



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 8 MARCH 2005 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A

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NOTE: For full details, see Council's Website –
www.kmc.nsw.gov.au under the link to Business Papers

APOLOGIES

DECLARATION OF PECUNIARY INTEREST

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

ADDRESS THE COUNCIL

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

DOCUMENTS CIRCULATED TO COUNCILLORS

CONFIRMATION OF MINUTES

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 15 February 2005

Minutes numbered 29 to 52

MINUTES FROM THE MAYOR

PETITIONS

REPORTS FROM COMMITTEES

Minutes of Inspections Committee

File: S02131

Meeting held 12 February 2005

Minute No INS3

GENERAL BUSINESS

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

GB.1 7 Shelby Road, St Ives - Section 82a Review : Dual Occupancy

1

File: DA1061/03

Ward: St Ives

Applicant: Helen Blaxland c/- Champion Home Sales P/L

Owner: Mrs Helen Blaxland

To carry out a review under Section 82A of an application for a detached dual occupancy that was refused by Council on 16 August 2004.

Recommendation:

Approval

GB.2 143 To 145 Pentecost Avenue, Turramurra

74

File: 1692/03

To address the issues raised at the site inspection of 13 December 2004 and for Council to determine Development Application No 1692/03, for a childcare centre.

No issues raised by the Councillors in attendance at the site inspection.

Recommendation:

That the additional information be noted, and that the application be approved, subject to conditions.

156

To address matters raised at the site inspection of 12 February 2005 and for Council to determine a development application for the demolition of the existing dwelling and construction of a detached dual occupancy.

That the additional information be noted, and that the application be approved, subject to conditions.

222

To consider amending the Meeting Cycle for April 2005 because of the school holidays.

That Council's Meeting Cycle for April 2005 be amended.

254

To consider Council's Code of Conduct, incorporating the Model Code of Conduct from the Department of Local Government.

That the Councils Code of Conduct, incorporating the Department of Local Governments Model Code of Conduct, be placed on public exhibition for comment.

254

To give consideration to adopting an amended Code of Meeting Practice.

That the amended Code of Meeting Practice be placed on public exhibition for a period of 28 days and that a further report be submitted following exhibition.

GB.7 Policy For The Payment Of Expenses And Provision Of Facilities To Councillors 304

File: S03779

To consider submissions received as a result of public notification of proposed amendments to Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors.

Recommendation:

That Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors in Attachment 2, be adopted.

GB.8 Options For Undergrounding Of Powerlines And Cables In Lep194, Lep 200 And Business Centres Covered In Stage 2 320

File: S02051

To report on options for funding of undergrounding power lines and cables for future developments under LEP 194 and 200 and in Business Centres covered by Stage 2 of the Residential Development Strategy.

Recommendation:

That the report be received and noted in accordance with the recommendations A - B

GB.9 Squadron Court - Road Naming 335

File: S03211

To report on the proposal to name a road in the new Lindfield Heights subdivision running off Bradfield Road 'Squadron Court'.

Recommendation:

That Council name the new road off Bradfield Road into Lindfield Heights subdivision 'Squadron Court' and that notices be published in a local newspaper and the NSW Government Gazette. Australia Post, the Registrar General, Surveyor General and the Geographical Names Board are to be advised.

GB.10 Proposed Easement And Connection To Drainage System Over A Pedestrian Pathway To Benefit 27 Margaret Street, Roseville 339

File: P51068

For Council to consider granting a drainage easement over a Council land to the applicant at 27 Margaret Street, Roseville and connection to stormwater Council drainage system.

Recommendation:

That council approve in principle, granting of the easement and connection subject to conditions 1-8 in recommendations.

GB.11 Sponsorship Proposals: The Business Awards And Community Business Awards 346

File: S02091

To advise Council of proposals from Precedent Productions and Cumberland Newspaper Group for Council to sponsor 2 separate small business awards for 2005.

Recommendation:

That Council support the proposals from Precedent Productions to sponsor The Business Awards for \$3,850, and Cumberland Newspaper Group to sponsor The Community Business Awards for \$3,000 (Total \$6,850).

GB.12 Draft Local Environmental Plan No 204 - Consideration Of Submissions 376

File: S03843

To consider the submissions made in respect of the exhibition of Draft Local Environmental Plan No 204 (DLEP 204) and for Council to resolve the manner in which to finalise the Draft Plan.

Recommendation:

That Council resolve to adopt the final format of Draft Local Environmental Plan No 204 and forward it to the Minister requesting its gazettal

GB.13 71 Beechworth Road, Pymble 429

File: DA0406/04

To address the issues raised at the site inspection of 11 December 2004 and for Council to determine a development application for the construction of a detached dual occupancy development.

Recommendation:

Approval

GB.14 8-12 Ada Avenue And 7 Munderah Road, Wahroonga - Demolition Of Existing Dwellings On Site And Construction Of 34 X 3 Bedroom Dwellings Within Three Separate Buildings; Associated Access, Basement Parking And Landscaping 500

File: DA1046/04

Ward: Wahroonga

Applicant: Carrington Wahroonga Pty Limited
Owner: Carrington Wahroonga Pty Limited

To determine Development Application No.1046/04 which seeks consent for the demolition of existing structures on site and construction of 34 x 3 bedroom dwellings within three separate buildings; associated access, basement parking and landscaping

Recommendation:

Approval.

GB.15 Investment Cash Flow & Loan Liability As At 31 January 2005

582

File: S02722

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

Recommendation:

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

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

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

QUESTIONS WITHOUT NOTICE

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

**CONFIDENTIAL BUSINESS TO BE DEALT WITH IN CLOSED MEETING - PRESS &
PUBLIC EXCLUDED**

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Environmental Planning & Assessment Act 1979
(as amended)

Section 79C

1. Matters for consideration - general

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

- a. The provisions of:*
 - i. any environmental planning instrument, and*
 - ii. any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
 - iii. any development control plan, and*
 - iv. any matters prescribed by the regulations,*
that apply to the land to which the development application relates,
- b. the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- c. the suitability of the site for the development,*
- d. any submissions made in accordance with this Act or the regulations,*
- e. the public interest.*

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	7 SHELBY ROAD, ST IVES - SECTION 82A REVIEW : DUAL OCCUPANCY
WARD:	St Ives
DEVELOPMENT APPLICATION N^o:	1061/03
SUBJECT LAND:	7 Shelby Road, St IvesDA1061/03
APPLICANT:	Helen Blaxland c/- Champion Home Sales P/L
OWNER:	Mrs Helen Blaxland
DESIGNER:	Champion Homes
PRESENT USE:	Residential
ZONING:	Residential 2C
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Ku-ring-gai Planning Scheme Ordinance, Dual Occupancy Code, Development Control Plan 40, Development Control Plan 43
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	State Environment Planning Policy No 53, State Environment Planning Policy No 55, SREP 20
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	24 September 2004
40 DAY PERIOD EXPIRED:	15 November 2004
PROPOSAL:	Section 82A Review : Dual Occupancy
RECOMMENDATION:	Approval

Item 1

DEVELOPMENT APPLICATION N^o	1061/03
PREMISES:	7 SHELBY ROAD, ST IVES
PROPOSAL:	SECTION 82A REVIEW : DUAL OCCUPANCY
APPLICANT:	HELEN BLAXLAND C/- CHAMPION HOME SALES P/L
OWNER:	MRS HELEN BLAXLAND
DESIGNER	CHAMPION HOMES

PURPOSE FOR REPORT

To carry out a review under Section 82A of an application for a detached dual occupancy that was refused by Council on 16 August 2004.

EXECUTIVE SUMMARY

Issues:	<ul style="list-style-type: none">• Streetscape• Bulk• Privacy
Submissions:	Five submissions on the original, refused application and one submission and a petition from ten residents received with respect to the Section 82A plans.
Land & Environment Court Appeal:	No appeal lodged.
Recommendation:	Approval

HISTORY

Development application history:

The original proposal was recommended for approval by Council's officers, but refused by Council on 10 August 2003 for the following reasons:

1. The proposal has provided incorrect site analysis under Clause 31 (2)(a) of SEPP 53, depicting the existing single storey house at 128 Collins Road as two storeys.
2. The proposal will have an unreasonable privacy impact on No 128 Collins Road, where the kitchen window of the proposed dwelling cannot be adequately screened on the south side to minimise the privacy impact on the front entrance and veranda of No 128 conflicts with Clause 32 (b.) of SEPP 53.
3. The proposal will have adverse and unacceptable overshadowing impact on No 128 Collins Road, conflicts with Clause 32 (c)(i).

Item 1

4. The bulk and scale of the proposed dwelling facing Collins Road is excessive and represents an overdevelopment of the site, conflicts with Clause 32 (design of residential development).
5. The position of the car space in front of the proposed building is detrimental to the streetscape of Collins Road, in conflict with Clause 32 (a)(ii).
6. Approval of the dual occupancy would create an unacceptable subdivision pattern out of keeping with the remainder of the locality.
7. The proposal would create an unacceptable conflict with the aims and objectives of Schedule 9.
8. Inimical to the public interest.

COUNCIL'S STATUTORY RESPONSIBILITIES UNDER S82A

Under Section 82A of the Environmental Planning and Assessment Act 1979, an applicant may request Council to review a determination of a development application, other than for:

- a) Designated development,
- b) Integrated development, or
- c) State significant development

The subject development is not designated, integrated or of state significance and, therefore, the applicant may request Council to review the determination under Section 82A of the Environmental Planning and Assessment Act 1979.

The request for review must be made within 12 months after the date of determination and the review must occur in the following way:

- a) If the determination was made by a delegate of Council, the review must be undertaken by Council or another delegate of Council that is not subordinate to the delegate who made the determination, or
- b) If the determination was made by full Council, the review must also be undertaken by full Council.

Upon making a determination of the review application, the following must be undertaken:

- If upon review, Council grants development consent, or varies the conditions of a development consent, it must endorse on the Notice of Determination the date from which the consent, or the consent as varied by the review, operates.
- If upon review, Council changes a determination in any way, the changed determination replaces the earlier determination as from the date of the review.

Council's decision on a review may not be further reviewed under Section 82A.

THE SITE AND SURROUNDING AREA

The site

The site is known as 7 Shelby Street, St Ives, Lot 25, DP 223453 and is located on the corner of Shelby Street and Collins Road. The site has an area of 1144.43 square metres. The site has a fall from west to east. Vehicular access to the existing dwelling is from Shelby Road. An easement runs along the southern boundary of the site.

The site currently supports a part single/part two storey brick residence with a tiled roof. The site is not of heritage significance nor is it within a conservation area.

Surrounding development:

Surrounding development comprises a mixture of single and two storey development, with a variety of architectural styles.

THE PROPOSAL

Original (refused) proposal:

The proposal as depicted on the original DA plans, lodged on 27 August 2003 and revised on the 8 March 2004 was to erect a new two storey dwelling which, in conjunction with the existing dwelling, would form a detached dual occupancy development. Details of the proposed development are as follows:

Dwelling 1:

The existing dwelling contains 3 bedrooms, kitchen, living room, dining room, bathroom, a single garage at basement level and an external car space. The living areas are located at the eastern side of the dwelling, with access to the private open space through a door located on the southern side towards the centre of the dwelling.

Dwelling 2:

The new dwelling is two storey in height and contains a garage, kitchen, family room, dining room, laundry, lounge room and W/C room at ground floor level. At the first floor level, 3 bedrooms, a bathroom and a gallery are proposed.

Private open space is proposed to the north of the dwelling behind the building line to Collins Road.

Driveway access is off Collins Road and is located towards the southern end of the site.

Notional Subdivision:

A 1.8 metres high timber fence is proposed between the two dwellings.

Item 1

The likely subdivision effected by this fence creates two allotments having areas of 744.4m² (existing house) and 399.9m² (proposed new dwelling). The existing house would have a frontage of 24.4 metres to Shelby Road and 25 metres to Collins Road. The proposed dwelling will have a frontage of 18.4 metres to Collins Road. This information has no relevance to the assessment of the dual occupancy development, as Council must consider the application as two dwellings on one allotment of land. However, this information is provided for clearer understanding of the likely future subdivision pattern of the site which would create two dwellings on individual allotments of land. No application for the subdivision of the dual occupancy development has been lodged.

Revised plans - 8 March 2004

The original DA plans were replaced with revised plans, dated 8 March 2004. The revisions in these plans included:

- (i) the alteration of the design to suit the slope of the site;
- (ii) the private open space of the proposed dwelling relocated to the north for improved solar access;
- (iii) the provision of an additional car space;
- (iv) the submission of a landscape concept plan;
- (v) the identification of the proposed boundary between the two dwellings;
- (vi) details of proposed fencing; and
- (vii) the location of the drainage detention tank beneath the driveway for the proposed dwelling.

Notwithstanding these amendments, the DA was refused by full Council on 10 August 2003.

Revised proposal subject of the section 82A review application

The section 82A review plans are essentially the same as the revised plans, dated 8 March 2004. The minor changes include:

- Corrected site analysis plan, depicting the dwelling at 128 Collins Road as a single storey;
- Relocation of the kitchen window from the southern elevation to the western elevation;
- Additional screen planting per the amended landscape plan;
- Retaining wall along the southern boundary tapers to ground level as per the amended landscape plan;
- 2 small trees to front of the proposed new dwelling to be replaced with 3 large trees as per amended landscape plan.

Clause 82A(4)(c) of the Environmental Planning and Assessment Act 1979 states:

“in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same development as the development described in the original application. The amendments made in the Section 82A review application, such as relocation of the kitchen window and minor changes to Landscape Plan, are all detailed below. The development is still substantially the same development as described in the original application. For example, there is no change to the footprint, height or design of the proposed new dwelling.

As part of the S82A review application, the applicant has amended the original plans and 8 March 2004 amendments as noted above. Comments are then made on each amendment and how it addresses the reasons for refusal.

1. *The proposal has provided incorrect site analysis under Clause 31 (2)(a) of SEPP 53 depicting the existing single storey dwelling at 128 Collins Road, as two storeys.*

Comment

The site analysis plan has now been corrected and depicts the existing dwelling at No. 128 Collins Road as single storey. A copy of the analysis plan has been provided with the S82A review application.

2. *The proposal will have an unreasonable privacy impact on No 128 Collins Road, where the kitchen window of the proposed dwelling cannot be adequately screened on the south side to minimise the privacy impact on the front entrance and verandah of No 128 conflicts with Clause 32 (b.) of SEPP 53.*

Comment

The kitchen window has now been relocated from the southern elevation to the western elevation and affords outlook out into the rear (western boundary) private open space area of the proposed dwelling rather than to the southern boundary and the neighbouring property at 128 Collins Road, St Ives. The main bedroom has a window to the western boundary and the only window to the southern boundary is a small, secondary, bedroom window.

Screen planting along the southern and western boundaries of the proposed dwelling to a 5m minimum mature height and retaining wall tapering to ground level have also been included to reduce any privacy impacts. The 3m setback between the boundary fences and the proposed dwelling along the southern and western boundary will allow the screen planting to reach the 5m mature growth height.

The relocation of the kitchen window and the screen planting will provide an adequate level of privacy to 128 Collins Road.

3. *The proposal will have adverse and unacceptable overshadowing impact on No 128 Collins Road, conflicts with Clause 32 (c)(i).*

Comment

The extent of overshadowing cast by the proposal to adjoining residence at 128 Collins Road is as follows:

9.00am (June 22)

The overshadowing will extend to a small part of the dwelling and the garage, which is located to the north of the dwelling, and part of the driveway and front garden (rear only) of the adjoining residence at 128 Collins Road.

Item 1

12.00 noon (June 22)

The overshadowing will extend into the centre of the subject site, affecting the driveway and part of the front garden (centre) of the adjoining residence at 128 Collins Road.

3.00pm (June 22)

The overshadowing will extend into the front part of the driveway and a small part of the front garden of the adjoining residence at 128 Collins Road and the Collins Road footpath and street itself.

Notwithstanding the extent of overshadowing, the adjoining residence at 128 Collins Road would still receive a compliant 3+ hours solar access to its living areas and private open space during the winter solstice.

It is also noted that the proposed development receives a compliant 3⁺ hours solar access to its living areas and private open space areas during the winter solstice.

4. *The bulk and scale of the proposed dwelling facing Collins Road is excessive and represents an overdevelopment of the site, conflicts with Clause 32 (design of residential development).*

Comment

The locality contains a mixture of single and two storey development and there are a number of two storey dwellings within the visual context of the subject site. (relatively new two storey dwelling at 5 Shelby Road which adjoins the subject site).

The height, bulk and scale of the proposed development are generally in keeping with the neighbouring properties in the locality. There are a number of two storey dwellings in the immediate vicinity of the proposal, including the adjoining two story dwelling at No. 5 Shelby Road. Given the setbacks provided and the layout and orientation of neighbouring development, the proposal is compatible with the characteristic local built environment.

Single storey elements on the front façade (over the garage and lounge room) of the proposed dual occupancy effectively break the building height and bulk. Design features, similar to other development in the locality, have been incorporated to ensure that the development complements adjoining and nearby dwellings.

5. *The position of the car space in front of the proposed building is detrimental to the streetscape of Collins Road, in conflict with Clause 32 (a)(ii).*

Comment

DCP No. 47 allows tandem car parking for this form of development with reverse egress. The 7m front setback enables ample landscaping opportunities to screen the hardstand car parking space and the selection of planting along Collins Road achieves this objective. In addition, the originally proposed two small trees have now been replaced with the three large trees within this front setback.

Item 1

6. *Approval of the dual occupancy would create an unacceptable subdivision pattern out of keeping with the remainder of the locality.*

Comment

The proposed development does not involve subdivision. Were subdivision proposed it would require a separate development application that would be assessed on its merits.

7. *The proposal would create an unacceptable conflict with the aims and objectives of Schedule 9.*

Comment

The proposed development is consistent with the aims and objectives of Schedule 9 in that:

- Consideration has been given to the existing amenity and character of the area and the proposed development is sympathetic and harmonious with the adjoining residential dwellings. Given the setbacks provided and the layout and orientation of neighbouring development, the proposal is compatible with the characteristic local built environment.
- Access to natural sunlight will be available to living spaces within the existing and proposed dwellings and open spaces around the building structures. The adjoining property to the south will not be significantly affected by overshadowing from the proposed development, as solar access will still be available to the majority of the private open space at the rear and shadows are cast mainly over the garage, driveway and front yard. The adjoining dwelling receives a complaint 3+ hours solar access to its internal living areas and private open space areas during the winter solstice.
- The design ensures that the privacy enjoyed by adjoining property owners will be maintained.
- A landscape plan has been prepared which demonstrates that the predominant landscape quality of the area is maintained and enhanced, with a good variety of trees, shrubs and groundcovers.
- A relatively high 69.75% of the site has been maintained as deep soil landscaping area.
- The height and bulk of the proposed development is generally in keeping with the neighbouring properties in the locality and is in keeping with the single and two storey dwellings in the immediate vicinity. Given the setbacks provided and the layout and orientation of neighbouring development, the proposal is compatible with the characteristic local built environment. The proposed dwelling will not impact adversely upon the visual amenity of neighbouring properties.
- Stylistic features of other development in the locality have been incorporated in the design of the proposed development.

