduced setback along this 'street frontage';*
- *The building is set back from the southern and north-western boundaries to retain existing trees.*

Item 10

**Principle 2 – Scale**

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

**Comment:**

*The scale of this development is acceptable. The height is given by the 2(d3) controls, and the potentially bulky built form, which would have been generated if one building was provided, has been reduced in scale by dividing it into two slender buildings.*

**Principle 3 – Built Form:**

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

**Comment:**

*The built form is primarily an outcome of the design response to the site context criteria and environmental design objectives. The generally consistent building setbacks generate curved and straight facades. The building setbacks also avoid major existing trees that are to be retained. The built form is split into 2 buildings to provide better ventilation and sunlight access. The pedestrian circulation system chosen creates a complex set of forms in the courtyard.*

**Principle 4 – Density:**

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

**Comment:**

*While the FSR slightly exceeds the FSR in DCP 55 for a site of this size, the buildings are not excessively bulky and the design has had to include the pedestrian walkways between the 2 buildings in the calculation of floor space. With these considerations, the density is acceptable.*

**Principle 5 – Resources, Energy and Water Efficiency**

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

Item 10

**Comment:**

*The slender buildings, the provision of cross ventilation opportunities and the east-west apartment orientations with reasonable sunlight access to living areas, create energy efficient buildings. The average NatHERS rating of 4.5 stars indicates good energy performance.*

**Principle 6 - Landscape**

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

**Comment:**

*The landscape design responds to the particular characteristics of each part of the site. Exotic species relate to the existing Federation character of parts of the Pacific Highway. Small scale, shade tolerant species are appropriately chosen for the central courtyard between the buildings, and native species relate to the Sydney Blue Gum character of the northern end of the site.*

**Principle 7 - Amenity**

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

**Comment:**

*The acoustic report notes that the DCP 55 has a requirement that noise levels within buildings with windows closed, are not to exceed 40dBA in living areas and 35 dBA in sleeping areas. The report recommends improved glazing to the western and southern facades, such as 11mm, or double, glazing. It is recommended that assessments at Construction Certificate and construction stage ensure the provision of this glazing.*

*The design decision to create 2 buildings has raised a potentially difficult problem of privacy between the two buildings, which are only 6m apart. The objective of providing cross ventilated apartments on both sides of the courtyard increases the degree of difficulty of achieving visual privacy across the courtyard. The pedestrian circulation system that has been chosen is also complex. These issues have been resolved in a relatively complex building section. The resolution of these issues relies on the provision of:*

- *Frosted, limited opening awning windows to the dining rooms and studies of the eastern building.*
- *Glass block walls to the external corridors.*

Item 10

*The orientation of many apartments to the north-west of the site also raises issues regarding potential head load and glare to these living spaces, while retaining cross ventilation. This has been resolved by the provision of tinted louvres.*

**Principle 9- Social dimensions**

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

**Comment:**

*The mix of apartments is acceptable.*

**Principle 10 - Aesthetics**

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

**Comment:**

*The aesthetics of this development derive largely from the design response to the site, environmental design and functional issues. The tinted louvred wall to the north-west, the glass block walls, the predominately masonry wall to the Pacific Highway and the complex set of forms in the courtyard are a result of these issues. The relative isolation of this site means that there is little built form context for the development. It is important that the landscape design, as proposed, relates well to its context.*

**Recommendations**

*It is recommended that the design details proposed in this DA are retained in future stages of development approval and construction. These details include:*

- *11mm, or double glazing;*
- *Frosted, limited opening awning windows to the dining rooms and studies of the eastern building;*
- *Glass block walls to the external corridors;*
- *Tinted louvres.*

*Given the siting of the buildings, these details are crucial to maintaining the level of acoustic and visual privacy, ventilation and glare reduction which this design relies upon.*

Item 10

The development has been assessed as compliant with the 'good design' principles and specific heads of consideration of SEPP 65. **Condition No. 1** relating to approved plans incorporates the abovementioned recommendations.

**Landscaping**

A number of amendments have been made to the submitted landscape concept including details of levels, reduction in private courtyard areas within the setbacks and reduction in paved surfaces.

The following comment has been made in relation to the final landscape plan as amended 15 June 2005.

***"The site***

*It is proposed to demolish the existing dwellings and associated structures and construct two stepped residential flat buildings consisting of 31 units, connected by a circulation system of corridors, lifts, stairs and bridges with three levels of basement car parking, on the amalgamated corner site of 2289sqm with vehicular access from Bundarra Ave. The site is located on the corner of the intersection of the Pacific Hwy and the F3 Freeway. The site is characterised by an established landscape setting with mature trees, shrubs and grassed areas. The site is generally unkempt although existing trees are outwardly in good health and condition. The rear of the site is dominated by a grouping of mature Eucalyptus saligna (Bluegum) #'s 10, 11, and 12, located adjacent to the north west site corner approximately 20m+ high and outwardly in good health and condition, while the site frontage is dominated by a mature Cedrus deodara (Himalayan Cedar) #4 approximately 18m high and outwardly in good condition. The site is extremely noisy due to the high levels of vehicular traffic on two frontages.*

***Impacts on trees/Trees to be removed/Tree replenishment***

*The consulting Arborist, Stuart Pittendrigh (PSB) has identified thirteen (13) trees as being located on or associated with the site, of which it is proposed to retain the most significant trees being #'s 4, 10, 11 and 12. The remaining trees located on site are to be removed as they are either Urban Environmental Weed Species, are located within the proposed building footprint or are in poor condition/decline. Landscape Services raises no objection to the nominated tree removal, subject to adequate tree replenishment being undertaken on site.*

*Tree replenishment for the site as proposed will result in twenty (20) tall 'canopy' trees being planted on site primarily adjacent to the east, west and southern site boundaries. This exceeds Council's minimum numerical requirement as required by DCP55. Previous concerns with regard to the ongoing viability and positioning of proposed tree planting has been addressed with revised plans. The applicant has chosen to enhance the site frontage planting with exotic plant species to reflect the broader Wahroonga landscape character. No objection is raised to this by Landscape Services.*

## Item 10

*No native indigenous tall trees are proposed on site within the Pacific Hwy site frontage. This is not particularly desired as it is inconsistent with the existing streetscape character, although it is noted that numerous native endemic trees are proposed on Council's Pacific Hwy nature strip. It can be conditioned for native endemic tree species to be planted within the Pacific Hwy site frontage. It must be noted however that a large portion of the Pacific Hwy site frontage is taken up by the mature Cedrus deodar (Himalayan cedar) which limits the available area for tree replenishment.*

**Landscape plan**

*A revised/amended landscape plan by Craig Burton has been submitted with the application. The proposed landscape will result in numerous native endemic tree species being planted adjacent to the western site boundary which will complement the existing 'urban forest' planting within the F3 Freeway road reserve, along with additional medium sized trees adjacent to the eastern site boundary and screen planting greater than 3.0m high. The tree species selected has a low broad canopy which is considered to be unsuitable for this area. It is considered that to comply with the intent of the LEP requirements that a narrow taller tree species is appropriate. This can be conditioned. Previous concerns with regard to tree positioning has been addressed. Other previous concerns raised have also been addressed.*

**Decomposed granite paths**

*Previous concerns regarding the decomposed granite paths have been addressed by now proposing the paths to be hard paved, although it is noted that decomposed granite mulch has been utilised within the private courtyards. The use of decomposed granite mulch within these areas is impractical as it has a tendency to 'track' over adjoining hard surfaces (inside) which in itself creates a hazard. Decomposed granite mulch when used as a pathway needs to be stabilised with cement which will result in it being a non porous surface and therefore due to its width being greater than 1.0m will need to be excluded from the deep soil area calculation. From a practical viewpoint, if constructed as proposed, future residents will quickly pave these areas, if not extend them into the planted areas.*

**Courtyards**

*Revised plans have addressed previous concerns raised regarding the extent of private courtyards adjacent to the eastern site boundary. However, to comply with Council's DCP55 courtyard size requirements for ground floor units the proposed courtyards adjacent to the western site boundary have had to be increased to the site boundary. Although not particularly desired, it is noted that these courtyards are for approximately 40% of the length of the building and large trees have been accommodated at each end of the building to visually soften its visual bulk. Smaller trees able to attain a height of 8-10m have also been planted within the private courtyards as a screen planting to further visually soften the built form. Landscape services can support the revised changes to accommodate Council's policies.*

Item 10

***Drainage plan***

*Landscape Services raises no objections to the proposed drainage works, subject to specific excavation conditions to minimise potential tree impacts.*

***Deep soil landscaping***

*By the applicant's calculations the proposed development will result in a deep soil landscaping area of 1 158.4sqm or 50.1% of the site area. As shown the deep soil landscape area includes the decomposed granite mulch areas within the private courtyards. It could be argued that the decomposed granite courtyard areas should also be excluded, as they do not allow for soft landscape planting, but it must be noted that these areas are unsuitable for tree planting due to their close proximity to the building and their location outside of doorways. It is therefore considered that the development complies with the intent of both the LEP and DCP with regard to deep soil landscaping and the establishment of tall 'canopy' trees and landscape amenity.*

***Setbacks***

*The proposed development will result in a minimum 5.0m setback from the F3 exit ramp/western site boundary which also includes private courtyards. This does not comply with Council's DCP55 numerical setback requirements and limits the available area for substantial screen planting and tree replenishment.*

*Landscape Services can support the application."*

Two amendments have been made to the originally submitted landscape plans. Despite minimal non-compliance with the setback control along the western side, the plans provide for acceptable tall tree planting for replenishment and screening purposes. The application is acceptable for approval.

**Engineering**

Council's Development Engineer, Mr Robert Lam, has assessed the proposal in relation to engineering issues as follows:

***"Engineering summary***

*In summary the engineering aspects of the application are considered satisfactory by Development Engineers, subject to the imposition of the engineering conditions of consent shown.*

***Subdivision, energy requirements***

*The DA Application form indicates that strata subdivision is **not** proposed under this DA, hence strata subdivision conditions will not be applied in this referral response. So that the*

Item 10

*building is not constructed across lot boundaries, the Applicant will be required to consolidate all the Torrens lots prior to issue of the Construction Certificate.*

*Development Engineers have placed a condition of consent in this referral response that the Applicant liaise with Energy Australia regarding their power supply requirements and obtain these prior to Construction Certificate issue, and comply with such prior to occupation and issue of the Occupation Certificate.*

***Site drainage comments***

*I refer to the Stormwater Plans by AFCE, plans C1, C2, C3 and C4 dated 2/2005. This drainage submission incorporates the following stormwater management facilities and works for the development:*

*On site retention of stormwater for domestic re-use within the buildings and landscape irrigation.*

*On site detention of stormwater for controlling rate of runoff into downstream catchment.*

*The drainage plans as a concept comply with Council DCP47 and are satisfactory for DA approval subject to conditions requiring detailed plans at Construction Certificate stage.*

*It is noted that the applicant is proposing to discharge stormwater to the freeway drainage system over the RTA land. In this respect, the applicant is required to obtain a drainage easement, licence or equivalent approval from the RTA and such evidence shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.*

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

*The Applicant has submitted a Traffic Assessment Report by Transport and Traffic Planning Associates with the Development Application. This report has been carefully reviewed and it is felt that the report is an acceptable standard on which to base an assessment of the traffic related impacts of the subject Development.*

*LEP 194 parking requirements are as follows:*

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***Clause 25J Car parking***

***(1) Before granting consent to residential development on land to which this Part applies, the consent authority must take into account the following:***

- *the proximity of multi-unit housing zones to rail station centres and major bus routes along Mona Vale Road serving the St Ives Centre,*
- *the desirability of encouraging use of public transport,*

## Item 10

- *that the impact of car parking on the natural ground area of multi-unit housing lots should be minimised and the need to provide sufficient deep soil landscaping for trees and their long-term sustainability,*
  - *that the visual impact of car parking both from the street and from other land (private or public) should be minimised.*
- (2) ***Consent must not be granted to development that will result in more than one dwelling on a site unless:***
- *at least one car space is provided per dwelling and, if the site is not within 400 metres of a pedestrian entry to a railway station, one additional car space is provided for each dwelling with 3 or more bedrooms, and*
  - *at least one additional visitor car space is provided for every 4 dwellings, or part thereof, that will be on the site.*
- (3) ***All car parking provided must not be open air car parking unless it is for visitors, in which case it must be constructed with water-permeable paving unless the paving is directly above part of the basement.***

*The site is approximately 500 metres from the Wahroonga rail station. Based on the above parking LEP requirements, the proposal requires a minimum total of 31 spaces which includes the required 8 visitor spaces. The proposal provides 40 spaces which includes 1 car wash bay and complies with the LEP in this respect.*

*The Traffic Generation of this Development has been estimated using the RTA "Guide to Traffic Generating Developments" as follows:*

	<b><i>Pre-Developed</i></b>	<b><i>Post-developed</i></b>
<b><i>No of dwellings</i></b>	2 single dwelling houses	19 x 1 bedroom unit 12 x 2 bedroom unit
<b><i>Daily vehicle trips Combined in/out</i></b>	18 (9 per dwelling)	155 Based on medium density development: 4-5 trips per dwelling (2 or less bedrooms)
<b><i>Peak hour vehicle trips Combined in/out</i></b>	1.7 (0.85 per dwelling) 1 vehicle every 35 minutes averaged over peak hour	16 1 vehicle every 3.8 minutes averaged over peak hour 0.4 to 0.5 per dwelling (2 or less bedrooms)
<b><i>Net increase in peak hour traffic</i></b>	<b><i>14 additional vehicles (combined in/out)</i></b>	

*The net increase of 14 trips (post developed rates less pre-developed rates) during the peak hour, generated by the subject development (in and out combined), is not considered significant in this location on the corner of Pacific Highway.*

*The traffic generating impacts of the development are considered satisfactory.*

Item 10

*Vehicle access and accommodation arrangements comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” for the number of parking spaces and expected movements.*

*Internal garbage collection is provided, no doors or access gates are to be provided preventing unrestricted access to the basement area. The proposed roller door as shown on the plans appears to comply with this requirement.*

**Construction management**

*Based on the scale of works and expected construction vehicle movements, a **site specific** construction traffic management plan, showing a plan of traffic control measures must be submitted for review by Council Engineers prior to the commencement of any works on site.*

*The above requirement has been conditioned.*

**Impacts on Council infrastructure and associated works – comments**

*The following public infrastructure works will be required as part of the consent:  
New concrete driveway crossing to access the site from Bundarra Avenue.  
Removal of all redundant driveway laybacks, gutter crossings and re-instatement to upright kerb and gutter. Trimming of road shoulder to suit removal of elevated driveways.  
Replacement of the verge area to turfed verge between new footpath and existing kerb alignment.*

*As with all development of this scale, there is the direct risk of damage to Council infrastructure during the course of the works. A \$25,000 bond to cover restoration of such damage (or completion of unsatisfactory works by Council) is to be applied.*

**Geotechnical/structural comments**

*A geotechnical appraisal has been submitted and indicates that the site will be suitable for construction of the proposed residential units, provided further detailed geotechnical investigation is carried out for the design of excavations, retaining structures and footings. Hence conditions will be applied in this respect. A full geotechnical report is to be prepared prior to commencement of any excavation on site to ascertain the founding material and recommend appropriate temporary and permanent shoring techniques. Attention is to be paid to protecting adjacent property and infrastructure at all times during excavation and construction.*

**Conclusion**

*Based on the formal engineering assessment, Council's Development Engineer has determined that the proposal is satisfactory for development approval on engineering grounds, subject to the engineering conditions being imposed as shown.*

Item 10

See Conditions Nos. 16-32, 69-80, 90-93 and 96-103.

## CONSULTATION – OUTSIDE COUNCIL

### Sydney Water

Notification to Sydney Water is not required. Conditions of consent are included in the recommendation requiring the applicant to contact Sydney Water in relation to servicing issues and to obtain a Section 73 Certificate in respect of the development. Refer to **Conditions Nos. 26, 32 and 98**.

### Energy Australia

No referral was required to Energy Australia. Refer to **Conditions Nos. 32, 66 and 103** relating to service upgrades.

### Roads and Traffic Authority

*“The RTA has reviewed the development application and associated plans (No. 40603 dated July 2004) prepared by Jones Sonter.*

*It is noted that all vehicular access to the subject development is proposed to be via Bundarra Avenue. Therefore, no objection is raised to the development application, as the proposed development will not have a significant impact on the classified road network.”*

The RTA offered advisory comments to Council for its consideration in the determination of the development application. These have been included as conditions within the recommendation. Refer to **Conditions Nos. 56-64**.

## PROVISIONS OF RELEVANT LEGISLATION

### STATUTORY PROVISIONS

#### State Environmental Planning Policy No. 65 – Design quality of residential flat development

SEPP 65 aims to improve the design quality of residential flat building across New South Wales and provide an assessment framework and design code for assessing ‘good design’. Part 3 of the SEPP institutes a ‘design review panel’ to provide an independent, open and professional review of designs submitted to councils for approval.

Part 2 sets out design principles against which design review panels and consent authorities may evaluate the merits of a design. This section is to be considered connection with the comment of Council’s *Urban Design Consultant* provided above. The proposal is assessed against the heads of consideration as follows:

Item 10

**Principle 1 -Context:**

Good design responds and contributes to its context which is defined by existing built and natural features and '*desirable elements*' attributed to an area.

The suburb of Wahroonga is formed by a grid subdivision pattern consisting of large landholdings surrounding the railway line/Wahroonga Station, village shops, schools and churches. The corridor of the Pacific Highway is located on a ridgeline and accommodates a mixture of older style housing stock, some inter and post-war walk up flat buildings, educational establishments and commercial uses.

Large dwellings are set within large, formally landscaped, curtilages. Architectural styles and landscaping are characteristic of the 1900-1930's period. Intricate, original federation cottages are mixed with some larger brick homes and flats.

Areas along the Pacific Highway corridor were rezoned in 2004 for the purpose of medium density housing. The rezoning provides development parameters including setbacks, heights and floor space which anticipates an entirely different form of development surrounding the railway corridor.

Although the development proposed is significantly larger in bulk than surrounding development, it is compliant with the recently established objectives and development controls. The proposal will begin the transformation of the character of the area without adversely intruding upon the surrounding area or the streetscape.

**Principle 2 - Scale:**

The scale of new development should suit the scale of the street and surrounding development. The scale should be in keeping with the '*desired future character of the area*'.

The proposed development complies with the development standards contained in LEP 194 and is consistent with the scale and built form design controls and assessment criteria contained in DCP 55. The building is located with an appropriate setback and landscaped curtilage. The design accords with the requirements of SEPP 65. The building is adequately articulated and set back behind vegetation, providing visual relief and interest without detracting from the streetscape. The scale of proposed development is satisfactory.

**Principle 3 - Built form:**

Design should be appropriate for a site and the purpose of a building. Building alignment, proportions, types and elements should define the public domain, contribute to visual character and provide internal amenity and outlook.

Refer to comments by Council's *Urban Design Consultant* and *DCP 55*.

Item 10

The design, alignment, proportions and elements are consistent with applicable guidelines. The development achieves adequate articulation and screening within the streetscape and internal amenity and outlook for occupants.

**Principle 4 - Density:**

Density (including floor space and number of dwellings) should be appropriate for a site and context. Densities should be sustainable and in precincts undergoing a transition should be consistent with the stated desired future density, responding in a regional context based upon availability of services.

LEP 194 aims to increase housing density and choice and residential amenity without compromising the natural environment and character of an area.

As indicated in the *Compliance Tables*, the development complies with the development standards and controls relating to density. The proposal achieves a high level of residential amenity for occupants, without adversely impacting on the visual amenity of the area.

**Principle 5 - Resource, Energy and Water Efficiency:**

Subject to conditions, the proposal is acceptable with respect to sustainability and resource availability.

**Principle 6 - Landscape:**

Landscape and buildings should operate as integrated and sustainable systems resulting in 'greater aesthetic quality' and amenity for occupants and the public domain. Landscape should build on the sites' natural and cultural features, provide habitat for local biodiversity and fit the development within its context.

Landscaping should optimise useability, benefits to neighbours and provide for long term management.

LEP 194 Clause 25I(2) provides a minimum standard for deep soil landscaping. DCP 55 also contains specific requirements in relation to the location, composition and design of deep soil landscaping with the objective of ensuring that multi-unit housing within Ku-ring-gai maintains consistency with the existing, unique character of the area. Deep soil landscaping must be designed to optimise useability, provide effective screening to neighbours and the streetscape and promote long term management and protection.

The proposal provides landscaping to comply with LEP 194 Clause 25I(2). Council's Landscape Development Officer has assessed the submitted landscape plan and, subject to conditions, the concept provided meets the objectives of DCP 55 and integrates the built form appropriately with the surrounding area.

The proposal is acceptable when assessed against Principle 6 of SEPP 65.

Item 10

**Principle 7 - Amenity:**

Good design provides amenity through the physical, spatial and environmental quality of a development including considerations such as room dimensions and shapes, solar access, ventilation, privacy, storage, indoor and outdoor space, outlook and access.

DCP 55 contains specific development objectives and guidelines with respect to achieving a high level of residential amenity. These controls relate to minimum bedroom dimensions, sunlight and ventilation, minimum courtyard/balcony areas, ceiling heights and orientation.

The proposal is generally consistent with Council's requirements as indicated in the *Compliance Table* and the considerations of DCP 55 controls. The development provides a high level of amenity in accordance with Principle 7 of SEPP 65.

**Principle 8 - Safety and security:**

Good design optimises safety and security both internally and externally by maximising overlooking to public areas and allowing passive surveillance.

Refer to *DCP 55 Clause 4.6 – Safety and Security* design controls and considerations.

The development addresses the street, provides amenity, landscaping within the streetscape and connection to the street. The development promotes passive surveillance, safety and security.

**Principle 9 - Social dimensions:**

Development should respond to lifestyles, affordability and local community needs, providing a mixture of housing choices.

Refer to detailed discussion of *DCP 55 Clause 4.7 'Social Dimensions'*. The proposal provides housing for a mixture of income levels, family structures and accessibility levels and is consistent with both SEPP 65 and DCP 55 in this regard.

**Principle 10 - Aesthetics:**

Composition of building elements, textures, materials and colours should reflect the use of the development, its environment and desirable elements of the streetscape. Aesthetics of a building should contribute to the desired future character of areas undergoing transition.

An assessment of the aesthetics of the design and its consistency with the design principles of SEPP 65 has been made by Council's Urban Design Consultant. The design, articulation and proposed construction of the building are appropriate for the surrounding local context.

Item 10

## **Residential Flat Design Code**

### **Relating to the local context:**

The building envelope, in terms of setbacks, is considered satisfactory having regard to the desired future character of locality. This is discussed in more detail below under the provisions of *SEPP 65* and *DCP 55*.

### **Site analysis:**

An appropriate site analysis was submitted, indicating building edges, landscape response, access and parking and building performance.

In terms of site configuration, the proposal is considered to provide acceptable locations for deep soil landscape areas in compliance with Council's guidelines.

The siting and orientation of the development allows adequate solar access for the habitable areas and private open spaces for the development and adjoining properties.

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

### **Building design:**

As detailed in this report, the development provides suitable residential amenity for future occupants in compliance with *SEPP 65* and *DCP 55*.

All other relevant matters relating to building design are detailed elsewhere in this report.

## **State Environmental Planning Policy No. 55 – Remediation of Land**

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

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

## **Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River**

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

The development has the potential to impact on water quality and volumes to the catchment.

## Item 10

The recommended consent will become operational, subject to the submission of stormwater management details in accordance with *Schedule A* of the recommendation, including the creation of a drainage easement to carry water to Council's stormwater system.

Subject to conditions, the development is unlikely to generate significant additional stormwater and is consistent with the provisions of SREP 20.

**Ku-ring-gai Planning Scheme Ordinance (KPSO)**

<b>COMPLIANCE TABLE</b>		
<b>Development standard</b>	<b>Proposed</b>	<b>Complies</b>
<b>Site area (min):</b> 1,200m <sup>2</sup>	2289m <sup>2</sup>	<b>YES</b>
<b>Deep landscaping (min):</b> 50%	50.0%	<b>YES</b>
<b>Street frontage (min):</b> 30m	44m	<b>YES</b>
<b>Number of storeys (max):</b> 4	4	<b>YES</b>
<b>Site coverage (max):</b> 35%	35%	<b>YES</b>
<b>Top floor area (max):</b> 60% of level below	55.6%	<b>YES</b>
<b>Storeys and ceiling height (max):</b> 4 storeys and 10.3 metres	4 storeys & 10.3m	<b>YES</b>
<b>Car parking spaces (min):</b> • 8 (visitors) • 31 (residents) • 40 (total)	8 31 39 + 1 wash bay	<b>YES</b> <b>YES</b> <b>YES</b>
<b>Zone interface setback (min):</b> 9m	Not applicable	<b>YES</b>
<b>Manageable housing (min):</b> 4	4	<b>YES</b>
<b>Lift access:</b> required if greater than three storeys	Lift access provided	<b>YES</b>

**Site area (cl.25E):**

Clause 25E of LEP 194 stipulates that consent may be granted to development for the purpose of a residential flat building on land zoned Residential 2(d3) only if the land has an area of at least 1,200m<sup>2</sup>.

The development site measures 2,289m<sup>2</sup> in area and is appropriate for the development proposed. Clause 25I contains heads of consideration, site requirements and development standards for multi-unit housing.

Clause 25I requires consideration of the following factors:

- Desirability to provide a high ratio of deep soil landscape to site area;
- Impact of overshadowing/loss of privacy or outlook likely to be caused by the development;
- Separation between buildings/site boundaries/landscaped corridors; and

Item 10

- Consideration of environmental factors, water conservation and sustainability.

The following development standards apply and are addressed as follows:

**Deep landscaping (cl.25I(2)):**

Clause 25I(2) provides a minimum standard for deep soil landscaping. The proposed development is required to observe the following requirements:

- Deep soil planting with a minimum width of 2 metres on the site;
- Deep soil landscaping of minimum ratio of 50% for a site with an area of 1,800m<sup>2</sup> or greater.

The proposal provides 50% of deep soil landscaping on the site with a minimum width in excess of 2 metres. This achieves appropriate amenity for future occupants, surrounding property owners and provides opportunities for screening within the streetscape.

**Site frontages (cl.25I(3)):**

Clause 25I(3) requires a minimum street frontage of 30 metres for a development site of 1,800m<sup>2</sup> – 2,400m<sup>2</sup> in area.

The site has a frontage of 44 metres and area of 2289m<sup>2</sup> and complies.

**Number of storeys (cl.25I(5)):**

Buildings proposed on sites measuring 1,800m<sup>2</sup> or more are not to exceed 4 storeys in height.

The proposed development achieves a height of 4 storeys and complies. Further discussion of height is provided under *DCP 55*.

**Site coverage (cl.25I(6)):**

Residential flat buildings are not to occupy greater than 35% percentage of the site area.

As indicated in the *Compliance Table*, the proposal is consistent with this development standard.

**Top floor (cl.25I(7)):**

In zone 2(d3), where the maximum number of storeys permitted is attained, then the floor area of the top storey of a residential flat building of 3 storeys or more is not to exceed 60% of the total floor area of the storey immediately below it.

The top (4th) storey proposed achieves a total area of 55.6% of the floor below and complies.

Item 10

**Storeys and ceiling height (cl.25I(8)):**

Pursuant to Clause 25I(8) a development within the 2(d3) shall have a maximum of 4 storeys and a total perimeter ceiling height of 13.4 metres.

As indicated in the *Compliance Table*, the proposal achieves 4 storeys with a perimeter ceiling height varying between 8 and 10.3 metres and complies.

**Epping-Chatswood rail link (cl.25I(10)):**

A consent authority is to consider the effect of excavation on the proposed Epping-Chatswood Rail Tunnel.

The map of proposed tunneling has been cited and the proposal will not affect the proposal.

**Car parking (cl.25J):**

The proposal complies with the car parking development standard contained in Clause 25J.

**Manageable housing (cl.25N(2)):**

Refer also to *Compliance Table* (DCP 55) and discussion of 'Social Dimensions'. Manageable housing is provided in compliance with Council's requirements.

**Lift access (cl.25N(3)):**

A lift must be provided in all multi-unit housing of more than 3 habitable storeys in zone 2(d3). The proposed building comprises four habitable storeys and lift access is provided.

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

The site is not affected by heritage or conservation status.

**Residential zone objectives and impact on heritage:**

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

## Item 10

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

<b>COMPLIANCE TABLE</b>		
<b>Development control</b>	<b>Proposed</b>	<b>Complies</b>
<b>Part 4.1 Landscape design:</b>		
<b>Deep soil landscaping (min)</b> • 150m <sup>2</sup> per 1000m <sup>2</sup> of site area = 340m <sup>2</sup>	350m <sup>2</sup>	<b>YES</b>
<b>No. of tall trees required (min):</b> 1 trees per 300m <sup>2</sup> (8 trees)	18 trees	<b>YES</b>
<b>Part 4.2 Density:</b>		
<b>Building footprint (max):</b> • 35% of total site area	35%	<b>YES</b>
<b>Floor space ratio (max):</b> • 1:1	1.08:1	<b>YES</b>
<b>Part 4.3 Setbacks:</b>		
<b>Street boundary setback (min):</b> • 10-12 metres (<40% of the zone occupied by building footprint)	10-12m	<b>YES</b>
<b>Rear boundary setback (min):</b> • 6m	12-15m (No. 2 Bundarra Av)	<b>YES</b>
<b>Side boundary setback (min):</b> • 6m	6m (East/No. 1689 Pacific Highway) Between 5.5m and 9 metres (West/F3)	<b>YES NO</b>
<b>Setback of ground floor courtyards to street boundary (min):</b> • 8m/11m	8m/15m	<b>YES</b>
<b>% of total area of front setback occupied by private courtyards (max):</b> • 15%	10%	<b>YES</b>
<b>Part 4.4 Built form and articulation:</b>		
<b>Façade articulation:</b> • Wall plane depth >600mm	600-1000mm	<b>YES</b>

Item 10

COMPLIANCE TABLE		
Development control	Proposed	Complies
<ul style="list-style-type: none"> <li>Wall plane area &lt;81m<sup>2</sup></li> </ul>	>81m <sup>2</sup> (western elevation = 135 m <sup>2</sup> and 340m <sup>2</sup> )	NO
<b>Built form:</b> <ul style="list-style-type: none"> <li>Building width &lt; 36m</li> </ul>	10.4m (east building) 15m (west building)	YES
<ul style="list-style-type: none"> <li>Balcony projection &lt; 1.2m</li> </ul>	Only applicable to Units 28 and 31 <1.2m	YES
<b>Part 4.5 Residential amenity</b>		
<b>Solar access:</b> <ul style="list-style-type: none"> <li>&gt;70% of units receive 3+ hours direct sunlight in winter solstice</li> </ul>	>70%	YES
<ul style="list-style-type: none"> <li>&gt;50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice</li> </ul>	50% (between hours of 12noon and 3pm)	YES
<ul style="list-style-type: none"> <li>&lt;15% of the total units are single aspect with a western orientation</li> </ul>	No single aspect units provided	YES
<b>Visual privacy:</b> Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 4 <ul style="list-style-type: none"> <li>12m b/w habitable rooms</li> <li>9m b/w habitable and non-habitable rooms</li> </ul>	9.5m to 1689 Pacific Highway 7m between the units on the site	NO NO
<b>Internal amenity:</b> <ul style="list-style-type: none"> <li>Habitable rooms have a minimum floor to ceiling height of 2.7m</li> </ul>	2.7m	YES
<ul style="list-style-type: none"> <li>Non-habitable rooms have a minimum floor to ceiling height of 2.4m</li> </ul>	2.4m	YES
<ul style="list-style-type: none"> <li>1-2 bedroom units have a minimum plan dimension of 3m in all bedroom</li> </ul>	>3m	YES

Item 10

COMPLIANCE TABLE		
Development control	Proposed	Complies
<ul style="list-style-type: none"> <li>Single corridors:                             <ul style="list-style-type: none"> <li>- serve a maximum of 8 units</li> <li>- &gt;1.5m wide</li> <li>- &gt;1.8m wide at lift lobbies</li> </ul> </li> </ul>	2 units  1.5m >1.8m	YES  YES YES
<b>Outdoor living:</b> <ul style="list-style-type: none"> <li>ground floor apartments have a terrace or private courtyard greater than 25m<sup>2</sup> in area</li> <li>Balcony sizes:                             <ul style="list-style-type: none"> <li>- 10m<sup>2</sup> – 1 bedroom unit</li> </ul> </li> </ul> NB. At least one space >10m <sup>2</sup>	>25m <sup>2</sup>  Range between 10-16m <sup>2</sup> 10m <sup>2</sup>  Range due to shape of building: average >2.4m	YES  YES YES  YES
<b>Part 4.7 Social dimensions:</b>		
<b>Visitable units (min):</b> <ul style="list-style-type: none"> <li>&gt;70%</li> </ul>	70%	YES
<b>Housing mix:</b> <ul style="list-style-type: none"> <li>Mix of sizes and types</li> </ul>	Mix of 19 x 1 bedroom units and 12 x 2 bedroom units	YES
<b>Part 4.8 Resource, energy and water efficiency:</b>		
<b>Energy efficiency:</b> <ul style="list-style-type: none"> <li>&gt;65% of units are to have natural cross ventilation</li> <li>single aspect units are to have a maximum depth of 10m</li> <li>25% of kitchens are to have an external wall for natural ventilation and light</li> <li>&gt;90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating</li> </ul>	100%  n/a (no single aspect units proposed)  50%  4.5 star rating = 90% 3.5 star rating = 100%	YES  YES  YES  YES YES

## Item 10

COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Part 5 Parking and vehicular access:</b>		
<b>Car parking (min):</b>		
• 31 resident spaces	31 spaces	<b>YES</b>
• 1 per 4 units (4) visitor spaces	8 spaces	<b>YES</b>
• 49 total spaces	40 spaces (incl. 1 car wash bay)	<b>YES</b>

**Part 2: Elements of good design**

Part 2 of DCP contains broad guidelines and controls relating to appropriate design for Ku-ring-gai.

Elements relate to the integration of a building with the local area and the scale, articulation and entry presentation of a building within the streetscape.

A building should provide a clear identity for the street. Entries should be located to relate to the street and should be clearly identifiable within the street.

Materials should respond to the existing pattern of building construction materials characteristic of the area, such as dark or red brick, timber or copper. Buildings set well back from the street should be surrounded by a dense tree canopy. Lift overruns and mechanical equipment should be integrated in the design.

Buildings should be considered 'in the round' rather than being designed as a series of unrelated facades. The number and distribution of elements across the façade determines the simplicity and complexity. Buildings should respond to their orientation using elements such as recesses, awnings, light shelves and environmental controls.

The building has been designed in two sections rather than one large element in order to provide visual relief and break up the overall 'bulk' and presence of the building. The distribution of elements across the building provides architectural unity and visual interest within the streetscape. The western façade of the building responds to its western orientation and interface with the freeway. The louvred glazed façade provides acoustic and environmental controls for shading and acoustic amelioration for occupants. The proposal is considered to be of good design.

**Part 3 Local context:**

Development should be consistent with the stated desired future character of the residential 2(d3) zone and not detract from the existing character of adjoining/surrounding areas.

LEP 194 Clause 25 contains objectives in relation to the desired future character of the area including: to encourage the protection and enhancement of the environmental and heritage qualities of Ku-ring-gai, preserve biodiversity, preserve and replenish the existing tree canopy, protect natural watercourses and topographical features and achieve high quality architectural and urban design. Development should have regard to heritage items within the vicinity.

Item 10

There are no heritage items within the vicinity which would be affected by the proposed development. However, the site is located adjacent to the Wahroonga East Urban Conservation Area (UCA No. 27), but is not within an Urban Conservation Area itself. The development is acceptable in urban design and landscaping and protects the 'treed' and landscaped character of the area. The landscaping plan provides for the replenishment of indigenous trees characteristic of the locality and visual consistency with other developments and properties along the Pacific Highway corridor. The proposal will not unduly impact the adjacent Urban Conservation Area.

**Part 4.1 Landscape design:**

Development should reinforce the landscaped and 'treed' character of the area. Deep soil planting is to be established surrounding built form to increase visual amenity, screening and to maintain consistency with the surrounding garden dominated, leafy landscape.

As indicated in the *Compliance Table*, the proposal complies with the numerical requirements of the LEP and DCP in relation to the ratio of built form to deep soil landscaping and tree replenishment provided.

Subject to conditions, Council's Landscape Development Officer considers the proposed landscaping concept plan to be acceptable. The planting proposed integrates the development with the surrounding area, provides for on-site water management and provides acceptable screening for adjoining properties.

**Part 4.2 Density:**

Site density should be balanced with the need to provide appropriate deep soil landscaping on a site. As indicated in the *Compliance Table*, the proposed development achieves a floor space ratio of 1.08:1.

**Part 4.3 Setbacks:**

Buildings should not intrude upon the streetscape or unreasonably affect solar access and privacy available to adjoining dwellings. Buildings should be set within a landscaped curtilage.

DCP 55 prescribes a front setback of between 10 and 12 metres for the subject site (fronting the Pacific Highway) and a minimum of 6 metres from the sides and rear.

As indicated in the *Compliance Table*, the development achieves compliance with the setback controls to the front, the rear and the eastern boundaries.

Due to the curved western boundary and the corresponding curved footprint and elevation of the building, a variable setback is provided along this side. The proposed building setback varies between 5.5 metres and 9 metres. Thus, some sections of the building come forward of the required

## Item 10

6 metres. However, the average setback achieved is 6.3 metres. The areas providing additional setback provide extra space for the provision of landscaping.

The design objectives of DCP 55 in relation to setbacks include: to set buildings behind landscaping to soften built form, to ensure adequate space between sites, to provide building separation and protect residential amenity and to provide a consistent urban form and define the street edge. The design of the western elevation provides definition to the freeway edge. No adjoining properties will be adversely affected by the non-compliance and sufficient area is retained for the purpose of landscaping. The proposal is consistent with the objectives of the setback control.

**Part 4.4 Built form and articulation:**

Part 4.4 contains design guidelines to prevent buildings visually impacting on the public domain and dominating the streetscape and to control the separation and landscaping between buildings.

Soft landscaped features should be evident within the streetscape and building elements should be integrated into the overall building form.

The following specific guidelines apply in the assessment of the articulation of a building:

- Facades to the public domain should be articulated by wall planes varying in depth by not less than 600mm;
- No single wall plane should exceed  $81\text{m}^2$  in area and the width of a single building on any street facing elevation should not exceed 36 metres;
- Balconies should not project more than 1.2 metres from the outermost building façade;
- Service elements should not be visible and should be integrated into the design of the roof;
- Unit arrangements are to respond to site opportunities and constraints.

As indicated in the *Compliance Table*, the proposed development complies with the above numerical requirements in most respects. However, the western façade of the building presents two curved single wall planes with a one metre recession between the two. The lower section of the elevation measures  $135\text{m}^2$  in total area and the higher section,  $350\text{m}^2$ .

The applicant has given the following justification for the non-compliance:

*“All elevations comply with the  $81\text{m}^2$  requirement except the western façade which has overriding design requirements to address solar/acoustic issues. This elevation has glass louvred loggias which achieve the objective of depth to this façade. When the louvred panels to the external screen are opened, the depth created by the balcony of that unit becomes visible and when partially open, creates a textured surface. These variations in the building’s western elevation create a changing surface, visual interest and achieve the desired result of not presenting as a solid unbroken mass.*

*The deletion of the solar/acoustic panel to the western façade would achieve technical compliance by fully revealing the recesses of the building behind, however, given the site’s western aspect toward the F3, the retention of the openable solar/acoustic screens is*

Item 10

*preferred. The SEPP 65 Assessment strongly supports the proposal and under Principle 7 – Amenity, specifically supports the provision of tinted louvres on the western elevation to resolve “potential head load and glare to these living areas”.*

Although the western elevation is large in proportion, it is curved and broken up by a central recession. The model and elevational details give the western elevation a ‘solid’ appearance, however this is not physically the case due to the openable louvres. The elevation has been purpose designed to respond to its western orientation and subsequent solar loading, as well as proximity to a significant noise source. The design has the support of Council’s architectural/design expert.

Despite the numeric non-compliance, the proposal addresses the requirements of DCP 55 in relation to design, residential amenity and solar performance.

**Part 4.5 Residential amenity:**

Building layouts, orientation and provision of outdoor space and landscaping should maximise internal and external amenity for occupants.

DCP 55 contains technical requirements relating to availability of space, storage, solar access, natural solar ventilation, visual and acoustic privacy and outdoor living.

A review of the compliance of the development with these controls is provided in the *Compliance Table*. The development generally complies with the applicable controls, with the exception of the internal separation of the two buildings (refer to *Compliance Table*). This non-compliance has been justified by the applicant as follows:

*“All units have dual aspect which balances solar access and ventilation with privacy requirements. The linked slender building forms are addressed and supported in the SEPP 65 Assessment as follows:*

*Principle 3 – Built Form – ‘The built form is split into two buildings to provide better ventilation and sunlight access...’*

*Principle 5 – ‘Resources, Energy and Water Efficiency – The slender buildings, the provision of cross ventilation opportunities and the east-west apartment orientations with reasonable sunlight access to living areas, create energy efficient buildings. The average NatHERS rating of 4.5 stars indicates good solar energy performance.’*

*Principle 7 – Amenity – ‘The design of decision to create 2 buildings has raised a potentially difficult problem of privacy between the two buildings, which are only 6m apart. The objective of providing cross-ventilated apartments on both sides of the courtyards increases the degree of difficulty of achieving visual privacy across the courtyard. The pedestrian circulation system that has been chosen is also complex. These issues have been resolved in a relatively complex building section. The resolution of these issues relies on the provision of:*

Item 10

- *Frosted, limited opening awning windows to the dining rooms and studies of the eastern building;*
- *Glass block walls to the external corridors.’ ”*

The building separation requirement of Part 4.5.2 (Visual Privacy) is intended to protect privacy between dwellings.

Despite the non-compliance, the internal facing rooms are generally kitchen, storage, stairways and bedrooms and have been aligned to prevent direct overlooking. This has been supplemented with the use of frost glass etc to achieve an acceptable level of visual privacy between the opposing elevations of the building.

Some internal facing terraces are located along the east facing elevation of the ‘west wing’. These areas are not the primary outdoor living areas for these units, as the primary terrace areas are located along the western elevation. As such, the amenity of these dwellings will not be unreasonably compromised.

As discussed above, the proposal is considered to perform well in relation to solar access and cross ventilation.

**Part 4.6 Safety and security:**

Refer to consideration of *SEPP 65 Principle 8: Safety and Security*.

Apartments adjacent to public streets are required to have at least one window or a habitable room with an outlook to that area. Entries and common open space should be visible from public areas or apartments and lighting should be provided to increase visibility.

The two (2) pedestrian links provided between the buildings are either open (at ground floor level) or glazed to allow surveillance from units within the development.

The areas of communal open space are clearly visible, with unimpeded sightlines, and will be provided with lighting.

The approach to the building is sufficiently visible and adequate passive surveillance is provided in the form of windows and balconies. Resident basement parking areas are afforded internal lift access, providing safe access to units.

**Part 4.7 Social dimensions:**

Refer to discussion of *SEPP 65 Principle 9: Social Dimensions*.

As indicated in the *Compliance Tables*, the proposed provides 1 in ten ‘manageable’ units in accordance with LEP 194 Clause 25N.

## Item 10

The proposal provide for 45% 'visitable' units, internal paths of travel and visitor and resident parking spaces in accordance with DCP55 Clause 4.7 C-3. This does not comply with the DCP control. The applicant prepared an access report prepared by *Access Independence Pty Ltd* and seeks approval for the non-compliance on the following basis:

*"Nearly half of units in this development are "visitable". A total of 14 units of the 31 units have a wheelchair accessible path of travel (without steps) to the entry, living and toilet, and have the 1250mm minimum space in front of the "visitable" toilet as required by the definition... Bathroom designs include sliding doors into the bathrooms to ensure that an adequate space, clear of door swings, is provided. A table of details was provided on page 8.*

*"The DCP 55's requirement for 70% visitable units has not been met in this development. However, in my opinion, the extent to which "visitable" access is provided in this case (45%) is generous. It exceeds the prevalence of disability which is 19% in the Australian community, as documented in a report by the author dated 13.8.04 entitled Housing Needs of a Population: a review of the incidence of disability in Ku-ring-gai and attached as Appendix 4."*

The proposal is compliant with the access requirements of LEP 194. The 'visitable' unit requirement is a discretionary control under DCP 55. The proposal provides more than half of the requirement and is considered acceptable.

The development provides an appropriate mix of one and two bedroom, accessible housing types to meet market demand for a range of medium density accommodation needs.

**Part 4.8 Resource, energy and water efficiency:**

DCP 55 requires that 90% of units meet the NatHERS rating of 4.5 stars and above. 90% of the proposed units attain an average 4.5 star rating and are acceptable. All units achieve a minimum rating of 3.5 stars.

The development provides shade structures such as a breezeway louvre system to the western wall which promotes flexible solar control and ventilation as required by occupants. A cluster of canopy trees is provided to the north of the site to provide shading.

Construction materials, design and landscaping proposed are satisfactory with respect to energy efficiency and ecologically sustainable development.

**Part 5 Parking and vehicular access:**

Refer to *Compliance Table*.

Car parking is provided in accordance with the numerical requirements of DCP 55 and DCP 43 Car Parking) for resident, visitor and accessible parking spaces.

**Part 6 Isolated sites:**

Part 6 of DCP 55 requires that sites are consolidated in a way that sites are not isolated such that they cannot be developed.

Item 10

Consideration should be given to the amalgamation of sites so as to avoid single detached dwellings being left underdeveloped on lots in a 2(d3) zone smaller than 1200m<sup>2</sup> or with street frontages less than 23 metres in width.

Where a development proposal results in an adjoining single allotment or allotments in a 2(d3) zone with an area less than 1200m<sup>2</sup> or a street frontage of less than 23 metres, the applicant is to demonstrate that the adjoining allotment(s) can be developed in accordance with LEP 194 and DCP 55. Consideration is to be given to compliance with the deep soil landscaping, site coverage, setback, solar access and visual privacy development standards and controls.

The adjoining site at No. 1689 Pacific Highway has an area of 1350m<sup>2</sup> and a frontage of 22 metres along the Highway.

In accordance with the provisions of DCP 55, the applicant has provided a conceptual/architectural scheme for the adjoining site. The submission effectively demonstrates the adjoining site may be developed as a three (3) storey townhouse development comprising five (5) dwellings. The diagram provided indicates that the envisaged development achieves acceptable compliance with Council's Development Controls. This development would achieve a floor space ratio of 0.5:1, complying with the deep soil landscaping and setback controls.

The proposed development will not leave the adjoining site isolated and the proposal is acceptable.

**Part 7 Nominated Areas:**

The subject site does not comprise a nominated area and is not affected by site specific controls.

**Development Control Plan 31 – Access**

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against SEPP 65 and DCP 55.

**Development Control Plan 40 – Construction and Demolition Waste Management**

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

**Development Control Plan No. 43 – Car Parking**

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

**Development Control Plan 47 – Water Management**

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

Item 10

**Section 94 Plan**

The development attracts a section 94 contribution of \$534,832.10 and required to be paid by **Condition No 65**.

**LIKELY IMPACTS**

The likely impacts of this development have been addressed within this assessment report under the relevant planning considerations and in the discussion of submissions received. The proposed development is consistent with Council's objective and development criteria for the Residential 2(d3) zone. The development will provide increased housing density without adversely impacting on the environment or unduly impacting the residential amenity of existing occupants of the area.

**SUITABILITY OF THE SITE**

The site is considered to be suitable for the development proposed.

**ANY SUBMISSIONS**

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

**PUBLIC INTEREST**

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

**ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED**

There are no other matters for consideration.

**CONCLUSION**

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

**RECOMMENDATION:**

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 124/05 for the demolition of existing dwellings and the construction of a residential flat building, containing 31 units, basement car parking and landscaping, at 1691-1693 Pacific highway Wahroonga, for a period of two (2) years from the date of the Notice of Determination subject to the following conditions:

Item 10

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans numbered DA01-AA, DA-2-AA, DA03-AA, DA04-AA, DA05-BB, DA06-BB, DA07-AA, DA08-BB, DA09-AA, DA10-AA, DA11-AA, DA12-AA, DA13-AA, DA14-AA, DA15-AA, DA16-AA and DA17-AA, dated July 04, drawn by Jones Sonter Architects and Urbanism and Landscape Plan WL1-05, dated 20 January (amended 15 June 2005); drawn by CAB Consulting Pty Ltd, endorsed with Council's approval stamp, except where amended by the following conditions:
2. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.
3. Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.
4. Landscape works shall be carried out in accordance with Landscape Drawing No WL1-05 prepared by CAB Consulting and dated 15 June 2005 submitted with the Development Application, except as amended by the following:

The proposed planting of *Pistacia chinensis* (Chinese Pistacio) is to be changed to a 50% mix of *Angophora floribunda* (Rough Barked Apple) and *Angophora costata* (Sydney Redgum). Pot size is to be reduced to minimum 50 Litre, locations and quantities are to remain the same as originally proposed.

The proposed planting of *Angophora costata* (Sydney redum) within the nature strip along the Pacific Hwy in front of the site is to be changed to six *Eucalyptus pilularis* (Blackbutt) with a minimum pot size of 25 Litre

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

Tree/Location

#4 *Cedrus deodar* (Himalayan Cedar)

Adjacent to southern/Pacific Hwy site frontage

#10 *Eucalyptus saligna* (Bluegum)

Adjacent to northern site boundary

6. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting

Item 10

agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

7. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
#4 Cedrus deodar (Himalayan Cedar) Adjacent to southern/Pacific Hwy site frontage	5.0m
#10 Eucalyptus saligna (Bluegum) Adjacent to northern site boundary	5.5m
#11 Eucalyptus saligna (Bluegum) Adjacent to northern site boundary	7.0m
#12 Eucalyptus saligna (Bluegum) Adjacent to northern site boundary	6.0m

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

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

Tree/Location	Radius From Trunk
#4 Cedrus deodar (Himalayan Cedar) Adjacent to southern/Pacific Hwy site frontage	7.0m
#10 Eucalyptus saligna (Bluegum) Adjacent to northern site boundary	7.0m
#12 Eucalyptus saligna (Bluegum) Adjacent to northern site boundary	7.0m

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

Tree/Location	Radius From Trunk
#4 Cedrus deodar (Himalayan Cedar)	5.0m

Item 10

Adjacent to southern/Pacific Hwy site frontage

#10 Eucalyptus saligna (Bluegum) 4.0m  
Adjacent to northern site boundary

#11 Eucalyptus saligna (Bluegum) 5.0m  
Adjacent to northern site boundary

#12 Eucalyptus saligna (Bluegum) 5.0m  
Adjacent to northern site boundary

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

Tree/Location	Radius From Trunk
#4 Cedrus deodar (Himalayan Cedar) Adjacent to southern/Pacific Hwy site frontage	5.0m
#10 Eucalyptus saligna (Bluegum) Adjacent to northern site boundary	4.0m
#11 Eucalyptus saligna (Bluegum) Adjacent to northern site boundary	5.0m
#12 Eucalyptus saligna (Bluegum) Adjacent to northern site boundary	5.0m

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

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

Tree Species  
Eucalyptus pilularis (Blackbutt) x 6

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

Item 10

Plant Species

*Cinnamomum camphora* (Camphor laurel)

*Ligustrum lucidum* (Large-leaved Privet)

*Ligustrum sinense* (Small-leaved Privet)

15. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.
16. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the freeway drainage system over the RTA land, via the approved site stormwater management system. New drainage line connections shall conform and comply with the requirements described in Ku-ring-gai Council Water Management Development Control Plan 47 and RTA specifications.
17. A mandatory rainwater re-use tank system comprising rainwater tanks of minimum total volume **93m<sup>3</sup>**, must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. A mains top-up shall be provided for periods of low rainfall, with a void space left for runoff storage purposes.
18. A mandatory on-site detention system comprising stormwater detention tanks of (minimum) total volume **22m<sup>3</sup>** must be provided for the development.
19. For stormwater control, 200mm wide grated channel/trench drains with heavy-duty removable galvanised grates are to be strategically placed to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drains shall outlets of minimum diameter 150mm to prevent blockage by debris.
20. A maintenance period of six (6) months shall apply to any works on Council property carried out by the applicant, **after** works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
21. Where required, the adjustment or additions of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
22. All public footways and accessways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Certified traffic

Item 10

controllers must be utilised wherever a conflict may occur. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

23. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
24. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking".
25. For the purpose of any further plan assessment and works inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final sign-off from Council.
26. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Applicant shall refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](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.
27. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
28. Geotechnical aspects of the development works, particularly excavation, support, retention and hydrogeological considerations must be undertaken in accordance with the recommendations of a Geotechnical report to be prepared under the conditions of this consent. Over the course of the works a qualified Geotechnical / hydrogeological Engineer must complete the following:

Item 10

Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,

Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,

Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.

29. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
30. All construction traffic control and management measures shall be implemented in accordance with an approved *Construction Traffic Management Plan* to be submitted and approved by Council prior to the commencement of works. The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works, and shall pay particular attention to traffic control during school drop off and collection hours. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.
31. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, no doors or gates shall be provided in the access driveways to the basement car park which would prevent this service.
32. All new public utility services, or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.
33. 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.
34. 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.
35. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

Item 10

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.

36. 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.
37. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
38. To maintain existing ground levels all excavated material shall be removed from the site.
39. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
  - a. must preserve and protect the building from damage, and
  - b. if necessary, must underpin and support the building in an approved manner, and
  - c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

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

40. 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.
41. If the work involved in the erection or demolition of a building:
  - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

Item 10

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

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

42. All noise generating equipment mechanical equipment 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.
43. Noise emission from the mechanical ventilation system including fan units is not to exceed the background noise level when measures at the nearest property boundary.
44. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
45. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
46. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
47. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

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

48. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
49. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
  - a. A person taking down or demolishing or causing to be taken down or demolished any Building or portion of any building shall:
    - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;

Item 10

- ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
    - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
  - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
50. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
51. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
52. 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.

53. 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).
54. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent

Item 10

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.

55. 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.

**Roads and Traffic Authority**

56. The access for demolition and construction vehicles off Bundarra Avenue should be situated as far away as possible from the Pacific Highway for construction activities.
57. Consideration should be given to a cattle grid type structure (approximately 500mm deep) being provided at the exit driveway (within the subject site) to ensure that dirt is not transported by construction and demolition vehicles existing the subject site on to the road. Alternatively, a truck wash facility should be provided within the site to prevent dirt from being tracked on to the road.
58. The layout of the car park associated within the subject development (including driveways, turn paths, sight distance requirements, aisle widths, and parking bay dimensions) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002.
59. All vehicles should be able to enter and exit the site in a forward direction.
60. Any redundant driveways along Pacific Highway frontage to be removed and kerb and gutter re-instated to match existing.
61. The post development storm water discharge from the subject site into the RTA drainage system does not exceed the pre-development discharge.
62. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RTA for approval, prior to the commencement of any works.

Item 10

Details should be forwarded to:-

The Sydney Asset Management  
PO Box 558  
Blacktown NSW 2148

A plan checking fee may/will be payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirements please contact the RTA's Project Engineer, External Work Ph. 8814 2111.

63. The proposed development should be designed such, that road traffic noise from Pacific Highway is mitigated by durable materials, in accordance with EPA criteria for new land use development (The Environmental Criteria for Roads and Traffic Noise, May 1999). The RTA's Environmental Noise Management Manual provides practical advice in selecting noise mitigating treatments.

Where the EPA external noise criteria would not practically or reasonably be met, the RTA recommends that Council applies the following internal noise objectives for all habitable rooms under ventilated conditions complying with the requirements of the Building Code of Australia;

- \* All habitable rooms other than sleeping rooms: 45dBA Leq (15hr) and 40DdBA Leq (9hr) and;
- \* Sleeping rooms: 35dBA Leq(9hr)

64. All works associated with the subject development shall be at no cost to the RTA.

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

65. 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 IS CURRENTLY \$534,832.10.

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:

Item 10

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

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75m <sup>2</sup> )	1.27 persons
Medium dwelling (75 - under 110 m <sup>2</sup> )	1.78 persons
Large dwelling (110 – under 150 m <sup>2</sup> )	2.56 persons
Very Large dwelling (150 m <sup>2</sup> or more)	3.48 persons
New Lot	3.48 persons
SEPP (Seniors Living) Dwelling	1.3 persons

66. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a plan detailing the required trenches for services. The plan shall show distances from proposed and existing trees. All new public utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.
67. A CASH BOND/BANK GUARANTEE of \$10 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

68. A cash bond/bank guarantee of \$16 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

Item 10

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

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

Tree/Location

#4 Cedrus deodar (Himalayan Cedar) \$4,000.00  
Adjacent to southern/Pacific Hwy site frontage

#10 Eucalyptus saligna (Bluegum) \$4,000.00  
Adjacent to northern site boundary

#11 Eucalyptus saligna (Bluegum) \$4,000.00  
Adjacent to northern site boundary

#12 Eucalyptus saligna (Bluegum) \$4,000.00  
Adjacent to northern site boundary

69. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), registered title documents demonstrating that the subject site is benefited by the necessary easement(s), licence or equivalent approval issued by the Road and Traffic Authority for stormwater drainage connection to the freeway drainage system over the RTA's land. This information is to include, as a minimum, registered Title documents demonstrating the benefit and burdens, together with the instruments describing the terms of necessary drainage easement(s).
70. Prior to issue of the Construction Certificate the Applicant shall submit, for approval by the Principal Certifying Authority (PCA), a scale dimensioned and delineated layout plan for all aspects of the vehicle access and accommodation arrangements. A qualified civil/traffic engineer must provide specific written certification with these parking layout plans that: All parking space dimensions, driveway and aisle widths, grades, transitions, circulation ramps, blind aisle situations and trafficked areas comply with Australian Standard 2890.1 – 2004 "Off-street car parking".