8. *Inimical to the public interest.*

Item 1

Comment

A variety of housing choice will encourage a greater demographic mix of residents in the locality and the utilisation of existing facilities which is in the public interest and is a key objective of SEPP 53. The design of the proposed dwelling, which will be enhanced with additional and more substantial planting within the 7 metres front setback, including three large trees, will not detract from the mixed character of the streetscape.

CONSULTATION - COMMUNITY

In accordance with Council's policy, adjoining owners were given notice of the S82A review plans.

In relation to the above S82A review plans , one (1) submission was received from:
Mr. and Mrs. Eyre of 128 Collins Road, St Ives

In addition, a petition was also received stating :

"I have reviewed all relevant notifications from council regarding the section 82A review, and I do not want council to amend its determination."

The petition was received from the following ten (10) neighbouring residents:

Mr F and Mrs V L Solomon - 126 Collins Road, St Ives
Mr J and Mrs J Billingham - 124 Collins Road, St Ives
Mr G and Mrs M Abraham - 103 Collins Road, St Ives
Mr A W Smith - 101 Collins Road, St Ives
Mr R B Mills - 99 Collins Road, St Ives
Mr M Binnie - 122 Collins Road, St Ives
Mr B and Mrs H Butler - 3 Shelby Road, St Ives
Mr E and Mrs S Dimos - 5 Shelby Road, St Ives
Mr T and Mrs M Boles - 10 Shelby Rd, St Ives
Mr T O'Neil - 12 Shelby Road, St Ives

Five (5) submissions to the original DA were received from the following residents:

Mr G and Mr C Eyre - 128 Collins Road, St Ives
Mr F and Mrs V L Solomon - 126 Collins Road, St Ives
Mr G and Mrs M Abraham - 103 Collins Road, St Ives
Mr M Binnie - 122 Collins Road, St Ives
Mr T and Mrs M Boles - 10 Shelby Rd, St Ives

The following are the comments to the Section 82a review plans:

- 1. The proposal will have an unacceptable impact on the streetscape (concern over the precedent that this will set for the building line in Collins Road).***

Item 1

The erection of a second house, two storeys in height and set back 7.0 metres from Collins Road, does not result in an adverse streetscape impact. The new dwelling is fully compliant in respect of all controls governing its external built form.

Council's Dual Occupancy Code allows for the rear second dwelling upon a corner allotment to be set back between 5.0 to 7.0 metres. This reduced setback compared to traditional front setbacks allows for a transitory setback to occur adjacent to the corner dwelling and the remainder of the street. It also allows for development to occur in accordance with SEPP 53. The proposed second dwelling is set back 7.0 metres from Collins Road and is therefore compliant with Council's controls. Therefore, it is unlikely that this development will set an undesirable precedent for the building line in Collins Road.

2. *The proposal does not maintain appropriate residential character*

The implications of the two storey height in terms of overlooking, overshadowing and position on site have been addressed in the design, with suitable setbacks from the boundaries, articulated facades and wall lines being provided. Furthermore, perimeter areas will contain screen planting.

SEPP 53 allows increased residential densities, subject to the development satisfying prescribed design criteria and complying with specific development standards. The dwelling is not considered to be overly bulky as the proposal has a floor space ratio of 0.27:1 which is well below the SEPP 53 maximum of 0.5:1. The size of the new dwelling is not inappropriate in its context and a reduction in footprint is not considered to be warranted.

The proposed landscaping consisting of three trees, shrubs and groundcover will further ensure that the development contributes to an attractive streetscape character.

3. *The dwelling does not contribute to maintaining an attractive residential environment (The development proposes to shoe-horn a large and imposing two-storey building into a land area of less than 400 sqm - well below the SEPP 53 allotment size of 600 sqm or more where two dwellings are detached.)*

SEPP 53 states the total size of the allotment must be 600 sqm or more on which **both** detached dwellings are to be constructed. In this case the allotments size is 1144 sqm, which is almost twice the required minimum size. In addition, the proposed house at around 160 sqm is not overly large for this part of St Ives.

4. *The proposal has little regard for significant adverse impact on the adjacent residential property at 128 Collins Road*

The proposed dwelling has been provided with sufficient setbacks to the boundaries of the site so as to minimise the potential for overlooking of adjoining sites. Windows, particularly on the first floor, have been located so as to minimise the potential for overlooking into adjoining properties. The kitchen window has now been relocated from the southern to the western boundary. Screen planting will be required along the northern and western boundaries which will provide a further privacy screen. **(Refer to Condition 39).**

CONSULTATION - WITHIN COUNCIL

Engineering

The Development Control Engineer has no objections to the proposal and has recommended appropriate conditions. **(Refer to Conditions Nos 21-30, 46-50, 57-61).**

Landscaping

The Landscape Development Officer has assessed the S82A review plans and recommended approval, subject to conditions. **(Refer to Conditions Nos 38 -45).**

STATUTORY PROVISIONS

State Environmental Planning Policy No 53

Clause 17 allows development that results in two dwellings being located on the one allotment of land in any zone that permits a dwelling-house to be erected.

Clause 18 permits, with Council's consent, the creation of a dual occupancy development.

Clauses 19 and 20 specify development standards that must be complied with. A summary of compliance is as follows:

Development Standard	SEPP 53 Requirement	Proposal	Compliance
Allotment Size	600 m ²	1072 m ²	YES
Floor Space Ratio	0.5:1	0.27:1	YES
Car Parking	2 car spaces for each dwelling with a gross floor area of more than 150 m ² .	2 car spaces provided for each dwelling	YES

Clause 31 states the following:

- (1) *Consent must not be granted for development to which this Part applies unless the consent authority has taken into account a site analysis prepared in accordance with this clause.*
- (2) *A site analysis must:*
 - (a) *contain information, where appropriate, about the site and its surrounds as described in schedule 5 (Site Analysis), and*
 - (b) *be accompanied by a written statement explaining how the design of the proposed development has regard to the site analysis.*

Item 1

The submitted information is correct and satisfactory to enable a proper consideration of the proposal in terms of clause 31. The previous errors in relation to the height of the building have been corrected.

A summary of compliance with the design principles of **Clause 32** of the SEPP is as follows:

Streetscape (cl.32(a)):

Shelby Road and Collins Road are characterised by a mixture of single and two storey developments, with varied setbacks from the street. The streetscape is undergoing transition from older, single storey, dwellings to newer, two storey, dwellings.

The proposal has been designed to be sympathetic to the existing streetscape character. The proposed building line setback and side setbacks comply with the requirements of Council's Dual Occupancy Code. The landscaping as proposed and conditioned will further ensure that the development contributes to an attractive streetscape character.

Visual privacy (cl.32(b)):

The new dwelling has been designed with adequate consideration being given to the visual privacy of neighbours in the vicinity and residents. The new dwelling has been provided with sufficient setbacks to the boundaries of the site so as to minimise the potential for overlooking of adjoining sites. Windows, particularly on the first floor, have been located so as to minimise the potential for overlooking into adjoining properties. Further screen planting will be required along the northern, southern and western boundaries (**refer Condition No. 39**) which will provide adequate levels of privacy.

Acoustic privacy (cl.32(b)):

The new dwelling has been designed with adequate consideration being given to the acoustic privacy of neighbours in the vicinity and residents. The new dwelling has been provided with sufficient setbacks to the boundaries to provide separation between buildings for acoustic privacy. Furthermore, outdoor entertaining areas have been located away from the adjoining properties.

Solar access and design for climate (cl.32(c)):

Solar access to adjoining properties

The extent of likely overshadowing cast by the proposal is as follows:

9.00am (June 22):

The shadow will extend over part of the dwelling at 128 Collins Road. As the garage for this dwelling is located on the northern side of the dwelling, no living areas will be affected by overshadowing.

12.00 noon (June 22):

Item 1

The shadow will have moved away from the dwelling at 128 Collins Road and will affect the front yard (primarily the area used for the driveway).

3.00pm (June 22):

The shadow will extend further into the front yard of 128 Collins Road and onto Collins Road.

The adjoining properties receive a compliant 3⁺ hours solar access to their internal living areas and private open space areas during the winter solstice.

Solar access to the proposed development

The proposed development would receive a compliant 3⁺ hours solar access to its internal living areas and private open space areas during the winter solstice.

Stormwater (cl.32(d)):

Council's Development Control Engineer has indicated that drainage to the street is feasible and appropriate conditions have been recommended. Separate on-site detention systems will be required for each dwelling (**refer to Conditions Nos. 31-30, 46-50, 57-61**).

Crime prevention (cl.32(e)):

Pedestrian access to the new dwelling is available from Collins Road and pedestrian access to the existing dwelling is available from Shelby Road. Both dwellings allow for observation of the site and of persons approaching the dwellings.

Accessibility (cl.32(f)):

Vehicular access to the new dwelling is available from Collins Road and vehicular access to the existing dwelling is available from Shelby Road. Both dwellings contain garages and the driveway areas can accommodate visitor parking.

Waste management (cl.32(g)):

A condition has been recommended so as to achieve compliance with Council's standard waste management requirements (**refer to Condition No. 51**).

Visual bulk (cl.32(h)):

The new dwelling is proposed to be two storeys and, given the setbacks from the side and rear boundary, the new dwelling would be compatible with the existing built character, that being, dwelling houses located within a landscape setting. The bulk of the development is not uncharacteristic of existing and emerging development within the surrounding area.

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. Accordingly, further investigation is not warranted in this case.

Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River

SREP 20 applies to the site and is aimed at protecting the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future lands uses are considered. SREP 20 requires consideration of matters including water quality, water quantity, flora and fauna, wetlands and heritage etc.

The proposed development meets the general matters for consideration of SREP 20. However, Clause 6 (4) sets out strategies for water quantity whereby the reuse of water is encouraged where possible. As the proposal is for a new development, it is recommended that rainwater tanks or similar be required to enable the reuse of stormwater for irrigation purposes. A condition to this effect is included in the recommendation. (**Refer to Condition No. 50**). As Development Application 1061/03 was originally lodged on 26 August 2003, before the new DCP No 47 came into effect, requirements for mandatory water tanks were not imposed.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

Aims and Objectives for Residential Zones

The development: (i) provides satisfactory levels of solar access & privacy to surrounding properties; (ii) is of a bulk, scale and design, characteristic of the area; (iii) maintains adequate levels of soft landscaping; (iv) provides suitable egress/ingress for vehicles; and (v) maintains the landscape quality of the municipality. Consequently, the aims and objectives for residential development as outlined by Schedule 9 have been satisfied. (**Refer to Condition No 51**).

Development Control Plan No 40 - Construction & Demolition Waste Management

Development Control Plan (DCP) No 40 requires the submission of a waste management plan for the demolition and construction of buildings. The application has not provided details of how demolition materials will be stored and disposed of. The location of both building materials and waste material storage areas have not been identified on a site plan.

A condition has been included requiring submission of a waste management plan and approval thereof by Council, prior to the issue of a Construction Certificate (**refer to Condition No. 13**).

Council's Dual Occupancy Development Control Code

COMPLIANCE TABLE		
Development control	Proposed	Complies
4.2 Streetscape:		
Roof pitch		
<ul style="list-style-type: none"> 5m roof height-1 storey (max) 	Dwelling 1: Existing	YES

Item 1

<ul style="list-style-type: none"> 3m roof height-2 storey (max) Roof pitch 35° (max) 	<p>Dwelling 2: 1.8 m</p> <p>Dwelling 1: Existing Dwelling 2: 22.5°</p>	<p>YES</p> <p>YES YES</p>
<p>Fences</p> <ul style="list-style-type: none"> Height:900mm (solid fence) (max) Height:1.2m (transparent fence) (max) 	<p>A front fence to Shelby Road is not proposed.</p> <p>A 1.8 metres high timber lapped and capped fence was proposed to separate the two dwellings, and contain the private open space of dwelling one. This has been now been conditioned to a maximum of 1.0 metres with screen planting. (Refer to Condition 33).</p> <p>Both fences are located behind the Shelby Road building line, however forward of the Collins Road frontage. The visual character study aims to prevent front fencing as far as possible.</p>	<p>N/A</p> <p>YES</p>
4.3 Visual and acoustic privacy:		
<p>Visual privacy</p> <ul style="list-style-type: none"> Windows to habitable rooms set back 9m from neighbouring windows (min) 	<p>Dwelling 1 : Existing Dwelling 2 : Habitable windows 7.5 metres up to 8.6 metres</p>	<p>YES NO</p>
4.4 Solar access and design for climate:		
<p>Solar access</p> <ul style="list-style-type: none"> Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min) Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min) 	<p>Dwelling 1: 6 hours solar access received Dwelling 2: 6 hours solar access received</p> <p>All neighbouring properties receive 3+ hours solar access</p>	<p>YES YES</p> <p>YES</p>
<p>Energy efficiency</p> <ul style="list-style-type: none"> 3.5 star NatHERS Rating (min) 	<p>Dwelling 1: 3.5 stars Dwelling 2: 4 stars</p>	<p>YES YES</p>
4.7 Accessibility:		
<p>Vehicular access and car parking dimensions</p> <ul style="list-style-type: none"> Garage – 3.1m x 5.4m (min) 	<p>Dwelling 3.1 x 5.5m Dwelling 2: 3.2 m x 5.5 m</p>	<p>YES YES</p>

Item 1

4.9 Visual bulk:		
Building setbacks <ul style="list-style-type: none"> • Corner site street Frontage setback: 7m (min) with 50% of façade at 5m • Setbacks between buildings -7m or 5m (50% of building) (min) • Side setback: Ground floor: 3m (min) 1st floor: 3m (min) • Rear setback: 3m (min) 	<p>Dwelling 1 : 9.5 metres Dwelling 2 : 7 metres</p> <p>7.5 metres</p> <p>Dwelling 1: 3.2 metres</p> <p>Dwelling 2: Ground Floor: 3.1m Dwelling 2: 1st Floor: 3.1m</p> <p>Dwelling 2: 3m</p>	<p>YES YES</p> <p>YES</p> <p>YES</p> <p>YES YES</p> <p>YES</p>
Building form <ul style="list-style-type: none"> • Unrelieved wall length: 8m (max) • Total building length: 24m (max) 	<p>Dwelling 1: 16m Dwelling 2: 7m</p> <p>Dwelling 1: 16m Dwelling 14.3m</p>	<p>NO YES</p> <p>YES YES</p>
Built-upon area <ul style="list-style-type: none"> • Total built upon area (max): 45% • Notional built-upon area 	<p>30.25%</p> <p>Dwelling 1: 26.7% Dwelling 2: 36.7%</p>	<p>YES</p> <p>YES YES</p>
Floor space ratio <ul style="list-style-type: none"> • FSR (max): 0.5:1 • 1st floor - 40% 	<p>0.26:1</p> <p>Dwelling 2: 45%</p>	<p>YES</p> <p>NO</p>
Height of buildings <ul style="list-style-type: none"> • Second dwelling on a corner allotment shall be determined on merit. 	<p>Dwelling 2: The height of dwelling 2 is not uncharacteristic of two storey dwellings in the St Ives area. Council is advised that its height is compliant with the provisions of the KPSO.</p>	<p>YES</p>

Item 1

<ul style="list-style-type: none"> Building envelope: 45° from horizontal at any point 3m above boundary 	<p>Dwelling 1 : Existing</p> <p>Dwelling 2</p> <p>North boundary: Complies</p> <p>South boundary: Complies</p> <p>East boundary: Complies</p> <p>West boundary: Complies</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
<p>Cut and fill (building works)</p> <ul style="list-style-type: none"> Cut & fill: 900mm & Total 1800mm (max) 	<p>Dwelling 1: Existing 500mm cut 200mm(fill)</p> <p>Dwelling 2: 850mm (cut) & 300mm (fill)</p>	<p>YES</p> <p>YES</p>
Section 5: Landscaping & Open Space		
<p>Total soft landscaping :</p> <p>45% (min)</p> <p>Notional soft landscaping:</p>	<p>69.75%</p> <p>Dwelling 1: 73.24%</p> <p>Dwelling 1: 63.3%</p>	<p>YES</p> <p>YES</p> <p>YES</p>
<p>Tree retention and refurbishment</p> <ul style="list-style-type: none"> No. of Trees: 3 (min) 	<p>3 trees</p>	<p>YES</p>
<p>Cut & fill (landscaping)</p> <ul style="list-style-type: none"> Cut & Fill: 900mm & Total 1800mm 	<p>850mm (cut) located western end Dwelling 2</p> <p>300mm (fill) located north eastern corner Dwelling 2</p>	<p>YES</p> <p>YES</p>
<p>Open space provisions</p> <ul style="list-style-type: none"> Area: 100m² or 2 x 75m² areas (min) Min dimension 5m x 5m (min) Grade: 1 in 8 (max) 50% receives 3+ hours solar access (min) 	<p>Dwelling 1: 106m²</p> <p>Dwelling 2: 116m²</p> <p>Dwelling 1: 4.2 x 6.4m</p> <p>Dwelling 2: 3.084 x 11.7m</p> <p>Dwelling 1: 1 in 17</p> <p>Dwelling 2: 1 in 12.6</p> <p>Dwelling 1: Open space receives 3+ hours solar access</p> <p>Dwelling 2: Open space receives 6 hours solar access</p>	<p>YES</p> <p>YES</p> <p>NO</p> <p>NO</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>

Visual Privacy:

The family and lounge rooms of the proposed Dwelling 2 would be located less than 9.0 metres from the existing dwelling (Dwelling 1), being 7.519 metres and 8.632 metres, respectively. However, these rooms are located at natural ground level and will be separated from the existing

Item 1

dwelling by a 1.8 metres high lapped and capped fence and existing and proposed plant screening. The living areas of the existing dwelling are located on its northern side. Consequently, there will not be any adverse visual privacy impact within the development itself.

Floor Space Ratio:

Despite the minor non-compliance with the FSR as it applies to 1st floor level, the development will not dominate the street due to its stepped design. The bulk and scale of the new dwelling is consistent with the surrounding local context.

Open Space Provision:

Dwelling 1 and Dwelling 2 have respective private open space areas of 106 square metres and 116 square metres which satisfy Council's Code requirement of a minimum 100 square metres. Dwelling 1 has one portion of its open space 4.2 metres x 6.4 metres instead of the 5 metres x 5 metres minimum provision in Council's Code. Dwelling 2 has its open space made up of areas consisting of 5.2 metres x 4.2 metres, 5.5 metres x 4.4 metres and 7 metres x 4.747 metres.

Whilst the minimum dimension 5 metres has not been satisfied, the proposed private open space is sufficient to meet the needs and requirements of future residents and to accommodate both outdoor recreation needs as well as providing adequate space for clothes drying and storage.

Fencing:

1.8 metres high lapped and capped timber paling fencing is proposed forward of the building line to Collins Road. This portion of fencing should be reduced to 1.0 metre in height and utilise screen planting to ensure privacy and separation for the proposed new dwelling(**refer to Condition 32A**).

Section 94 Plan

The development attracts a section 94 contribution of \$33,057.22, which is required to be paid by **Condition No 37**.

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

Item 1

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 relevant matters for discussion.

CONCLUSION

The proposed dual occupancy development complies with the requirements of SEPP 53 and Kuring-gai Planning Scheme Ordinance and is largely complaint with Council's Dual Occupancy Code.