A clear height clearance of 2.5 metres headroom is provided for waste collection trucks over the designated basement garbage collection truck manoeuvring areas.

No security doors, gates, grilles or the like are provided in the access driveways to the basement car park which would prevent full and unrestricted access for internal garbage collection from the basement garbage storage area.

This condition is required to ensure safe and efficient vehicular access and accommodation arrangements for future residents and service providers within the site.

Item 10

71. Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for approval by the Principal Certifying Authority. These profiles are to be at 1:100 scale along the middle of the driveway of the proposed driveway, starting from **the centreline of the frontage street carriageway** to the proposed basement floor level. The traffic engineer shall provide specific written certification on the plans that:  
Vehicular access can be obtained using grades of 20% (1 in 5) maximum and  
All changes in grade (transitions) comply with Australian Standard 2890.1 –“Off-street car parking” (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.  
If a new driveway crossing is proposed then the longitudinal sections **must incorporate the driveway crossing levels as issued by Council** upon prior application.
72. Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will comprise the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.
73. Prior to issue of the Construction Certificate any security gate, grille or door shown on the DA plans, which would prevent unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, must be deleted from the plans to be approved with the Construction Certificate. Such details shall be to the satisfaction of the Principal Certifying Authority (PCA).
74. Prior to issue of the Construction Certificate , a plan detailing services trenches in accordance with the relevant supply authorities (including electricity, gas, telephone, water and sewerage), shall be submitted for approval by the Principal Certifying Authority (PCA). The notice of requirements for Sydney Water must be obtained prior to issue of the Construction Certificate.
75. Prior to issue of the Construction Certificate the Applicant shall contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to Construction Certificate issue. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia shall be met in full prior to issue of the Occupation Certificate.
76. Prior to issue of any Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of all neighbouring buildings within the ‘zone of influence’ of the excavation. As a general rule (to be verified based on founding material), this is to be defined as the horizontal distance from the edge of the excavation face to twice

Item 10

the excavation depth. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal, subsoil conditions and recommendations contained in the Geotechnical report prepared for construction. The report shall have regard to protecting the Applicant from spurious claims for structural damage and shall be verified by all stakeholders as far as practicable.

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

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.** The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

78. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Ku-ring-gai Council Water Management DCP 47.
79. 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

Item 10

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** (minimum volume to be 93m<sup>3</sup>). 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), holding wells and ancillary plumbing to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47 (minimum uses toilet flushing, laundry in each unit).

Details of the required **on-site detention** tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, locations, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements).

The required basement stormwater pump-out system to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The plans may be generally based on the Stormwater Plans by AFCE, plans 342821/C1A-C4A dated 2/2005 submitted with the development application, to be revised and advanced as necessary for construction issue purposes.

80. Prior to the issue of a Construction Certificate the applicant must lodge a **\$25,000** (twenty five thousand dollar) public infrastructure damage bond with Council. This bond is applied pursuant to Section 97 of the *Local Government Act 1993* to cover the cost of:  
Making good any damage that may be caused to any public infrastructure as a consequence of doing or not doing any thing to which this approval relates,  
Completing any public infrastructure works that are required in connection with this approval.  
The bond shall be lodged in the form of a deposit or bank guarantee and will be fully refundable following satisfactory completion of all works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions, upon approval by Council's Engineers. Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:  
Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and  
The applicant has not repaired nor commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.  
Works in the public road associated with the development are to an unacceptable quality.

## Item 10

**CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING**

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

Tree/Location	Radius in Metres
#10 Eucalyptus saligna (Bluegum) Adjacent to northern site boundary	4.0m
#11 Eucalyptus saligna (Bluegum) Adjacent to northern site boundary	7.0m
#12 Eucalyptus saligna (Bluegum) Adjacent to northern site boundary	4.5m

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

Tree/Location	Radius From Trunk
#4 Cedrus deodar (Himalayan Cedar) Adjacent to southern/Pacific Hwy site frontage	7.0m

83. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
84. Tree protection signage is to be attached to each tree Protection Zone and displayed in a prominent position and the sign repeated at 10m intervals or closer where the fence changes direction. Each sign to advise as minimum details, the following:

## Tree Protection Zone.

This fence has been installed to prevent damage to the trees and their growing environment both above and below ground, and access is restricted.

If encroachment or incursion into this Tree Protection Zone is deemed to be essential the consulting Arborist should be informed prior to the undertaking of such works  
 Name, address, and telephone number of the developer.

85. The area of the Tree Protection Zone is to be mulched to a depth of 100mm with organic material being 75% leaf litter and 25% wood, and this being composted material preferably

Item 10

from the same genus and species of tree as to that where the mulch is to be applied, ie species specific mulch. The depth of mulch and type as indicated, to be maintained for the duration of the project.

86. No services either temporary or permanent are to be located within the Tree protection Zone. If services are to be located within the Tree Protection Zone, special details will need to be provided by a qualified consulting Arborist for the protection of the tree regarding the location of the service/s.
87. In the event of prolonged dry periods, or where a tree has been transplanted, or where excavation nearby, especially up slope, leads to drying out of soil profiles closest to the tree/s, the tree/s is to be deep root watered thoroughly at least twice a week. The need for such watering is determined readily by observing the dryness of the soil surface within the dripline of the tree by scraping back some mulch. Mulch to be reinstated afterwards. In the event of disrupted ground or surface water flows to the tree due to excavation, filling or construction, an irrigation system may be required to be installed, consideration must be given to volume, frequency, and drainage of water delivered, and this should be in consultation with a qualified consulting Arborist.
88. If a tree is growing down slope from an excavation, a silt fence located along the contours of the site in the area immediately above the Tree Protection Zone fencing may be need to be installed and regularly maintained to prevent burial and asphyxiation of the roots of the tree. To allow for the maintenance of both fences, the silt fence must be constructed separately to the tree protection fence and the two fences must be constructed independently of each other and stand alone. To reduce competition the Tree Protection Zone is to be kept free of weeds for the duration of the development works.
89. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
90. Prior to the commencement of any works on site the applicant shall submit **to Council** a full dilapidation report on the visible (**including photos**) and structural condition of the following public infrastructure:

Full road pavement width, including kerb and gutter, of Pacific Highway and Bundarra Ave over the site frontage, including twenty metres either side of the site frontage.

All driveway crossings and laybacks opposite the subject site.

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

Item 10

Council is fully informed when assessing any damage to public infrastructure caused as a result of the development, and

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

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

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

Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage any pedestrians and construction related vehicles in the frontage roadways, Turning areas within the site for construction and spoil removal vehicles allowing a forward egress for all construction vehicles on the site,

The locations of any Work Zones in the frontage roadways,

Location of proposed crane standing areas

A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries

Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.

The provision of an on-site parking area for employees, tradesperson and construction vehicles

**Traffic Control Plan(s) for the site**

All traffic control devices installed in the road reserve must be in accordance with the RTA publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each. The name and certificate number of the traffic control designer must be shown on the Traffic Control Plan.

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

Light traffic roads and those subject to a load or height limit must be avoided at all times.

Item 10

A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.

In addition, the plan must address:

A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.

Minimising construction related traffic movements during school peak periods.

For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

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

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

The type and extent of substrata formations by the provision of a minimum of three (3) representative borehole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and

Item 10

description of any anomalies encountered in the profile. The surface and depth of the borehole logs shall be related to Australian Height Datum.

The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations shall be discussed and ameliorated.

The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site).

The existing groundwater levels in relation to the basement structure, where influenced. The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flowpath is constructed, artificial drains such as perimeter drains and through drainage may be utilised.

Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by a consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting. It is the responsibility of the engaged geotechnical specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report shall contain site specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate. The design principles for the geotechnical report are as follows:

No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.

No changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure.

Item 10

No changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure.

Vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development.

Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles.

An adverse impact can be assumed to be crack damage which would be classified as Category 2 or greater damage according to the classification given in Table C1 of AS 2870 – 1996.

**CONDITIONS PRIOR TO OCCUPATION**

94. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
95. On completion of the LANDSCAPE WORKS/TREE PLANTING OR SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.
96. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified by the required geotechnical report and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
97. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:

New double width concrete driveway crossing in accordance with levels and specifications issued by Council.

Removal of **all** redundant driveway crossings, gutter bridge crossings, piped gutter crossings 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).

Trimming of Bundarra Ave road shoulder to accommodate adjusted levels resulting from the removal of redundant gutter crossings.

Full repair and resealing of any road surface damaged during construction.

Item 10

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. A **written** acknowledgment from Council with respect to this condition being satisfied must be obtained by the Principal Certifying Authority prior to issue of the Occupation Certificate.

98. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
99. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:

That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.

That the minimum retention (93m3) and on-site detention storage volume (22m3) requirements of have been achieved in full.

That retained water is connected and available for uses including all toilet flushing and laundry uses.

That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.

That all grates potentially accessible by children are secured.

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

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:

Item 10

Rainwater retention certification sheet contained at appendix 13 of Water Management DCP 47.

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

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

As built (reduced) surface and invert levels for all drainage pits.

Gradients of drainage lines, materials and dimensions.

As built (reduced) level(s) at the approved point of discharge to the public drainage system.  
As built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site.

The achieved storage volumes of the installed retention and detention storages and derivative calculations.

As built locations of all access pits and grates in the detention and retention system(s), including dimensions.

The size of the orifice or control fitted to any on-site detention system.

Dimensions of the discharge control pit and access grates.

The maximum depth of storage possible over the outlet control.

Top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system.

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

101. Prior to the issue of an Occupation Certificate the following must be provided to Ku-ring-gai Council (attention Development Engineers):

A copy of the approved Construction Certificate stormwater drainage plans which show the retention and on-site detention systems.

Item 10

A copy of all the works-as-executed drawings as specified in this consent relating to drainage and stormwater management,

All Engineer's certifications specified in this consent.

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

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

That the as-constructed car park complies with the approved Construction Certificate plans,

That the completed vehicle access and accommodation arrangements comply in full with Australian Standard 2890.1 – 2004 "Off-Street car parking".

That finished driveway gradients and transitions will not result in the scraping of the underside of cars.

That no doors, gates, grilles or other structures have been provided in the access driveways to the basement car park, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.

That a 2.5m height clearance for waste collection trucks (refer Ku-ring-gai Council DCP 40) are met from the public street into and within the applicable areas of the basement car park.

103. Prior to issue of the Occupation Certificate the provision of separate underground electricity, gas, phone cable, sewer and water services shall be provided for the development in accordance with those utility providers. A suitably qualified and experienced engineer or surveyor is to provide certification to the Principal Certifying Authority that the development has ready underground access to the services of electricity, gas, phone cable, sewer and water. Alternatively, a final compliance letter from the respective supply authorities may be supplied for approval by the Principal Certifying Authority.

N Richter  
**Executive Assessment Officer**

M Leotta  
**Team Leader**  
**Development Assessment - North**

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

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

Item 10

**Attachments:**      **Location sketch - 517967**  
                         **Zoning Extract**  
                         **Sections**  
                         **Elevations**  
                         **Shadow Diagrams**  
                         **Landscape Plans**

# LOCATION SKETCH

1691, 1693 Pacific Highway, WAHROONGA NSW

DEVELOPMENT APPLICATION No 0124/05



Submission recieved - outside area



AGREEMENT



OBJECTION



SUBJECT LAND



PETITION



SUBMISSION



CIRCULATED AREA

Scale : 1:2000

01-08-2005





**1691, 1693 Pacific Highway, WAHROONGA**



01-08-2005

**Scale = 1:2000**

- |   |                      |
|---|----------------------|
|  | EXISTING COUNTY ROAD |
|  | COUNTY ROAD PROPOSED |
|  | COUNTY ROAD WIDENING |
|  | RESIDENTIAL 2(c)     |
|  | RESIDENTIAL 2(c2)    |
|  | RESIDENTIAL 2(d)     |

- |       |                                 |
|-------|---------------------------------|
| 2(d3) | RESIDENTIAL 2(d3)               |
| 2(h)  | RESIDENTIAL 2(h)                |
| SCH   | SPECIAL USES 5(a) (Schools etc) |





# SITE / ROOF PLAN

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Issue	Issue Description	Chk.	Appr.	Date	Issue	Issue Description	Chk.	Appr.	Date
A	Pre-DA Issue			08.12.04					
B	Consultant Issue			22.01.05					
AA	DA Issue			11.02.05					

**RESIDENTIAL DEVELOPMENT**  
**1691-1693 Pacific Highway, WAHROONGA**

For  
**STALDONE DEVELOPMENTS**

JONES SONTERR  
 Darling Street Rozelle  
 P.O. Box 483  
 Rozelle NSW 2039  
 phone: 02 9555 7464  
 fax: 02 9555 7436  
 mail@jonesonterr.com.au

## SITE / ROOF PLAN

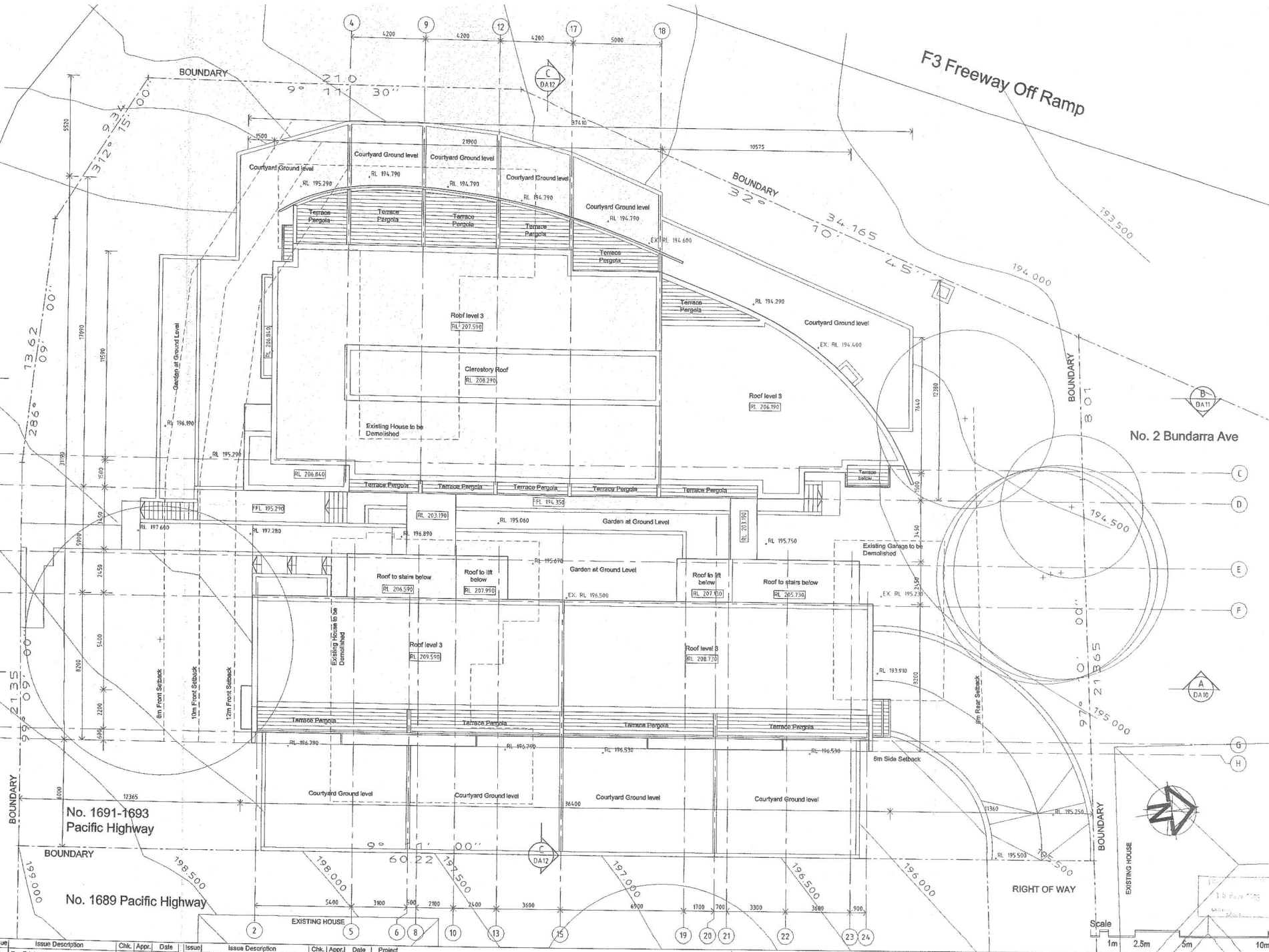
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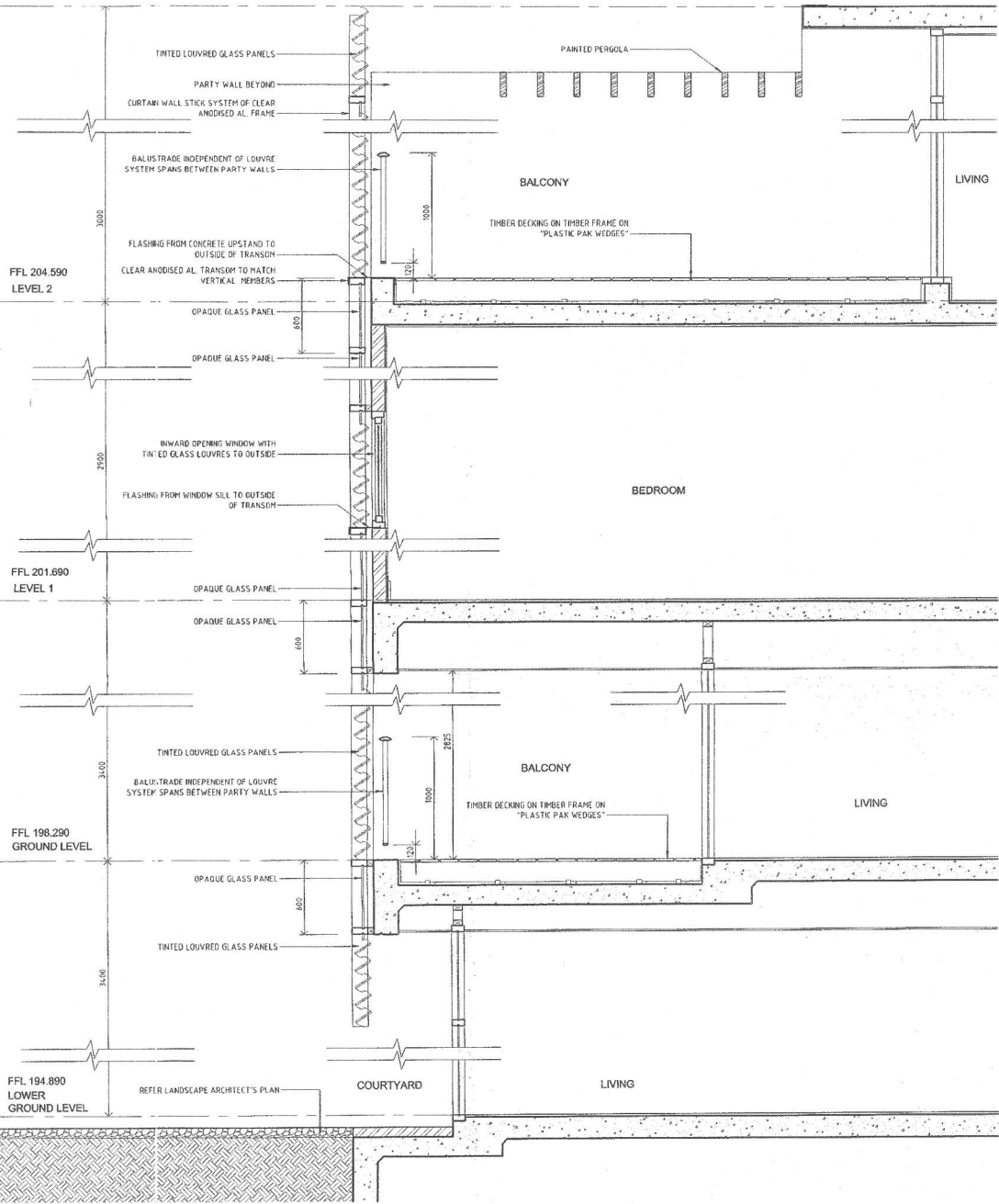
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Project No. 040603 Checked Approved

Drawing No. DA01 Issue AA

Print Date 08.05.05





DETAIL WALL SECTION 1:20 1 DA12

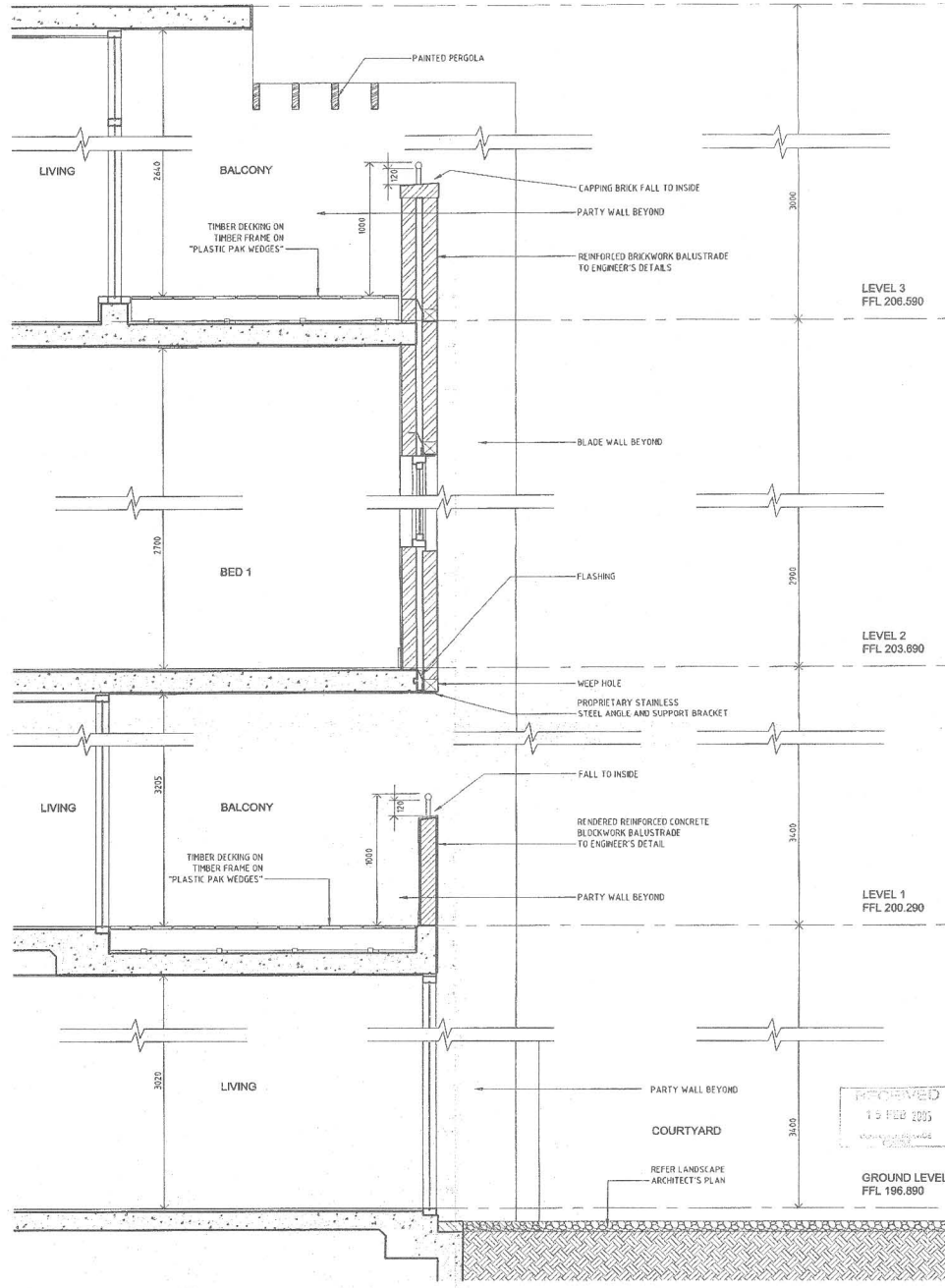
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AA	Consultant Issue			01.02.05					11.02.05	RESIDENTIAL DEVELOPMENT
AA	DA Issue									1691-1693 Pacific Highway, WAHROONGA

For

JONES SONTERR  
Drawing Sheet Rozelle  
PO Box 463  
Rozelle NSW 2039

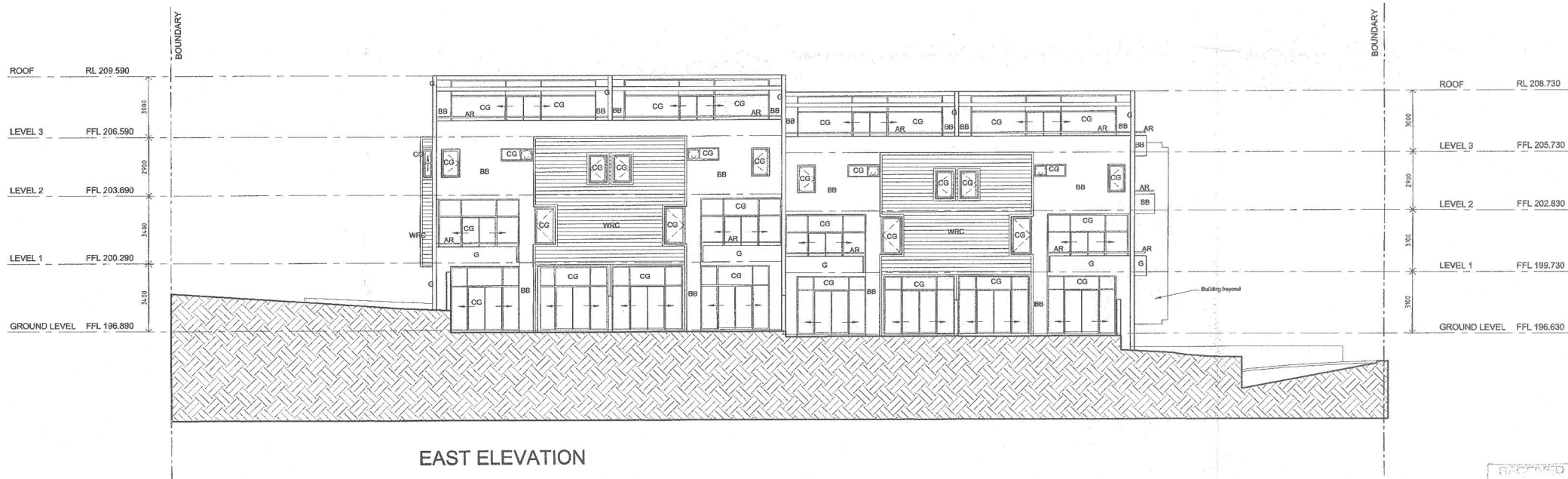
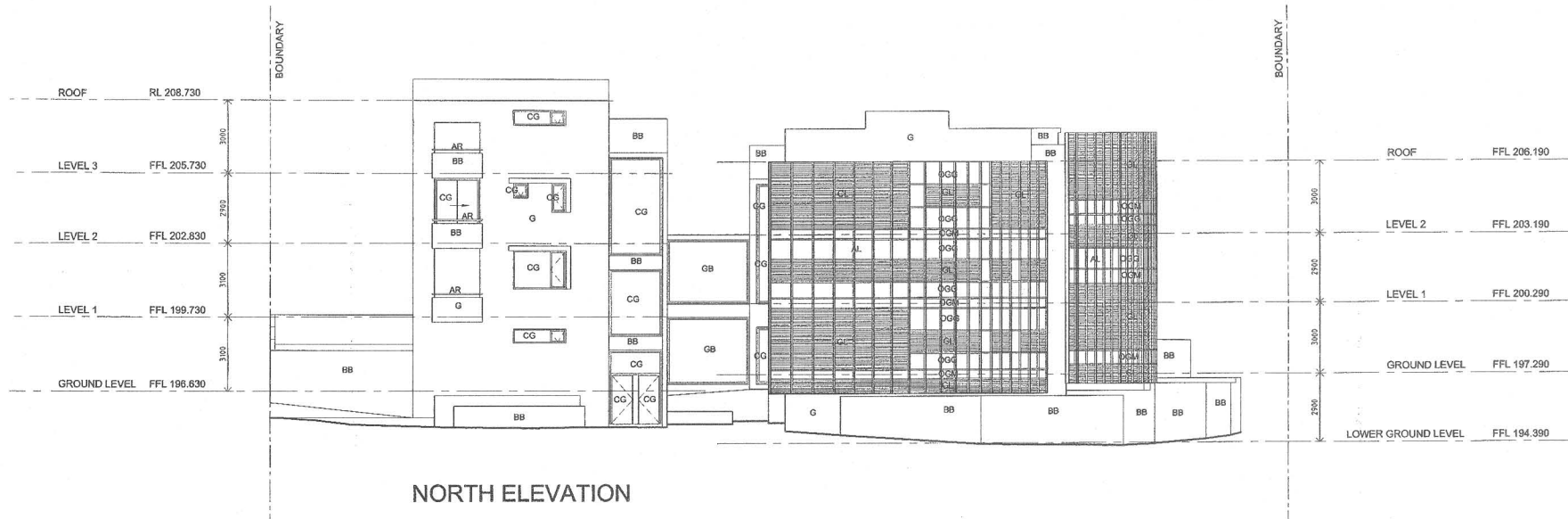
Detail Wall Sections  
(from Section CC)