The issues raised by the neighbours in their submissions have been addressed earlier in the report and are not sufficient to warrant further changes or refusal of the application. The revised section 82A review plans have addressed all Council's previous concerns.

Council Landscape Development Officer and Development Control Engineer both support the proposal, subject to appropriate conditions.

Accordingly, the request for review of council's refusal of the development application has merit.

RECOMMENDATION

That, having reviewed its determination of Development Application No 1061/03 for the construction of a new dwelling to create a detached dual occupancy, at Lot 25 DP 223453 being No 7 Shelby Road, St Ives, pursuant to Section 82A of the Environmental Planning and Assessment Act 1979, Council grant development consent for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No 1061/03 and Development Application plans prepared by Champion Homes, reference number Sheet 1 of 9, 2 of 9, 3 of 9, 4 of 9, 6 of 9, 7 of 9, 8 of 9 and 9 of 9, dated 26 February 2004 and sheet 5 of 9 dated 10 May 2004 and lodged with Council on 2 April 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. 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.

Item 1

5. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
6. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

7. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
8. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
9. For the purpose of maintaining visual amenity, no permanent electricity supply poles are to be erected forward of the building setback without the prior Consent of Council. It is the onus of the applicant to consult with the authorised statutory electricity provider prior to construction commencing to ensure that direct connection to the building is possible. Details of any proposed permanent pole must be submitted to and approved by Council prior to installation.
10. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
11. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
12. The fence and footings shall be constructed entirely within the boundaries of the property.
13. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
14. 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

Item 1

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.

15. 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.

16. 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.
17. 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.
18. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Collins Street. The tree/s used shall be 25 litre container size specimen/s:

Tree Species

Eucalyptus haemastoma (Scribbly Gum)

19. 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.
20. 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.
21. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the street drainage system. Drainage line connections to the kerb shall conform and comply with the detailed requirements contained within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe"). Drainage crossings of

Item 1

the footway area shall be a single 100mm diameter sewer grade uPVC pipe with kerb adaptor, where the total design flows from the property are within the capacity of such a pipe, otherwise suitably sized galvanised RHS shall be used. To ensure compliance with this condition, a Certificate from the installer is to be submitted to the Principal Certifying Authority prior to issue of the Final Compliance Certificate.

22. To maintain capacity of the Public drainage system, an On-site Stormwater Detention System must be provided in accordance with Council's Stormwater Management Manual. Separate detention systems are to be provided for each residence. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

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

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

NOTE 2: Earth mounding and/or timber retaining wall will not be accepted as the storage perimeter wall. Any perimeter walls must be in masonry on a reinforced concrete footing.

NOTE 3: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

NOTE 4: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.

NOTE 5: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.

NOTE 6: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings. This is available from Council upon request.

23. The relocation or adjustment of any utility service facilities must be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
24. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route a

Item 1

minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of Council's Specification for Drainage and Road Works.

Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Aust AS1742-3 1996 "*Traffic Control Devices for Work on Roads*".

If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

25. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
26. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard AS 2890.1 - "Off-Street car parking".
27. For the purpose of any Council inspections, the appropriate fees set out in Councils adopted Schedule of Fees and Charges are payable to Council, prior to the release of the approved plans. A re-inspection fee per visit may be charged where remedial work is unprepared at the requested time of inspection or where remedial work is unsatisfactory and a further inspection is requested. Engineering fees must be paid prior to the final approval of the works.
28. The dual occupancy development approved under DA 1061/03 is to be completed and an occupation certificate is to be issued by the Principal Certifying Authority prior to a Subdivision Certificate being released by Council under any separate subdivision application.
29. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
30. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes

Item 1

which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.

31. Bathrooms and toilets must have installed maximum 6/3 litre dual flush cisterns and shower heads with reduced water flow devices to ensure water conservation.
32. The proposed fence between the existing and new dwelling shall be not higher than 1.0 metres, and is to comply with the requirements of Development Control Plan No.46, Exempt and Complying Development.
33. The 1.8 metre high lapped and capped fencing located forward of the Collins Road building line shall be reduced in height to 1.0 metre. Additional screen planting shall be located adjacent to the above fences to ensure privacy and separation.

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

34. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate. Note: Required if cost of works exceed \$25,000.00.
35. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
36. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity

Item 1

at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.

37. 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.
38. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE (1) ADDITIONAL DWELLING IS CURRENTLY \$33,057.22. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 20 December 2000, calculated for additional person as follows:

1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New child care centre (including land acquisition and construction of facility)	\$252.13
4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Acquisition of Open Space - St Ives	\$7,851.00
8.	Koola Park upgrade and reconfiguration	\$143.09
9.	North Turramurra Sportsfield development	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75 sqm) 1.25 persons

Item 1

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

39. A plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works. A Landscape Assessment fee of \$120 will be payable on lodgement of the required landscape plan, in accordance with the following schedule.

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

40. A plan detailing screen planting of the dwellings shall be submitted to Council prior to the release of the Construction Certificate and approved by Council's Landscape Development Officer, prior to completion of building works. The plan shall incorporate species capable of attaining a height of HEIGHT (NUMBER ONLY) metres.

To Dwelling along western boundary	5m
To Dwelling along southern boundary	5m
To Dwelling along northern boundary	3m

41. To preserve the natural landscape, retaining walls to be setback a minimum 2 metres from side boundaries. Amended plans to be submitted to the Principal Certifying Authority for approval prior to release of Construction Certificate.
42. To preserve streetscape, screen planting to 2 metre high along eastern boundary to length of detention basin to be provided. Amended plans to be submitted to the Principal Certifying Authority for approval prior to release of Construction Certificate.
43. The property shall support a minimum number of 3 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commence of work.
44. The 3 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

45. A CASH BOND/BANK GUARANTEE of \$1000 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.

46. DRIVEWAYS AND FOOTPATHS: Approval of this Development Application is for works wholly within the property and does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the Application.

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

The grading of such footpaths or driveways outside the property are to comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant, and this may be affected by the alignment levels fixed by Council.

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

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

47. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater

Item 1

Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

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

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

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

48. The stormwater plan prepared by ANA Civil & Structural Engineers P/L, dated 10/03/2004, dwg no. 2003160-H1-Rev 3 is to be amended, but not limited to the following:
- i. The maximum allowable depth of open storage shall not be greater than 300mm unless enclosed with pool fencing and childproof, self closing gates;
 - ii. The design of the proposed surface basin is to be compatible to any approved landscape plan and/or landscape conditions. The storage areas must not extend over the shrubs and/or groundcovers areas.
 - iii. The OSD tank shall be designed in accordance with Council's Stormwater Management Manual as follow:
 - The orifice plate shall be placed to the outlet pipe;
 - The deletion of weir wall. Provide an 150Ø overflow pipe connected to the outlet pipe;
 - iv. Provide sealed pit cover for first flush trenches;

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

49. For stormwater control, the provision of an interceptor drainage system to capture and convey all stormwater runoff arriving at the subject property from upslope areas to the Council or public drainage system and bypassing any on-site stormwater detention systems. The drainage system is to comprise suitable inlet pits, grated drains, pipes and channels and is to be designed in accordance with Council's Stormwater Management Manual. This drainage system is to be designed for storm events up to and including the 100-year ARI. Design drawings are to be prepared by a suitably qualified and experienced civil/hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

Item 1

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

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

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

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

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

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

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

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

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

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

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

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

51. 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.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

Item 1

52. 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.
53. 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.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

54. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
55. The screen planting shall be completed prior to release of the Certificate of Occupation and be maintained in a satisfactory condition at all times.
56. Tree planting to satisfy tree retention/replenishment requirements shall be completed prior to the release of the Occupation Certificate.
57. Prior to occupation, or the issue of an Occupation Certificate or the issue of a Subdivision Certificate, all disused driveway crossings, pipe crossing and/or kerb laybacks are to be reinstated as footway and kerb and/or gutter to the satisfaction of Council's Development Engineer. Reinstatement works to generally match surrounding infrastructure. Any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer, at the Applicants cost.
58. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to occupation, or the issue of an Occupation Certificate, or the issue of a Subdivision Certificate. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council.

For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

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

Item 1

60. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced civil/hydraulic engineer, prior to occupation, or the issue of an Occupation Certificate, or the issue of a Subdivision Certificate, that:

- a. The works were carried out and completed in accordance with the approved plans.
- b. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier Prior to issue of the Final Compliance Certificate.

61. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to occupation, or the issue of an Occupation Certificate, or the issue of a Subdivision Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

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

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

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

Item 1

- storage volume(s) provided and supporting calculations
- size of orifice(s)

BUILDING CONDITIONS

62. 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. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing 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.
63. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any pier holes and/or foundation material.
 - c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
 - d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - e. Any stormwater drainage works prior to covering.
 - f. The completed landscape works in accordance with the approved plans.
 - g. The completed structure prior to occupation.

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

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

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

Item 1

64. 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).
65. 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.
66. 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.

67. 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.

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

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

Item 1

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.

Selwyn Segall
Executive Assessment Officer

Scott Cox
Team Leader
Development Assessment – Team Central

Matthew Prendergast
Manager
Development Assessment Services

Michael Miocic
Director
Development & Regulation

Attachments:

- Site Location Plan**
- Existing Site Plan**
- Proposed Site Plan**
- Site Analysis Plan**
- Elevations**
- Shadow Diagrams**
- Landscape Plan**
- Previous report to Council - DA1061/2003**

143 TO 145 PENTECOST AVENUE, TURRAMURRA

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To address the issues raised at the site inspection of 13 December 2004 and for Council to determine Development Application No 1692/03, for a childcare centre.

No issues raised by the Councillors in attendance at the site inspection.

BACKGROUND:

Council at its meeting of 7 December 2004 deferred consideration of the above application pending a site inspection.

COMMENTS:

A record of the site inspection is provided in this report.

RECOMMENDATION:

That the additional information be noted, and that the application be approved, subject to conditions

Item 2

PURPOSE OF REPORT

To address the issues raised at the site inspection of 13 December 2004 and for Council to determine Development Application No. 1692/03, for a childcare centre.

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

1. Staff requirements

Councillors sought clarification that the proposed childcare centre complied with staffing level requirements as specified under the Children's Services Regulations 2004.

Council's Community Development Officer Margaret Wong, has provided the following comment:

The minimum staffing levels as specified under the Children's Services Regulations 2004, Clause 53(1) are:

- *1 staff for every 5 children aged under 2 years*
- *1 staff for every 8 children aged 2 or more years but under 3*
- *1 staff for every 10 children aged 3 or more but under 6 years*

In areas where Council's policy is silent (eg. staffing) the policy would revert to the regulations as a minimum requirement.

The proposed childcare center will accommodate a total of 36 children between the ages of 0 to 5 years. Sixteen of the children will be between the age of 0-3 years and twenty children will be between the ages of 3 to 5 years. The proposal includes 5 staff and one director and is therefore compliant with Clause 53(1) of the Children's Services Regulations 2004.

2. Draft DCP for Child Care Centres

Councillors sought clarification whether the proposed childcare centre required assessment against the provisions of the draft DCP for Child Care Centres.

The Draft DCP for Child Care Centres is currently on public exhibition, until 25 March 2005. Council's Community Development Officer, Margaret Wong, has provided the following comment:

*"Maximum and Minimum Capabilities
The proposal adheres to Draft Controls 2.3 by providing a centre with less than 50 children, as only 36 children per day is planned for this centre.*

Indoor Environment

Item 2

The proposal adheres to Draft Controls 2.4.1 by providing a variety of different forms of ventilation using windows and doors. Exhaust fans are not shown on the plans. An exhaust fan is recommended for closed-in areas such as a nappy change area (refer Conditions 4).

The proposal adheres to Draft Controls 2.4.3 by providing natural light through windows or doors to the Cot Room and Indoor Play Areas.

Indoor Play Space

The proposal adheres to Draft Controls 2.5.1 as the indoor play areas are in the immediate vicinity of toilets, nappy change area and transition areas, have clear, visual supervision from the rooms and provide a minimum of 3.25m² of play space per child as a total of 125m² is provided for 36 children.

Storage

The proposal adheres to Draft Controls 2.5.2 as each playroom has its own storeroom which may contain space for storing beds.

Back-up Facilities

Cot Rooms

The proposal adheres to Draft Controls 2.6.1 as a cot room is provided for children in the ground floor section housing the children 0-3 years of age.

Child Accessible Toilets

The proposal fails to adhere to Draft Controls 2.6.2 as the child accessible toilets located on the ground floor do not allow children to be supervised in the area from the outdoor play area. Also ventilation of this toilet is not shown on plans.

Nappy Change Areas

The proposal fails to adhere to Draft Controls 2.6.3 as the nappy change area does not contain a gate or barrier preventing children into the area and does not show the presence of a mechanical ventilation device on the plans, in the absence of windows in that area.

Bottle Preparation

The proposal adheres to Draft Controls 2.6.4 by providing a bottle preparation area in the floor utilized by children aged 0-3 years.

Craft Facilities

The proposal adheres to Draft Controls 2.6.5 by providing a craft sink with storage for each play room.

Staff and Parent Accessible Areas

Foyer

The proposal fails to adhere to Draft Controls 2.7.3 as no internal foyer area is present. The entry into the building immediately enters the playroom of the 0-3 years children. The presence of the cot room as the first room next to the entrance of the building may pose some security issues for the centre. However the entrance to the playroom is accessible to people with mobility disabilities and pram users.

Item 2

Director's Office/Administration Area

The proposal adheres to Draft Controls 2.7.4 by providing an area that is private, not accessible to children, allows for supervision of the playroom and adjoins the playroom, not the foyer as no separate foyer section is provided.

Staff Room

The proposal adheres to Draft Controls 2.7.5 point (1) by providing a room in the lower floor level specifically as a staff room.

However the Draft Control point (2) and (3) which states the room must be sited away from the main activities of the centre and allows for a quiet and peaceful ambience, is not adhered to as the staff room is located next to the Indoor Play Area for the 3-5 year old children and will have the noise of the activities of the playroom.

Non compliance with Draft Control point (2) and (3) is not significant as it is an internal amenity issues only.

Adult Toilet Facilities

The proposal adheres to Draft Control 2.7.6., point (2) as the staff toilet and the accessible toilet are located away from kitchen or food preparation areas.

Kitchen

The proposal adheres to Draft Control 2.7.7, point (1) as separate room for a kitchen is provided in the lower floor plan. However the proposal fails to adhere to Draft Controls 2.7.7 point (4) as no ventilation methods are shown on the plans. In the absence of an outside window leading to the kitchen, a mechanical exhaust fan may be required for this room (refer Condition 4).

Laundry

The proposal adheres to Draft Control 2.7.8 point (1) as the laundry is located as a separate room in the lower floor plan and point (4) with the provision of hot and cold water outlets.

However, the proposal fails to adhere to Draft Controls 2.7.8 point (5) as no ventilation methods are shown on the plans. In the absence of an outside window leading to the laundry, a mechanical exhaust fan may be required for this room (refer Condition 4).

Cleaner's Storeroom/Storage Area

The proposal adheres to Draft Control 2.7.9 point (1) and (3) as separate area, inaccessible to children is provided in the lower floor plan.

Outdoor Play Spaces

The proposal adheres to Draft Control 2.8.1 points (1),(2),(4) and (7). The outdoor play area provides an excess of space over the 7m²/ child required in both the ground floor and lower floor external play areas. 112m² is required for the ground floor and 175m² is provided. 140m² is required for the lower floor and 240m² is provided. The outdoor play spaces do not allow car access, has adequate visual supervision points and has a separate play area for younger children in the ground floor section.

Item 2

The proposal fails to adhere to Draft Control 2.8.1, point (9) as the children in the ground floor do not have a direct access to toilets from the outdoor playing area. Children need to go through the playroom and around a corner to access the toilets.

Compliance with Draft Control 2.8.1, point (9) can be achieved by reversing the proposed location of the nappy change area and children's toilets to the storage area on the ground floor (**refer Condition 6**).

Baby/Toddler Areas

The proposal fails to adhere to Draft Control 2.8.6, point (2) as direct access to the toilet/nappy change area from the outside play area is not provided for.

Compliance with Draft Control 2.8.6, point (2) can be achieved by reversing the proposed location of the nappy change area and children's toilets to the storage area on the ground floor (**refer Condition 6**).

Outdoor Storage

The proposal adheres to Draft Control 2.8.7 by providing outdoor storage facilities in both playgrounds that can be inaccessible to children.

Transition Areas

The proposal generally adheres to Draft Control 2.9 by providing covered transition areas in both outdoor play areas.

Accessibility

The proposal adheres to Draft Control 2.10 point (2), (3) and (5) by providing a continuous path of travel into and through the centre with the two levels able to be independently accessed, without the use of stairs.

The proposal fails to adhere to Draft Control 2.10, point (4) as clear visual and pedestrian access to the toilet/nappy change area from the playroom is not possible in some positions. Generally, access controls are adhered to in this section.

Fencing

There seems to be an absence of a child proof, self-locking mechanism gate in the lower floor playground leading to the back car park. The proposal fails to adhere to Draft Control 2.11, point (4) which requires such a lock on gates leading to outdoor play areas.

Summary of Recommendations

- 1. An exhaust fan is recommended for closed-in areas such as a nappy change area (**refer Condition 4**).*
- 2. To place a gate to prevent children from accessing the Nappy Change Area (**refer Condition 5**).*
- 3. To show in the plans the mechanisms for ventilation for kitchen fumes. The placement of an exhaust fan in the kitchen is recommended (**refer Condition 4**).*

Item 2

4. To show in the plans the mechanisms for ventilation for laundry fumes. The placement of an exhaust fan in the laundry is recommended (**refer Condition 4**).
5. To swap locations of Nappy Change Area and Children Toilets to the Storage Area on the Ground Floor (**refer Condition 6**).
6. To place a child proof, self-locking mechanism gate on the lower floor, outdoor play area gate (**refer Condition 7**).

Conclusion:

Overall the proposal seems to adhere to the majority of the Draft DCP areas commented on by the CDO:CS. However there are areas of the proposal that do not adhere to the Draft DCP. The current positioning of the Ground Floor Nappy Change and Children's Toilet pose supervision difficulties for staff. The absence of a foyer section at the entrance of the centre may also need to be addressed. The location of the Staff Room does not meet the Draft DCP's controls and the placement of ventilation measures in the specified rooms will also need to be examined." (Refer Conditions 4-7).

Council's Development Officer – Children's Services has not commented on Sections 2.1, 2.2, 2.12 and 2.13 - *Location, Car Parking and On-site Vehicle Manoeuvring, Planting, Dual Use Facilities*. These issues are discussed below.

Location

The proposal can comply with outdoor noise level requirements and is located within range of public transport. Council's Traffic Engineer has confirmed that the proposal will not adversely impact traffic flow and safety in the surrounding road network. Refer to Part 6 of this report for a detailed discussion and recommended conditions.

The proposal does not comply with the Precautionary Principle as the childcare centre will be located on a site within 200 metres of an existing Mobile Phone Tower. See below for further discussion.

Car Parking and On-site Vehicle Manoeuvring

Council's Traffic Engineer has confirmed that the proposal will not result in an undue impact on traffic flow and safety, either within the subject site or within the surrounding road network. The proposal complies with the on-site car parking provision requirements. Refer to Part 6 of this report for a detailed discussion and recommended conditions.

Planting

Due to the location of car parking to the front of the childcare centre, there is limited opportunity for screen planting within the front yard. Screen planting is proposed forward of the front fence. Screen planting can also be accommodated along the side and rear boundaries. Council's Landscape officer can support the proposal, subject to conditions (**refer Conditions 44-48, 60-64 and 73**).

Item 2

Dual Use Facilities

The proposal complies with the objectives of Part 2.13 of the draft DCP, in that the proposal does not represent an overdevelopment of the site and that the operation of the childcare centre is undertaken, in part, by residents of the dwelling on site. The childcare centre and dwelling are adequately separated to ensure adequate privacy.

The proposal does not comply with the general requirement under Part 2.13.1, which requires the childcare centre to be located entirely on the ground floor. The child care centre is accessed from the front of the site at the ground floor level. However, due to the change in topography through the site, the existing house also incorporates a lower ground floor level to the rear. This lower ground floor level is also used for the purposes of the child care centre. The use of both lower and ground floor levels for the purposes of the child care centre does not interfere with the amenity afforded to the occupants of the adjoining dwellings.

3. Landscaping

Councillors sought clarification of the height of landscaping required in front of the existing front fence.

Council's Landscape officer has stated that landscaping in front of the existing front fence should attain a height of approximately 1.5m (**refer Condition 60**).

4. Micro cell site

Councillors requested confirmation that the micro cell site, located outside 153 Pentecost Avenue, would not present an undue health risk to children.

The micro cell site in question is required to comply with the relevant Australian safety standards which will minimise any adverse impacts upon children within the childcare centre. The relevant regulations currently in force and pertaining to the operation of childcare centres do not require specific consideration of micro cell sites. Clause 48 (*Safe Environments- centre based or mobile children's service*) of the Children's Services Regulations 2004 refers only to obligations contained under the Occupational Health and Safety Act 2000, for employers to ensure the health, safety and welfare of all employees. There is no specific reference in either legislation to micro-cell sites and consideration of actual or potential adverse health impacts on children attending a childcare centre. (Note: The Children's Services Regulations 2004 is a new regulation and is still in its transition period until becoming operative in January 2006).

5. Stormwater management

Councillors sought confirmation that appropriate drainage could be provided for the proposed development.

Council's Development Engineer makes the following comments:

Item 2

“With regard to the stormwater drainage plans submitted, Harris Page has shown all the roof water being conveyed to an augmented on site detention system under the front carpark. This system will have an internal height of 0.6 metres and gravity fall to the street gutter and is therefore acceptable. The pipe conveying run-off from the rear roof and terrace has been designed for the 100 year ARI which is desirable to minimise the likelihood of overflows.

The rear carpark is to be of porous paving and will provide some degree of stormwater retention on site. Light traffic only is expected to use this area, so the permeability of the system will be maintained, given regular maintenance as described in Section A6.6 of DCP 47. The equivalent area is approximately 130m². The driveway leading to the rear carpark will remain concrete because it is at a slope greater than 5%. The porous paving will need to comply with the requirements given in DCP 47, with regard to design and capacity. Details of the materials to be used will be required before issue of a Construction Certificate (refer Condition 71).

The integrity of the existing dispersal system will have to be confirmed and remedial works can be carried out in conjunction with construction works if required.

It is considered that with the removal of roof water which currently drains to this system at the rear (area A3 on the stormwater concept plan), and the provision of porous paving for further retention, the runoff to the system at the rear will not be increased. In conjunction with any upgrading works required to the dispersal trench system, this should result in an improvement to stormwater management at the rear of the site.

I have reviewed the proposed plans and am satisfied that under the proposal:

- a) There will be a net reduction in the amount of hard surface area on site that will direct runoff to the rear and potentially be a nuisance, and*
- b) The proposal will work physically in terms of retrospectively draining the roof and front parking area to Pentecost Ave, via the on-site detention system as proposed.*

Based on the above, there could no reasonable nexus established between a DA approval on this site and any future drainage problems that may or may not occur.” (refer Conditions 49-53, 65-69, 75-77).

6. Traffic

Councillors raised concern that the proposed childcare centre would result in traffic flow and safety problems in the surrounding road network, as parents accessed and exited the subject site or chose to drop-off and pick-up children from the kerb.

Council’s Traffic Engineer makes the following comments:

“The parking provision is in accordance with the requirements of DCP43. The layout of the parking area at the front of the building is considered to be acceptable, subject to the applicant addressing potential pedestrian-vehicle conflict points between the 4 spaces and the building, and providing sufficient manoeuvring space and width at the entry and exit gates for the 99.8% vehicle.

Item 2

Access into and out of the site is in accordance with the requirements of DCP43, subject to improvements to sight lines and visibility to pedestrians at the exit driveway.

The expected traffic generation of 55 vehicle trips over 2 hours during the morning peak and 32 vehicle trips over 1.5 hours during the afternoon school peak is not considered to have a significant additional impact on the surrounding road network. The intersection of Pentecost Avenue with the entry and exit points to the site is expected to operate at a satisfactory level of service."

In summation, the proposed childcare centre is compliant with Council's on-site parking requirements. Subject to conditions of consent, the proposal will comply with on-site manoeuvring and access requirements (**refer Conditions 8 - 15 and 48**). Council's Traffic Engineer has also confirmed that the proposed development will not result in a level of traffic generation that will unduly impact the existing traffic environment. In consideration of both planning and traffic engineering requirements, the proposal is acceptable.

7. Acoustic fencing

Councillors raised concern that the proposed 1.5m high, acoustic fencing, proposed around the ground level outdoor play area would be ineffective in mitigating the transmission of noise should a child be held by an adult above the line of the fence.

Given the technical nature of acoustic issues, the applicant has been requested to provide comment on this matter by a registered acoustic engineer. In response, the applicant's acoustic engineer makes the following comments:

"Noise impact from the Childcare Centre was based on typical activities carried out at the centre, which included children playing in the outdoor play area. Adults picking children up and holding them at a height above 1.5m is not considered to be a typical activity and was therefore not included in the noise model.

A preliminary assessment of noise impact from 1 child at a height above 1.5m in the outdoor play area was calculated to the residence at 141 Pentecost Avenue. The calculated noise level was 50 to 51dB(A), potentially a marginal exceedance of the set noise criteria of 50dB(A) of 0 to 1 dB(A).

It is not disputed that increasing the height of the fence from 1.5m to 1.8m would provide additional noise reduction. However, the increase is not considered necessary, as noise levels are expected to satisfactorily comply with the noise criteria based on the 1.5m fence."

On the basis of the above comments, it is not necessary to require an increase in the height of the proposed acoustic fencing from 1.5m to 1.8m. A potential increase in noise levels by 1dB(A) at the common boundary with 141 Pentecost Avenue would be imperceptible and the proposal is expected to comply with the noise criteria based on the installation of 1.5m high acoustic fencing. Further, an increase in height of the proposed acoustic fencing to a maximum height of 1.8m would need to be applied to the proposed lower and upper level acoustic fencing and would unnecessarily increase the scale and bulk of the proposed structure.

Item 2

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 1692/03 for retention and conversion of part of an existing dwelling for use as a child care centre with associated additions and alterations on land at 143 – 145 Pentecost Avenue, Turrumurra, 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 labelled Project No. 03069 DA01, dated as revised 12 October 2004, DA02 and DA 03, dated as revised 17 July 2004, all drawn by Noel Bell, Ridley Smith & Partners, and endorsed with Council's approval stamp, except where amended by the following conditions:
2. The maximum number of staff on-site at any one time shall be six (inclusive of management). The maximum number of children at the child care centre shall not exceed 36 at any one time and shall comprise the following age groups and numbers.
 - 8 children aged 0-2 years of age
 - 8 children aged 2-3 years of age
 - 20 children aged 3-6 years of age
3. The child care centre shall operate between the hours of 8.30am to 4.30pm, Monday to Friday.
4. Exhaust fans are to be installed in the following areas: nappy change area, kitchen, laundry.
5. A gate is to be installed to prevent children from accessing the Nappy Change Area.
6. The location of the Nappy Change Area and Children Toilets to the Storage Area on the Ground Floor are to be reversed.
7. A child proof, self-locking mechanism gate is to be installed on the lower floor, outdoor play area gate.
8. The proposed landscaping between the garage and front entry to the dwelling shall be deleted and replaced with a pathway for pedestrians. The existing front step to the dwelling is to be modified to better accommodate pedestrian access to the child care centre entrance. To compensate for the removal of the landscaping, the kerb overhangs associated with parking spaces 9 to 11, including a similar depth of the 'turning area', shall comprise soft landscaping.
9. The car parking spaces labeled 9, 10 and 11 located at the rear of the building are to be for the exclusive use of staff. A sign is to be erected at the top of the driveway, leading from the front

Item 2

car park to the rear, indicating that parking for staff vehicles only is available at the rear of the site.

10. The western-most driveway along the front boundary shall be marked with a painted arrow indicating "entry only". The eastern-most driveway shall be marked with a painted arrow indicating "exit only".
11. Car park space No. 4 shall be set back 500mm from the corner of the garage to enable pedestrian access between the car parking space and the building wall.
12. The driveways are to be increased in width at the front fence line to enable sufficient access for the 99.8% vehicle.
13. The pedestrian gate within the front fence is to be located clear of the swing radius of the driveway gates.
14. Pedestrian access to the child care centre from within the front car parking area is to be clearly indicated by painted markings.
15. The front entry gate to the child care centre is to be located at the eastern elevation of the childproof fence to ensure sufficient access for pedestrians given the proximity of car park 7 to the fence.
16. A solid timber, lapped and capped fence, to a height of 1.8m is to be erected along the western, eastern and northern boundaries of the site where currently there is no solid fencing.
17. Translucent glass is to be utilised in all laminated glass fencing and/or acoustic fencing associated with the play areas. Details are to be shown on the Construction Certificate plans.
18. The existing indoor swimming pool shall not be used in association with the child care centre.
19. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to the Principle Certifying Authority prior to the issue of a Construction Certificate.
20. All building works shall comply with the Building Code of Australia.
21. 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.
22. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.

Item 2

23. 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.
24. 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.
25. **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.

26. 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.
27. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
28. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
29. 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.
30. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
31. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
32. 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.

Item 2

33. 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.

34. 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.

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

36. 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.

37. 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.

38. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.

39. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.

Item 2

40. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
41. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
42. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
43. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
44. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.
45. Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.
46. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
47. Tree planting to satisfy tree retention/replenishment requirements shall be completed prior to the issue of the final Certificate of Compliance.
48. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
49. On completion of the LANDSCAPE WORKS/TREE PLANTING OR SCREEN PLANTING, the Principal Certifying Authority shall ensure the correct installation, faithful to the landscape plan and conditions of consent, prior to issue of Final Certificate of Compliance.

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

Tree Species

Tristaniopsis laurina

Item 2

The trees required to be planted in the nature strip are to be located and maintained in accordance with accepted arboricultural practice to ensure adequate driver sightlines for vehicles entering and exiting the subject site.

50. Stormwater runoff from all roof areas and as much of the front carpark as practicable shall be piped to the street drainage system, via an augmented on site detention system. If required, new drainage line connections to the street system shall conform and comply with the relevant detail within Council's Plan No. 82/024 ("Connections of Drainage Lines to Kerb and R.C.Pipe"). To ensure compliance with this condition, a Certificate from the installer is to be submitted to the Principal Certifying Authority prior to issue of the Final Compliance Certificate.
51. Stormwater runoff from the remaining driveway and porous paving at the rear is to be piped/conveyed to the existing dispersal trench system.
52. maintain capacity of the public drainage system, an on-site stormwater detention system must be provided in accordance with Council's Stormwater Management Manual. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

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

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

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

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

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

NOTE 5: The standard Council On-Site Stormwater Detention Calculation Sheet is to be completed and included on design drawings. This is available from Council upon request.

Item 2

53. 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.
54. 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.

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

55. 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.
56. 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).
57. 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

Item 2

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.

58. 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.
59. Submission, for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate, of a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater – Soils and Construction" (1998) by a suitably qualified and experienced engineer or surveyor. Such controls should include but not be limited to appropriately sized sediment basins, diversion systems, appropriate controls for each stage of works identified and barrier fencing which maximises and protects areas which are not to be disturbed. The plan must also specify inspection and maintenance regimes and responsibilities and rehabilitation measures.
60. A Waste Management Plan shall be prepared in accordance with Council's Waste Management Development Policy to the satisfaction of Council prior to the issue of a Construction Certificate.
61. 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 amended landscape plan shall be approved by the Principal Certifying Authority prior to the release of the Construction Certificate.

Item 2

The following amendments shall apply:

- Screen planting capable of attaining a height of 6m shall be planted along the eastern, western and northern boundaries.
 - Screen planting capable of attaining a height of 1.5m shall be planted in the setback between the front fence and the front boundary.
 - Planting shall be in mulched garden beds and be of minimum 200mm pot size and planted at minimum of 1.5m centres.
 - The plan shall include full details of species locations and numbers of proposed plant material as well as documenting existing vegetation on site.
62. The property shall support a minimum number of 7 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commence of work.
63. The 5 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. The trees to be planted are to be of minimum pot size 25 litre and of these trees at least 3 are to be locally occurring native trees and at least 1 of these is to be an Angophora floribunda.
64. A cash bond/bank guarantee of \$ 2000 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.
65. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

Item 2

66. Prior to the commencement of any works on site and prior to issue of the Construction Certificate the applicant must submit, for review by Council Engineers, a Traffic Control Plan, and a Parking and Delivery Management Plan specific to the subject site. This is due to the location of the development site near a school, shopping centre or other location of heavy pedestrian generation, and on a collector road. The plan must be prepared by a qualified civil/traffic engineer 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)”. The following matters must be addressed:

Heavy vehicle routes

- a. Safe points of vehicular access to the construction site and details of the proposed route of heavy vehicles servicing the site. Light traffic roads and those subject to a load limit are to be avoided.

Safe ingress and egress

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

Parking control

- a. The provision of on-site parking for employee, tradesperson and construction vehicles.

Stages

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

NOTE 1: The Traffic Control Plan and Parking and Delivery Management Plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained prior to the issue of the Construction Certificate. The Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition.

Item 2

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

67. 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 from the rear carpark into the existing dispersal system. To ensure the existing dispersal system is operating satisfactorily, the Certificate shall specify:

- a. That the dimensions of underground trenches comply with Council's standard trench detail.
- b. The satisfactory condition of the existing system and satisfactory capacity for continued use after the development and
- c. 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 dispersal system.

If the system is not in a satisfactory condition, then new dispersal trenches are to be installed. A typical detail of the trench can be provided by Council upon request.

NOTE 1: The dispersal trenches shall be 700mm wide x 700mm deep x 1.0 metre run/10m² of area to be drained. Trenches shall be fitted with half round PVC (450mm diameter) dome section backfilled with crushed or round river gravel to within 150mm of surface level, surrounded with suitable geofabric and finished with topsoil.

NOTE 2: Trenches are to be at least 5 metres from private property boundaries and 3 metres from the footings of any structure.

NOTE 3: A suitably designed litter and coarse sediment 450mm square grated arrestor pit is to be provided immediately upstream of the dispersal trench.

NOTE 4: The trench is not to require excavation underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 5: A certificate from the installer is to be submitted to the Principal Certifying Authority prior to issue of the Final Compliance Certificate with respect to this condition being satisfied.

68. Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention and all supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council requirements. These must

Item 2

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

69. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hr rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces, except where 100 year capacity is required to minimise overflows, in which case the design rainfall intensity shall be 257mm/hr for five minute duration. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.

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

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

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

70. Details of the proposed porous paving to the rear carpark are to be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate. Porous paving is to comply with the requirements of Council's Water Management DCP 47 Section A6.6.
71. 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.
72. 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.

Item 2

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

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

74. 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 Certificate of Subdivision.

Plant Species

Cinnamomum camphora (Camphor laurel), *Cotoneaster sp.* (Cotoneaster), *Ligustrum lucidum* (Large-leaved Privet), *Ligustrum sinense* (Small-leaved Privet) *Toxicodendron succedaneum* (Rhus Tree), *Jasminum polyanthum* (Jasminum) *Hedera helix* (English Ivy),

75. 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.
76. 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.
77. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance 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 facilities and the porous paving 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 facility, in relation to the

Item 2

building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

78. 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 engineer or the installing plumbing contractor to the Principal Certifying Authority (PCA), that:
- a. The components of the new drainage system have been installed in accordance with the Plumbing and Drainage code AS3500.3.2 and by a licensed plumbing contractor, and
 - b. The stormwater drainage works have been carried out in accordance with the approved Construction Certificate drainage plans and Councils Stormwater Management Manual.

BUILDING CONDITIONS

79. 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.
80. 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.
81. 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).

Item 2

82. A fully detailed first floor joist layout (in duplicate) complying with the National Timber Framing Code or accompanied by a structural engineer's Certificate of Adequacy shall be submitted to and approved by the Principal Certifying Authority.
83. 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.
84. 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 equaling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.

85. 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.

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

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

Item 2

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.

87. 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 child care centre and additions and alterations 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.

Mark Leotta
Team Leader – North Team
Development Assessment

Matthew Prendergast
Manager
Development Assessment
Services

Michael Miocic
Director
Development and Regulation

Attachments: Report to Council 7 December 2004

5 MURDOCH STREET, TURRAMURRA

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To address matters raised at the site inspection of 12 February 2005 and for Council to determine a development application for the demolition of the existing dwelling and construction of a detached dual occupancy.

BACKGROUND:

Council at its meeting of 1 February 2005 deferred consideration of the application pending a site inspection.

COMMENTS:

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

RECOMMENDATION:

That the additional information be noted, and that the application be approved, subject to conditions.

PURPOSE OF REPORT

To address matters raised at the site inspection of 12 February 2005 and for Council to determine a development application for the demolition of the existing dwelling and construction of a detached dual occupancy.

BACKGROUND

An assessment report was prepared and considered by Council on 1 February 2005, where Council resolved to defer determination pending a site inspection. The site inspection was carried out on Saturday 12 February 2005. The following matters were raised at the site inspection and are addressed accordingly:

Landscape

1. Will the proposed setback of the retaining wall by 1 metre in relation to the western boundary be sufficient to enable suitable landscaping?

Response: The retaining wall only extends for a section of the driveway (refer to the western elevation, drawing 4, Design Criteria, dated 14.11.04). One metre is considered sufficient area for the screen planting, which will accommodate 9 Pittosporum (1.5-2.0 metres high), 10 Camellia (2.3 metres high) and 12 Syzygium (Bush Christmas)(4-5 metres high).

2. What are the number, species and location of existing and proposed canopy trees?

Response: The site area (1525m²) requires a minimum of 7 canopy trees under Council's tree replenishment policy.

Existing trees are a *Nyssa sylvatica* (tree No.9 – at 12 metres high – south-west corner) and a *Liquidamber styraciflua* (tree No. 10 at 15 metres high – south-west corner).