Scales	1:20 at A1	Date	July 04	Drawn	JS
Project No.	040603	Checked		Approved	
Drawing No.		Issue			



DETAIL WALL SECTION 2:20 2 DA12





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Issue	Issue Description	Chk.	Appr.	Date	Issue	Issue Description	Chk.	Appr.	Date
A	Pre-DA Issue			08.12.04					
B	Consultant Issue			24.01.05					
AA	DA Issue			11.02.05					

**RESIDENTIAL DEVELOPMENT**  
**1691-1693 Pacific Highway, WAHROONGA**

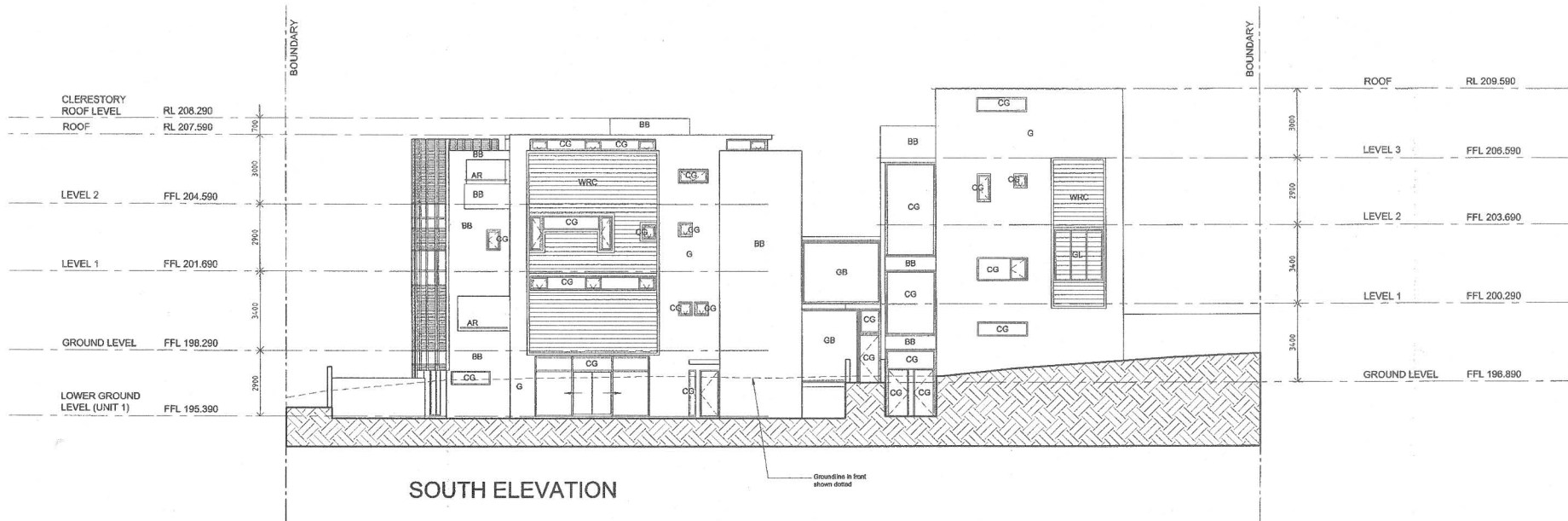
For \_\_\_\_\_

JONES SONTERR  
 Drafting Street Rozelle  
 PO Box 483  
 Rozelle NSW 2039

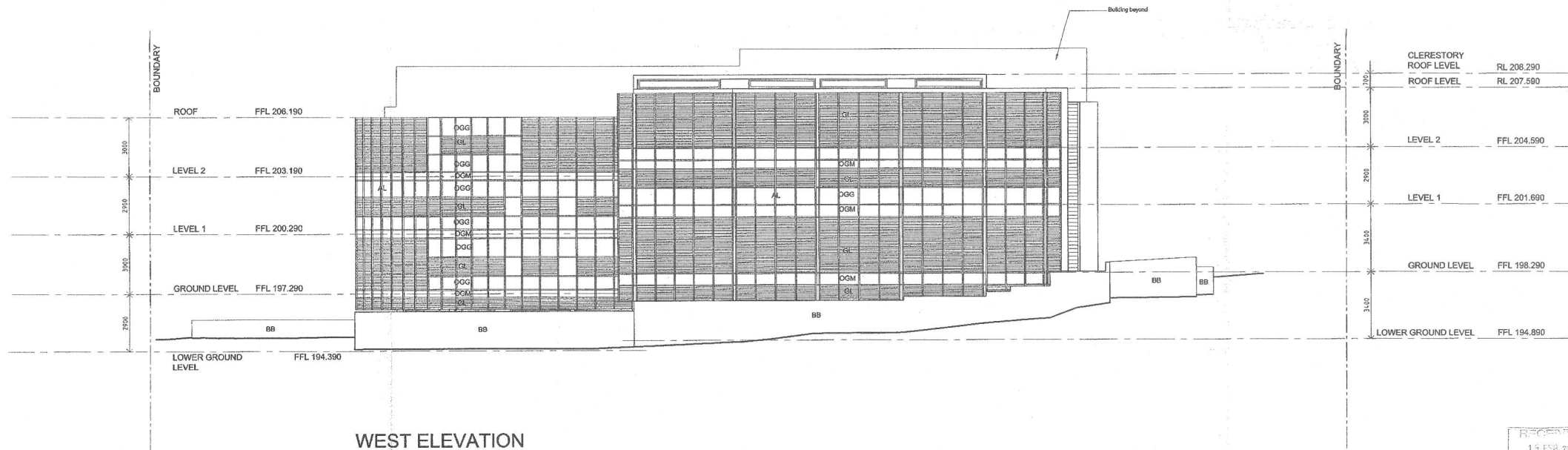
JONES

**North & East Elevations**

Scale	1:100 at A1	Date	July 04	Drawn	JS
Project No.	040603	Checked		Issue	
Drawing No.	040603	Approved			



- FINISHES LEGEND**
- WRC - Western Red Cedar
  - CG - Clear Glass
  - BB - Boral Blue Brickwork
  - G - Rendered Brickwork/Blockwork
  - CG - Clear Glass Blocks
  - AR - Clear Anodised Al. Handrail
  - GL - Glass Louvers
  - OGG - ("Pikington Austint Grey")
  - OGM - Opaque Glass milk white
  - AL - Clear Anodised Al. Stick Frame



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ISSUE	Issue Description	CHK.	APP.	DATE	ISSUE	Issue Description	CHK.	APP.	DATE
A	Pre-DA Issue			08.12.04					
B	Consultant Issue			24.01.05					
AA	DA Issue			11.02.05					

**RESIDENTIAL DEVELOPMENT**  
**1691-1693 Pacific Highway, WAHROONGA**

For

**JONES SONTOR**

Darling Street Rozelle  
P.O. Box 483  
Rozelle NSW 2039

**JONES**

**South & West Elevations**

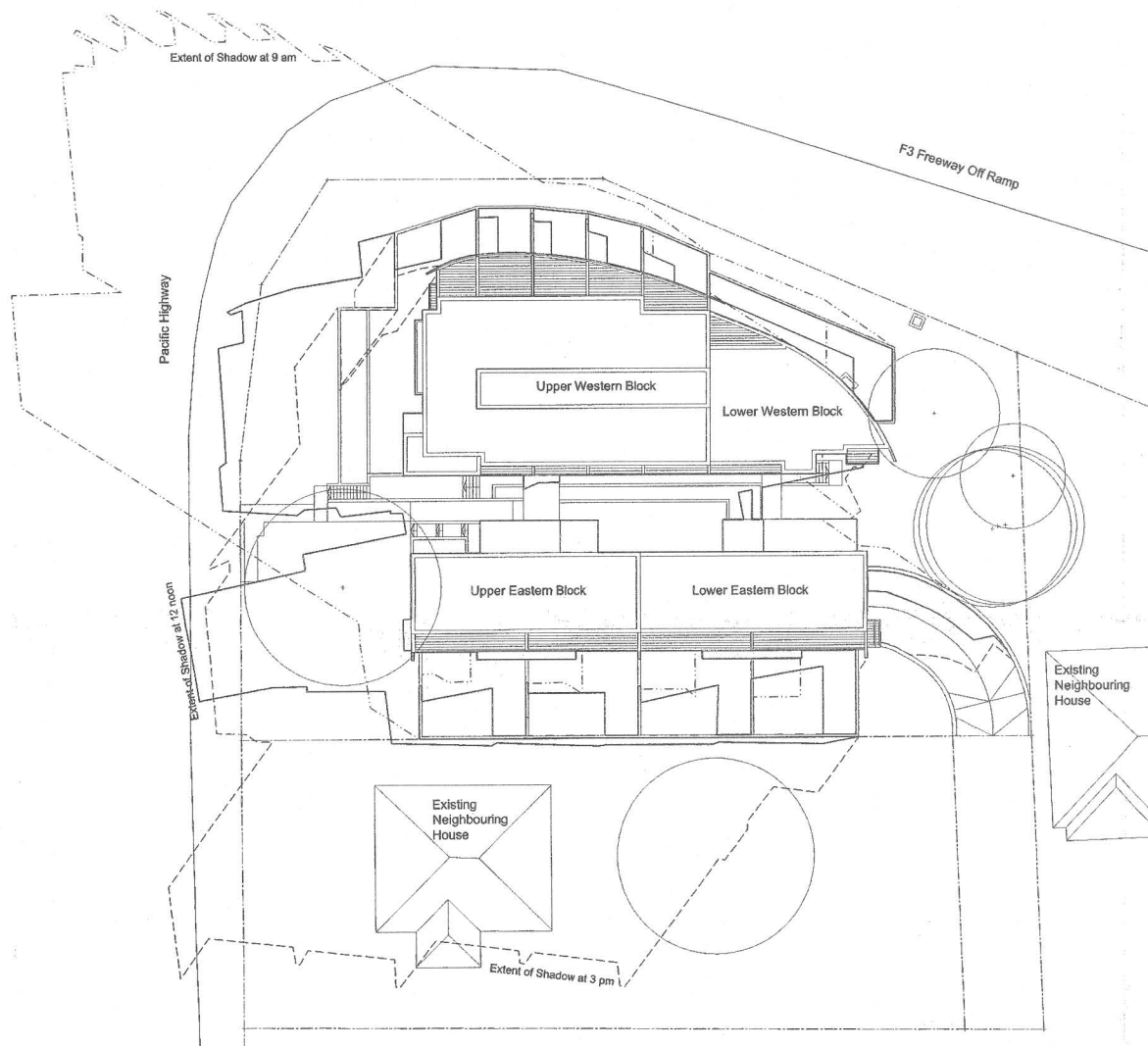
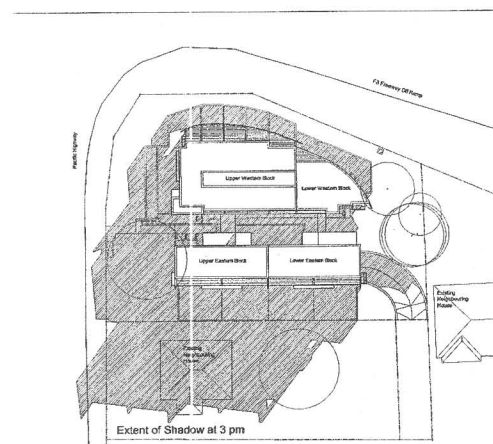
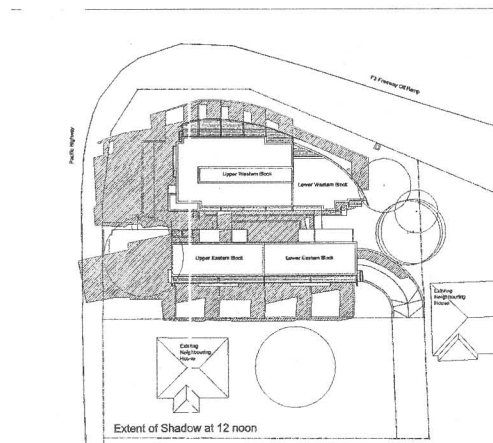
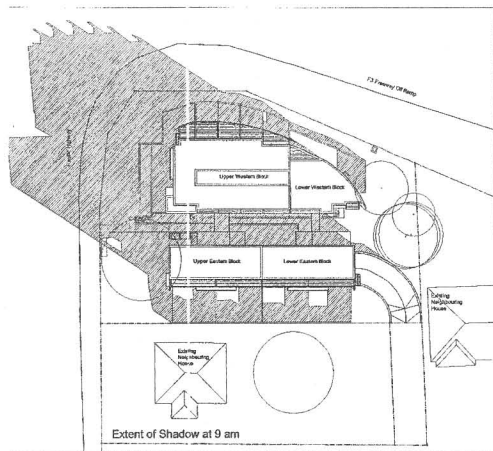
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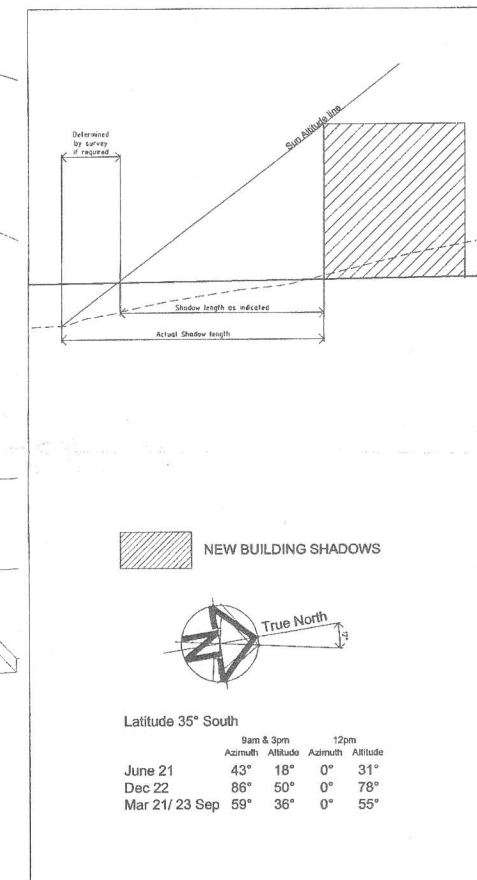
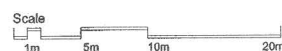
Project No. 040603 Checked Approved

Drawing No. 15610

RECEIVED  
15 FEB 2005  
CIVIL ENGINEERING



SHADOW DIAGRAMS AT WINTER SOLSTICE  
(June 21)



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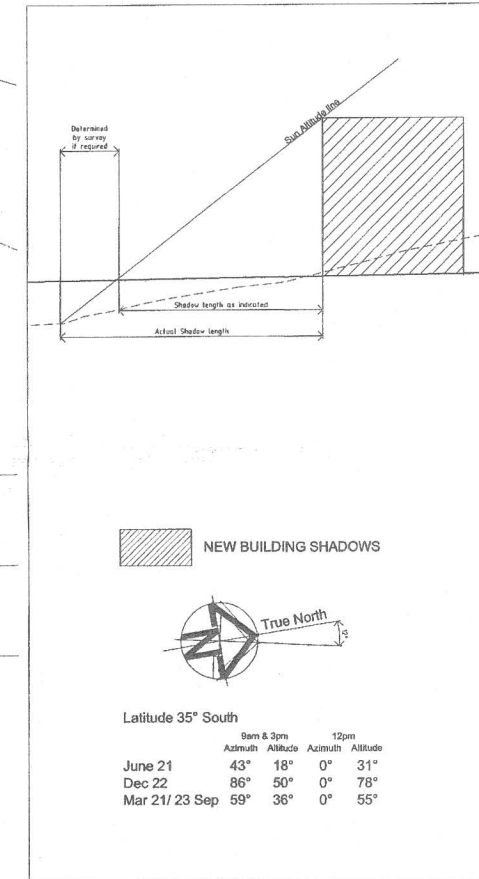
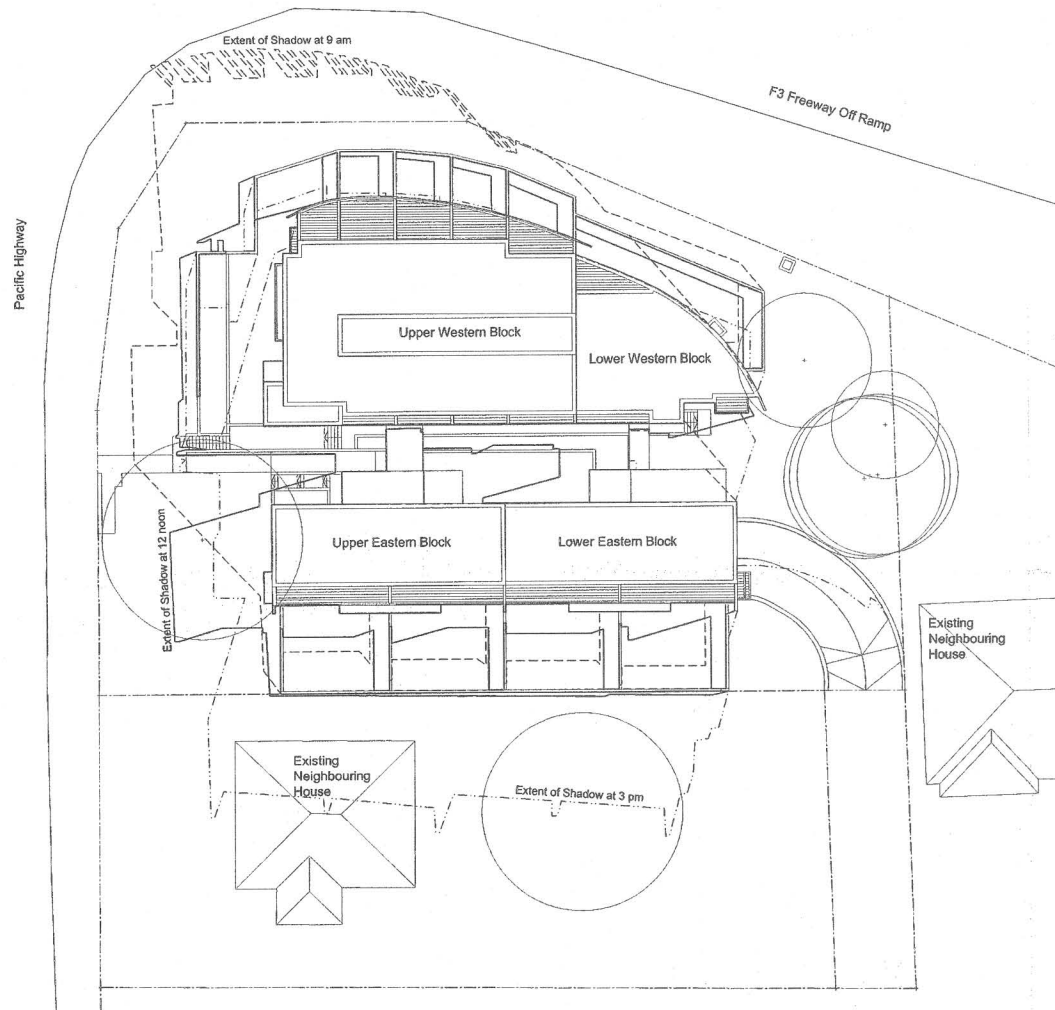
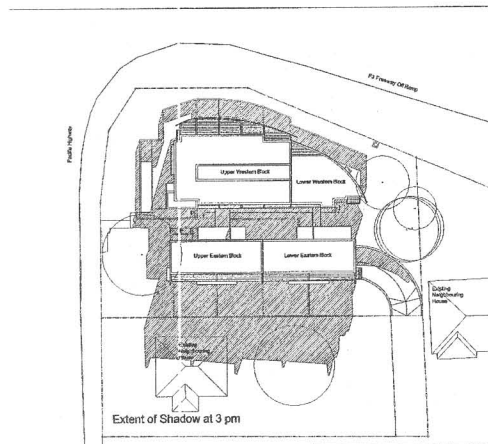
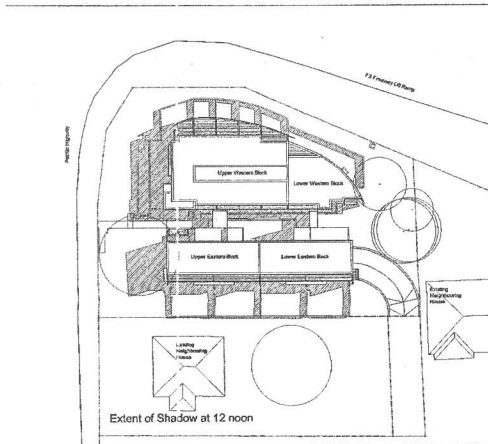
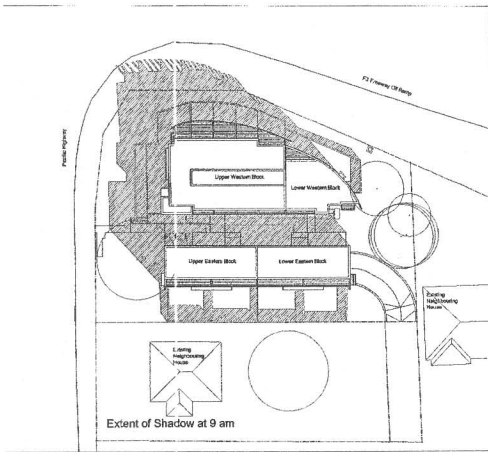
Issue	Issue Description	Chk.	Appr.	Date
AA	DA Issue			11.02.05

Project  
**RESIDENTIAL DEVELOPMENT**  
**1691-1693 Pacific Highway, WAHROONGA**

JONES SONTERR  
Dairling Street Rozelle  
P.O. Box 483  
Rozelle NSW 2039  
Phone: 02 9555 7448

Title  
**Shadow Diagrams**  
**Winter Solstice**  
**(June 21)**

Scales 1:200 at A1	Date July 04	Drawn JS
Project No. <b>040603</b>	Checked	Approved
Drawing No. <b>DA17</b>	Issue <b>AA</b>	



SHADOW DIAGRAMS AT EQUINOX  
(September 23 and March 21)



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Issue	Issue Description	Chk.	Appr.	Date
AA	DA Issue			11.02.05

Issue	Issue Description	Chk.	Appr.	Date

Project  
**RESIDENTIAL DEVELOPMENT**  
**1691-1693 Pacific Highway, WAHROONGA**

JONES SONTOR  
Dorling Street Rozelle  
P.O. Box 483  
Rozelle NSW 2039

Title  
**Shadow Diagrams**  
**Equinox**  
**(Sept 23 / Mar 21)**

Scales 1:200 at A1	Date July 04	Drawn JS
Project No. <b>040603</b>	Checked <b>Approved</b>	
Drawing No.	Issue	

BASEMENT LEVEL 1 PLAN

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MEMBERS WILLIAMSHIRE LANDS OTHERWISE NOTED ON DRAWINGS.

1: SCALE FROM DRAWINGS.

2: ALL DIMENSIONS ON SITE PRIOR TO CONSTRUCTION.

3: IN CONJUNCTION WITH ALL DOCUMENTS.

Issue	Issue Description	Chk.	Appr.	Date	Issue	Issue Description	Chk.	Appr.	Date	Project
A	Pre-DA Issue			08.12.04						RESIDENTIAL DEVELOPMENT 1691-1693 Pacific Highway, WAHROONGA  For STALDONE DEVELOPMENTS
B	Consultant Issue			11.01.05						
C	Consultant Issue			20.01.05						
AA	DA Issue			11.02.05						

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Title  
Basement Level 1  
PLAN

Scales  
1:100 at A1

Project No.  
040603

Drawing No.  
DA04

Date  
July 04

Drawn  
JS

Checked  
Approved

Issue  
AA

Plot Date 06/07/05

Cell Ref. 040603 DA04.dwg

BASEMENT LEVEL 2 PLAN

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Issue No.	Issue Description	Chk.	Appr.	Date	Issue No.	Issue Description	Chk.	Appr.	Date
199/04	Pre-DA Issue			08.12.04	199/04	Pre-DA Issue			08.12.04
200/05	Consultant Issue			11.01.05	200/05	Consultant Issue			11.01.05
201/05	Consultant Issue			20.01.05	201/05	Consultant Issue			20.01.05
202/05	DA Issue			11.02.05	202/05	DA Issue			11.02.05

RESIDENTIAL DEVELOPMENT  
1691-1693 Pacific Highway, WAHROONGA  
For  
STALDONE DEVELOPMENTS

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Basement Level 2  
PLAN

Scale	1:100 at A1	Date	July 04	Drawn	JS
Project No.	040603	Checked		Approved	
Drawing No.	DA03	Issue	AA		
Plot Date	08.07.05	Card Ref.	1691/1693 DA03/2005		

BASEMENT LEVEL 3 PLAN

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Issue	Issue Description	Chk.	Appr.	Date
A	Pre-DA Issue			08.12.04
B	Consultant Issue			11.01.05
C	Consultant Issue			20.01.05
AA	DA Issue			11.02.05

Project  
**RESIDENTIAL DEVELOPMENT**  
**1691-1693 Pacific Highway, WAHROONGA**

For  
**STALDONE DEVELOPMENTS**

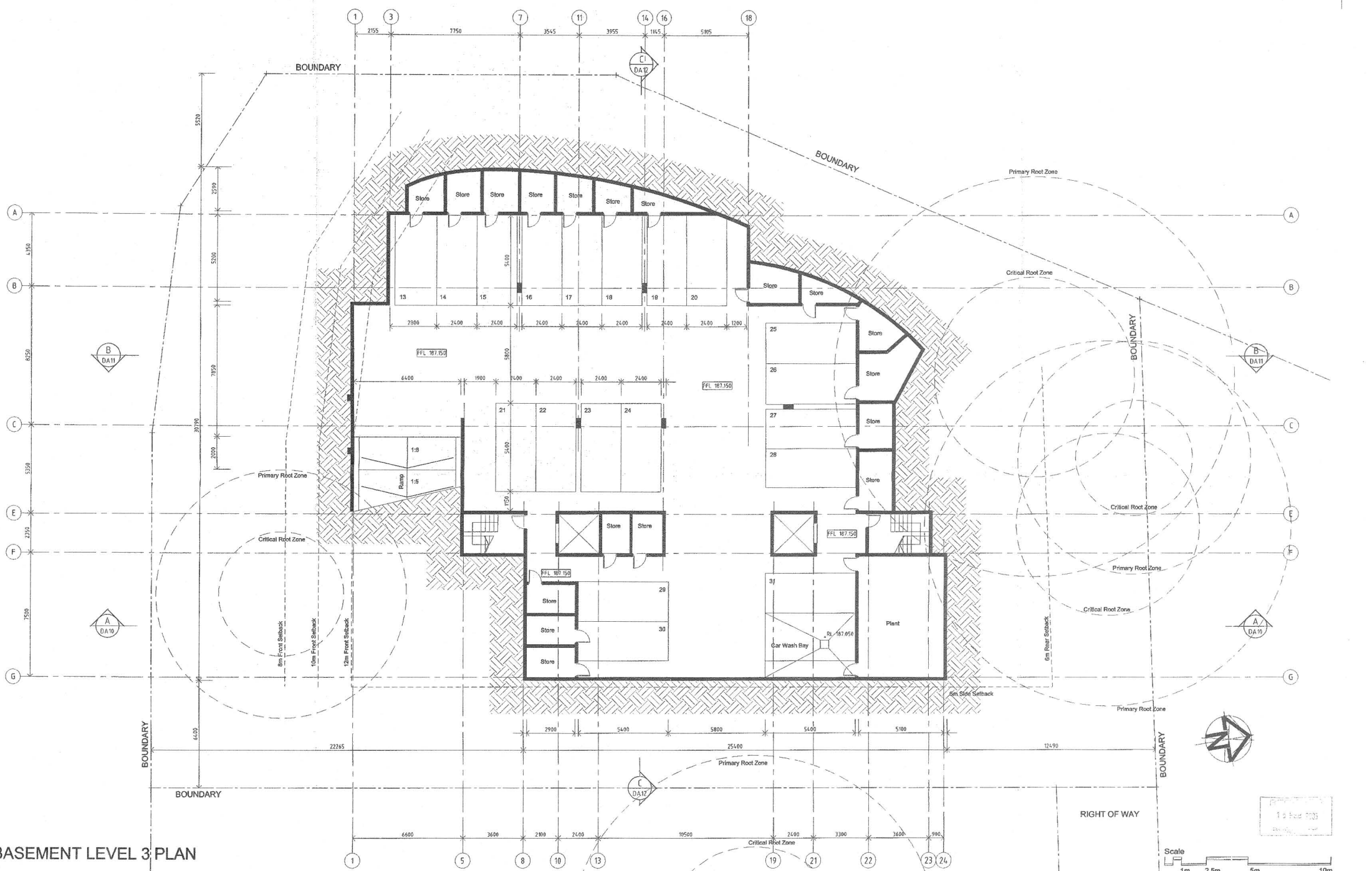
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**JONES SONTERR**  
architects & visionaries