Proposed trees are 3 *Angophora costate* (Sydney Red Gum – to 15-20 metres high – southern boundary and south-west corner) and 2 *Podocarpus elatus* (Brown Pine – to 18 metres high – front boundary adjacent to driveway, and rear boundary of Dwelling 1).

3. Confirmation is sought as to the adequacy of the setback for Dwelling 2 from the paperbark tree located in the rear yard of 7 Murdoch Street.

Response: Tree No. 1 *Melaleuca quinquineirna* (Broad leafed paperbark) has a 3.3 metre setback from Dwelling 2. Although this encroaches on the primary root zone by 700mm it does not encroach upon the critical root zone. All root pruning along the perimeter of the building within the canopy spread of this tree is to be carried out by hand (*refer Condition No. 54*).

Engineering

Item 3

DA0867/04
23 February 2005

4. Confirmation is sought as to whether the offset provision under DCP 47 for rainwater tanks applies to this site.

Response: As this development application was lodged after the introduction of DCP47, this DCP does apply to this application. A 3500 litre rainwater tank has been provided for Dwelling 1, and a 5500 litre tank has been provided for Dwelling 2.

5. Is the depression running through the site a natural watercourse? Has Council's Engineer visited the adjoining sites above and below the subject site?

Response: The depression running through the site is only a local depression which terminates between Nos 8 and 9 Tallong Place. It is not a natural watercourse. A site inspection has been carried out by Council's Development Engineer.

6. Were any applications/requests made by the applicant or neighbours to clear the 'waterway'. When was this and was it considered appropriate?

Response: There are no records of this.

7. Can councillors request an increase in pipe capacity in the interallotment easement?

Response: Yes. However, Council's Development Engineer has considered the application and considers the proposed drainage appropriate without any increase in the pipe capacity.

8. Where does the open drain on the adjoining site to the rear (No. 9A Tallong Place) go and what does it collect?

Response: It would appear that it is an informal drain running along the property boundaries to the public reserve to the east (see the attached site location plan for Public Reserve location).

9. Is it possible to have a pit located on the adjoining site to the rear to connect the drainage easement pipe with the open drain on the neighbours property?

Response: Only if the term of the easement allows for this. This would be a private arrangement which would need to be agreed to by the owner of No. 9A Tallong Place. However, the application has been assessed by Council's Development Engineer, who considers that the proposal is acceptable without the need for a drainage pit in the neighbouring property.

10. Given the stormwater issues associated with the site and area, are the discharge rates from the OSD appropriate?

Response: The calculated discharge rate of the OSD system is based upon the factor for that catchment. The requirements for this calculation are as set within the DCP and are considered appropriate by Council's Development Engineer.

Planning

Item 3

DA0867/04
23 February 2005

11. Confirmation is sought that the proposed setbacks, as shown on the site plan, are accurate in relation to the boundaries on the survey plan.

Response: The western and eastern setbacks in relation to the boundaries have been checked. There are no discrepancies.

RECOMMENDATION

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

THAT Development Application No. 0867/04 for a dual occupancy development on land at 5 Murdoch Street, Turramurra, be approved for two years on a deferred commencement basis, subject to the following conditions:

SCHEDULE A

1. The submission of registered title documents demonstrating that the subject site is benefited by the necessary easement(s) for stormwater drainage as far as the approved point of discharge to the public drainage system. 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).
2. The submission of full hydraulic design documentation for the required interallotment drainage system from the subject property to the approved point of discharge to the public drainage system. Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer in accordance with Council's Water Management DCP 47 (available on Councils website and at Customer Services) and the Plumbing and Drainage Code (AS3500). New pipes within the downstream easement drainage system must be sized to have adequate capacity to carry design flowrates, or detention system overflows where detention systems are to be provided, from the subject property. The following details must be included:
 - a. Plan view of interallotment system to scale showing dimensions, location and reduced levels of all pits, grates, pipe inverts, flushing facilities and exact point of discharge,
 - b. The contributing catchment calculations and supporting pipe sizing information,
 - c. Longitudinal section showing existing ground levels and proposed pipe invert levels, grades and flow capacities,
 - d. Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system,
 - e. Means to preserve the root systems of trees within seven (7) metres of the drainage system.
3. The construction of the required interallotment drainage system must be completed in full. The designing engineer or equivalent professional engineer must supervise the works. At the completion of works, the following shall be submitted to Council:

Item 3

DA0867/04
23 February 2005

- a. Certification from the supervising engineer that that the as-constructed works comply with the approved interallotment design documentation, and
- b. A full works-as-executed drawing of the as built drainage line (dimensions, grades, materials, invert levels) prepared by a registered surveyor, and
- c. Certification from the surveyor that all drainage structures are wholly contained within the drainage easement(s).

THIS CONSENT will be ISSUED SUBJECT TO CONDITIONS OF APPROVAL as specified hereunder in Schedule B.

This permit shall be read in conjunction with the approved plans and specifications.

The following conditions specified hereunder in Schedule B shall be imposed on the Development Application.

SCHEDULE B

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans numbered 1 to 9, dated 14-06-2004, drawn by Design Criteria, and endorsed with Council's approval stamp, except where amended by the following conditions:
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
5. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
6. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
7. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
8. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

Item 3

DA0867/04
23 February 2005

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

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

10. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
11. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
12. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
13. To maintain existing ground levels all excavated material shall be removed from the site.
14. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
15. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
- a. The type and size of machinery proposed.
 - b. The routes of all trucks to convey material to and from the site.
 - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.
16. With regard to the proposed rock breaking the following conditions are to be observed:
- a. The Geotechnical Engineer shall supervise the works in progress.
 - b. A dilapidation report on adjoining or nearby properties shall be prepared prior to any excavation, rock breaking, or associated work commencing and shall be submitted to the Principal Certifying Authority.

Item 3

DA0867/04
23 February 2005

- c. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
 - d. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
17. For the purpose of maintaining visual amenity, no permanent electricity supply poles are to be erected forward of the building setback without the prior Consent of Council. It is the onus of the applicant to consult with the authorised statutory electricity provider prior to construction commencing to ensure that direct connection to the building is possible. Details of any proposed permanent pole must be submitted to and approved by Council prior to installation.
18. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
19. 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.
20. 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.

21. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
22. 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

Item 3

DA0867/04
23 February 2005

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.

23. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
24. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
25. 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.
26. 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.

27. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
28. 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 3

DA0867/04
23 February 2005

29. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
30. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
31. 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.
32. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
33. 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.
34. 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.
35. 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.
36. 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.
37. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the interallotment stormwater drainage line benefiting the subject site.
38. A mandatory on-site stormwater retention and re-use system must be provided in accordance with Basix Certificate.

Item 3

DA0867/04
23 February 2005

39. An on-site stormwater detention system must be provided for each dwelling in accordance with Council's requirements described in chapter 6 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website. Separate systems are to be provided for each residence, except where a single combined system may be located in a common location readily accessible by both owners (such as under a shared driveway). In this case appropriate cross burdens are to be created on title(s) as necessary.
40. For stormwater control a 200mm wide grated channel/trench drain with heavy duty removable galvanised grates is to be provided in front of the garage door and connected to the stormwater drainage system.
41. The relocation or adjustment of any utility service facilities must be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
42. 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.**
43. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
44. The minimum width of a single and double garage door opening shall be 2.4 and 4.8 metres respectively, in accordance with Section 5.4 of AS2890.1-2004.
45. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard AS 2890.1 – "Off-Street car parking".
46. For the purpose of any Council inspections, the appropriate fees set out in Councils adopted Schedule of Fees and Charges are payable to Council, prior to the release of the approved plans. A re-inspection fee per visit may be charged where remedial work is unprepared at the requested time of inspection or where remedial work is unsatisfactory and a further inspection is requested. Engineering fees must be paid prior to the final approval of the works.

Item 3

DA0867/04
23 February 2005

47. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to issue of the Construction Certificate. Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
48. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.
49. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council’s Tree Preservation Order) without prior written consent of Council is prohibited.

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

50. Landscape works shall be carried out in accordance with Landscape Drawing LPDA 05 – 72/1D, prepared by Landscape Architectural Services, dated November 2004 submitted with the Development Application, except as amended by the following:
 1. Retaining wall to driveway adjacent dwelling 1 to be setback minimum 1 metre from western boundary.
 2. Retaining walls along eastern boundary to dwelling 1 and 2 to be setback minimum 1 metre from boundary.
51. 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.
52. 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. A Landscape Plan, dwg LPDA 05 – 72/1D, prepared by Landscape Architectural Services, dated November 2004, has been submitted. Tree numbers refer to this plan.

Item 3

DA0867/04
23 February 2005

Tree/Location	Radius From Trunk
<i>Pistacia chinensis</i> (Pistacia)/Tree 18, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 12, western bdy, adj property	10m
<i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) Tree 1, south east cnr, adj property	4m
<i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) Tree 2, south east cnr, adj property	3m
<i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) Tree 3, south east cnr, adj property	4m
<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle) Tree 16, eastern bdy, adj property	3m
<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle) Tree 17, eastern bdy, adj property	3m

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 12, western bdy, adj property	10m

54. No mechanical excavation of the proposed OSD tank 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>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) Tree 1, south east cnr, adj property	4m
<i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) Tree 2, south east cnr, adj property	3m
<i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) Tree 3, south east cnr, 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>Pistacia chinensis</i> (Pistacia)/Tree 18, nature strip	6m
<i>Eucalyptus saligna</i> (Sydney Blue Gum) Tree 12, western bdy, adj property	10m
<i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) Tree 1, south east cnr, adj property	4m
<i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) Tree 2, south east cnr, adj property	3m
<i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) Tree 3, south east cnr, adj property	4m
<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle) Tree 16, eastern bdy, adj property	3m
<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle) Tree 17, eastern bdy, adj property	3m

56. 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.
57. 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 final Certificate of Compliance.

Item 3

DA0867/04
23 February 2005

58. 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:
Celtis australis (Nettle Tree)
Acer negundo (Box Elder)
Ligustrum lucidum (Large-leaved Privet)
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. In order to protect the amenity and privacy of the adjoining property No.3 Murdoch Street, the windows serving the dining room of Dwelling 1 shall **either** be obscure glazed to height of 1.7 metres **or** have a lower sill level of 1.7 metres above FFL.

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

61. 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.

62. The stormwater concept plan prepared by GJ McDonald Consulting Engineers, Drawing No. 02252C-C, dated 29/7/04 shall be amended to, but not limited to the following:

Item 3

DA0867/04
23 February 2005

1. A minimum of 2 access grates are to be provided for the on-site detention system in order to allow cross ventilation.
 2. Details of rainwater retention and re-use system must be provided as noted in the Basix Certificate.
63. Full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater detention system shall be submitted and approved by the Principal Certifying Authority prior to issue of the Construction Certificate. 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 in accordance with Basix Certificate. 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 and may be incorporated on the overall site drainage plan.
64. 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 Basix Certificate 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.
65. 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 available on the Council website and at Council, and AS 3500.2 - Plumbing and Drainage Code.
66. 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.
67. A CASH BOND/BANK GUARANTEE of \$1000 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.

Item 3

DA0867/04
23 February 2005

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.

68. 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.

69. 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).
70. 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.
71. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:

Item 3

DA0867/04
23 February 2005

- 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.
72. 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.
73. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE (1) ADDITIONAL DWELLING IS CURRENTLY \$32,324. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 20 December 2000, calculated for additional person as follows:

1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New child care centre (including land acquisition and construction of facility)	\$252.13
4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Acquisition of Open Space	\$7,851.00
8.	Koola Park upgrade and reconfiguration	\$143.09
9.	North Turramurra Sportsfield development	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Item 3

DA0867/04
23 February 2005

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

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

74. 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.
75. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in Metres
<i>Liquidambar styraciflua</i> (<i>Liquidambar</i>) Tree 10, western bdy	4m
<i>Nyssa sylvatica</i> (Tupelo) Tree 9, south west corner	4m

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

Tree/Location	Radius From
Trunk	
<i>Eucalyptus saligna</i> (<i>Sydney Blue Gum</i>)/Tree 12, western bdy, adj property	10m
<i>Pistacia chinensis</i> (<i>Pistacia</i>)/Tree 18, nature strip	6m

77. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s excluding that area for proposed drainage works and minimum 1.5m setback from the eastern boundary, 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	
<i>Camellia sasanqua</i> hedge/ eastern boundary	1.5m
<i>Melaleuca quinquenervia</i> (<i>Broad Leaved Paperbark</i>) Tree 1, south east cnr, adj property	4m
<i>Melaleuca quinquenervia</i> (<i>Broad Leaved Paperbark</i>) Tree 2, south eas t cnr, adj property	3m
<i>Melaleuca quinquenervia</i> (<i>Broad Leaved Paperbark</i>) Tree 3, south east cnr, adj property	4m

78. 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.

Item 3

DA0867/04
23 February 2005

79. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

80. Prior to occupation, or the issue of an Occupation Certificate or the issue of a Subdivision Certificate, all disused driveway crossings, pipe crossing and/or kerb laybacks are to be reinstated as footway and kerb and/or gutter to the satisfaction of Council's Development Engineer. Reinstatement works to generally match surrounding infrastructure. Any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer, at the Applicants cost.
81. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to occupation, or the issue of an Occupation Certificate or the issue of a Subdivision Certificate.
82. 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.
83. 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.

Item 3

DA0867/04
23 February 2005

84. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to occupation, or the issue of an Occupation Certificate, or the issue of a Subdivision Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

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

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

- invert levels
- surface or pavement levels
- floor levels including adjacent property floor levels
- maximum water surface level to be achieved in the storage zone
- dimensions of basin(s), tank(s), pit(s), etc.
- location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
- storage volume(s) provided and supporting calculations
- size of orifice(s)

85. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the installed rainwater retention 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 certify:

- Compatibility of the retention system(s) with the approved Construction Certificate plans.
- Compliance with AS 3500.2 & AS3500.3:1998.

Item 3

DA0867/04
23 February 2005

- Overflow from the installed retention devices directed to an approved disposal point.
- The capacity of the retention storage as approved.
- Provision of leaf gutter guards to all roof gutters.
- Measures to prevent mosquito breeding nuisance.
- Provision of a readily maintainable “first flush” system to collect sediment/debris before entering the tank(s).
- Installation of proprietary tank products in accordance with manufacturers’ specifications.
- The structural adequacy of tank and supporting structures/slabs.
- Where required by this consent, that all toilet flushing, laundry and garden tap water usage for the approved development is sourced from the stormwater retention tank(s).
- All pumping equipment is readily accessible for maintenance and cleaning purposes and the adequacy of the pumping mechanism to achieve delivery rates as required.
- An air gap being provided at the top of the tank(s).
- Mains backflow prevention devices being installed at all relevant locations for reticulated systems
- Sediment sump of 150mm minimum being provided at the base of the tank(s)
- All recycled stormwater outlet points having permanently affixed plaques in readily observable locations which read “Recycled Stormwater – Not For Drinking” or equivalent.
- The provision of water mains back-up system to each collection tank for periods of low rainfall.
- Evidence of Sydney Water approval to the proposed system.
- The provision of filtration devices on each system to ensure no blockage of delivery plumbing systems.
- Compliance with relevant sections of the latest “Plumbing and Drainage Code of Practise ” issued by the Committee on Uniformity of Plumbing and Drainage Regulations in NSW.

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.

86. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance 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 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

Item 3

DA0867/04
23 February 2005

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.

87. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance 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 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 instruments for protection of retention and re-use 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.

BUILDING CONDITIONS

88. 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.
89. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any pier holes and/or foundation material.
 - c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).

Item 3

DA0867/04
23 February 2005

- d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
- e. Any stormwater drainage works prior to covering.
- f. The completed landscape works in accordance with the approved plans.
- g. The completed structure prior to occupation.

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

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

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

90. 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.

91. 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.

Item 3

DA0867/04
23 February 2005

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.

Kerrin Lithgow
Executive Assessment Officer

Matthew Prendergast
Manager
Development Assessment Services

Mark Leotta
Team Leader
Development Assessment – Team North

Michael Miocic
Director
Development and Regulation

Attachments: **Council Report of 1 February 2005**

MEETING CYCLE - APRIL 2005

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To consider amending the Meeting Cycle for April 2005 because of the school holidays.

BACKGROUND:

Council has in the past resolved to amend its Meeting Cycle to take into account the school holiday break.

COMMENTS:

Option for Council's consideration.

RECOMMENDATION:

That Council's Meeting Cycle for April 2005 be amended.

PURPOSE OF REPORT

To consider amending the Meeting Cycle for April 2005 because of the school holidays.

BACKGROUND

The scheduled Meeting Cycle for meetings in April 2005 is:

12 April 2005- Ordinary Meeting of Council
26 April 2005- Ordinary Meeting of Council

COMMENTS

The next school holiday period is from 11 April to 22 April 2005, inclusive. The scheduled Council meeting for 12 April 2005 falls within this period.

Council has in the past resolved to cancel meetings during the school holidays.

Therefore, it is recommended that Council meet on 5 April rather than 12 April 2005 as scheduled.

Council could amend its Meeting Cycle for April as follows:

5 April 2005 - Ordinary Meeting of Council
12 April 2005 - (transferred to 5 April 2005)
26 April 2005 - Ordinary Meeting of Council

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

That Council amend its Meeting Cycle for April 2005, as follows:

5 April 2005 - Ordinary Meeting of Council
12 April 2005 - (transferred to 5 April 2005)
26 April 2005 - Ordinary Meeting of Council

Geoff O'Rourke
SENIOR GOVERNANCE OFFICER

Brian Bell
General Manager

CODE OF CONDUCT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To consider Council's Code of Conduct, incorporating the Model Code of Conduct from the Department of Local Government.

BACKGROUND:

The Council is required to review its Code of Conduct within 12 months of a general election. In December 2004 The Department of Local Government produced a model Code of Conduct. The Model Code is compulsory for all Councils to adopt as the minimum basis for their Code of Conduct. The DLG Model Code can be added to by Councils only in such terms that make additional more onerous obligations upon the various stake holders.

COMMENTS:

Proposed additions to the Model Code of Conduct have been suggested and are underlined in bold italics.

RECOMMENDATION:

That the Councils Code of Conduct, incorporating the Department of Local Governments Model Code of Conduct, be placed on public exhibition for comment.

PURPOSE OF REPORT

To consider Code of Conduct, incorporating the Model Code of Conduct from the Department of Local Government.

BACKGROUND

Councils are required to review their Code of Conduct within 12 months of a General election. In December 2004 the Department of Local Government produced a Model Code of Conduct. This model Code is the minimum compulsory requirement for all Council Codes of Conduct. The Model Code can not be altered and must be adopted unchanged into the Ku Ring Gai Code of Conduct. The Department of Local Government permits Councils to make additions to this Code however these additions can only place more onerous obligations upon the stake holders.

A review has recently been conducted of the Model Code and our previous Code of Conduct. A report with my recommendations was forwarded to the General Manager and additions to the Code were put before the Policy Review Committee on Monday the 21 February 2005.

Additional suggestions to the Model Code are underlined in bold italics. The parts of the Code in black ink (NOT underlined in bold italics) is the DLG Model Code and can not be changed.

Significant proposed additions to the Code are explained as follows;

The first area of expansion involves a more controlled interaction between council staff and developers. This particular area of interaction potentially comes with a high degree of risk. It is suggested that Council staff before meeting a developer or their associates would first declare the intention to meet the developer to their supervisor. They would advise the supervisor of the reason, time and location of the meeting. The supervisor would record this in a register that is maintained and secured by them. This allows the Supervisors, Manager and Director to monitor and control the interactions taking place. Unplanned/coincidental meetings should be immediately reported to their supervisor and recorded in the register.

Further, meetings with developers and their associates should be attended by at least 2 members of staff, one of which should be a senior member of staff.

The Model Code does not have a section referring to public comment. It is suggested we include the Public Comment section of our current Code of Conduct and propose that it is incorporated into the Model Code of Conduct. This will assist in risk management issues relating to media interaction.

Further, an additional proposal to the area under, *'reporting breaches, complaint handling procedures and sanctions.'* should be considered. Here it is suggested we incorporated the role of Internal Ombudsman and also add that the independent person appointed to the conduct committee should be made only with the formal approval of the Internal Ombudsman. This would send a strong message of independence and good governance to the community of Ku-ring-gai.

Finally, there are some proposed additions to the area on sanctions. This involves adding a paragraph outlining the possible consequences of non compliance with the Code of Conduct.

COMMENTS

A Council resolution is sought to put the draft Code of Conduct on public exhibition for 28 days to allow comment from members of the public, prior to formal adoption by Council.

CONSULTATION

Councillors have been consulted in the preparation of the draft code. External consultation was undertaken with Linda WAUGH, Executive Director Anti Corruption ICAC and Lyn BROWN, Senior Investigator Department of Local Government.

FINANCIAL CONSIDERATIONS

Advertising costs.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The General Manager and Directors have been consulted during the preparation of the draft code.

SUMMARY

The Code of Conduct has been amended to incorporate the new Model Code of Conduct as well as some additional changes with the goal being to ensure all parties act in an ethical and responsible manner.

The proposed Code of Conduct should be placed on public exhibition for 28 days for public comment.

A further report will be submitted to Council following the public exhibition.

RECOMMENDATION

That the proposed Code of Conduct be placed on public exhibition and a further report be submitted to Council following the public exhibition period.

Gavin Beck
Internal Ombudsman

Brian Bell
General Manager

Attachment: Code of Conduct

CODE OF MEETING PRACTICE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To give consideration to adopting an amended Code of Meeting Practice.

BACKGROUND:

Section 360(2) of the Local Government Act 1993 provides that Councils may adopt a code of meeting practice that includes the Regulations and provisions that are tailored to the Council but not inconsistent with the Regulations.

COMMENTS:

Council's current Code of Meeting Practice was presented to the Policy Review Committee for discussion.

RECOMMENDATION:

That the amended Code of Meeting Practice be placed on public exhibition for a period of 28 days and that a further report be submitted following exhibition.

PURPOSE OF REPORT

To give consideration to adopting an amended Code of Meeting Practice.

BACKGROUND

The Local Government Act and Local Government (Meetings) Regulation make provisions in respect of the conduct of meetings of the Council and Committees where all the members are Councillors.

Section 360(2) of the Act provides that Council's may adopt a code of meeting practice that includes the Regulations and provision that are tailored to the Council but not inconsistent with the Regulations.

Before amending and adopting a code of meeting practice, a Council must prepare a draft code and give public notice of it.

Council has previously adopted a Code of Meeting Practice incorporating the Regulations and provisions specific to Ku-ring-gai.

COMMENTS

Council's current Code of Meeting Practice was presented to the Policy Review Committee on 21 February 2005 for discussion.

As a result of the review, a number of minor amendments were discussed. The changes more appropriately reflect the current procedures of Council.

During the discussions particular attention was given to Part 12.2 of the Code that relates to the tape recording of Council Meetings.

On advice from Privacy NSW, it was recommended that the following be included in Council's Code in order to comply with Privacy Legislation:

"We recommend that if a council decides to tape record meetings they make appropriate provision in their code of meeting practice (adopted under section 360 of the Local Government Act) to ensure that:

1. Tape recordings of meetings are only used for verifying the accuracy of minutes.
2. Tape recordings of meetings are not made available to the public or disclosed to any third party under section 12(6) of the *Local Government Act*, except as allowed under section 18(1)(c) or section 19(1) of the PPIP Act, or where council is compelled to do so by court order, warrant or subpoena (see eg section 23(5) of the PPIP Act) or by any other law (eg the FOI Act).
3. Tape recordings of meetings are destroyed as soon as their original purpose is served or three months after their creation (whichever is the later), except where retention for a longer period is otherwise required or recommended under the State Records Act 1998.

Item 6

S02211
24 February 2005

4. Appropriate signage is displayed in the public gallery or at the public entrance to council meetings, and verbal statements made at the start of each meeting, to notify the public of the matters required under IPP3 (section 10(a)-(e) of the PPIP Act)."

Councillors expressed concern about the inclusion of this recommendation in the Code and it was decided that Council should seek legal advice on the Privacy Commissioner's recommendation provided in the User Manual on the tape recording of Council meetings.

However, the day after the Committee meeting, the Senior Governance Officer attended a Governance Network meeting and there was discussion concerning the taping of Council meetings. There was a representative of the NSW Ombudsman's Office attending and he referred those attending to a section of the latest Ombudsman's Annual Report in relation to tape recording of Council meetings. The Annual Report states:

"tape recording of council meetings

Many councils in NSW tape record their meetings. Members of the public sometimes seek access to these tape recordings, often to find out exactly what was said during council debates on, for example, development applications, objections or complaints made to the council.

In May 2004, Privacy NSW issued a user manual to provide advice for councils about the tape recording of council meetings. The manual concluded with recommendations that tape recordings of meetings should:

- only be used for verifying the accuracy of minutes
- not be made available to the public except as allowed under ss.18(1) and 19(1) of the Privacy and Personal Information Protection Act 1998 (PPIP Act) or under legal compulsion
- be destroyed as soon as the original purpose is served or three months after their creation, except where some other legal requirement applies.

After reviewing this manual, we wrote to Privacy NSW and later to the Minister for Local Government expressing our concern that the advice in the manual could lead to confusion, uncertainty and inappropriate decision-making by councils.

Our concerns included that:

- the manual ignores relevant obligations on councils under the Freedom of Information Act 1989 (FOI Act) - the PPIP Act does not lessen any obligation on a public sector agency or rights of an FOI applicant under the FOI Act.
- the manual adopted a narrow view of why councils tape record their meetings, failing to recognise certain other valid purposes.
- the recommendations made in the manual were stated to apply to the full tape recordings of council meetings, whereas the requirements of the PPIP Act are only relevant to those limited parts which contain 'personal information' - that is 'information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion'.
- the manual fails to consider the impact of s. 4(5) of the PPIP Act which provides that personal information is not 'collected' by a public sector agency if receipt of the information by the agency is 'unsolicited' - a clear distinction can be drawn between a council inviting people to attend and speak on issues flagged in the agenda, and a council inviting people to attend a meeting to provide 'information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion'.
- the manual does not address the application of the provisions of s. 4(3)(b) of the PPIP Act which exclude from the definition of 'personal information' any 'information about an individual that is contained in a publicly available publication' - such as the minutes of and business papers for council meetings or relevant notices in local newspapers.

Item 6

S02211
24 February 2005

We suggested to the Minister that he should consider giving councils some information to clarify the current situation, and amend s. 12 of the LG Act to make it clear that the Information Protection Principles in the PPIP Act are not an impediment to releasing information under that section."

In view of the Ombudsman's disagreement with the Privacy Commissioner, it would seem prudent to await the outcome of discussions on the matter. In the meantime, leave this section of Council's Code unaltered.

Attached is a copy of the Code of Meeting Practice with the recommended changes highlighted.

The Code should be placed on exhibition for a period of 28 days with a further 14 days for the public to make submissions prior to adoption by Council.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

- A. That the amended Code of Meeting Practice be placed on public exhibition for a period of 28 days.
- B. That a further report be submitted following exhibition of the Code.

Geoff O'Rourke
Senior Governance Officer

Brian Bell
General Manager

Attachments: Amended Code of Meeting Practice

POLICY FOR THE PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To consider submissions received as a result of public notification of proposed amendments to Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors.

BACKGROUND:

On 19 October 2004, Council considered proposed amendments to Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors and resolved to give public notification of the proposal pursuant to section 253(1) of the *Local Government Act* 1993.

COMMENTS:

It is recommended that Council amend its Policy for the Payment of Expenses and Provision of Facilities to Councillors in the terms discussed in this report.

RECOMMENDATION:

That Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors in Attachment 2, be adopted.

PURPOSE OF REPORT

To consider submissions received as a result of public notification of proposed amendments to Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors.

BACKGROUND

Section 352(1) of the *Local Government Act 1993* provides:

“A council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councilors in relation to discharging the functions of civic office.”

Council's current policy was adopted on 7 March 2000.

On 19 October 2004, Council considered proposed amendments to Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors and resolved to give public notification of the proposal pursuant to section 253(1) of the *Local Government Act 1993*. Pursuant to section 252(4), and having considered any submissions received, Council may now amend the policy by decision made in open meeting.

COMMENTS

In its resolution on 19 October 2004, Council also resolved:

That Council seek legal advice on section 8.2.

A copy of the advice obtained by Council is attached. Having regard to that advice, minor amendments have been incorporated in attachment 2

The Department of Local Government, in Circular 04/60 has recommended that monetary limits be set for certain types of expenses, for example, mobile phones. It is therefore recommended that limits be set for costs incurred for the following mobile phones:

Mayor	\$200 per month
Councillors	\$100 per month

CONSULTATION

One submission was received as a result of notification of the proposed amendments (see attachment 1).

The issues raised by the submission are as follows:

Item 7

S03779
15 February 2005

1. noting a typographical error in numbering in the document as notified. *Comment* - This has been corrected in attachment 2 to this report.
2. noting the absence of a requirement that Councillors use a privately owned mobile phone exclusively for Council use, if obtaining reimbursement of 50% of the cost. *Comment* - As discussed above, attachment 2 to this report now provides for monetary limits.
3. suggesting a change to the title of the policy. *Comment* – It is not considered that any change to the title of the policy is necessary,

FINANCIAL CONSIDERATIONS

Expenses associated with the provision of mobile phones and any reimbursement of legal expenses will need to be factored into Council's operating budget.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The Director Finance and Business and Corporate Lawyer have been consulted in relation to the proposed amendments to the policy.

SUMMARY

On 19 October 2004, Council considered proposed amendments to Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors and resolved to give public notification of the proposal pursuant to section 253(1) of the *Local Government Act* 1993. Pursuant to section 252(4), and having considered any submissions received, Council may now amend the policy by decision made in open meeting.

The draft policy forming attachment 2 to this report incorporate amendments which are recommended having regard to submissions received, recommendations made to Councils by the Department of Local Government, and legal advice received by Council.

RECOMMENDATION

That Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors, in Attachment 2, be adopted.

Jamie Taylor
Corporate Lawyer

Brian Bell
General Manager

Attachments: **Attachment 1: Submission**
 Attachment 2: Draft Amended Policy
 Attachment 3: Advice from John Boland, MatthewsFolbigg

OPTIONS FOR UNDERGROUNDING OF POWERLINES AND CABLES IN LEP194, LEP 200 AND BUSINESS CENTRES COVERED IN STAGE 2

EXECUTIVE SUMMARY

**PURPOSE OF
REPORT:**

To report on options for funding of undergrounding power lines and cables for future developments under LEP 194 and 200 and in Business Centres covered by Stage 2 of the Residential Development Strategy.

BACKGROUND:

A requirement of the Management Plan 2004-2008 is to report on options for progressing undergrounding of power lines and cables.

A report to Council on 12 October 2004 identified the average cost for undergrounding of cables at about \$3,800 per property.

The Management Plan required investigation of options for undergrounding power lines associated with future developments under LEP 194 and 200, and for Business Centres associated with the Masterplanning.

COMMENTS:

LEP 194 and draft LEP 200 affects land in the vicinity of the Pacific Highway and North Shore Railway line between Roseville and Wahroonga and the St Ives town centre. Under both LEP's, requirements and responsibilities for undergrounding of powerlines is placed on developers through the Development Control Plan.

Mixed development in the form of "shop top" housing will impact the six business centres covered by Stage 2. In these centres, options for underground cabling involves consideration of establishing minimum undergrounding lengths by staging, variability of costing, and funding alternatives primarily based on a "user pays" and "horizontal equity" principles.

RECOMMENDATION:

That the report be received and noted in accordance with the recommendations A - B

PURPOSE OF REPORT

To report on options for funding of undergrounding power lines and cables for future developments under LEP 194 and 200 and in Business Centres covered by Stage 2 of the Residential Development Strategy.

BACKGROUND

A requirement of the Council Management Plan 2004-2008 is to report on options for progressing undergrounding of power lines and cables.

The likely cost for undergrounding of cables was identified in a report to Council on 12 October 2004. It indicated the average cost for undergrounding of cables was about \$3,800 per property, or \$136.7 million over the entire area of Ku-ring-gai, based on 35,111 private and 861 business properties. From that report the Council resolved:

“That estimates of costs for undergrounding cables in business centres covered by Stage 2 be reported to a Council with options for meeting the costs.”

In association with this resolution, this report addresses the final two indicators identified in the Management Plan:

- To examine options associated with future developments under LEP 194 and 200.
- To examine options for undergrounding power lines in the Business Centres associated with the Masterplanning.

COMMENTS

Fundamental to an examination of options and funding involves establishing the relationships between and context of LEP 194, LEP 200 and the business centres covered by Stage 2 within Ku-ring-gai.

Local Environmental Plan (No. 194)

Local Environmental Plan No. 194 (LEP 194) was gazetted 28 May 2004 and forms stage 1 of the Residential Development Strategy for Ku-ring-gai. LEP 194 affects land in the vicinity of the Pacific Highway and North Shore Railway line between Roseville and Wahroonga and the St Ives town centre.

Local Environmental Plan (No. 200)

Council has prepared Draft Local Environmental Plan No. 200 to be consistent with the provisions of LEP194. Draft LEP 200 introduces eleven sites of 2 (c2) and ten sites of 2(d3) zoning, incorporating two sites of 2(d3), requested by the Minister. Comparison of locations with LEP 194 indicates it incorporates six identified sites “upzoned” from 2(c2) that are currently subject to LEP194 to 2(d3).

Business Centres covered by Stage 2

Business centres covered by Stage 2 are the same associated with the master planning. Stage 2 of the Residential Development Strategy makes provisions for opportunities for increased housing density in the form of “shop top” housing. Six business centres areas are identified which in sequence are, St Ives, Turramurra, Gordon, Pymble, Lindfield and Roseville.

Options for undergrounding power lines and cables

Overall, land zoned Residential 2(d3) under LEP 194 and draft LEP 200 permits multi-unit housing which affects land in the vicinity of the Pacific Highway and North Shore Railway line between Roseville and Wahroonga and the St Ives town centre. In terms of multi unit housing, the requirements and responsibilities for replacing overhead conductors (powerlines) by undergrounding has been placed on developers through two main mechanisms:

1. Development Control Plan No.55 (DCP 55). DCP 55 applies to all multi-unit housing including residential flat developments, townhouses and villas in 2(d3) zones. Under section 3.3, Landscape and Visual Character, design control item *C-10* requires the streetscape to be enhanced through work by undergrounding overhead powerlines.
2. Energy Australia's (EA) guidelines, *ES10 Requirements for Electricity supply to developments* under section 6, Overhead and Underground Mains Policy as copied in **Attachment 1**. Energy Australia is the determining authority as to the form of construction to be used for individual projects. Land under LEP 194, draft LEP 200 are located in existing urban overhead distribution mains area, and hence fall under the requirements in *ES10*. Two premises are listed in this policy as having to make provisions for connection to future underground mains:
 - Commercial property (of frontage over 50metres).
 - Multiple residential development

Although commercial property in business centres (over 50metres) is unlikely, multiple residential development would be expected to trigger this mechanism.

In practical terms, these represent capital contributions by the developer for the works. Precedence of this has been established with the development of the Ministers' site located on the southern corner of Pacific Highway and Marshall Avenue, Warrawee.

Consequently, examination of options for undergrounding cabling in business centres is required by addressing issues of implementation such as staging, costing and funding.

Staging of undergrounding in business centres

Staging of works is largely governed by nature and location of the redevelopment. Reliability of supply to customers must not be compromised and it is desirable to avoid visual anomalies, by

Item 8

S02051
7 February 2005

mixing overhead and underground mains. Generally, these requirements together can be satisfied with a choice of two options for staging works whereby:

- If the minimum distance underground at one time is a street block, or
- A nominal amount of at least 10 properties or length of 100 metres is used.

Costs for undergrounding in Business Centres

Costing varies considerably, with dependency on several aspects including site conditions, extent and scope of work, physical constraints and installation technique used, as well as the decorative lighting poles and luminaries selected.

For the purpose of establishing total costs for each business centre shown on Table 2.0, two indicative costs were determined:

- An average cost for undergrounding cabling and powerlines in business centres a figure of \$62,000 per 100 metres is used based on costs shown in Table 1.0, and
- An indicative cost of \$6,100 per SL standard for replacement (based from EnergyAustralia's cost for new SL standards) with decorative light is used for business centres at Gordon and Lindfield on the Pacific Highway which already have underground connections.

Also, the Ministry of Energy and Utilities of NSW (MEU) Research Report on Undergrounding Electricity Cables of 10 January 2002, details a comparison of the undergrounding programs in other states. A summary of these programs is attached as **Attachment 2**.

Table 1.0 Cost basis for undergrounding cabling and powerlines

Estimate source	Cost (\$)	\$/ metre (1)	\$/ 100 metres
Energex	10,044 (2)	670	66,960
EnergyAustralia	15,750 – 22500 (3)	1050 – 1500	105,000 – 150,000
Council (4)	-	-	57,100

Notes:

- 1) Assumes average 15 metre for typical household frontage.
- 2) Estimated budget costs per household, based from Table 5 in the MEU report, shown in **Attachment 3**. Costs for electrical and 2 broadband carriers averaged from 12 other Queensland districts (\$6,696), then factored for works in pavement and varying costs due to different soils as found in pilot scheme in Inala (Brisbane suburb).
- 3) Estimated cost per household (\$7,000 – 10,000), based on Table 6 in the MEU report, shown in **Attachment 3**. Cost based for electrical cabling only then factored by 1.5 (to include 2 broadband carriers as per table 5 in MEU report), and again by 1.5 for works in pavement.
- 4) Cost based on schedule of rates for trenching and indicative costs for lighting of St Ives Village Green (see **Attachment 4**), with decorative lighting pole about every 25 metres.