Title  
**Basement Level 3  
PLAN**

Scales 1:100 at A1	Date July 04	Drawn JS
Project No. 040603	Checked	Approved
Drawing No. DA02	Issue AA	
Print Date: 06.02.05	Card Ref: 040603 DA02 rev	



Pacific Highway

F3 Freeway Off Ramp

HEIGHT ABOVE NATURAL GROUND LEVEL OF BASEMENT CEILING  
(UNDERSIDE OF GROUND FLOOR SLAB)  
(refer to Ku-ring-Gai DCP 55 cl 1.12 -Definitions)

# HEIGHTS ABOVE NATURAL GROUND LEVEL OF BASEMENT CEILING

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Issue	Issue Description	Chk.	Appr.	Date	Issue	Issue Description	Chk.	Appr.	Date
A	Additional Information for DA			14.08.05					

Project  
RESIDENTIAL DEVELOPMENT  
1691-1693 Pacific Highway, WAHROONGA  
For  
STALDONE DEVELOPMENTS

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Title  
Basement Ceiling to  
Natural Ground Plan

Scale  
1m 2.5m 5m 10m

Scales  
1:100 @ A1

Date  
July 04

Drawn  
JS

Project No.  
040603

Checked  
Approved

Drawing No.  
DA22

Issue  
A

Print Date 14.08.05

Cart Ref 040603 DA22.dwg

Item 8

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	32 MARIAN STREET & 589 PACIFIC HIGHWAY, KILLARA - DEMOLITION OF 2 RESIDENTIAL DWELLINGS AND CONSTRUCTION OF A 4 STOREY RESIDENTIAL FLAT BUILDING COMPRISING 16 UNITS AND BASEMENT CAR PARKING FOR 27 VEHICLES.
<b>WARD:</b>	Gordon
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	1415/04
<b>SUBJECT LAND:</b>	32 Marian Street & 589 Pacific Highway, Killara
<b>APPLICANT:</b>	Ray Fitz-Gibbon Architects Pty Ltd
<b>OWNER:</b>	Provent Property Group Pty Limited - 589 Pacific Highway & P Nott - 32 Marian Street, Killara
<b>DESIGNER:</b>	Ray Fitz-Gibbon Architects Pty Ltd
<b>PRESENT USE:</b>	Residential dwelling houses
<b>ZONING:</b>	Residential 2(d3)
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance – LEP194
<b>COUNCIL'S POLICIES APPLICABLE:</b>	KPSO - LEP194, DC931 - Access, DCP 40 - Waste Management, DCP 43 - Car Parking, DCP47 - Water Management, DCP55 - Multi-unit Housing
<b>COMPLIANCE WITH CODES/POLICIES:</b>	No
<b>GOVERNMENT POLICIES APPLICABLE:</b>	Yes
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	No
<b>DATE LODGED:</b>	29 December 2004
<b>40 DAY PERIOD EXPIRED:</b>	7 February 2005
<b>PROPOSAL:</b>	Demolition of 2 residential dwellings and construction of a 4 storey residential flat building comprising 16 units and basement car parking for 27 vehicles.
<b>RECOMMENDATION:</b>	Refusal

Item 8

**DEVELOPMENT APPLICATION N<sup>o</sup>** 1415/04  
**PREMISES:** 32 MARIAN STREET & 589 PACIFIC  
HIGHWAY, KILLARA  
**PROPOSAL:** DEMOLITION OF 2 RESIDENTIAL  
DWELLINGS AND CONSTRUCTION OF A 4  
STOREY RESIDENTIAL FLAT BUILDING  
COMPRISING 16 UNITS AND BASEMENT  
CAR PARKING FOR 27 VEHICLES.  
**APPLICANT:** RAY FITZ-GIBBON ARCHITECTS PTY LTD  
**OWNER:** PROVENT PROPERTY GROUP PTY  
LIMITED - 589 PACIFIC HIGHWAY & P  
NOTT - 32 MARIAN STREET, KILLARA  
**DESIGNER** RAY FITZ-GIBBON ARCHITECTS PTY LTD

**PURPOSE FOR REPORT**

To determine development application No.1415/04, which seeks consent for demolition of 2 residential dwelling houses and construction of a 4 storey residential flat building comprising 16 units and basement car parking for 27 vehicles.

**EXECUTIVE SUMMARY**

**Issues:**

- Setbacks
- Building height
- Number of storeys
- Car parking
- Terrace/courtyard setbacks
- Floor space ratio

**Submissions:** Five (5)

**Pre DA Consultation:** Yes

**Land & Environment Court Appeal:** A deemed refusal appeal was lodged on 24 July 2005. The first call over is on 26 August 2005.

**Recommendation:** Refusal

**HISTORY**

**Site history:**

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

Item 8

**Development application history:**

***DA 1415/04***

29 December 2004 – application lodged

Pre DA Consultation. Issues raised:

- The intrusion of basement level car parking and ground level terrace areas on critical root systems.
- Inadequate building setbacks to both street (Marian Street & Pacific Highway) frontages and side setback.
- Non-compliance with floor space ratio control.
- The proposed building footprint at basement level and its encroachment into required setbacks from site boundaries.
- Limited ability to provide effective landscaping and screen planting within the site due to inadequate setbacks.
- The extent to which the proposed basement car park entrance extends above ground level and the potential impacts on perimeter ceiling height and storey height of the building in the north-east corner.
- Solar and daylight access to living areas of some ground floor units, balconies and private open space areas, further details required.
- Non-compliance with the 60% maximum floor space control for the top floor.
- Lack of detail on architectural and landscape drawings, including consistency between the architectural and landscape drawings.
- No details of proposed boundary fencing or treatment provided.
- Lack of information in regard to DCP 55 within Statement of Environmental Effects.

In summary, the applicant was advised that the development must be amended to address concerns raised and may require considerable redesign to achieve compliance with the relevant controls.

15 March 2005	Applicant advised in writing of landscaping concerns raised in relation to the development.
13 May 2005	Further information received by Council, including revised architectural, landscape plans and site area calculations, e.g. deep soil landscaping, built upon area.
2 June 2005	Meeting held with the applicant to discuss issues identified by Council assessment staff.

Item 8

24 July 2005                      A Class 1, deemed refusal appeal lodged with the Land and Environment Court.

## THE SITE AND SURROUNDING AREA

### The site

Zoning:	Residential 2(d3)
Visual Character Study Category:	1920-1945
Lot Number:	PT Lot 1 & Lot 2
DP Number:	310770
Heritage Affected:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The subject site is a corner site, located on the eastern side of the Pacific Highway where it intersects with Marian Street. The development site comprises two properties identified as 32 Marian Street and 589 Pacific Highway, Killara or Portion 1 in DP 310770 and Lot 2 in DP 656052, respectively.

The site is rectangular in shape with a total site area of 1917.8m<sup>2</sup> and has two frontages to Marian Street and Pacific Highway, measuring 35.61m and 47.33m, respectively, with an arc in the Marian Street and Pacific Highway corner measuring 7.93m.

The site is gently sloping, having a constant fall of approximately 2m from its western to eastern corners. Existing development upon the site incorporates minor retaining structures.

No.32 Marian Street is currently occupied by a part two-storey, part single, inter war dwelling with an in-ground swimming pool located to the rear of the dwelling. No.589 Pacific Highway is occupied by a single storey dwelling.

The site is characterised by an established garden setting with mature trees and shrubs within garden beds and grassed areas. Three large significant *Eucalyptus saligna* (Sydney Blue Gums) are located on the site, adjacent to the Marian Street and Pacific Highway frontages.

### Surrounding development:

The subject site is bounded by Marian Street to the north, Pacific Highway to the west, No.585 Pacific Highway to the south and No.26-30 Marian Street to the east.

The area immediately adjacent to the subject site is currently occupied by a mixture of single dwelling houses and residential flat buildings. All immediately adjoining properties are zoned Residential 2(d3) for multi-unit housing development.

Item 8

Buildings to the immediate east (No's 26-30 Marian Street) are single detached dwellings. This site is subject to a recent development consent (DA1243/04 issued by Council on 24 May 2005) for construction of a five storey residential flat building comprising 27 units and basement car parking for 61 vehicles.

Buildings located south of the site along Pacific Highway comprise a mixture of mostly residential flat buildings and some single dwelling houses.

The site at No. 39 Marian Street is occupied by a heritage building, located opposite the subject site on the northern side of Marian Street.

Marian Street is suburban in character, comprising single and two storey dwellings with large setbacks to the street. A residential flat building is located towards the eastern end of Marian Street as are some commercial buildings including the Marian Street Theatre.

In addition to the surrounding built form, the area is characterised by a number of large significant trees which are typically located within the front setback areas along both Marian Street and Pacific Highway.

Lindfield Railway Station is located at the eastern (opposite) end of Marian Street.

## THE PROPOSAL

The proposal is for the demolition of two residential dwellings and construction of a four storey residential flat building comprising sixteen units and basement car parking for twenty seven vehicles.

Details of the proposed development are as follows:

Basement level 1:	13 resident car parking spaces and 15 resident storage bays
Basement level 2:	10 resident car parking spaces, 4 visitor spaces, 1 resident storage bay, garbage storage room and service/ancillary areas.
Ground floor:	2 x three bedroom units, 2 x two bedroom units and 1 x one bedroom unit (Unit 2 is a two storey unit also occupying part of the first floor).
First floor:	2 x three bedroom units, 1 x two bedroom unit and 1 x one bedroom unit.
Second floor:	2 x three bedroom units, 1 x two bedroom unit and 1 x one bedroom unit.
Third floor:	3 x three bedroom units (Unit 11 is a two storey unit also occupying part of the second floor).

Vehicular access to the development will be from Marian Street via a driveway crossing located adjacent to the site's northern side boundary. The proposed driveway provides access to two levels of basement car parking together with the garbage storage room. The basement car park has been configured to allow for on-site servicing by waste collection vehicles.

The main pedestrian entry to the building is located towards the centre of the building fronting Pacific Highway and is accessed from a pedestrian pathway that enters the site on Marian Street.

Item 8

Stormwater would be discharged in to the existing drainage system in Marian Street.

**Amended plans dated 13 May 2005**

In response to issues raised by Council, amended plans were submitted, as follows:

- Revised landscape plan, detailing an amended species selection, alterations to front entrance pathway materials and screen planting introduced to the eastern boundary. Modifications have been made to the location of retaining walls to comply with the deep soil landscaping definition of LEP194.
- Revised architectural plans, detailing changes made to the ground level layout of the proposed building and revised plan detailing applicable site area calculations, including deep soil planting.

**CONSULTATION - COMMUNITY**

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

**Original scheme dated 29 December 2004**

1. *C & A Szatow – 25 Marian Street, Killara*
2. *B & S Watson – 37 Marian Street, Killara*
3. *M Middleton – 1 Caithness Street, Killara*
4. *J Morgan – 3/567 Pacific Highway, Killara*
5. *B O'Farrell – MP for Ku-Ring-Gai*

The submissions raised the following issues:

***Traffic implications***

The traffic report submitted with the application has been reviewed by Council's Development Engineer, Kathy Hawken, in relation to traffic generation, vehicle access and parking. Ms Hawken also assessed the traffic review submitted with the application, prepared by Masson, Wilson & Twiney Traffic Consultants.

Ms Hawken concludes that adverse traffic impacts in the surrounding road network are not anticipated as a result of this development, subject to conditions.

It is further noted by Ms Hawken, that the applicant has based the parking provision on the premise that the site is less than 400 metres from the pedestrian entrance to Killara Station. Measurements undertaken by Ms Hawken confirm the distance is in excess of 400m, over several alternative routes.

Item 8

The proposed development is for 9 x3 bedroom units out of the 16 proposed. LEP194 states that where the distance to the station is greater than 400m, 29 spaces are required. The development provides a total of 27 car parking spaces and therefore has a shortfall of two spaces. Although not raised as an engineering concern, the shortfall may have an impact on parking along Marian Street due to lack of available parking within the development.

***Pressure on existing infrastructure***

Council's Development Engineer, Kathy Hawken, has reviewed the proposal in relation to infrastructural aspects. Based on this assessment, it has been determined that the proposal is satisfactory, subject to conditions.

In particular, conditions relating to infrastructure will include a \$50,000.00 bond for any damage to public infrastructure caused as a result of the development and dilapidation surveys will be required before and after the works.

***Property values***

The proposal is permissible under the zoning of the site and potential impacts on property values is not a valid planning consideration under s79C of the Environmental Planning and Assessment 1979.

***Inadequate setbacks***

The proposal does not comply with the setbacks as they apply to the Marian Street and Pacific Highway frontages and to the southern boundary of the site. Non-compliance with the setback requirements indicates a building envelope much larger than that anticipated for the site and an undue dominance of built form to the streetscape. Non-compliance with the building setback controls leaves inadequate space to accommodate large canopy trees within the proposed setbacks. The failure to comply with the setbacks results in a development that does not integrate with the desired future character of the area.

***Non-compliance with development controls***

Details of non-compliances are identified and considered below (see KPSO and DCP 55 consideration).

***Unnecessary tree removal***

Council's Landscape Assessment Officer, Mr. Geoff Bird, has reviewed the proposal in relation to proposed tree removal and makes the following comments:

*"A total of 22 trees have been identified by the applicant's arborist as being located on or associated with the site. Of those trees identified, 10 are proposed for removal, none of which are identified as having high or significant landscape significance. No objection is raised to the removal of the nominated trees."*

Item 8

*Noise pollution and acoustic assessment*

This type of development is permissible within the zoning, being multi-unit residential development. The intent of rezoning for multi-unit residential development is to establish higher density living in proximity to transport nodes, educational and health facilities and local business centres.

It is anticipated that any multi-unit residential development will generate additional noise associated with residential activity. Human noise to a larger extent is inevitable. The proposal does have limited acoustic controls due to its proximity to the Pacific Highway, however, the resultant effects are more likely to impact on the occupants of the site rather than surrounding residents in the area.

With regard to internal amenity, an acoustic assessment submitted with the application states that noise intrusion to the development itself can adequately be attenuated by acoustically designed façade treatments and noise emission from the site controlled by standard noise conditions. To ensure residential amenity, consent conditions will require certification that acoustic levels within units and noise emissions from the development are of an appropriate standard.

*Heritage impacts on surrounding properties*

The subject site itself is not afforded any formal/statutory heritage status; however, the site located opposite No.39 Marian Street which is a listed heritage item under Schedule 7 of the KPSO.

The application satisfies the controls of Clauses 25C(2)(e) and 61E of the KPSO which requires development on land within the Residential 2(d3) zone to have due regard to impacts on any heritage items in the vicinity. Impacts on nearby heritage items are minimised by the generous separation distance between the No.39 Marian Street and the subject site, afforded by the road (Marian Street) and existing trees within the Marian Street setbacks.

*Number of storeys*

Multi-unit residential developments up to five storeys in height are permissible under the zoning and are anticipated within the area. Given the site area of the subject site, this development is subject to a maximum of four storeys under LEP194.

Due to the projection of the basement above ground level, the development constitutes five storeys as defined under Clause 25I (9) of LEP194 and does not comply with the 4 storey development standard.

**CONSULTATION - WITHIN COUNCIL**

**Urban design**

Council's urban design consultant, Russell Olssen, has commented on the proposal as follows:

Item 8

***“Context***

*The existing context for this site is comprised of buildings on both sides of the Pacific Highway and in Marian Street. The area under consideration extends for a distance of 400m, from Spencer Street in the north, to south of the site. It extends from Regimental Park for a distance of 200m to Caithness Walk south of Marian Street, and from the Pacific Highway to Culworth Avenue.*

*The existing buildings consist of heritage items, existing medium density housing and detached houses. All of these buildings are located within a landscaped setting. While in some cases, the landscaped setting obscures parts of buildings, the architectural design of buildings is important in itself, whether it is obscured in part by trees, or not.*

*The heritage items in close proximity to the site are:*

- *32 Marian Street, Killara*
- *33 Marian Street, Killara*
- *11 Buckingham Road*
- *10 Buckingham*
- *Item in Caithness Street*

*The built form characteristics of these heritage items include*

- *1 & 2 storey buildings*
- *Detached buildings in landscaped setting*
- *Predominantly brick building construction*
- *Predominantly brick front fences*

*The existing medium density housing developments in the Pacific Highway are extensive. They extend from Spencer road to south of Buckingham Street on the western side of the Pacific Highway.*

*The built form characteristics of these medium density developments include:*

- *2 storey and 3 storey (plus above ground car parking) buildings*
- *Linear buildings set back substantially*
- *Brick building construction*
- *Brick front fences*

*The detached houses are in Marian Street and to the south of the site in the Pacific Highway. The built form characteristics of these detached houses include:*

*1 storey building height*

*Detached buildings in a landscaped setting*

*Predominantly brick construction*

*A range of front fences including face brick, hedges and no front fencing.*

Item 8

*The existing house on the subject site is a large Inter War brick and render house.*

*The most predominant material in all the area is brick, with many of the heritage buildings, medium density dwellings and detached houses being brick. Many front fences are also brick. The brick material unifies and characterises the buildings in the area. The development will be screened from the Pacific Highway by the substantial large tree within the setback.*

**Scale**

*The building height complies with LEP194 and is acceptable. DCP 55 has a minimum building length of 36m, which is achieved here. The scale of development is acceptable.*

*The building height complies with LEP 194 and is acceptable. DCP 55 has a minimum building length of 36m, this is achieved here. The scale of development is acceptable.*

**Built Form**

*DCP 55 has a minimum building length of 36m and a minimum front setback of 10m-12m. The built form of this development is acceptable in terms of building length. The setback from Pacific Highway is a minimum of 9m. This should be increased to 10m, for this frontage to comply.*

*The north-eastern front balcony is a minimum of 6.5m to 8.5m from Marian Street. This is insufficient setback. The external car park ramp also reduces the opportunity for screening trees on this corner. It is recommended to:*

- *Re-locate the car park ramp under the building, partially deleting apartment 0;*
- *Planting large trees in the side setback;*
- *Setting the building façade back to 10m minimum from the boundary;*
- *Reducing the depth of the balcony; and*
- *Projecting a balcony into the side setback if it is screened from the adjoining property.*

*The low stone wall to the private balconies is appreciated for its natural material and form. However, the existing character of the area has many masonry fences to the boundaries of the properties. The property to the south on Pacific Highway has a brick fence, as do many other developments along both sides of Pacific Highway. It is recommended to provide a masonry wall to the boundary of Pacific Highway, and possible to Marian Street.*

**Density**

*Acceptable.*

**Resources, energy and water efficiency**

*Natural cross ventilation of apartments is acceptable, with 65% of apartments being cross ventilated (The Residential Flat Design Code recommends a minimum of 60%). The lift*

Item 8

*lobbies and common corridors are not naturally lit or ventilated. It would be very desirable to achieve natural ventilation and lighting of these commonly used spaces.*

*Solar access to living rooms is acceptable, with 80% of apartments achieving 3 hours sunlight access between 9am and 3pm in midwinter. (The RFDC recommends 70%). An OSD tank has been provided.*

***Landscape***

*Landscaping is generally acceptable. The visual appearance of the streetscape and landscape will be detrimentally affected by the location of the car ramp outside the building footprint. It is undesirable to have a cavernous car park entry where it would otherwise be possible to plant trees. It is recommended that the ramp be located under the building, and that apartment A101 is deleted.*

***Amenity***

*The amenity of the development is good on terms of privacy, as the building is setback up to 9m from the south-eastern boundary, 17m from the southern boundary and 9m from the western boundary.*

***Safety and security***

*Acceptable*

***Social dimensions***

*Acceptable*

***Aesthetics***

*As noted under "Context" the existing built form character of the area is almost exclusively brick facades and brick fences. These colours and materials are not as strident within their landscape setting as the white buildings proposed, which will contrast significantly with the landscape. While the existing houses on the site are light coloured, they are relatively small compares to the proposed development, and once they are demolished, there will be virtually no other white houses in the area. It is recommended that the colour and materials of the development are changed, with substantially more warm, dark colours, brick and timber.*

***Recommendations***

*It is recommended that:*

- *The car park ramp is located under the building footprint, and apartment A101 is deleted;*

Item 8

- *The colour and materials of the development are changed, with substantially more warm, dark colours, brick and timber; and*
- *A front fence is provided which is preferably masonry and warm in colour.”*

Mr Olssen comments under ‘Scale’ that the building height complies with LEP194 and is acceptable. However, the development does not comply with the number of storeys or the maximum ceiling height control, and is unsatisfactory as discussed later in this report. See KPSO discussion.

## Heritage

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

### ***“Existing buildings***

*The house at 32 Marian Street is a good example of a large Inter War Moderne house that has some architectural merit. It is built with red texture brick and I consider it to be a relatively rare version of the style. Although this house has not been identified in heritage surveys, I think it has some architectural merit. It is graded as contributory element in the National Trust UCA No 10 – Culworth. Demolition of the building is acceptable provided archival recording is undertaken.*

*The house at 589 Pacific Highway is a representative example of an Inter War bungalow. Although there is no history of the site, I suspect that the house at 589 Pacific Highway was a larger lot and subdivided to create the lot at 32 Marian Street. If this is so, it is likely that No 32 Marian formerly contained a tennis court. This house is also graded as contributory to UCA No 10. Demolition of the building is acceptable provided archival recording is undertaken.*

### ***Nearby heritage items***

*The house directly opposite the subject site at 39 Marian Street is a prominent heritage item with frontages to the Pacific Highway as well as Marian Street. The item is viewed from both streets and I do not believe the proposed development would reduce the primary views to it, although it would change the existing residential scale and context of Marian Street.*

*The Griffin House at 33 Marian Street, is nearby, but not directly affected by the proposed development on the subject site.*

### ***UCA 10***

*Both sites are graded as contributory to UCA 10. UCA 10 was reviewed late in 2004.*

*Marian Street is characterised by one and two storey residential houses on medium size lots set in mature gardens. The streetscape has historic and aesthetic values. The majority of the south side of Marian Street is rezoned for medium density and with time it is expected that medium density residential development will change the existing character.*

Item 8

***Proposed application***

*The design is contemporary. Materials are primarily rendered brickwork painted with contrasting colours. The courtyard fences are stone. The roof is mainly flat, but has skillion sections slopes up towards the east and south which would allow morning daylight and south daylight. Entry is on the Pacific Highway with dwellings being orientated either north or south. The individual dwellings have logical layouts with service areas near the core and living areas near the northern and southern facades. There is a mix of one, two and three bedroom apartments. Being three storeys with the top floor set back, its overall height would be visually reduced. The very large gum trees on the site would provide effective screening to the building and assist in reducing its bulk and visual presence.*

*This application would have some impact on the nearby heritage items at 39 and 33 Marian Street, but I consider that the impacts are not sufficient to warrant refusal of the application. The curtilage of both nearby heritage items would not be greatly affected by the proposed development although the context of the street and the UCA would be subject to considerable change. The tree cover on the site would provide reasonable screening to the development consistent with Council's policy in DCP 55.*

*When considering the guidelines for development within the vicinity of a heritage item and within a UCA contained in DCP 55 the impacts are satisfactory.*

*Archival recording of all built elements on the site should be undertaken before demolition and site works commence."*

**Landscaping**

Council's Landscape and Tree Assessment Officer, Geoff Bird, has commented on the proposal as follows:

*"It is proposed to demolish the existing dwellings and associated structures and construct a four storey residential flat building with two levels of basement car parking on the amalgamated corner site of 1917.8sqm with vehicular access from Marian St. The site is characterised by an established landscape setting with mature trees and shrubs within formal garden beds and grassed areas. The site is dominated by three highly significant, mature Eucalyptus saligna (Bluegum) located adjacent to the Marian St and Pacific Highway frontages.*

***Impacts on trees/trees to be removed/Tree replenishment***

*A total of 22 trees have been identified by the arborist as being located on or associated with the site. Of those trees identified, 10 are proposed for removal, none of which are identified as having high or significant landscape significance. No objection is raised to the removal of the nominated trees.*

*The three most significant trees on site are the three Eucalyptus saligna (Bluegum) located adjacent to the Marian St and Pacific Highway frontages. The consulting arborist has*

Item 8

*recommended that tree #2 Eucalyptus saligna (visually the most significant/prominent Bluegum), located on the corner of Marian St and the Pacific Highway, have further investigative works undertaken to determine its structural integrity. Concerns have been raised to the trees stability due to an extensive flaw and fruiting body along with the structural integrity of the main fork junction. The tree is located outside of the main development area, but it will be required as part of any consent that this further aerial inspection and investigation be undertaken prior to work being undertaken on site. It will also be required that recommendations made as a result of this further detail be undertaken.*

***Proximity of the development to trees***

*The proposed development/building is located adjacent to the critical root zones and within the primary root zones of existing trees to be retained. This will result in root severance and canopy pruning (particularly of the neighbouring Fig trees) to accommodate the works. From a landscape viewpoint it is preferred to have development outside of the primary root zones and canopy drip lines, but this would make much of the existing site area unusable. The consulting Arborist has provided detailed recommendations to minimise adverse tree impacts. Subject to these recommendations being carried out, the Arborist states that there should be no significant impacts.*

***Arborist's Report***

*A detailed arborist's report by Footprint Green (Melanie Howden) has been submitted as part of the application. The report details the health and significance of the existing trees and provides recommendations for further aerial inspections to be undertaken, specific tree protection measures, and minor architectural and landscape design changes to be undertaken to ensure the retention and ongoing health of the existing trees to be retained. These have been detailed on page 17 of the report. Subject to these recommendations being undertaken, potential tree impacts will be reduced and can be supported by Landscape Services.*

***Landscape Plan***

***Entry Path***

*Previous concerns regarding the surface treatment and deep soil exclusion have been addressed with the amended plans.*

*The proposed soft landscape for the site can be supported with some minor changes. Concern has previously been raised to the lack of screen planting adjacent to the eastern side site boundary due to the location of the fire wall and fire exit. Proposed plant species have been changed and garden bed areas increased to address this concern. Although it must be mentioned that the side setback is limited for tree planting, although the development complies with Council's required setbacks.*

*The landscape plan proposes 'lawn' to be planted within the proposed courtyards with no exterior access for maintenance. This is impractical and encourages future residents to pave*

Item 8

*these areas which will result in the development not complying with deep soil area requirements. To overcome this issue, it will be conditioned/required that the proposed 'lawn' areas be substituted with an appropriate lawn substitute species such as Dichondra, Mini Mondo Grass, native violets or similar, which do not require cutting/mowing but are able to take limited foot traffic.*

*Previous concerns regarding internal access to garden courtyard areas have been satisfactorily resolved.*

**Drainage Plan**

*Overall the proposed drainage plan can be supported by Landscape Services. The only primary concern is the location of one storm water pipe adjacent to the eastern site boundary which will impact the available area for screen planting and tree replenishment. To overcome this issue it is suggested that the pipe be located adjacent to the proposed building to maximise the available area of deep soil being unencumbered.*

**Deep Soil Landscaping**

*The proposed development, by the applicant's calculations, will result in a deep soil landscaping area of 970.61sqm or 50.6% which numerically complies with the LEP. Landscape Services is in general agreement with the areas shown as being included within the deep soil area calculations. However, there is one exception, that being the paved terrace on the southern side of Unit 4. Although shown as permeable paving, it is a paved terrace greater than 1.0m wide and technically should be excluded from the deep soil landscaping calculations. Landscape Services is prepared to support this technical non compliance as the proposed terrace is beneath the canopy drip line of existing trees and is not an appropriate area for tree replenishment and the proposed paving will allow for moisture and gaseous exchange to the soil beneath.*