Item 8

S02051
7 February 2005**Table 2.0 Business centres**

Business Centre	Main road frontage (2)			Local road frontage (3)			Total Cost (\$000)
	Length (m)	Street – Street	Cost \$000	Length (m)	Partial Streets	Cost (\$000)	
St Ives	800	Cowan Rd– Stanley St	496.0	140	Stanley, Memorial	86.8	582.9
Turramurra	1040	Duff St– Ku-ring-gai Ave	644.8	630	Rohini, Eastern, Ray	390.6	1,035.4
Gordon	14 (1)	St Johns Ave – Park Ave	86.0 (4)	140	St Johns, Park	86.8	172.8
Pymble	1200	Telegraph Rd – Livingstone Ave	744.0	300	Grandview	186	930.0
Lindfield	25(1)	Wolsley St – Beaconsfield Rd	153.0 (4)	380	Lindfield, Tryon	235.6	388.6
Roseville	900	Maclaurin Pde – Shirley Ave	558.0	330	Hill, Lord, Roseville	204.6	762.6
				Final Total			3,872.3

Notes:

- 1) Area supplied with existing underground cabling. Number of existing Street Lighting Standards (SL) shown.
- 2) Length shown doubled as SL standards on main roads used both sides.
- 3) Lighting assumed on single side for local roads
- 4) Assumes each existing SL with U/G cabling replaced with new decorative lighting only.

Minor reductions in cost (per metre) can be achieved by continuity with larger works, although these are minimal as savings reflect only labour, plant and material set up costs. However, cost increases may occur due to site conditions which create difficulties for undergrounding in urbanised areas by conflict with trees by the route of conduits for power and telecommunication, as well as existing utilities and infrastructure (ie drainage stormwater pipes)

Two common installation methods used are open excavation and directional boring. While boring provides economies, less need for extensive restorations and less disruption, open excavation would be a more practical solution based upon:

- The requirement of separate inlines and short street frontages of businesses.
- Probable congestion of existing utilities and infrastructure.
- Directional boring is not suited in areas where rock or heavy subsoil is expected.
- Possibility of conflicting with other services such as drainage infrastructure.

For comparison, economies in cost by EnergyAustralia are indicated by trimming and aerial bundled cabling methods versus replacing overhead wiring with undergrounding, as noted in Table 6 in the MEU report, and shown in **Attachment 3**.

The issue of decorative lighting choice needs to be determined in the absence of a standard for business centres. Based on discussion with Council's Urban Designer/Architect it is recommended

Item 8

S02051
7 February 2005

that the consideration of decorative street lighting be incorporated into the development of a public domain manual for business centres associated with masterplanning.

Funding

Given the large cost involved in putting cables underground, the funding of such an activity is an important consideration. Options for funding are based from three sources:

- The Independent Pricing and Regulatory Tribunal (IPART).
- The Department of Communication, Information Technology and the Arts (DCITA). Through a working group, DCITA have prepared a report on funding options for putting cables underground (Chapter 5).
- MEU Research Report on Undergrounding Electricity Cables.

Three options for funding established are:

1. Fully funded through Section 94 plans by Developer contributions or property owners.
2. IPART findings notes a shared funding basis with quantifiable benefits (up to 20%) paid for by State Government and the District network service provider (EnergyAustralia), and remaining benefits (80%), funded by the local community through local government levies.

The rationale for this cost sharing was that the local community is likely to receive the large part of any benefits of undergrounding and should pay for those benefits.

3. 'User pays' principle, by consideration of who benefits and what are they. The report by DCITA and the MEU Research Report provides two different approaches to the same issue of a 'user pays' principle. .

Council's Section 94 Contributions Plan 2004-2009 commenced on 30 June 2004 and applies to all forms of new residential development. Roadway lighting is identified in public domain improvements, under section 29.23. Under this Plan, roadway lighting at public centres has an estimated capital cost of \$2 million dollars, and corresponding S94 contribution of \$88,000. This represents a shortfall of \$1.87 million based on total costs from six centres above.

From the DCITA report, the working group developed ten main principles used to evaluate against a shortlist of options. An important principle, Principle 8 in the list was the desirability, on equity and efficiency grounds, that beneficiaries contribute funds to any program for putting cables underground in proportion to the benefits received by them. That is, that for all funding options, any quantifiable benefits from putting cables underground should be identified and paid for by those receiving and enjoying the benefits, known as the "horizontal equity" principle.

The key groups most likely to be involved in, or to benefit from, any program to put cables underground are:

- Business property owners and local residents in areas where cables are put underground,
- electricity distributors and telecommunication carriers,
- utility customers (especially those in areas where cables are put underground),
- Local Government through the tax payer consolidated revenue for areas where cables are put underground being representative of the community as a whole.

Those benefiting and the benefits resulting from undergrounding include:

- The Community in an improvement in aesthetics, land value and less visual obstruction.
- The businesses by an improvement in aesthetics, as well as reduced power outages resulting in less damaged stock and down time in business trade and employment.
- EnergyAustralia and Emergency and maintenance workers, by an increased safety.

Both the DCITA and MEU reports recognised composite funding options. Whilst property owners in business centres will receive the direct benefit of improved visual amenity by undergrounding, the community in which cables are placed underground will also benefit.

The proportioning of funding varies, with examples of these shown in **Attachment 2**. Two examples of local government funding arrangements are based from the MEU Research report. In the suburb of Applecross (city of Melville), and Albany near Perth, costs were shared on the basis; State Government and Western Power fund 2/3 of cost and Council's funds the remaining 1/3.

In terms of the Council's cost, half the contribution was funded from the general rate base and the other from a specific charge levied on directly affected property owners. The following payment options were available:

- Four Interest free payments over one year to repay in full
- Discounted payment within 35 days of notice
- Five year payment program including interest component,
- Deferred payments program for eligible pensioners without incurring interest until the property was sold.

CONSULTATION

Consultation was undertaken with EnergyAustralia including documentation obtained from their web site. A variety of documentation was sourced from the web comprising information from the Independent Pricing and Regulatory Tribunal (IPART), the Department of Communication, Information Technology and the Arts and the Ministry of Energy and Utilities of NSW.

FINANCIAL CONSIDERATIONS

Possible future financial impacts

EnergyAustralia has recently proposed to IPART to impose significant price increases for public lighting. As part of EnergyAustralia's submission, they are proposing to impose new capital charges on Councils for a range of underground cabling and other connection assets.

This proposal is rebutted by the Council and its program managers, Next Energy (NE), under the Street Lighting Improvement Program. Extensive research by NE indicates that Councils or other

Item 8

S02051
7 February 2005

parties (ie developers) have already funded such assets under clear contractual agreements and publicly stated EnergyAustralia Policies over many decades.

Whilst the incremental price increase relating to “connection assets” is unknown, the total compound increase of the pricing submission amounts to 67% plus CPI over the next 30 months relating to the network and services charges. For Ku-ring-gai this potentially represents a financial impact by a rise of over \$580,000 annually in charges.

The undergrounding of low voltage mains incurs a different tariff to overhead mains. The increased annual street lighting charge is designed to recoup the cost of servicing and maintaining street lighting standards (poles) and underground mains. If powerlines were to be placed underground, the costs for maintenance would be less.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Assistance was obtained from Planning and Environment for planning advice, maps and documentation on LEP 194 and Draft LEP 200, as well as stage 2 for the business centres.

SUMMARY

Overall, land zoned Residential 2(d3) under LEP 194 and draft LEP 200 would be subject to DA consent requirements under DCP 55, overlapping with EnergyAustralia’s Network Standards ES10 with undergrounding (of power lines, and also for Optus and Telstra assets) requirements and responsibilities placed on to developers.

This zoning affects land in the vicinity of the Pacific Highway and North Shore Railway line between Roseville and Wahroonga and the St Ives town centre.

The six business centres areas of St Ives, Turramurra, Gordon, Pymble, Lindfield and Roseville are identified under Stage 2 of the Residential Development Strategy. In these centres, options for underground cabling involve consideration of staging, costing and funding:

The location of the redevelopment predominately governs staging. Adoption of a minimum distance or nominal amount of properties for undergrounding for works is preferred to ensure reliability of power supply as well as to avoid mixing overhead and underground mains.

Costing figures varies with site conditions, constraints, installation technique, as well as decorative lighting poles and luminaries selected. An indicative average cost of \$62,000 per 100 metres was determined for undergrounding cabling and powerlines in business centres, with corresponding indicative total costs for each business centre determined, ranging from \$172,800 – \$1,035,000, with Gordon and Lindfield business centres on Pacific Highway already having underground powerlines. Minor reductions in cost may be achieved by economies from larger works, or increase by conflict between conduits and existing infrastructure.

Open excavation is considered more practical than boring due congestion of existing utilities and infrastructure, and the unsuitability of directional boring where a rock or heavy subsoil is expected.

Item 8

S02051
7 February 2005

Three main options for funding are Section 94 plans by Developer contributions or property owners, shared funding basis (20% paid by State Government and EnergyAustralia, and 80% by the local community through local government levies) and 'User pays' principle.

The User pays principle recognises that while property owners in business centres primarily receive the direct benefit, and the community in which cables are placed underground will also benefit. The key groups most likely to be involved in, or to benefit from, any program to put cables underground were:

- Business property owners
- local residents in areas where cables are put underground,
- electricity distributors and telecommunication carriers, and utility customers,
- the community, and
- emergency services and maintenance personnel

Composite funding options between local government, state government and private are appropriate. Local government funding arrangements vary, but generally contribution was funded from the general rate base and from a specific charge levied on directly affected property owners, and recovered by various payment options. Options for recovery include, interest free period, discounted payment, deferred payments for eligible pensioners and a five year payment program.

Undergrounding of powerlines and cables, as well as choice of lighting in business centres needs to be planned and managed. Consideration of decorative street lighting is required in the absence of a standard for business centres. It is therefore recommended that street lighting be incorporated into the development of a public domain manual for business centres associated with masterplanning.

RECOMMENDATION

- A. That funding for undergrounding be incorporated into the Development Control Plan for business areas under stage 2.
- B. That decorative street lighting be incorporated as part of the development of a public domain manual for business centres associated with masterplanning.

Ian Taylor
Manager Support Services

Greg Piconi
Director Technical Services

Attachments:

1. EnergyAustralia policy ES10. Excerpt of Section 6, Overhead and Underground Mains Policy.
2. Table 1, Summary of interstate programs on undergrounding power lines.
3. Table 5, Energex's estimate of undergrounding cost per household : Table 6, comparative costs for low voltage overhead in urban areas.

SQUADRON COURT - ROAD NAMING

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To report on the proposal to name a road in the new Lindfield Heights subdivision running off Bradfield Road 'Squadron Court'.

BACKGROUND:

The historic background of the site as a former RAAF establishment was considered the most appropriate way of naming the street into the site.

COMMENTS:

The street name suggested by the stakeholders of the development was 'Squadron Court'.

RECOMMENDATION:

That Council name the new road off Bradfield Road into Lindfield Heights subdivision 'Squadron Court' and that notices be published in a local newspaper and the NSW Government Gazette. Australia Post, the Registrar General, Surveyor General and the Geographical Names Board are to be advised.

PURPOSE OF REPORT

To report on the proposal to name a road in the new Lindfield Heights subdivision running off Bradfield Road 'Squadron Court'.

BACKGROUND

With the development of the CSIRO site at 20 Bradfield Road West Lindfield the developer considered the historic nature of the site as a former RAAF establishment. Most communication over time with the stakeholders reflected the emphasis of the RAAF involvement with the site.

COMMENTS

The project managers and owners of the site wrote to Council suggesting the name for the internal road to be 'Squadron Court'.

The new subdivision Lindfield Heights has 29 lots and the new road will service all lots.

Under Section 162.1 of the Roads Act 1993 Council is the road naming authority. If Council resolves to adopt the name suggested, 'Squadron Court', Section 162.1 of the Roads Act 1993 requires publication of the new name in a local newspaper and in the NSW Government Gazette. Council must advise Australia Post, the Registrar General and Surveyor General and the Geographical Names Board.

The proposed road name does not conflict with any other existing road name in the Ku-ring-gai area.

CONSULTATION

Council has consulted with Australia Post, the Registrar General, Surveyor General, Geographical Names Board and published a Public Notice in a local newspaper.

There have been no objections received about the naming of 'Squadron Court'.

FINANCIAL CONSIDERATIONS

Apart from the provision of a street sign and amending Council records there is no cost to Council.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Departments of Planning and Environment, Community Services and Finance and Business Development to be advised following approval by Council.

SUMMARY

Council has been asked to approve the name of 'Squadron Court' for the road within the new subdivision at Lindfield named Lindfield Heights. No objections have been received from Australia Post, the Registrar General, Surveyor General, Graphical Names Board and the public.

RECOMMENDATION

- A. That Council name the new road off Bradfield Road into Lindfield Heights subdivision 'Squadron Court'.
- B. That a notice of the proposed street name be published in a local newspaper and the NSW Government Gazette.
- C. That Council informs Australia Post, the Registrar General, Surveyor General and the Geographical Names Board of the proposed road name.

Robert Happ
Technical Support Officer

Roger Guerin
Manager Design & Projects

Greg Piconi
Director Technical Services

Attachments: **Sketch Plan**

PROPOSED EASEMENT AND CONNECTION TO DRAINAGE SYSTEM OVER A PEDESTRIAN PATHWAY TO BENEFIT 27 MARGARET STREET, ROSEVILLE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to consider granting a drainage easement over a Council land to the applicant at 27 Margaret Street, Roseville and connection to stormwater Council drainage system.
BACKGROUND:	<p>The applicant, D Stephens and R Carden have requested approval for the creation of a drainage easement on a pedestrian pathway to drain stormwater from 27 Margaret Street to the existing drainage pit located at the southern end of pathway.</p> <p>This pathway is 3.66 metre wide and was classified as community land without a Plan of Management.</p>
COMMENTS:	<p>Under the Local Government Amendment (Miscellaneous) Act 2002, an expressed authorisation in a Plan of Management is no longer required for the granting of such easement, but public notification is required.</p> <p>An easement width of at least 1.0 metre and length of 45 metres is required which is unlikely to interfere with the current usage of the pathway for pedestrian access.</p> <p>All costs associated with the easement including the public notification, compensation fee and valuation costs should be borne by the applicant, benefiting from the approval.</p>
RECOMMENDATION:	That council approve in principle, granting of the easement and connection subject to conditions 1-8 in recommendations.

PURPOSE OF REPORT

For Council to consider granting a drainage easement over a Council land to the applicant at 27 Margaret Street, Roseville and connection to stormwater Council drainage system.

BACKGROUND

The applicant, D Stephens and R Carden have made a formal application to Council requesting approval for the creation of a drainage easement on a pedestrian pathway to drain stormwater to the existing drainage pit located at the southern end of pathway (refer to **Attachment 1**).

The pathway is situated from the eastern end between 27 and 29 Margaret Street, and links to Boundary Street to the south.

The land is identified on LD 2244, that was acquired by resumption and gazetted on 1 March 1946. This parcel of land is shown as a pathway 3.66 metre wide and was classified as community land.

The applicant's property is located at 27 Margaret Street, Roseville, known as Lot A in DP 318799.

COMMENTS

The pathway was reclassified to Community land in March 2000, and is not covered by a Plan of Management.

The Local Government Act (1993) was recently amended by the Local Government Amendment (Miscellaneous) Act 2002, in relation to Community Land. In particular, Section 46(a)(1) provides that *"A Council may grant an easement over community land to provide pipes under the surface of the ground for the connection of premises adjoining the community land to a facility of the Council or other public utility provider."* An expressed authorisation in a Plan of Management is no longer required for the granting of such easement. However, Council will still be required to carry out public notification in accordance with Section 47 of the Local Government Act (1993).

An inspection of the pathway in December 2004 revealed the land was currently used for stormwater disposal by 29 Margaret Street. Property runoff from 29 Margaret Street is conveyed by a 150mm PVC drainage system to the downstream surface inlet pit within the pathway. However investigation of the property reveals this installation was inadequate and subsequently found not constructed in accordance with drainage plans or to condition 29 of BA 1509/97. This matter was referred to Council's Development and Environmental Compliance section for attention.

In a letter of 15 December 2004 Council wrote to the applicant advising of the fees, process and requested information to support the application. Information sought included:

- Formal request to seek approval and agreement to pay all legal costs and disbursements associated with the Grant and connection.
- Payment of a fee for report in accordance with fees & charges 2004/05.

Item 10

P51068
21 February 2005

- Submission for approval of a detail design for the stormwater pipeline.
- Indication of conditions and likely costs for survey and registration upon any resolution by Council.

Following the letter, the applicant held discussions with Council staff to consider a conceptual design for the stormwater pipeline to reduce initial costs associated with the easement and pipeline. As such, an approval in principle was sought subject to an approved design in accordance with Council's Water Management DCP 47. The applicant has agreed to pay all legal costs incurred by council associated with this matter.

For stormwater disposal, a minimum size of 150mm diameter pipe is to be used, requiring an easement width of 1.0 metre based on Council's DCP 47. A length of 45 metres to the drainage pit is required (**Attachment 2**) and is unlikely to interfere with the current usage of the pathway for pedestrian access.

Clarification was also sought in terms of the relationship and capacity for authority for 27 Margaret Street, as the title is in the Estate of Mr R K Carden and different to the applicant names. The owner Mrs R Carden has managed the Estate and is the parent of the applicant. Mrs R Carden has activated the Power of Attorney to act on her behalf in all matters.

Proposed Next Steps

Subject to Council resolution and agreement by applicant to pay costs for notification, valuation and compensation:

1. Public notification.
2. Applicant to prepare and submit for approval a detail design for the pipeline in accordance with Council's Water Management Development Control Plan No. 47.
3. Applicant to engage solicitor to prepare Section 88B Instrument, Terms and Conditions.
4. Instrument to be executed and Section 88B Instrument lodged at Land Information Office
5. Remaining associated costs to be paid by the applicant.

CONSULTATION

Officers have consulted with the applicant, D Stephens and R Carden regarding the request and clarification in terms of the relationship and capacity for authority for the 27 Margaret Street.

FINANCIAL CONSIDERATIONS

As Council will be required to carry out public notification in accordance with Section 47 of the Local Government Act (1993), the public notification fees should be at the applicant's expense.

Acquiring easements on community land has also required compensation as determined by the State Valuation Office and payable to Council. Valuation costs associated with compensation and the compensation fee should also be at full cost to the applicant.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Technical Services consulted with Development & Regulation and Finance & Business in the preparation of this report.

SUMMARY

The applicant, D Stephens and R Carden have sought approval in principle for the creation of a drainage easement on a pedestrian pathway, and connection to council stormwater pit, subject to an approved design in accordance with councils Water DCP 47. The existing drainage pit is located at the southern end of pathway.

The applicant's property is located at 27 Margaret Street, Roseville, known as Lot A in DP 318799.

The pathway is 3.66 metre wide, and links the eastern end of Margaret Street to Boundary Street to the south. Although it is classified as community land and is not covered by a Plan of Management, an expressed authorisation in a Plan of Management is no longer required for the granting of such easement over community land. However, Council would still be required to carry out public notification of the proposed easement in accordance with Section 47 of the Local Government Act (1993).

An inspection of the pathway in December 2004 revealed the land was currently used for stormwater disposal by 29 Margaret Street. Compliance of this system with the building approval is being investigated by Council's Development and Environmental Compliance section.

An easement width of at least 1.0 metre and length of 45 metres is required which is unlikely to interfere with the current usage of the pathway for pedestrian access.