**Setbacks**

*The proposed basement car park is proposed to have a setback between 1.7 and 5.0m from the Pacific Highway frontage, which does not comply with council's setback requirements within DCP55 and restricts/constrains available deep soil landscaping area for tree replenishment for approximately 1/3 of the Pacific Highway frontage. The revised landscape plan indicates that additional screening trees will be planted in this locale as an informal screening hedge. Landscape Services is prepared to support the reduced setback as the site is heavily constrained with mature existing native indigenous trees, and there is sufficient deep soil area to support medium sized trees for screening and amenity.*

*The application can be supported by Landscape Services subject to conditions."*

**Engineering**

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

Item 8

*“In summary the application can be supported by Development Engineers, subject to the imposition of the recommended engineering conditions of consent.*

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

*The documentation considered consists of:*

*Statement of Environmental Effects (SEE) prepared by Glendinning Minto;  
Ray Fitz Gibbon Architects Drawings DA02 to DA25;  
Ray Fitz Gibbon Construction management Plan Edition 01;  
ITM Design Storm water drainage plans, H-00 to H-02, Rev A;  
Masson Wilson Twiney Traffic Review letter dated 23 December 2004;  
William L. Backhouse Survey Drawing CH4093.001;  
Jeffery & Katauskas Report on Geotechnical Investigation, 19152VBrpt;  
Tree Assessment & Report, by Footprint Green.*

*The application is for a residential flat building comprising 16 units (9 x 3 bedrooms, 4 x 2 bedrooms and 4 x 1 bedroom). Two levels of basement car parking are proposed, with a combined entry and exit from Marian Street.*

**Subdivision**

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

**Traffic generation and Vehicle Access**

*Based on LEP 194, the proposal requires a minimum of 16 resident spaces and 4 visitor spaces. The proposal provides 24 spaces and therefore complies.*

*The anticipated increase in traffic due to the subject development would be 7-8 trips per peak hour. This is not considered to be a significant increase, given the maximum of 300 vehicles per hour for local streets in the RTA Guide to Traffic Generating Developments.*

*Proposed vehicle access and accommodation arrangements have been assessed in the letter report by Masson Wilson Twiney, dated 23 December 2004. The arrangements were considered to be satisfactory subject to installation of mirrors at bends and various signposting. The recommendations made in the report have been included in the conditions below. The section of single lane access in the entry drive is acceptable given the low traffic generation expected.*

Item 8

***Construction Management***

*A construction management plan has been submitted (Ray Fitz-Gibbon Architects Document 00100 December 2004).*

*A Works Zone will most likely be required along the Marian Street frontage, and a condition has been recommended to that effect, including the need for approval by Traffic Committee and the payment of the necessary fees.*

***Garbage Collection***

*A waste storage and collection area is required internally under Councils DCP 40 for Waste Management. This has been provided in the upper basement parking area and there is adequate provision for Council's waste collection vehicle to enter the subject site, collect the garbage and then exit the site in a forward direction.*

***Impacts on Council Infrastructure and associated works – comments***

*Under grounding of services will be required, which may be expected to damage the footpath and nature strip. Dilapidation surveys will be required before and after the works, with full restoration of any damage by the developer prior to the issue of an Occupation Certificate.*

*Temporary rock anchors will most likely be required for excavation support, and will extend beneath the Pacific Highway. This is further discussed below and conditions relating to approvals under the Roads Act are recommended.*

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

***Site drainage comments***

*The submitted concept storm water management plan ITM Design Drawings H-01 and H-02 addresses both on site detention and on site retention and re-use and is therefore satisfactory. The required retention volume of 3000 litres per unit has been provided as well as a detention component. The retained roof water is to be used for toilet flushing, laundry, car washing and irrigation.*

*Water quality measures and a car washing bay will be required. Both of these can be shown on the Construction Certificate plans.*

***Flooding and Overland Flow comments***

*A drainage easement exists within 585 Pacific Highway and along the south eastern boundary with the subject site. The easement, which is in favour of Council, may contain a pipe taking runoff from the pit in the Highway which can be seen on the survey plan. This pit*

Item 8

*does not have a large catchment area, and there are not considered to be any implications for the subject development, provided that measures are taken to minimise lateral movements at the south east excavation face. Given the deep weathering of the underlying shale, the line of rock anchors (if installed) beneath 585 Pacific Highway is most likely to be clear of the pipe, as well as trees 19-22.*

**Geotechnical / Structural Comments**

*A geotechnical investigation has been carried out and the results are given in Jeffery and Katauskas Report 19152VBrpt, dated 31 January 2005.*

*The report contains recommendations for vibration monitoring, dilapidation surveys, excavation support and foundations. The zone of influence of the excavation is given as at least twice the excavation depth, and dilapidation reporting is recommended for buildings at 30 Marian Street and 585 Pacific Highway. It's noted that both these sites have also been rezoned and that a development application for 26-30 Marian Street is with Council at present. The recommendation for dilapidation surveys is included in the conditions below, with the proviso that if the buildings surveyed have been demolished under a separate development approval then no follow-up survey is required.*

*The proposed excavation will be to within 2 metres of the southbound carriageway of the Pacific Highway, and will be some 6.5 metres deep. The zone of influence of this face will therefore extend beneath the Highway. As discussed above, dilapidation reporting of the Highway will be required, with a photographic record to be submitted prior to commencement of any works. The applicant will be required to obtain RTA and Council approval for any temporary rock anchors and comply with requirements of the RTA and Council for de-commissioning upon completion of the works. Approval is also to be obtained from the owner(s) of 585 Pacific Highway where the 6.5 metre deep excavation will also be to within 2 metres of the boundary. If approval cannot be obtained, the excavation will have to be propped from within the site.*

*Groundwater levels may be above the proposed basement level and some seepage may occur into the excavation. Because of the low permeability of the subsurface strata, the report states that the geotechnical engineers do not consider that the excavation will significantly affect groundwater flow.*

**Summary**

*There are no engineering objections to the proposed development."*

Item 8

## **STATUTORY PROVISIONS**

### **State Environmental Planning Policy No. 65 – Design quality of residential flat development**

#### **Context:**

The existing buildings within the area consist of single dwellings, existing medium density development and heritage items. All buildings are located within a landscaped setting with a number of significant trees are located within the front setback areas along both Marian Street and the Pacific Highway.

Although the zoning identifies this as an area to undergo change in LEP194, the proposed development requires significant modification to respond more effectively to its desired future context. The extent of modification required is extensive and such that a new development application is necessary.

#### **Scale:**

The development exceeds the maximum height and number of storeys controls under LEP194. These non-compliances combined with a non-complying floor space ratio and insufficient setbacks to Marian Street, Pacific Highway and the southern boundary of the site indicate that the overall scale of the development is of an envelope greater than anticipated for the site.

#### **Built form:**

The proposal fails to comply with the maximum perimeter ceiling height, number of storeys and floor space ratio controls. The development also results in significant non-compliances with regard to setbacks as they apply to Marian Street, Pacific Highway and the southern boundary of the site. The combination of these non-compliances indicates an overdevelopment of the site and results in a building envelope much larger than anticipated by the relevant planning instruments.

#### **Density:**

The proposal exceeds the floor space ratio control under DCP55 and is unsatisfactory. The proposal has a floor space ratio of 1.02:1 which does not comply with the DCP55 maximum FSR of 1:1. While FSR is not the sole determinant of built form and density, the fact that the proposal does not comply with the setback, height and storey controls indicates that it is an overdevelopment of the site.

#### **Resource, energy and water efficiency:**

The buildings have been designed with dual aspect to facilitate cross ventilation with the exception of Units 02 & 11. Although single aspect both these units are two storeys, Unit 02 will have a northern aspect and Unit 11 will have a western aspect to living areas.

**Item 8**

It is noted, however, that the lift lobbies and common corridors are to be naturally lit or ventilated which if provided would improve the amenity of these areas. Solar access is acceptable.

The development achieves a minimal NatHERS rating with only unit 02 achieving a 4.5 star rating, unit 06 with 4 stars and the remainder of units a 3.5 star rating accounting for 87.5% of the development. These ratings are inadequate given the development has design options available to achieve a higher standard energy efficiency.

**Landscape:**

The development achieves a deep soil landscaping area of 50% on site however; the inadequate setbacks to both street frontages and the southern boundary significantly impact the ability to accommodate adequate deep soil landscaping with any depth to provide effective screen planting to the development for privacy and softening of built form.

Further, private courtyard and terraces are proposed within the Marian Street setback and compromise the long term maintenance of landscaped setbacks and reduces overall streetscape amenity.

**Amenity:**

The majority of units are dual aspect for solar access and cross ventilation, however, the insufficient setbacks compromise the level of privacy afforded to residents

**Safety and security:**

All units are accessible through secure lobby entrances and a private intercom system for visitors. All units have lift access to all levels of the building including the basement and security lighting will be provide at key points around the building. All external areas are overlooked by parts of the building ensuring casual surveillance of the site.

**Social dimensions:**

A reasonable mix of units (e.g. one, two and three bedroom units) have been provided to allow housing choice. The development is in an accessible location in close proximity to public transport nodes and shopping centres.

**Aesthetics:**

The proposed buildings are of contemporary style, however, the existing built form character of the area is almost exclusively brick facades and fences. It is recommended that the colour and materials of the development are changed, with substantially warmer, darker colours, and use of brick and timber.

## Item 8

**Residential Flat Design Code**

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

**Relating to the local context:**

The proposal, sited over two allotments requires their consolidation. This amalgamation will result in a site area of 1917.8m<sup>2</sup>.

The proposal comprises a single building with two levels of basement car parking. The existing built form is characterised by a mixture of single dwellings, residential flat buildings and some heritage items. A notable feature of the area is the number of large significant trees which are typically located within the front setback areas along both Marian Street and the Pacific Highway.

The future built form of the area is determined by the rezoning of the area for Residential 2(d3) development.

**Site analysis**

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

The proposal does not provide sufficient setbacks to accommodate optimum deep soil planting within the setbacks. Reduced building setbacks to street frontages will result in inconsistent setbacks throughout the area, compromising potential view corridors and landscaped buffers to soften built form and afford privacy to residents on adjoining sites and within the subject development.

**State Environmental Planning Policy No. 55 – Remediation of Land**

The subject site has a history of residential use and as such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

**Ku-ring-gai Planning Scheme Ordinance (KPSO)**

<b>COMPLIANCE TABLE</b>		
<b>Development standard</b>	<b>Proposed</b>	<b>Complies</b>
<b>Site area (min):</b> 1200m <sup>2</sup>	1917.8m <sup>2</sup>	<b>YES</b>
<b>Deep landscaping (min):</b> 50%	970.6m <sup>2</sup> or 50.6%	<b>YES</b>
<b>Street frontage (min):</b> 30m	35.6m Marian Street 47.33m Pacific Highway	<b>YES</b>
<b>Number of storeys (max):</b> Four (4)	Five (5)	<b>NO</b>
<b>Site coverage (max):</b> 35%	671m <sup>2</sup> or 35%	<b>YES</b>

## Item 8

COMPLIANCE TABLE		
Development standard	Proposed	Complies
<b>Top floor area (max):</b> 60% of level below	60%	YES
<b>Storeys and ceiling height (max):</b> 4 and 10.3m	5 & 10.7m	NO
<b>Car parking spaces (min):</b> <ul style="list-style-type: none"> <li>• 4 (visitors)</li> <li>• 25 (residents)</li> <li>• 29 (total)</li> </ul>	4 (visitor) 23 (residents) 27 (total)	YES NO NO
<b>Zone interface setback (min):</b> 9m	The closest zone interface (Residential 2(c2) is located in the opposite side of Marian Street and in excess of 9m.	YES
<b>Manageable housing (min):</b> 10% or 1.6 units	12.5% or two units (Unit Nos. 8 & 13)	YES
<b>Lift access:</b> required if greater than three storeys	1 x lift provided with access to all levels including basement areas.	YES

**State Environmental Planning Policy No 1 - Development Standards**

The proposal is limited to a maximum height of four storeys. The upper basement car park level projects more than 1.2m above ground level and, as such, constitutes an additional storey under the LEP cl.25I(9). The proposal therefore comprises 5 storeys and does not comply.

Further, the development is limited to four storeys and a maximum perimeter ceiling height of 10.3m under this sub clause. The development proposes five storeys (by virtue of the basement being defined as another storey pursuant to cl.25I (9)) and a maximum perimeter ceiling height of 10.7m. As such, the development does not comply.

The applicant in response to the non-compliance with the number of storeys and the maximum height control has lodged an objection to the development standard under the provisions of State Environmental Planning Policy No.1 on the basis that strict compliance with the control is unnecessary and unreasonable in the circumstances for the following reasons:

*‘The underlying objective or purpose of these provisions is considered to ensure that building design is of a high quality and to ensure that there is a level of control provided in respect of building heights. In this regard it is considered that the provisions will ensure that buildings have consistent heights and that buildings are designed having regard to the characteristics and topography of the site.*

*In this regard it is considered that strict compliance with the development standard would not result in development that is consistent with the aim of SEPP No.1, as it would not allow for the proposed yield envisaged by the LEP to be achieved and at the other extreme would result in a development that would potentially impact upon significant existing vegetation.*

Item 8

*The variations proposed are in my opinion only minor in nature and constitute only a minor proportion of the proposals overall building area.*

*In this regard the ground floor level of the proposal and in turn the height of the basement out of the ground and the perimeter ceiling height of Level 3 are all governed by the need to minimize impact and hence excavation in the root zone of the 3 Sydney Blue Gums. Any further lowering of the building would necessitate excavation within the root zones of these trees and which for obvious reasons is not supported.*

*The full extent of the encroachment is detailed on the plan that accompanies this objection. The plan indicates that the area of affectation applies to approximately 15.5% of the proposal and results in a maximum encroachment above the maximum height control and by approximately 470mm.*

*Also in support of the proposed breach it is worth noting that the affected area is generally located over the existing driveway and garage and which have previously been excavated into the site. It is possible that had this excavation not occurred that the proposal would comply with the requirements of the LEP.*

*Other possible design solutions in order to overcome the variation to the perimeter ceiling height control would be to reduce internal ceiling heights. However, such a change would not be consistent with the Residential Flat Design Code and as such is not supported.*

*It is not considered that there are any detrimental impacts that arise from this departure particularly in relation to overshadowing, streetscape or visual impact when viewed from adjoining properties.*

*On this basis it is considered that given the minor nature of the variation combined with the positive benefits that arise from minimising impacts upon the existing trees that compliance would be both unreasonable and unnecessary in this case."*

The SEPP 1 Objection has not demonstrated that the underlying objective or purpose of the standard has been satisfied. In this instance, the objective is to ensure that buildings maintain a building envelope of appropriate scale and bulk, reduce potential for adverse overshadowing, and any loss of privacy or outlook, likely to be caused by the proposed development. The area of non-compliance as it relates to the storey and maximum height control applies to the eastern boundary of the site, where it impacts on a Residential 2(d3) zone which is currently occupied by a single dwelling, and the subject of recent development application approval for multi-unit residential development.

The amenity requirements of a residential zone are sensitive necessitating preservation of privacy and solar access achieved by reducing scale and bulk. Given that the affected site is zoned and utilised for residential purposes, the need for strict compliance with the storey and height controls is essential under the circumstances of this case.

**Item 8**

The SEPP 1 Objection has not established that the non-compliance with the number of storeys and maximum height development standards would not hinder the attainment of objects specified in Section 5 (a) (i) and (iii) of the EP & A Act 1979, as it would adversely impact on the amenity of residents within the development.

The SEPP 1 Objection has not demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. The departures have cumulative effects and will result in a development compatible with that of the surrounding properties. Furthermore, the non-compliance will result in any undue dominance of built form and privacy impacts to adjoining properties.

The SEPP 1 Objection has not adequately addressed the requisite aspects of the Policy, is not well founded and in these instances the development standards should not be allowed to be varied.

**Car parking (cl.25J):**

LEP 194 states that if a site is not within 400m of a pedestrian entry to a railway station, each dwelling with three or more bedrooms must provide an additional car parking space. As the development is in excess of 400m from Killara Station and nine of the sixteen units proposed are three-bedroom, a total of 29 car parking spaces are required, made up of 25 resident spaces and 4 visitor spaces.

The development provides a total of 27 car parking spaces, resulting in a car parking shortfall of two spaces and does not comply with the standard.

It is noted that car parking space No.15 has been omitted from the basement car parking plan, with spaces labelled 1-14 and 16-28. The other outstanding car park space has not been provided. No SEPP No.1 objection has been provided in relation to the car parking shortfall.

Non-compliance with the car parking standard and the omission of parking space No.15 was raised as an issue at the meeting held with the applicant on 2 June 2005. No further correspondence in relation to this matter was received by Council.

In the absence of an objection under SEPP1, Council cannot approve variation to the control.

**Residential zone objectives:**

The development is unsatisfactory having regard to the following objectives for residential development as prescribed by clause 25D. In particular, the following objectives have not been met:

- (a) to encourage the protection of existing trees within setback areas and to encourage the provision of sufficient viable deep soil landscaping and tall trees in rear and front gardens where development is carried out;
- (b) to provide side setbacks that enable effective landscaping, tree planting between buildings, separation of buildings for privacy and views from the street to rear landscaping.

## Item 8

The above objectives have not been met due to:

- Inadequate setbacks both at basement and above ground level, which limits/impacts upon the landscape amenity and the ability to provide tall trees for effective screening between properties and to ensure privacy for residents.

**POLICY PROVISIONS**

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

<b>COMPLIANCE TABLE</b>		
<b>Development control</b>	<b>Proposed</b>	<b>Complies</b>
<b>Part 3 Local context:</b>		
<b>Development adjacent to a heritage item:</b>		
• 10m setback (1 <sup>st</sup> & 2 <sup>nd</sup> storeys)	>10m (nearest property located on opposite side of Marian Street)	<b>YES</b>
• 15m setback (3 <sup>rd</sup> & 4 <sup>th</sup> storeys)	>15m (as above)	<b>YES</b>
• No closer than heritage item from front boundary	Not closer	<b>YES</b>
<b>Part 4.1 Landscape design:</b>		
<b>Deep soil landscaping (min)</b>		
• 150m <sup>2</sup> per 1000m <sup>2</sup> of site area = 300m <sup>2</sup>	970.61m <sup>2</sup>	<b>YES</b>
<b>No. of tall trees required (min): 5 trees</b>	12 trees	<b>YES</b>
<b>Part 4.2 Density:</b>		
<b>Building footprint (max):</b>		
• 35% of total site area	671.23m <sup>2</sup> or 35%	<b>YES</b>
<b>Floor space ratio (max):</b>		
• 1:1	1.02:1	<b>NO</b>
<b>Part 4.3 Setbacks:</b>		
<b>Street boundary setback (min):</b>		
• 13-15 metres (<40% of the zone occupied by building footprint)	Marian Street 6.5m-14m Pacific Highway 1.8m-13m	<b>NO</b> <b>NO</b>
<b>Rear boundary setback (min):</b>		
• 6m	6m	<b>YES</b>

Item 8

COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Side boundary setback (min):</b>		
• 6m	4.5m-7m	<b>NO</b>
<b>Setback of ground floor courtyards to street boundary (min):</b>		
• 8m/11m	Marian Street 5.6m-8.5m	<b>NO</b>
<b>% of total area of front setback occupied by private courtyards (max):</b>		
• 15%	Marian Street 20%	<b>NO</b>
<b>Part 4.4 Built form and articulation:</b>		
<b>Façade articulation:</b>		
• Wall plane depth >600mm	>600mm	<b>YES</b>
• Wall plane area <81m <sup>2</sup>	<81m <sup>2</sup>	<b>YES</b>
<b>Built form:</b>		
• Building width < 36m	Marian Street (northern) elevation 18.4m Pacific Highway (western) elevation 32m	<b>YES</b>
• Balcony projection < 1.2m	<1.2m maximum	<b>YES</b>
<b>Part 4.5 Residential amenity</b>		
<b>Solar access:</b>		
• >70% of units receive 3+ hours direct sunlight in winter solstice	81%	<b>YES</b>
• >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice	50% min	<b>YES</b>
• <15% of the total units are single aspect with a western orientation	Units 02 & 11 only single aspect units within development. All other units are dual aspect.	<b>YES</b>
<b>Visual privacy:</b> Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site:		

Item 8

COMPLIANCE TABLE		
Development control	Proposed	Complies
Storeys 1 to 4		
• 12m b/w habitable rooms	>12m	YES
• 9m b/w habitable and non-habitable rooms	>9m	YES
• 6m b/w non-habitable rooms	>6m	YES
5th Storey		
• 18m b/w habitable rooms	>18m	YES
• 13m b/w habitable and non-habitable rooms	>13m	YES
• 9m b/w non-habitable rooms	>9m	YES
<b>Internal amenity:</b>		
• Habitable rooms have a minimum floor to ceiling height of 2.7m	2.7m	YES
• Non-habitable rooms have a minimum floor to ceiling height of 2.4m	2.4m	YES
• 1-2 bedroom units have a minimum plan dimension of 3m in all bedroom	>3m	YES
• 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms	>3m	YES
• Single corridors:		
- serve a maximum of 8 units	5 units	YES
- >1.5m wide	>1.5m	YES
- >1.8m wide at lift lobbies	>1.8m	YES
<b>Outdoor living:</b>		
• ground floor apartments have a terrace or private courtyard greater than 25m <sup>2</sup> in area	<25m <sup>2</sup> (Units 01 & 05)	NO
• Balcony sizes:		
- 10m <sup>2</sup> – 1 bedroom unit	>10m <sup>2</sup>	YES
- 12m <sup>2</sup> – 2 bedroom unit	>12m <sup>2</sup>	YES
- 15m <sup>2</sup> – 3 bedroom unit	>15m <sup>2</sup>	YES
NB. At least one space >10m <sup>2</sup>		

## Item 8

<b>COMPLIANCE TABLE</b>		
<b>Development control</b>	<b>Proposed</b>	<b>Complies</b>
<ul style="list-style-type: none"> <li>primary outdoor space has a minimum dimension of 2.4m</li> </ul>	>2.4m	<b>YES</b>
<b>Part 4.7 Social dimensions:</b>		
<b>Visitable units (min):</b> <ul style="list-style-type: none"> <li>70%</li> </ul>	No access report provided however wheelchair access to all units provided. Units 8 & 13 deemed manageable units.	<b>YES</b>
<b>Housing mix:</b> <ul style="list-style-type: none"> <li>Mix of sizes and types</li> </ul>	Mix of 1, 2 & 3 bedroom units	<b>YES</b>
<b>Part 4.8 Resource, energy and water efficiency:</b>		
<b>Energy efficiency:</b> <ul style="list-style-type: none"> <li>&gt;65% of units are to have natural cross ventilation</li> <li>single aspect units are to have a maximum depth of 10m</li> <li>25% of kitchens are to have an external wall for natural ventilation and light</li> <li>&gt;90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating</li> </ul>	65%	<b>YES</b>
	>10m (12m approx unit 02 only)	<b>NO</b>
	>25%	<b>YES</b>
	4.5 star tar rating = 12.5% 3.5 star rating = 87.5%	<b>NO</b> <b>NO</b>
<b>Part 5 Parking and vehicular access:</b>		
<b>Car parking (min):</b> <ul style="list-style-type: none"> <li>4 resident spaces</li> <li>25 visitor spaces</li> <li>29 total spaces</li> </ul>	4 spaces 23 spaces 27 spaces	<b>YES</b> <b>NO</b> <b>NO</b>

**Part 4.2 Density:**

The proposal is an overdevelopment of the site and is not in keeping with the optimum capacity of the site or the future landscape or built character of the area. The application proposes a floor space ratio of 1.02:1. This fails to satisfy Clause 4.2 C-4 which limits the maximum floor space ratio to 1:1. The FSR therefore indicates a density and building envelope greater than anticipated by the relevant planning instruments and cannot be supported.

**Part 4.3 Setbacks:**

The proposal fails to maintain complying front setbacks to Marian Street and Pacific Highway under DCP 55. The proposal also fails to comply with the side setback control to the adjoining property at No 585 Pacific Highway.

Item 8

More than 40% of the building frontage to Marian Street is set back 13m or less from the boundary, with a large proportion of the frontage occupied by ground floor terraces/private courtyard areas. The setbacks in general to this frontage vary from 6.5m-14m however a uniform setback of 15m is required. Minimal setbacks, the location of the driveway within this frontage and the close proximity of courtyard areas to the street limit opportunities for landscaping and screening for occupants from the street.

To the Pacific Highway, the basement of the building will be excavated up to 1.8m from the Pacific Highway frontage and the building setback above ground will be 8.8m to 13m. This will limit tree replenishment and opportunity for screen planting that will adequately screen the development from the Highway which will result in undue dominance of built form and will compromise privacy to occupants of the site.

The development will be set back between 4.5m and 7m from the southern (side) boundary where the site adjoins No. 585 Pacific Highway. The required setback is 6m. Given the residential nature of this property, compliance with the setback control is necessary to achieve appropriate transition between buildings and amenity to residents on both sites. The site at No.585 Pacific Highway is also zoned Residential 2(d3) and, although existing development on this site is set back in excess of 6m, should the site be developed for medium density a 6m minimum setback to this boundary will apply. Given the minimal setbacks proposed by this development there is potential for two residential flat buildings to then be constructed less than 12m from one another, giving rise to potentially adverse, dominance of built form, overshadowing, loss of deep soil planting and privacy.

Significant issues therefore arise with the proposed non-complying setbacks, as they result in an inability to provide curtilage of sufficient depth to accommodate deep soil landscaping and a curtilage of sufficient dimension to achieve an overall landscape setting as espoused by LEP194 and DCP55.

The proposed non-complying setbacks will also undermine the streetscape setting, by reason of the dominance of the proposal to street boundaries and compromise amenity and privacy for both occupants of the site and residents on adjoining properties. Accordingly, the proposed setbacks are insufficient and cannot be supported.

**Part 4.5 Residential amenity:**

Units 01 and 05 have a ground floor terrace areas of less than 25m<sup>2</sup> as required by DCP55. These units, however, will have a minimum area of approximately 17.5m<sup>2</sup> with landscaped areas beyond. As these areas are located at ground level, the landscaped areas can potentially be used as an informal extension to their private outdoor area. The provided terrace areas although smaller than 25m<sup>2</sup> still comply with minimum dimension requirements and can easily accommodate outdoor furniture. Accordingly, no adverse amenity impacts are anticipated.

**Part 4.8 Resource, energy and water efficiency:**

The proposal fails to provide a 4.5 star NatHERs rating for 90% of the development, with only one unit achieving a 4.5 star rating and 87.5% of the development with 3.5 stars. These ratings are

**Item 8**

inadequate given the development has design options available to achieve a higher standard energy efficiency.

**Part 5 Parking and vehicular access:**

The proposal results in a car parking shortfall of two (2) spaces. Car parking space No.15 has been omitted from the basement car parking plan and an additional space is required given that the site is located in excess of 400m from Killara Station.

The various non-compliances indicate an overdevelopment of the site and the inability to provide appropriate car parking further reinforces this. DCP55 seeks to provide adequate car parking for the buildings users and the proposal does not achieve this. Accordingly the proposed car parking cannot be supported.

**Development Control Plan 31 – Access**

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

**Development Control Plan 40 – Construction and Demolition Waste Management**

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

**Development Control Plan No. 43 – Car Parking**

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

**Development Control Plan 47 – Water Management**

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

**Section 94 Plan**

If approved, the development would attract a section 94 contribution pursuant to the Ku-ring-gai Section 94 Contributions Plan 2004-2009 Residential Development as of 30 June 2004.

**Likely Impacts**

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

Item 8

### **Suitability of the Site**

The site is suitable for medium density development. This development proposal however, will not result in a good town planning outcome and is an overdevelopment of the site.

### **Any Submissions**

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

### **Public Interest**

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

### **Any other Relevant Matters Considerations Not Already Addressed**

There are no other matters for discussion.

### **CONCLUSION**

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

### **RECOMMENDATION**

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

THAT Council, as the consent authority, refuse development consent to Development Application No. 1415/04 for the demolition of two residential dwellings and construction of a four storey residential flat building comprising sixteen units and basement car parking for twenty seven vehicles on land at 32 Marian Street & 589 Pacific Highway, Killara, for the following reasons:

#### **1. Inadequate information**

The documentation and plans submitted to Council are inadequate and fail to provide information in order for Council to properly assess the application.

- The application fails to provide an assessment against the controls of Development Control Plan No. 55.
- The application fails to provide an access report for assessment against Clause 25N of LEP194 as it relates to manageable housing

#### **2. No SEPP 1 objection**

- The application is devoid of a SEPP No.1 objection for the car parking shortfall of two spaces.

Item 8

**3. Streetscape Impact**

The proposal is inconsistent with Clause 25I (l)(a), (c), (d) and (e) of Part IIIA of the Ku-ring-gai Planning Scheme Ordinance in that the proposal will have a detrimental impact on the residential character of the area and adjoining properties due to the scale of the built form, lack of area proposed for landscaping and minimum setbacks proposed.

- (a) The proposal exceeds the maximum number of storeys permissible as specified by Clause 25I (5) of LEP194. Sites with an area of 1,800m<sup>2</sup> but less than 2,400m<sup>2</sup> are allowed up to a maximum of four storeys. The subject site is 1917.8m<sup>2</sup> in area and therefore limited to four storeys. The development proposes five storeys (as defined by LEP194) and requires a SEPP NO.1 objection. The SEPP No.1 objection fails to justify the variation to the development standard and the proposal will result in undue dominance of built form to the streetscape and adjoining sites.
- (b) The proposal exceeds the maximum perimeter ceiling height of 10.3m as required by Clause 25I (8) and requires a SEPP No.1 objection, accordingly. The proposal exceeds the 10.3m maximum height by a maximum of 470mm for approximately 23m of the eastern elevation and approximately 2m along the northern (Marian Street) elevation. The SEPP No.1 objection fails to justify the variation to the development standard and the proposal will result in undue dominance of built form to the streetscape and adjoining sites.
- (c) The proposed basement car park projects exceeds the 1.2m maximum projection above ground level pursuant to Clause 25I(9) of LEP194. Any projection of a car parking area more than 1.2m that exceeds 1.2m above ground level constitutes another storey and requires a SEPP No.1 objection. The proposed basement car park projects up to 1.9m above ground level. The SEPP No.1 objection fails to justify the variation to the development standard and the proposal results in undue dominance of built form to the streetscape and adjoining sites.
- (d) The proposal fails to maintain a front setback zone to Marian Street of 13-15 metres as required by Clause 4.3 C-1 of DCP55. Proposed setbacks to this frontage vary between 6.5m- 14m and results in undue dominance of built form to the streetscape.
- (e) The proposal fails to maintain a front setback zone to Pacific Highway of 13-15 metres as required by Clause 4.3 C-1 of DCP 55. Proposed setbacks to this frontage vary between 1.8m-13m and results in undue dominance of built form to the streetscape.
- (f) The proposal fails to maintain a side setback zone of 6m to the southern boundary as required by Clause 4.3 C-1 of DCP55. Proposed setbacks to this frontage vary between 4.5m-7.5m and results in undue dominance of built form to the streetscape and to neighbouring properties.

Item 8

- (g) The proposal fails to provide an 11m setback to Marian Street from ground floor terraces/courtyards as required by Clause 4.3 C-7 of DCP55. Courtyards to this frontage are setback between 5.6m-8.5m, encroaching on potential deep soil landscaping areas and increasing visibility of built form to the street and surrounding properties.
- (h) The proposed building footprint exceeds 40% of the setback zone as required by Clause 4.3 C-5 of DCP55. The proposed building footprint will account for 100% of the setback zone as it applies to the Marian Street frontage, encroaching on potential deep soil landscaping areas and increasing visibility of built form to the street and surrounding properties.
- (i) The proposed building footprint exceeds 40% of the setback zone as required by Clause 4.3 C-5 of DCP55. The proposed building footprint will account for 100% of the setback zone as it applies to the Pacific Highway frontage, encroaching on potential deep soil landscaping areas and increasing visibility of built form to the street and surrounding properties.
- (j) The ground floor terraces/courtyards exceed more than 15% of the total area of the Marian Street front setback as required by Clause 4.4 C-8 of DCP 55. The development terrace/courtyard areas will account for 20% of the front setback and limit the ability to provide landscaping within the setback area for screening and will result in undue dominance of built form to the streetscape, further comprising privacy of residents within the development.

**4. Density**

The proposal constitutes an over-development of the site and is not in keeping with the optimum capacity of the site, future landscape or built character of the area.

Particulars

- (a) The application proposes an overall floor space ratio of 1.02:1. This is in breach of Clause 4.2 C-4, which limits the maximum floor space ratio to 1:1. The floor space ratio indicates development of an excessive bulk and scale and greater than that anticipated by the relevant planning instruments.

**5. Residential Amenity**

The application fails to provide a high level of residential amenity to future residents of the development and the occupants of the adjoining properties.

Particulars

- (a) Ground Floor Units 01 & 05 do not have courtyard or terrace areas of at least 25m<sup>2</sup> as required by Clause 4.5.5 C-1 of DCP55. This results in an undue dominance of built

Item 8

form to the streetscape, compromises privacy to occupants of the site and limits/impacts upon deep soil landscaping and

**6. Parking and Vehicular Access**

The application fails to provide adequate on-site basement resident and visitor car parking.

Particulars

- (a) The development is located in excess of 400m from the entrance to Killara Station and must provide a total of 29 car parking spaces (25 resident spaces & 4 visitor spaces) in accordance with Clause 25J of LEP194. The proposal provides 25 car parking spaces, with a car parking shortfall of two spaces and requires a SEPP No.1 objection accordingly.
- (b) The basement car park layout omits car parking space No.15 and is therefore inaccurate, providing a total of 25 car parking spaces, instead of the stated 27 car parking spaces. This results in a car parking shortfall of two spaces and requires a SEPP No.1 objection accordingly.

S Watson  
**Executive Assessment Officer**

R Kinninmont  
**Team Leader**  
**Assessment Team - South**

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

M Miocic  
**Director Development & Regulation**

**Attachments:**

- Location sketch - 527480**
- Zoning extract - 527481**
- Architectural drawings - 527496**
- Site areas - 527486**
- Site analysis - 527483**
- Shadow diagrams - 527488**
- Landscaping plans - 527495**
- SEPP No.1 objection - 527491**
- Confidentials**







# LOCATION SKETCH

## 32 Marian Street, KILLARA NSW

### DEVELOPMENT APPLICATION No 1415/04



INCLUDES 2 OBJECTIONS FROM OUTSIDE AREA OF MAP

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



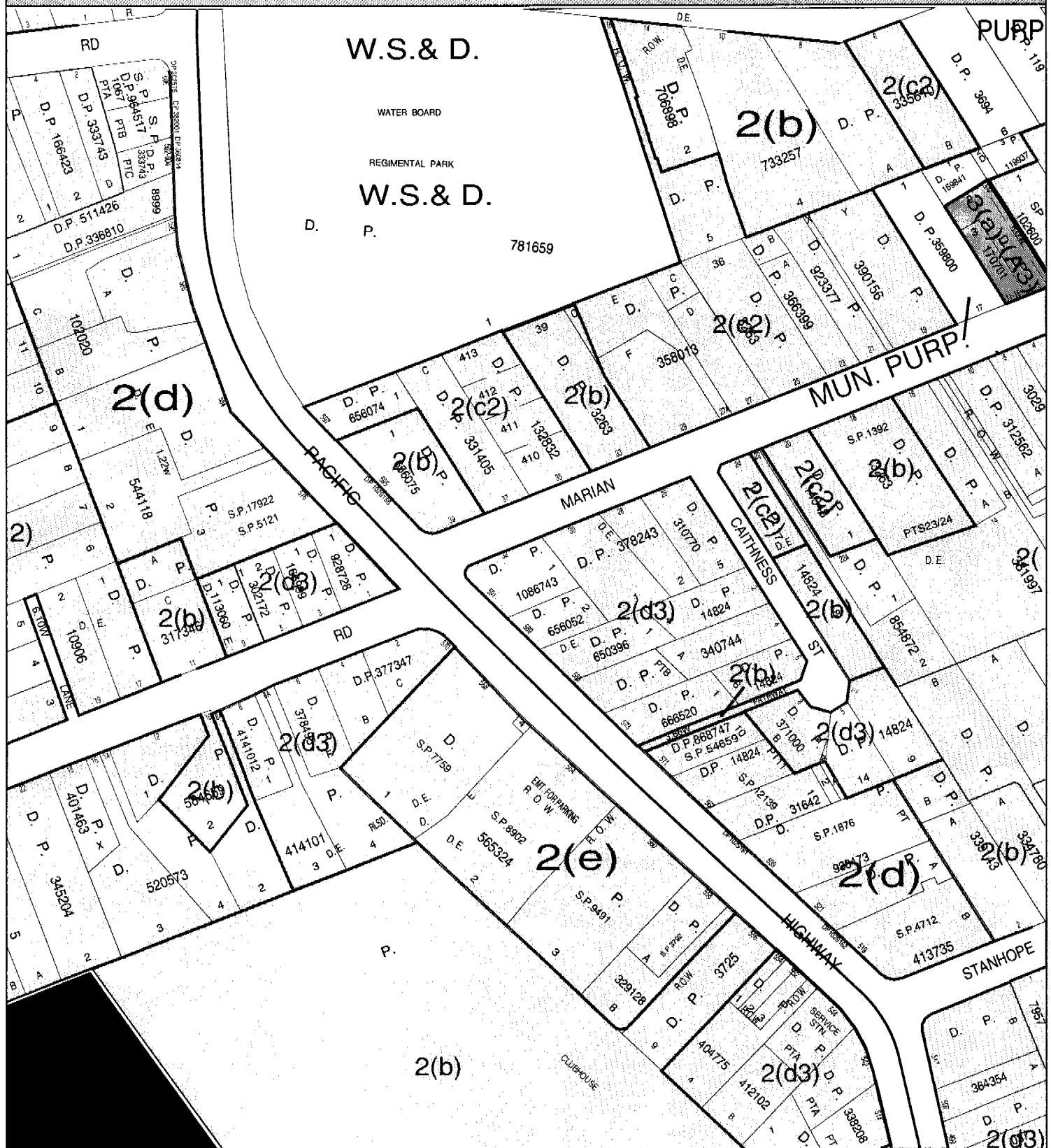
Scale : 1:2500

24-08-2005



# Zoning Extract

## 32 Marian Street KILLARA DA 1415/04



<b>3(a)</b> BUSINESS 3(a)-(A3)	<b>2(d3)</b> RESIDENTIAL 2(d3)
EXISTING COUNTY ROAD	<b>2(e)</b> RESIDENTIAL 2(e)
RECREATION PRIVATE 6(b)	<b>SCH</b> SPECIAL USES 5(a) (Schools etc)
<b>2(b)</b> RESIDENTIAL 2(b)	
<b>2(c2)</b> RESIDENTIAL 2(c2)	
<b>2(d)</b> RESIDENTIAL 2(d)	



**24-08-2005**

**Scale = 1:2500**







NORTH ELEVATION MARIAN STREET

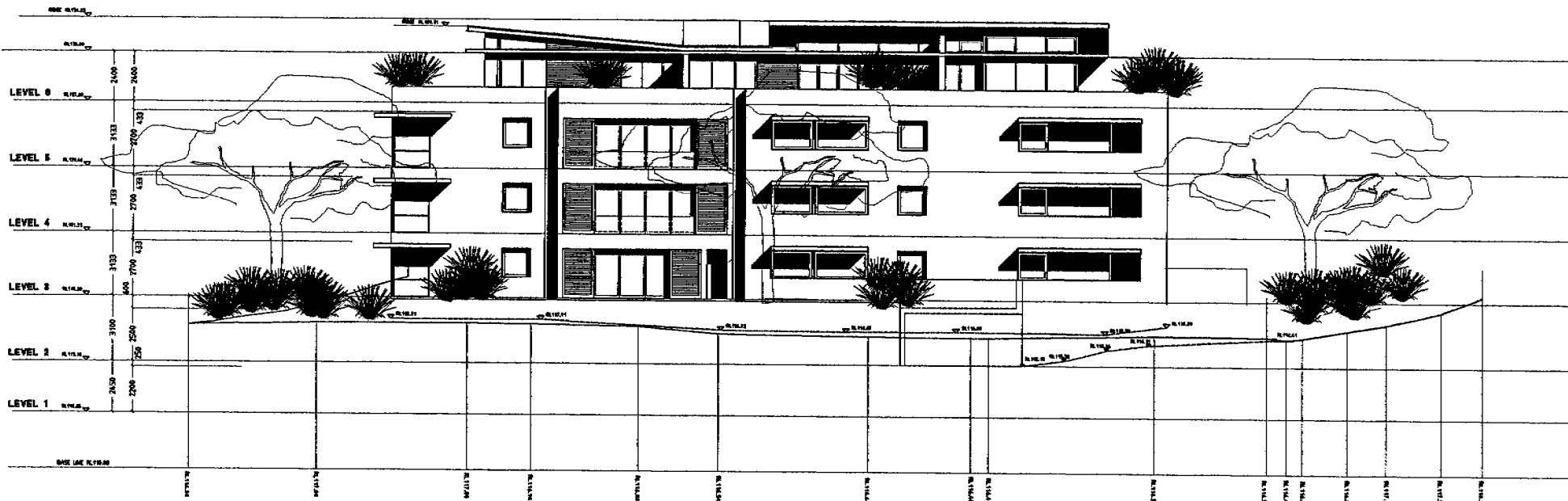


ISSUED  
DATE 11.5.05

<b>QUALITY RECORD</b> PROJECT NO. 11.5.05 PROJECT NAME: 11.5.05 PROJECT LOCATION: 11.5.05 PROJECT OWNER: 11.5.05 PROJECT MANAGER: 11.5.05 PROJECT ENGINEER: 11.5.05 PROJECT ARCHITECT: 11.5.05 PROJECT CONTRACTOR: 11.5.05 PROJECT DATE: 11.5.05 PROJECT STATUS: 11.5.05	
<b>REVISIONS</b> NO. 1 DATE 11.5.05 BY 11.5.05 DESCRIPTION 11.5.05	
<b>NOTES</b> 1. THE ARCHITECT HAS BEEN ADVISED BY THE CLIENT THAT THE CLIENT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT. 2. THE ARCHITECT HAS BEEN ADVISED BY THE CLIENT THAT THE CLIENT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT. 3. THE ARCHITECT HAS BEEN ADVISED BY THE CLIENT THAT THE CLIENT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT.	
<b>CLIENT</b> PROVENT	
<b>PROJECT SITE</b> MARIAN STREET KILLARA	
<b>DRAWING</b> NORTH ELEVATION	
<b>STATUS</b> DEVELOPMENT APPLICATION <input type="checkbox"/> EXISTING <input type="checkbox"/> NEW	
BEFORE SUBMITTING THIS DRAWING TO THE LOCAL GOVERNMENT, THE ARCHITECT HAS BEEN ADVISED BY THE CLIENT THAT THE CLIENT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT.	
SCALE: 1:100	DATE: 11.5.05
123 01 DA 12 A	

[illegible]





EAST ELEVATION

<b>QUALITY RECORD</b> PROJECT NO. 123 01 SHEET NO. 123 01 DATE 12/15/15 DRAWN BY [Name] CHECKED BY [Name] APPROVED BY [Name] TITLE ARCHITECT	
<b>PROJECT DATA</b> PROJECT NAME PROJECT ADDRESS PROJECT CITY PROJECT STATE PROJECT ZIP PROJECT PHONE PROJECT FAX PROJECT EMAIL PROJECT WEBSITE	
<b>CLIENT DATA</b> CLIENT NAME CLIENT ADDRESS CLIENT CITY CLIENT STATE CLIENT ZIP CLIENT PHONE CLIENT FAX CLIENT EMAIL CLIENT WEBSITE	
<b>DESIGNER DATA</b> DESIGNER NAME DESIGNER ADDRESS DESIGNER CITY DESIGNER STATE DESIGNER ZIP DESIGNER PHONE DESIGNER FAX DESIGNER EMAIL DESIGNER WEBSITE	
<b>CONSULTANTS</b> CONSULTANT NAME CONSULTANT ADDRESS CONSULTANT CITY CONSULTANT STATE CONSULTANT ZIP CONSULTANT PHONE CONSULTANT FAX CONSULTANT EMAIL CONSULTANT WEBSITE	
<b>PROVEN</b> PROJECT SITE MAPMAN STREET KILLARA EAST ELEVATION DEVELOPMENT APPLICATION <input type="checkbox"/> EXISTING BUILDING REPLACEMENT <input type="checkbox"/> NEW BUILDING REPLACEMENT SCALE 1/8" = 1'-0" SHEET NO. 123 01 DA 15	



**GFA EXCLUDING BALCONIES**

LEVEL 3	\$15.07m2	
LEVEL 4	\$54.29m2	
LEVEL 5	\$54.29m2	
LEVEL 6	332.02m2	40% OF LEVEL 5 = 332.02m2
TOTAL GFA PROPOSED	1156.27m2	

## BUILDING ENVELOPE

$$\text{SHE AREA} \times \text{SITE COVER} \times \text{SL PLACEMENT} = \text{TOTAL SFR ALLOWED}$$

$$= 1977.8 \text{ sq ft} \times 0.35 \times 3.6 = 2486.4 \text{ sq ft}$$


### AREA CALCULATIONS

SITE AREA BY TITLE	1939.00sq
SITE AREA BY LOTS	1017.50sq
SITE AREA BY PFA LOTS	1017.50sq
SIZE (COVER 35% REEF 194)	679.23sq
PROPOSED SITE COVER 35%	679.23sq
PROPOSED TOTAL LANDSCAPED AREA	7996.74sq
DEEP SOIL LANDSCAPING 50% REEF 194)	958.94sq
ACTUAL DEEP SOIL LANDSCAPING	776.14sq



GRANDING BACK TO A LARGER SCALE  
AND MORE DETAILED PARTICULARS  
OF YOURS WILL BE PRESENTED ON  
GRANDING BACK TO A SMALLER SCALE  
AND FOR MORE GENERAL SUPPORTS

ORDER TO CHECK ALL THE GRANDING  
FROM TO FAMILIARITY OF FITNESS

WHERE ANY DISCREPANCY EXISTS BETWEEN  
PAPER AND SCALE'S MEASUREMENTS  
THE PAPER MEASUREMENTS SHALL PREVAIL



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COMPLETANTS



PROVENT

PRINCE OF WALES  
MARHAM STREET  
KILLARA

**SITE AREAS**

**DEVELOPMENT APPLICATION**

BEFORE CARRYING OUT ANY WORK, ENSURE THAT THE CHAIRMAN'S COPY CARRY THE LATEST AMENDMENT NO.

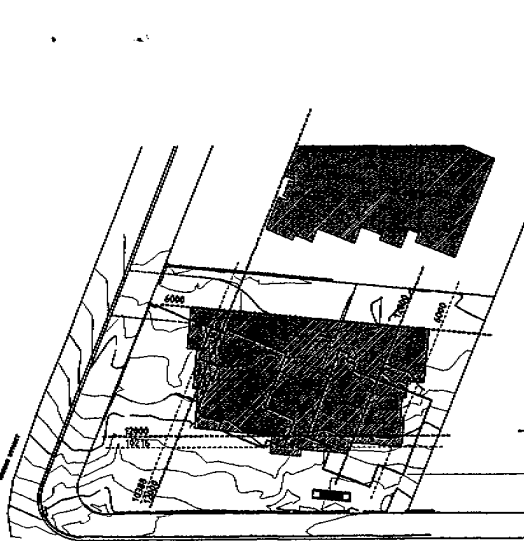
DOLE 1-88 DATE AGREE

123 0

DA 17



	123	0
DA	17	



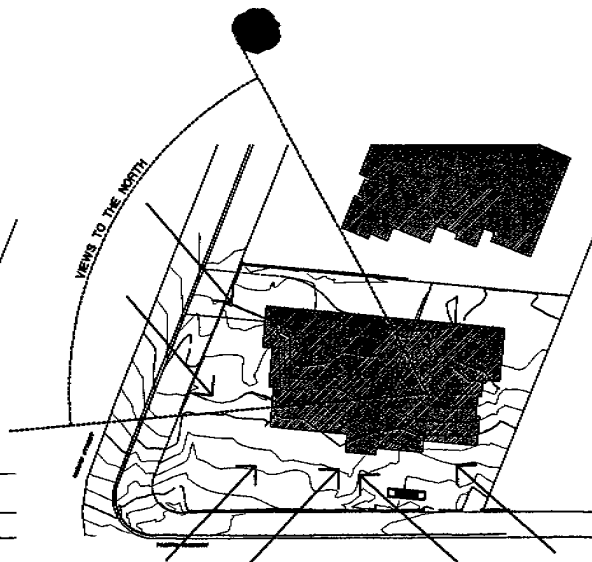
### BUILDING EDGES

THE SITING OF THE BUILDING IS GOVERNED BY THE EXISTENCE OF THREE SUBSTANTIAL TREES ON THE CORNER OR NORTH WESTERN PART OF THE SITE. A 10m SETBACK TO THE CORNER IS ACHIEVED IN ORDER TO REINFORCE THE LANDSCAPED CHARACTER OF THE STREET.

THE AVERAGE SETBACK ALONG MARIAN STREET IS CONSISTANT WITH THE SETBACK OF THE EXISTING DWELLINGS. THE SETBACK IS INCREASED TO 12m AT THE CORNER WITH THE PACIFIC HIGHWAY.

SIDE BOUNDARY SETBACK TO THE EAST BOUNDARY IS SET AT 6 METERS ENSURING ADEQUATE SPATIAL SEPARATION BETWEEN NEIGHBOURING BUILDINGS TO THE EAST.

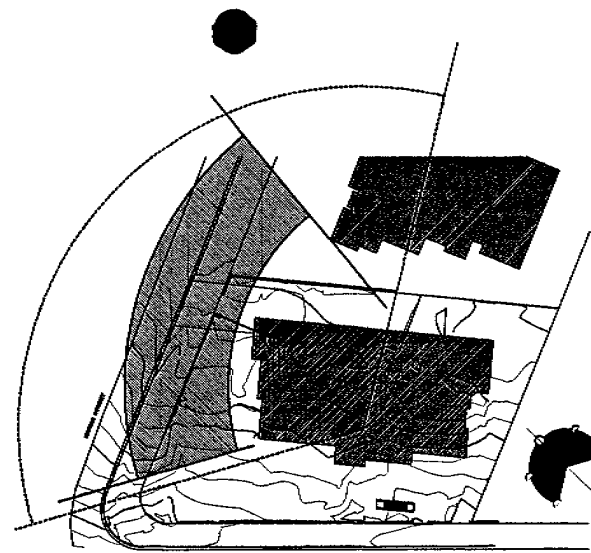
THE REAR BOUNDARY SETBACK IS AVERAGED AT 8m WHICH IS CONSISTANT WITH THE EAST SIDE BOUNDARY SETBACK, ENSURING ADEQUATE SPATIAL SEPARATION BETWEEN ANY FUTURE DEVELOPMENT ALONG THE PACIFIC HIGHWAY.



### VIEWS TO AND FROM THE SITE

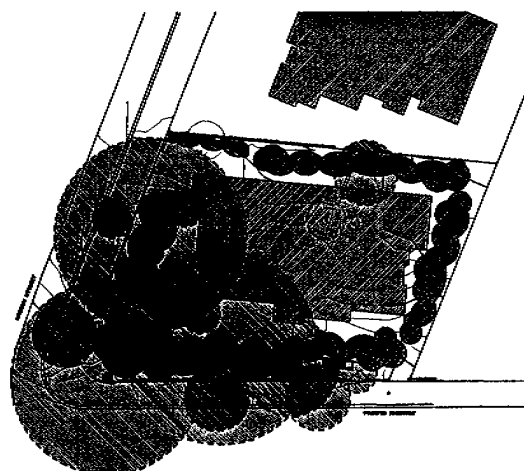
FILTERED VIEWS FROM MARIAN STREET AND THE PACIFIC HWY. OF THE BUILDING THROUGH THE EXISTING TREES. BUILDING FURTHER SCREENED BY NEW LANDSCAPING.

80% OF APARTMENTS OBTAIN DISTANT VIEWS NORTH



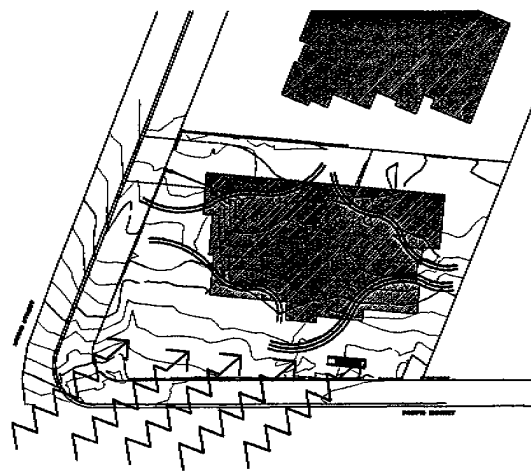
### SOLAR ACCESS

80% OF APARTMENTS ARE ORIENTATED TO THE NORTH AND EAST. ALL LIVING AREAS, BALCONIES AND OUTDOOR PRIVATE OPEN SPACE IN THESE UNITS ARE POSITIONED ON THE NORTHERN AND EASTERN SIDE OF THE BUILDING, ENSURING ADEQUATE SOLAR ACCESS. SECONDARY BEDROOMS ARE MOSTLY POSITIONED TO THE SOUTHERN AND WESTERN SIDE OF THE BUILDING.



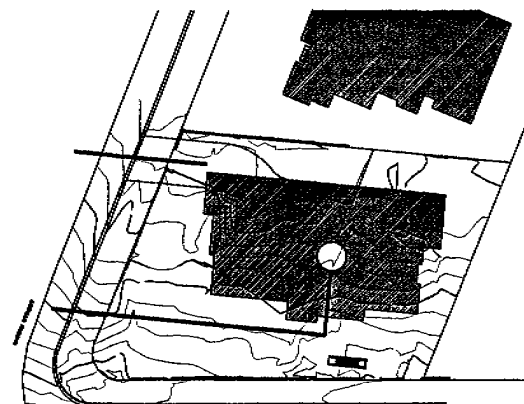
### LANDSCAPE RESPONSE

THE LANDSCAPED CHARACTER OF THE LOCALITY WILL BE MAINTAINED BY THE RETENTION OF THREE LARGE AND SIGNIFICANT TREES ON THE MARIAN STREET PACIFIC HIGHWAY CORNER. NEW PLANTING ALONG THE HIGHWAY AND MARIAN STREET WILL REINFORCE THE SCREENING OF THE BUILDING WHEN VIEWED FROM THE STREET. SCREEN PLANTING WILL BE INCORPORATED ALONG THE EASTERN AND SOUTHERN BOUNDARIES.



### BUILDING PERFORMANCE

THE ARRANGMENT OF THE UNITS AROUND A CORE TOGETHER WITH THE ORIENTATION OF LIVING AREAS ENSURES FLOW THROUGH VENTILATION TO ALL APARTMENTS. ORIENTATION IS PROPOSED TO CATCH PREVAILING BREEZES. ACOUSTIC INSULATION AND BAFFLES TO CONTROL TRAFFIC NOISE FROM THE PACIFIC HIGHWAY.



### ACCESS AND PARKING

VEHICLE ACCESS TO UNDERGROUND CARPARK IS AT THE NORTH EASTERN AND LOWEST CORNER OF THE SITE. THEREFORE MINIMISING THE VEHICLE RAMP ACCESS IS OFF MARIAN STREET TO MINIMISE CONFLICT WITH PACIFIC HIGHWAY TRAFFIC.

PEDESTRIAN ACCESS IS OFF THE NORTHERN, MARIAN STREET BOUNDARY AND ENTERS THE BUILDING AT MIDPOINT ALONG THE PACIFIC HIGHWAY FACADE.

<b>QUALITY RECORD</b> PROJECT NO. 123 01 PROJECT NAME: MARIAN STREET KILLARA PROJECT TYPE: DEVELOPMENT APPLICATION PROJECT DATE: 12/01/01 PROJECT LOCATION: MARIAN STREET KILLARA PROJECT DESCRIPTION: DEVELOPMENT APPLICATION PROJECT STATUS: IN PROGRESS PROJECT MANAGER: [Name] PROJECT ENGINEER: [Name] PROJECT ARCHITECT: [Name] PROJECT LANDSCAPE ARCHITECT: [Name] PROJECT STRUCTURAL ENGINEER: [Name] PROJECT CIVIL ENGINEER: [Name] PROJECT ELECTRICAL ENGINEER: [Name] PROJECT MECHANICAL ENGINEER: [Name] PROJECT ENVIRONMENTAL ENGINEER: [Name] PROJECT OTHER: [Name]	
<b>CONSULTANTS</b> ARCHITECTS: [Name] LANDSCAPE ARCHITECTS: [Name] STRUCTURAL ENGINEERS: [Name] CIVIL ENGINEERS: [Name] ELECTRICAL ENGINEERS: [Name] MECHANICAL ENGINEERS: [Name] ENVIRONMENTAL ENGINEERS: [Name] OTHER: [Name]	
<b>CLIENT</b> PROJECT NO. 123 01 PROJECT NAME: MARIAN STREET KILLARA PROJECT TYPE: DEVELOPMENT APPLICATION PROJECT DATE: 12/01/01 PROJECT LOCATION: MARIAN STREET KILLARA PROJECT DESCRIPTION: DEVELOPMENT APPLICATION PROJECT STATUS: IN PROGRESS PROJECT MANAGER: [Name] PROJECT ENGINEER: [Name] PROJECT ARCHITECT: [Name] PROJECT LANDSCAPE ARCHITECT: [Name] PROJECT STRUCTURAL ENGINEER: [Name] PROJECT CIVIL ENGINEER: [Name] PROJECT ELECTRICAL ENGINEER: [Name] PROJECT MECHANICAL ENGINEER: [Name] PROJECT ENVIRONMENTAL ENGINEER: [Name] PROJECT OTHER: [Name]	
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<b>DA 18</b>	

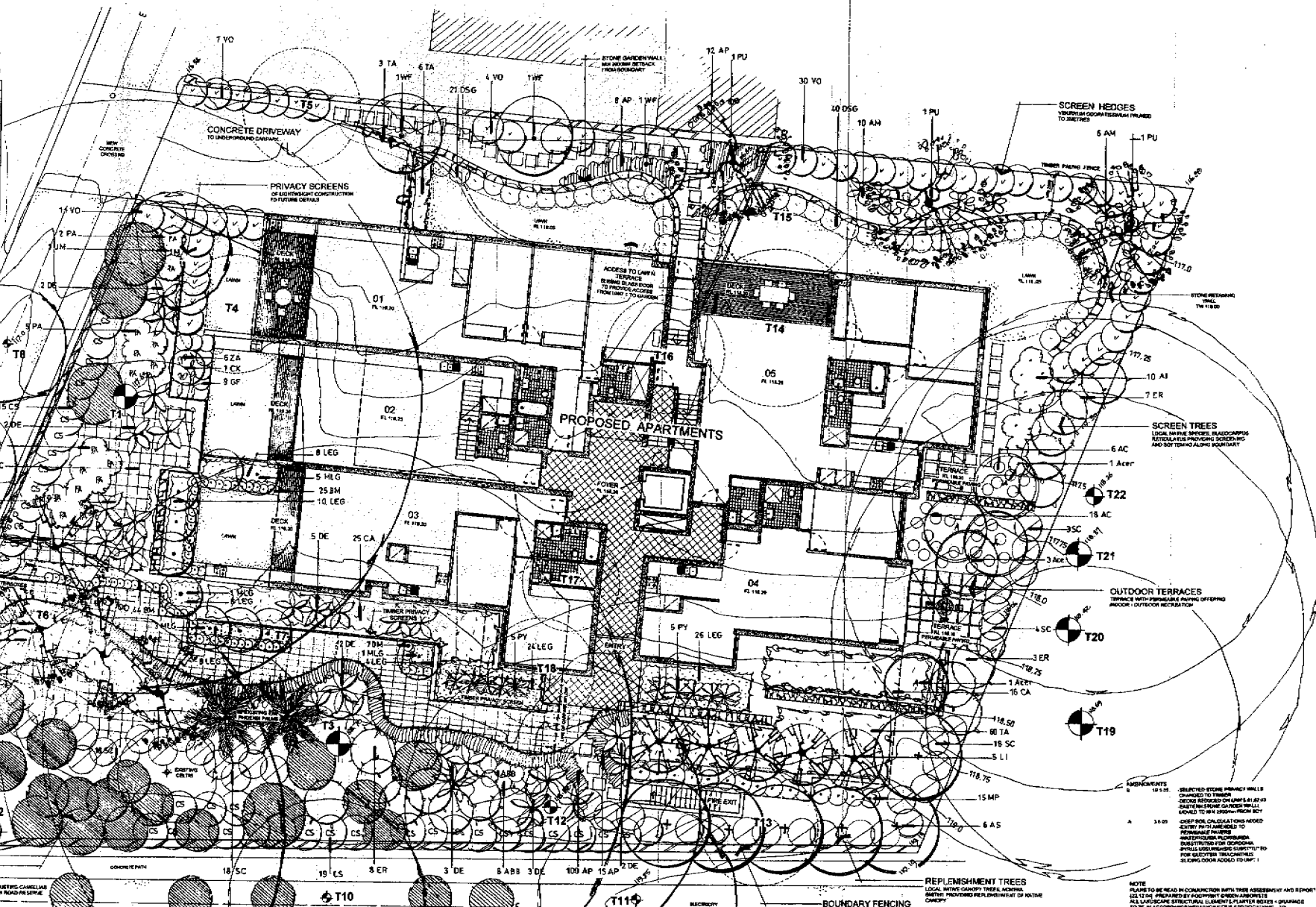


PLANTING SCHEDULE

Table with 5 columns: TREE SPECIES, COMMON NAME, MATURE HEIGHT, DBH, and NOTES. It lists various tree species like Acer palmatum, Ficus religiosa, etc., and their specifications for the project.

Table with 5 columns: TREE SPECIES, COMMON NAME, MATURE HEIGHT, DBH, and NOTES. It continues the list of tree species and their specifications, including groundcovers and accents.

Table with 5 columns: TREE SPECIES, COMMON NAME, MATURE HEIGHT, DBH, and NOTES. It lists existing trees on the site and their details.



LANDSCAPE PLAN GROUND FLOOR LEVEL SCALE 1:400

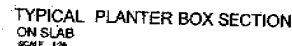
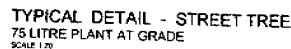
Table with 5 columns: TREE SPECIES, COMMON NAME, MATURE HEIGHT, DBH, and NOTES. It lists existing trees on the site and their details.

LANDSCAPE DESIGN PRINCIPLES TO MAINTAIN AND ENHANCE PREDOMINANT TREE DOMINATED LANDSCAPE TO PROVIDE ACOUSTIC BUFFER TO ADJACENT RESIDENTIAL DEVELOPMENT TO PROVIDE ACOUSTIC BUFFER TO ADJACENT RESIDENTIAL DEVELOPMENT TO PROVIDE ACOUSTIC BUFFER TO ADJACENT RESIDENTIAL DEVELOPMENT

PACIFIC HIGHWAY LEGEND. Includes symbols for existing trees to be removed, existing trees to be retained, and various landscape features like stone walls and terraces.

DEEP SOIL LANDSCAPING AREA. Includes a map of the area and a table of soil test results.

LANDSCAPE PLAN GROUND FLOOR LEVEL. Includes a title block with project information, a scale bar, and a north arrow.



## L02

**OBJECTION PURSUANT TO STATE ENVIRONMENTAL  
PLANNING POLICY NO 1 & DRAFT STATE ENVIRONMENTAL  
PLANNING POLICY (APPLICATION OF DEVELOPMENT  
STANDARDS) 2004**

**VARIATION OF DEVELOPMENT STANDARDS REGARDING COMPLIANCE  
WITH THE MAXIMUM NUMBER OF STOREYS, PERIMETER CEILING  
HEIGHT AND PROJECTION OF THE BASEMENT OUT OF THE GROUND  
CONTROLS AS REQUIRED BY CLAUSES 25I(5), 25I(8) & 25I(9) OF THE KU-  
RING-GAI LOCAL ENVIRONMENTAL PLAN NO 194**

**For:** Proposed Residential Flat Building  
**At:** 32 Marian Street and 589 Pacific Highway, Killara  
**Applicant:** Provent Pty Limited

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**Introduction**

This objection is made pursuant to the provisions of Clause 6 of State Environmental Planning Policy No.1 (SEPP No.1) and Clause 7 of Draft State Environmental Planning Policy (Application of Development Standards) 2004.

The objection is made in support of non-compliances with respect to the maximum number of storeys, the maximum perimeter ceiling height and the maximum projection of the basement above ground level as adopted in the Ku-ring-gai Local Environmental Plan No. 194.

A plan depicting the area of non compliance with the perimeter height limit is provided as an attachment to this objection.

As detailed in this objection it is considered that there are no detrimental impacts that arise as a result of these variations, with the contrary position occurring whereby the departures actually result in a positive benefit whereby significant existing vegetation can be preserved.

**1. Is the control to be varied a development standard?**

Clause 25I of LEP No.194 is titled "Site Requirements and Development Standards for Multi-Unit Housing". The relevant clauses and the proposals relationship to those standards are detailed in the attached table:

Clause	Requirement	Proposal	Compliance										
Clause 25I(5) – Maximum No. of Storeys	<ul style="list-style-type: none"><li>For sites <math>&lt;1800\text{m}^2 = 3</math> storeys</li><li>For sites <math>&gt;1800\text{m}^2</math> but <math>&lt;2400\text{m}^2 = 4</math> storeys</li><li>For sites <math>&gt;2400\text{m}^2 = 5</math> storeys</li></ul>	Generally 4 storeys, although noting that the basement in part extends more than 1.2m out of the ground and for which a SEPP No.1 objection has been prepared.	Yes, subject to support of SEPP No.1 Objection										
Clause 25I(8) – Maximum No. of Storeys and Ceiling Height	<p>For the 2(d3) zone the maximum no. of storeys excluding a reduced top floor is 4 storeys and in all cases the following is to be complied with:</p> <table><tr><th>No. of Storeys</th><th>Max. perimeter ceiling height</th></tr><tr><td>1</td><td>4.5m</td></tr><tr><td>2</td><td>7.2m</td></tr><tr><td>3</td><td>10.3m</td></tr><tr><td>4</td><td>13.4m</td></tr></table>	No. of Storeys	Max. perimeter ceiling height	1	4.5m	2	7.2m	3	10.3m	4	13.4m	Part of the ceiling height of the third storey exceeds 10.3 metres in height. A SEPP No.1 objection has been prepared in support of this variation. The breach occurs as a result of the need to protect the roots of existing trees.	Yes, subject to support of SEPP No.1 objection.
No. of Storeys	Max. perimeter ceiling height												
1	4.5m												
2	7.2m												
3	10.3m												
4	13.4m												
Clause 25I(9) – Maximum Projection of Basement or the like Out of Ground	Any enclosing wall or ceiling which extends more than 1.2m out of the ground is to be regarded as a storey.	Part of the proposed basement extends more than 1.2m as a result of the need to preserve tree roots and the existing	Yes, subject to support of SEPP No.1 objection.										

		developed levels of the site. A SEPP No.1 objection has been prepared in support of this variation.	
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It is considered that these controls are development standards as defined by Section 4 of the Environmental Planning and Assessment Act.

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

The underlying objective or purpose of these provisions is considered to ensure that building design is of a high quality and to ensure that there is a level of control provided in respect of building heights. In this regard it is considered that the provisions will ensure that buildings have consistent heights and that buildings are designed having regard to the characteristics and topography of a site.

**3. Is compliance with the development standard consistent with the aim of SEPP No.1**

The aim of SEPP No.1 is to:

*Provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.*

In this regard the objects of Section 5(a)(i) and (ii) of the Act are:

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

In this regard it is considered that strict compliance with the development standard would not result in development that is consistent with the aim

of SEPP No.1, as it would not allow for the proposed yield envisaged by the LEP to be achieved and at the other extreme would result in a development that would potentially impact upon significant existing vegetation.

**4. Why compliance with the standard is unreasonable or unnecessary in the circumstances of this case**

The variations proposed are in my opinion only minor in nature and constitute only a minor proportion of the proposals overall building area.

In this regard the ground floor level of the proposal and in turn the height of the basement out of the ground and the perimeter ceiling height of Level 3 are all governed by the need to minimise impact and hence excavation in the root zone of the 3 Sydney Blue Gums. Any further lowering of the building would necessitate excavation within the root zones of these trees and which for obvious reasons is not supported.

The full extent of the encroachment is detailed on the plan that accompanies this objection. The plan indicates that the area of affectation applies to approximately 15.5% of the proposal and results in a maximum encroachment above the maximum height control by approximately 470mm.

Also in support of the proposed breach it is worth noting that the affected area is generally located over the existing driveway and garage and which have previously been excavated into the site. It is possible that had this excavation not occurred that the proposal would comply with the requirements of the LEP.

Other possible design solutions in order to overcome the variation to the perimeter ceiling height control would be to reduce internal ceiling heights. However such a change would not be consistent with the Residential Flat Design Code and as such is also not supported.

It is not considered that there are any detrimental impacts that arise from this departure particularly in relation to overshadowing, streetscape or visual impact when viewed from adjoining properties.

On this basis it is considered that given the minor nature of the variation combined with the positive benefits that arise from minimising impacts upon the existing trees that compliance would be both unreasonable and unnecessary in this case.

**5. Draft State Environmental Planning Policy (Application of Development Standards) 2004**

Clause 7 of the Draft SEPP details the steps to be followed in making an application for departure from the requirements of a development standard.

In this regard Clause 7(2) of the draft SEPP states:

*The written statement (pursuant to Clause 7(1) of the SEPP) must demonstrate how each of the following requirements is satisfied:*

- (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 or objectives expressed in, or implied from:*
  - i. The zone in which the development is proposed to be carried out,*
  - ii. The development standard, or**any relevant environmental planning instrument.*

The term "a better environmental planning outcome" is defined within Clause 7(3) of the draft SEPP.

It is my opinion that having assessed the proposed variations that they will result in a better environmental planning outcome as has been detailed within this submission. The key benefit being that the proposal will ensure that 3 existing Sydney Blue Gums located upon the property are not impacted upon.

It is my opinion that all of the above variations represent exceptional design quality consistent with Clause (3)(b)(i) of the draft SEPP and as such the variations are worthy of the support of the consent authority.

## **6. Conclusion**

The proposed variations will allow for the retention of 3 existing Sydney Blue Gums upon the site without resulting in any detrimental impacts.

Notwithstanding that the proposal results in three standards being varied, it is considered that the proposed development achieves the good design principles embodied within the LEP.

On this basis I submit that it would be both unreasonable and unnecessary for strict compliance with this standard to be required in this case for the above-mentioned reasons.

It is submitted that the proposal complies with the intent and objectives of the design principles contained within the LEP and achieves compliance with general aims of the LEP.

It is therefore requested that the Council support the variation to the development standards as proposed by this submission.

Andrew Minto  
Graduate Diploma Urban & Regional Planning, Associate Diploma (Health & Building Surveying). MPIA, MAIBS.  
GLENDINNING MINTO & ASSOCIATES PTY LTD  
December 2004

DEVELOPMENT  
SITE  
LOT 1 DP378243

131°23'40" 51.595

36.52  
349°22'00"

ENCLOSURE WITH HEIGHT LIMIT OF 15' 0"

SEE PLAN FOR EXISTING AND PROPOSED  
FLOOD ZONE AND FLOOD ELEVATION  
FLOOD ELEVATION 10.0' 0"

AREA OF NEW CONCRETE DRIVEWAY  
AREA OF NEW CONCRETE DRIVEWAY

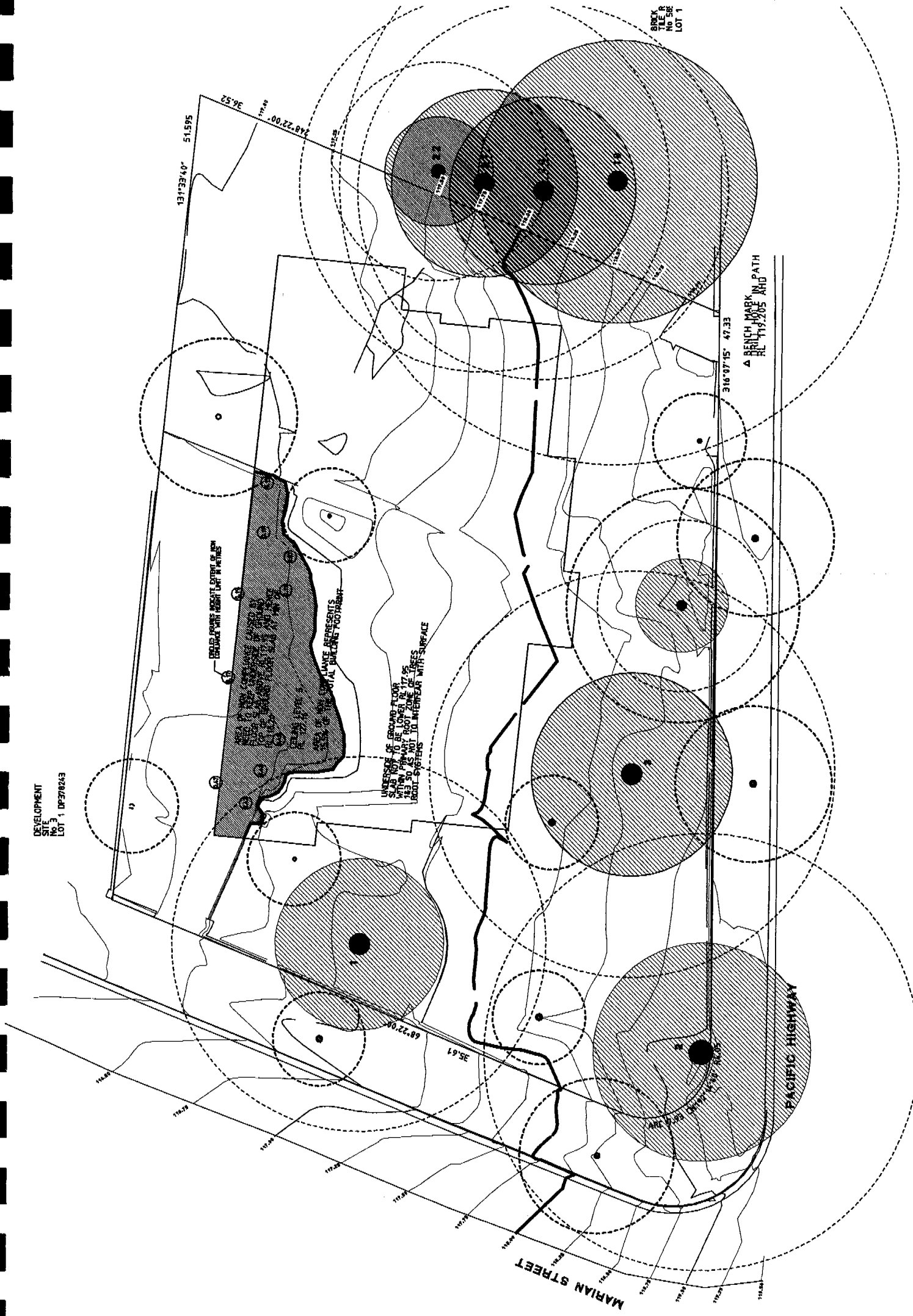
UNDERSTORY OF GROUND FLOOR  
SLAB MUST BE LOWER IN 17' 0" BE  
WITHIN PERMANENT ROOT ZONE OF TREES  
AND SO AS NOT TO INTERFERE WITH SURFACE  
ROOT SYSTEMS

MARIAN STREET

PACIFIC HIGHWAY

316°07'15" 42.33  
BENCH MARK  
RL 419.265 XING PATH

BRICK  
TILE  
NO. 52  
LOT 1



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## NOTICE OF MOTION

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### LAND & ENVIRONMENT COURT CLASS 1 APPEAL OUTCOMES

**Notice of Motion from Councillor T Hall dated 28 July 2005.**

I move:

"That where judgments of class 1 appeals handed down in the Land & Environment Court include a criticism, requirement or suggestion by the Court's Commissioner for the Council to review its policies/development control plans that he/she consider faulty as a result of the outcome of individual Class 1 appeals, these matters be reported with an appropriate staff recommendation to Council for review as to implementation, as soon as possible after the handing down of the relevant judgment.

I refer particularly to the Court's criticisms of Council's bonding conditions of landscaping/preservation of trees (see Appeals No.11333 of 2004 and No.10238/2005), the DCP condition for the rejection of Childcare Centres sited within 100m of sub-arterial roads (see Appeal no.10072 of 2005) and restrictions as to user on title, (Appeal No.11333 of 2005)".

Note. This list is not complete.

### RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Cr Tony Hall  
Councillor for St Ives Ward

**Attachments:**      **Background notes: Memo dated 26 July 2005 by Council's Corporate Lawyer (under separate cover - 517668).**

26 July 2005

**MEMORANDUM**

TO: THE MAYOR AND ALL COUNCILLORS

COPY TO: BRIAN BELL, GENERAL MANAGER  
MICHAEL MIOCIC, DIRECTOR DEVELOPMENT AND REGULATION  
STEPHEN HEAD, DIRECTOR OPEN SPACE  
GREG PICONI, DIRECTOR TECHNICAL SERVICES  
MATTHEW PRENDERGAST, MANAGER DEVELOPMENT ASSESSMENT SERVICES

FROM: JAMIE TAYLOR, CORPORATE LAWYER

SUBJECT: **LAND AND ENVIRONMENT COURT**

Attached are details of all current Class 1 appeals in the Land and Environment Court to which Council is a party. In relation to those matters which have been listed for hearing, the dates are indicated.

You will note that the following new appeals have been received:

1. Ku-ring-gai Council ats Andrew Wydner (LEC No 10434 of 2005) DA0234/05 for 2 Fitzroy Street, Killara.
2. Ku-ring-gai Council ats Alice Eve Kaplun (LEC No 10451 of 2005) DA1304/04 for 25 Highfield Road, Lindfield.
3. Ku-ring-gai Council ats Robert & Sue Clare (LEC No 10465 of 2005) DA0990/03 for 7-9 Stuart Street, Wahroonga.
4. Ku-ring-gai Council ats David Arthur & Dora Maria Byron (LEC No 10473 of 2005) DA0261/05 for 38B Holmes Street, Turramurra.
5. Ku-ring-gai Council ats John and Margaret Grattan (LEC No 10504 of 2005) DA0162/05 for 93 Lucinda Avenue, Wahroonga.
6. Ku-ring-gai Council ats Lyn Cawthorne (LEC No 10505 of 2005) DA0319/05 for 122 Junction Road, Wahroonga.
7. Ku-ring-gai Council ats Xiang Rong Australia (Investments) Pty Ltd (LEC No 10507 and 10506 of 2004) DA1696/03 and DA1697/03 for Lots 2 and 1, 82 Pymble Avenue, Pymble.
8. Ku-ring-gai Council ats Keith Kwok Kei Tai (LEC No 10567 of 2005) DA668/03 for 21 Merlin Street, Roseville.
9. Ku-ring-gai Council ats Alister and Judy Cox (LEC No 10603 of 2005) DA0251/05 for 27 Ayres Road, St Ives.
10. Ku-ring-gai Council ats Arkibuilt Pty Ltd (LEC No 10611 of 2005) DA0282/05 for 2-8 Milray Street and 10 Havilah Lane, Lindfield.

11. Ku-ring-gai Council ats Lyndon Fields Pty Ltd (LEC No 10600 and 10601 of 2005) DA0379/05 and DA0380/05 for Lots 1 and 2 of 51 Benaroon Street, St Ives.
12. Ku-ring-gai Council ats Rim & Rhonda Keris (LEC No 10602 of 2005) DA0318/05 for 45 Warrangi Street, Turramurra.
13. Ku-ring-gai Council ats Specialist Properties Pty Ltd (LEC No 10637 of 2005) DA0766/04 for 52 Cowan Road, St Ives.
14. Ku-ring-gai Council ats Kathryn Kirwan (LEC No 10682 of 2005) DA1624/03 for 15 Belgium Avenue, Roseville.
15. Ku-ring-gai Council ats Andrew & Joy Steiner (LEC No 10788, 10789, 10790, 10791, 10792 and 10793 of 2005) DAs0437/05, DA0438/05, DA0439/05, DA0440/05, DA0441/05 and DA0442/05 for 79-81 Killeaton Street, St Ives.
16. Ku-ring-gai Council ats Nancy Cummins (LEC No 10782 of 2005) DA0240/05 for 29 Cowan Road, St Ives.
17. Ku-ring-gai Council ats Project Venture Development No 11 Pty Ltd (LEC No 10780 of 2005) DA1415/04 for 589 Pacific Highway and 32 Marian Street, Killara.
18. Ku-ring-gai Council ats Northeast Homes (LEC No 10771 of 2005) DA0113/05 for 1203-1209 Pacific Highway, Turramurra.
19. Ku-ring-gai Council ats Ken Yardley (LEC No 10743 of 2005) DA0489/05 for 11 Abingdon Road, Roseville.
20. Ku-ring-gai Council ats BCE Investments (Aust) Pty Ltd (LEC Nos 10721 to 10728 of 2005) DAs0532/02A, DA0395/05, DA0396/05, DA0397/05, DA0398/05, DA0399/05, DA0401/05 and DA0402/05 for 4 Munderah Avenue, Wahroonga.
21. Ku-ring-gai Council ats Ilan & Lynda Ben-Menashe (LEC No 10748 of 2005) DA0405/05 for 41 Kissing Point Road, Turramurra.

I also attach for Councillors' information, an appeal outcome report for the following appeals:

1. Ku-ring-gai Council ats Alex Lysenko (LEC No 11552 of 2004) DA 1650/03 for property at 303 Bobbin Head Road (43 –45 Kedumba Crescent), Turramurra.
2. Ku-ring-gai Council ats Ghaderi-Araghi (LEC Nos 11612, 11383 and 10955 of 2004) DA 1647/03 for property at 7 Camden Gardens, North Turramurra.
3. Ku-ring-gai Council ats Rafat George Wassef (LEC No 10870 of 2004) DA 1717/04 for property at 21 Rothwell Road, Turramurra.
4. Ku-ring-gai Council ats Quinn Homes Pty Ltd (LEC No 10675 of 2005) DA 462/03 for property at 34 Addison Avenue, Roseville.
5. Ku-ring-gai Council ats Shaynd (LEC No 11366 of 2004) DA 0688/04 for property at 86 Kitchener Street, St Ives.

6. Ku-ring-gai Council ats Allen and Hawkes (LEC No 11333 of 2004) DA 0314/04 for property at 32 Waratah Street, Turramurra.
7. Ku-ring-gai Council ats Brian Leonard & Carnegie Credit Management Service Ltd (LEC No 11389 of 2004) DA 997/04 for property at 20 Warwick Street, Killara.
8. Ku-ring-gai Council ats Katter (LEC No 10293 of 2005) DA 0076/05 for property at 544 Pacific Highway, Killara.
9. Ku-ring-gai Council ats Owen Haviland Pty Ltd (LEC No 11589 of 2004) DA 0420/03 for property at 143 Mona Vale Road, St Ives.
10. Ku-ring-gai Council ats Lee (LEC No 10313 of 2005) DA 0687/04 for property at 10 Saiala Road, East Killara.
11. Ku-ring-gai Council ats Shuttleworth (LEC No 11304 of 2004) DA 1369/03 for property at 37 Horace Street, St Ives.
12. Ku-ring-gai Council ats Lisa Cribb (LEC No 10238 of 2005) DA 0303/04 for property at 71 The Chase Road, Turramurra.
13. Ku-ring-gai Council ats King (LEC No 11567 and 11568 of 2004) DAs 1124, 1125 and 1126/2003 for property at 2 Normurra Avenue, North Turramurra.
14. Ku-ring-gai Council ats Rolf Bloch-Jorgensen (LEC No 10202 of 2005) DA 0792/04 for property at 24 Cornwall Avenue, Turramurra.
15. Ku-ring-gai Council ats Acre Woods Childcare (LEC No 10072 of 2005) DA 1266/04 for property at 81 Clanville Road, Roseville.

There is currently one Class 4 appeal as follows:

1. Ku-ring-gai Council ats David & Roslyn McGovern (LEC No 40607 of 2005) DA1417/04 - validity of consent for 49 Telegraph Road, Pymble.

There is currently one 56A appeal as follows:

1. Ku-ring-gai Council ats Loombah Investments – decision of Senior Commissioner Roseth re 2 Loombah Avenue, Lindfield.

I would be happy to respond to any Councillor in relation to any queries regarding these matters.



Jamie Taylor  
Attach:

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## NOTICE OF MOTION

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### DELEGATION OF AUTHORITY - SUBDIVISIONS

**Notice of Motion from Councillor T Hall dated 17 August 2005.**

Further to my motion of 24 May 2005 and general agreement reached at the Planning Committee meeting of 16 August 2005,

I move:

"That all development applications proposing Torrens title subdivision to create up to three lots be determined by staff under delegated authority, excepting subdivision of land that:

- is within the "hatched area" as identified on Council's Bushfire Prone Land Map
- contains a heritage item
- contains remnant bushland vegetation or endangered ecological species

and excepting any application that is called to full Council by a Councillor".

### RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Cr Tony Hall  
Councillor for St Ives Ward

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## NOTICE OF MOTION

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### PROTOCOL FOR THE LAND AND ENVIRONMENT COURT

**Notice of Motion from Councillor L Bennett dated 29 August 2005.**

I move that:

- "A. Council develop a Protocol for providing information in support of refusal to the Land and Environment Court where Council refuses a Development Application against the recommendation of the Officers
- B. Until such a Protocol is formally adopted by Council that, when such an appeal is notified to Council, an independent consultant who is prepared to support Council's reasons for refusal be briefed to provide an appropriate Report which can be tendered as evidence to the Court."

### RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Laura Bennett  
Councillor for St Ives Ward