All costs associated with the easement including the public notification, compensation fee and Valuation costs should be borne by the applicant, benefiting from the approval.

RECOMMENDATION

That the request by the applicant, D Stephens and R Carden acting on behalf of the Estate of Mr R K Carden for 27 Margaret Street, Roseville, for the creation of a drainage easement on a pedestrian pathway, and connection to a council stormwater pit be approved in principle subject to:

1. Council writing to the applicant of 27 Margaret Street, Roseville advising of the decision and seeking agreement in writing that costs for public notification, compensation fee and valuation costs associated with the creation of the easement is at full cost to the applicant. Advice of indicative costs is to be provided were appropriate.
2. Submission for approval of a detail design for the pipeline in accordance with Council's Water Management Development Control Plan No. 47, to convey stormwater from

Item 10

P51068
21 February 2005

27 Margaret Street, Roseville to the existing drainage pit at the southern end of the pathway. Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer for submission to Council with the following requirements

- a. Pipe size to be determined with supporting documentation. A minimum 150mm sewer grade pipe to be used. Pipe to be laid at 1% minimum grade and 300mm cover. All disturbed areas to be fully reinstated to the satisfaction of the Director Technical Services.
 - b. Connection to the pit to be made in the wall and not on the surface of the inlet.
3. The applicant being advised that the full cost of piping construction as well as survey and legal work associated with the creation of the easements, including the payment of any of Council's legal costs and disbursements for the checking of associated documentation are borne by the applicant.
 4. The system being formalised by the creation of an easement to drain stormwater of a minimum width 1.0 metre wide in accordance with Councils Water Management Development Control Plan No. 47 over the pathway, and be created pursuant to section 88B of the Conveyancing Act.
 5. That the terms of the Easements to Drain stormwater be carried out by the Applicant's Solicitors.
 6. Council issue a public notice as prescribed by Section 47 of the Local Government Act (1993), upon agreement by the applicant to costs of public notification, valuation costs and compensation fee.
 7. That Council authorise the Mayor and General Manager to sign the documentation of the affix the Common Seal to the documentation associated with the proposed easement, should no substantial objections be received following the public notice.
 8. A report be brought back to Council if there are any substantial objections through the period of public notice.

Ian Taylor
Manager Support Services

Greg Piconi
Director Technical Services

Attachments:
1. Location Plan
2. Sketch of proposed easement

SPONSORSHIP PROPOSALS: THE BUSINESS AWARDS AND COMMUNITY BUSINESS AWARDS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To advise Council of proposals from Precedent Productions and Cumberland Newspaper Group for Council to sponsor 2 separate small business awards for 2005.

BACKGROUND:

In 2004 Council sponsored both the Precedent Productions *Sydney Weekly Courier North Shore Business Awards*, and Cumberland Newspaper Group *Upper North Shore Advocate and North Shore Times Community Business Awards*.

COMMENTS:

Proposals have been received from Precedent Productions to sponsor *The Business Awards* which are promoted through the Sydney Weekly Courier, and Cumberland Newspaper Group to sponsor *The Community Business Awards*, which are promoted through The North Shore Times.

RECOMMENDATION:

That Council support the proposals from Precedent Productions to sponsor The Business Awards for \$3,850, and Cumberland Newspaper Group to sponsor The Community Business Awards for \$3,000 (Total \$6,850).

PURPOSE OF REPORT

To advise Council of proposals from Precedent Productions and Cumberland Newspaper Group for Council to sponsor 2 separate small business awards for 2005.

BACKGROUND

In 2004 Council sponsored both the Precedent Productions *Sydney Weekly Courier North Shore Business Awards*, and Cumberland Newspaper Group *Upper North Shore Advocate and North Shore Times Community Business Awards*.

A small business awards program has been running on the North Shore for 19 years. From 2003 the program has been presented by Precedent Productions (*The Business Awards*) and by Sydney Weekly Courier (*The Community Business Awards*).

COMMENTS

Proposals have been received from Precedent Productions to sponsor *The Business Awards* which are promoted through the Sydney Weekly Courier, and Cumberland Newspaper Group to sponsor *The Community Business Awards*, which are promoted through The North Shore Times.

The proposal for sponsorship for *The Business Awards* is \$3,850 and for *The Community Business Awards* is \$3,000.

Council has supported these awards in previous years, both individually and through the combined North Shore Small Business Awards until 2003, when 2 separate programs were established.

Small business awards acknowledge local businesses, facilitate networking opportunities and bring together businesses in a diverse range of industries. As a sponsor, Council will receive promotional and editorial coverage throughout the awards period.

The aims of the awards include introduction networking opportunities between businesses and sponsors, developing relationships between businesses, the community and sponsors, recognizing outstanding businesses for product and customer service, providing feedback to local businesses through the judging process and assisting in improving the standards in local business.

The details of both sponsorship proposals are attached to this report.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Item 11

S02091
15 February 2005

The proposal from Precedent Productions as community support sponsor is \$3,850 and Cumberland Newspaper Group as a local supporter sponsorship package is \$3,000.

There are current funds in the Corporate Communications budget to cover this sponsorship amount.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Council has been approached by Precedent Productions to sponsor *The Business Awards* for \$3,850 and Cumberland Newspaper Group to sponsor *The Community Business Awards* for \$3,000. (Total \$6,850)

There are current funds in the Corporate Communications budget to cover this amount.

RECOMMENDATION

That Council support the proposals from Precedent Productions to sponsor *The Business Awards* for \$3,850 and Cumberland Newspaper Group to sponsor *The Community Business Awards* for \$3,000 (Total of \$6,850).

Janice Bevan
Director Community Services

Attachments: **Sponsorship Proposals**

DRAFT LOCAL ENVIRONMENTAL PLAN NO 204 - CONSIDERATION OF SUBMISSIONS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To consider the submissions made in respect of the exhibition of Draft Local Environmental Plan No 204 (DLEP 204) and for Council to resolve the manner in which to finalise the Draft Plan.

BACKGROUND:

Council, on 9 November 2004, resolved to prepare and exhibit a new Draft Local Environmental Plan to address the following matters: **1.** To rezone Nos 26 – 28 Turramurra Avenue and 33 – 35 Gilroy Road, Turramurra to 2(d3); **2.** Make provision to allow a Child Care Centre as a permissible use in the 2(c1), 2(c2) and 2(d3) zones; **3.** Permit the strata subdivision of those dual occupancies approved pursuant to the operation of State Environmental Planning Policy No 53 which are now rezoned by LEP 194.

COMMENTS:

Draft Local Environmental Plan No 204 was prepared in response to Council's resolution and placed on public exhibition for the period 8 December 2004 to 28 January 2005. Council received public submissions as discussed in this report. After the consideration of submissions it is considered that Council should adopt the Plan.

RECOMMENDATION:

That Council resolve to adopt the final format of Draft Local Environmental Plan No 204 and forward it to the Minister requesting its gazettal

PURPOSE OF REPORT

To consider the submissions made in respect of the exhibition of Draft Local Environmental Plan No 204 (DLEP 204) and for Council to resolve the manner in which to finalise the Draft Plan.

BACKGROUND

Council resolved on 9 November 2004 (**Attachment A**) to prepare and exhibit a new Draft Local Environmental Plan to address the following matters:

- To rezone Nos 26 – 28 Turramurra Avenue and 33 – 35 Gilroy Road, Turramurra to 2(d3) and so correct an omission by the Minister which accidentally excluded these lands when LEP 194 was gazetted. This will then permit their development for medium density residential housing in accordance with the provisions of the 2(d3) zone. DIPNR by letter dated 15 October 2004 (**Attachment B**) requested Council to prepare a Draft LEP to rezone these lands 2(d3).
- Make provision to allow a Child Care Centre as a permissible use in the 2(c1), 2(c2) and 2(d3) zones. This corrects an anomaly whereby the Child Care Centre use was excluded from these lands when the 2(c1), 2(c2) and 2(d3) zones were gazetted by LEP 194.
- Permit the strata subdivision of those dual occupancies approved pursuant to the operation of State Environmental Planning Policy No 53 which are now rezoned by LEP 194. (SEPP 53 does not now apply to these properties and subdivision is not permissible since they were rezoned by LEP 194).

Draft Local Environmental Plan No 204 was prepared and placed on public exhibition after the undertaking of Section 62 consultation. The Draft Plan as exhibited is **Attachment C** to this report.

COMMENTS

The Draft LEP 204 concerns 3 main issues which are required to be addressed and so finalise matters which are outstanding from the gazettal of LEP 194.

The Draft Plan does not introduce any new measures to the Ku-ring-gai Planning Scheme Ordinance. It re-introduces the child care centre use as a permissible form of development in the lands now zoned 2(c1), 2(c2), 2(d3) from which the use was unintentionally excluded when LEP 194 was gazetted. The 4 medium density sites proposed by the Draft Plan will zone the lands to permit medium density development as was Councils original intent. These properties were accidentally omitted by the maps proposed for gazettal by the Department of Infrastructure, Planning and Natural Resources. There is some issue as to what extent such development should be permitted as discussed elsewhere. The provisions for dual occupancy subdivision development permits dual occupancy approved and developed to be strata subdivided to permit separate sale.

CONSULTATION

Consultation under Section 62

Prior to the exhibition of Draft LEP 194 Council consulted with relevant authorities under the provisions of Section 62 of the Environmental Planning and Assessment Act 1979 in respect of the Draft Plan and its provisions. Council consulted the authorities as listed in **Attachment D**.

In response Council has received submissions as follows:

NSW Heritage Office

The Heritage Office recognized that the Draft LEP did not have any application to Heritage listed properties. On this basis no objections were raised to the provisions of the Draft Plan.

NSW Rural Fire Service

Council received the Rural Fire Service's comments after Draft LEP 204 was placed on exhibition. The RFS noted the provisions of the Draft LEP to permit child care centres and dual occupancy subdivision (savings provisions). It was noted that any such developments will be required to meet the requirements of Section 100B of the Rural Fires Act 1997 if located in Bush Fire Prone areas.

Council was advised to include bushfire provisions with the Draft Plan that address the requirements of "Planning for Bushfire Protection 2001". The lands which are the subject of Draft LEP 204 are essentially the same as those the subject of LEP 194 because Draft LEP 204 relates to all 2(c1), 2(c2) and 2(d3) lands (to accommodate child care centres). It is noted that a small proportion of these lands are mapped by Council's Bush Fire Prone Land Map.

The RFS suggests that Council should consider a "standard" bushfire clause for a local government area wide LEP where Council's are required to have prepared a bush fire prone land map. An example of a draft clause is provided (refer to point numbered 2 on page 2 of the Note attached to the RFS letter – **Attachment E**).

It is considered that this is a matter which, if it is to be properly addressed, should relate to a Council wide planning instrument which this is not. The matter should more appropriately be addressed by an LEP such as the future Planning Scheme Review. It is to be recognized that Draft LEP 204 will not have an effect of greatly expanding the development potential of existing lands nor target bush fire prone land. The requirements of Section 100B of the Rural Fires Act 1997 will still need to be complied with by any development.

Sydney Water

Sydney Water raised no in-principle objection to the Draft Plan subject to normal development requirements being adhered to. This included developers obtaining Section 73 Compliance Certificates, abiding by requirements relating to construction adjacent to Sydney Water pipes and meeting BASIX requirements for construction.

Sydney Catchment Authority

The Sydney Catchment Authority had no comments or requirements.

Public Submissions

In response to the public exhibition of the Draft LEP Council has received 19 submissions representing 16 properties. All but 2 submissions came from Gilroy Road or Turramurra Avenue properties. Council also received a petition bearing 28 signatures representing 24 properties in Gilroy Road. Three properties were represented by both submissions and the petition. The nature of the 18 submissions and the petition are outlined below.

Supporters -

Council received 4 submissions in support of the draft plan to rezone 26-28 Turramurra Avenue and 33-35 Gilroy Road, Turramurra to 2(d3). The submissions indicated that the intent of the Minister's gazettal of LEP 194 had always been to include the 4 properties in the 2(d3) zone and their omission was an error which should be rectified. One respondent indicated that contracts had been exchanged on another house based on the expected sale of their existing house to a developer. The sale did not eventuate due to the Minister's error.

Objections -

1. One submission was received expressing opposition to all elements of the draft plan ie. rezoning, child care provisions and dual occupancy subdivision. The objections are that the proposed changes will introduce fundamental changes to the particular areas concerned which would be greatly out of character with existing dwellings and will impact on people currently living in these areas.
2. Two submissions object to the terms of the dual occupancy subdivision changes. (One submission was made on behalf of the respondent's dual occupancy clients). The submissions argued this would be more equitable if it also allowed torrens title subdivision as well as strata subdivision and this would preserve the full subdivision provisions which were previously available to SEPP 53 dual occupancy applications.

The submissions propose that the word "strata" in Clause 5 of the Draft Plan be deleted so that the saving provision would apply to all forms of subdivision.

3. Three submissions have been received expressing objection to the rezoning aspect of the Draft Plan on the basis of increased traffic congestion, noise, lack of privacy and negative impact on streetscape and local area character.
4. Nine submissions specifically addressed the rezoning aspect of the plan in terms of its effect on the character of the area in Gilroy Road and Turramurra Avenue. Traffic, on-street parking, distance from station, loss of privacy/amenity, impact of property values and concerns about the construction phase of the development were also variously identified as

Item 12

S03843
22 February 2005

issues of concern. All submissions however indicated that they would support the incorporation of a 3 storey “transition zone” for the subject 4 sites.

5. The petition had a prayer similar to the majority of submissions. It suggested two compromise options. The first suggested maintaining the sites as 2(c1)/2(c2) zones and selection of 4 alternate sites on the Pacific Highway for 2(d3) rezoning. The second suggestion was to create the sites as a transition zone with a maximum height of 3 storeys for residential development.

Comments on Submissions

1. 26-28 Turramurra Avenue and 33-35 Gilroy Road, Turramurra

Supporters –

The supporters of the Plan represent the owners of the 4 properties at 26 – 28 Turramurra Avenue and 33 – 35 Gilroy Road, Turramurra which are subject to the 2(d3) rezoning by the Plan. They are desirous of seeing the intentions of the Minister realized for their lands which had been expected to be rezoned. Council has previously resolved that these properties be rezoned to medium density when it adopted LEP194, however Council proposed residential 2D1, being 3 storeys. It was clearly the Ministers intent that they be rezoned 2(d3) and it was only because of a mapping error by the Minister that the lands were omitted from LEP 194 when it was gazetted. This error has clearly been a major inconvenience for the one landowner who had purchased a new residence elsewhere on expectation of selling their home upon its rezoning.

Objectors –

Both the petitioners and individual submissions of objection expressed concern at various amenity effects that the rezoning would cause. The 4 subject allotments have been previously identified as appropriate for medium density residential development. Draft LEP 194 was exhibited by Council with these sites being proposed for medium density development (5 storey potential). Council adopted the Plan with these lands as medium density development of 3 storeys (vide a proposed 2(d1) zone). Objectors have generally indicated a preparedness to accept the rezoning for medium density but of 3 storeys. Council needs to weigh this against the request by DIPNR to prepare the Draft LEP for these sites on the basis on a 2(d3) zone.

The adjoining lands immediately to the north are 30 Turramurra Avenue and 37 Gilroy Road, Turramurra. These lands have been identified for “interface” assessment by Council’s Planning Consultant in accordance with Council’s resolution of 23 November 2004. Council’s ability to restrict the subject lands (at 33 – 35 Gilroy Road and 26 – 28 Turramurra Avenue) to 3 storeys is limited in the absence of there being an appropriate 3 storey zoning which could be substituted. If Council wished to adopt the plan, but wished to see a lower level of development it could either propose a new zone or specify restrictions on height for these sites or alternatively adopt the plan as exhibited and make a submission to the Minister requesting that the Minister restrict the height of this development on these sites to 3 storeys only.

It is recommended in this instance that Council recognize the Minister’s original 2(d3) intent for

Item 12

S03843
22 February 2005

these sites and consider the appropriateness of any interface measures on adjoining lands when it considers the current interface review which is underway.

Dual Occupancy Subdivision

The submissions objecting to the dual occupancy provision express concern at its limitation to allow only strata subdivision. As currently worded the provision would exclude torrens title subdivision.

Submissions agree that the subdivision provision should not be limited to strata and argue that the LEP should permit the range of subdivision that was otherwise available under SEPP 53 (prior to LEP 194 being gazetted). Several matters need to be considered here:-

- i. It is to be recognised that SEPP53 expressly excludes dual occupancy subdivision unless such subdivision is permitted by another planning instrument. In the case of Ku-ring-gai there is no expressed prohibition in the Ku-ring-gai Planning Scheme Ordinance (KPSO) to dual occupancy subdivision because dual occupancy had not been envisaged when the KPSO was first drafted. As a consequence the Land and Environment Court has held that dual occupancy subdivision is permissible because of this anomaly.
- ii. Dual occupancies, when subdivided under torrens title, become separately titled blocks with single dwellings. Under the provisions of LEP194 such dwellings may be added to for the purpose of establishing an attached dual occupancy (subject to meeting site area requirements of 1200m² etc.) or for the purpose of an “attached small dwelling” or “family flat”. This potentially gives rise to a situation where the owners of approved dual occupancies may seem to be further increase the density if they are subdivided under torrens title.
- iii. Torrens subdivision of approved dual occupancies would alter the subdivision pattern in an area. This impacts on future planning and the character of an area.
- iv. On planning grounds it is not recommended that Council should be facilitating the situation where higher residential densities might be introduced than what is intended on sites zoned under LEP194 in the 2(c2) zones or permitting subdivisions which alter subdivision patterns. Strata subdivision of dual occupancies would preclude this while still giving the dual occupancy owner an option to sell each dwelling separately.
- v. It should be noted that those properties which will benefit from the proposed amendment to permit strata subdivision are properties for which the potential applicants have not acted to protect their own interests by submitted applications for subdivision. The provision proposed by Council therefore is not a “savings” provision.
- vi. Should Council choose not to restrict the subdivision provision to strata subdivision, Draft LEP204 would need to be amended in clauses 2(a) and 5 to remove the word “strata” where it appears. Given that the Draft Plan has not been exhibited on this wider basis for subdivision there may be a legal issue concerning the making of the Plan on this basis by the Minister. Council, DIPNR and the Minister would need to consider this.

Child Care Centres -

No comments have been raised in response to this aspect of the Draft Plan (other than the comments of the Rural Fire Service elsewhere discussed). This merely reinstates a provision previously applying to these lands. Future development would still need to be assessed having regard for the consideration of all statutory considerations which need to be met by any new development.

FINANCIAL CONSIDERATIONS

Work undertaken on the Draft LEP relates to use of staff resources and cost of advertising.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The Department of Development and Regulation have been consulted. No objection to the Draft Plan has been raised and the limitation of the subdivision savings provision for dual occupancy development, to strata subdivisions is particularly supported. Torrens title subdivision is not supported by the Department.

SUMMARY

1. Draft LEP 204 has been publicly exhibited in accordance with statutory requirements. Submissions received have been discussed in this report. The concerns expressed relating to the limiting of the potential scale of development for rezoning 33 – 35 Gilroy Road and 26 – 28 Turramurra Avenue, Turramurra are noted. On balance the rezoning of the lands to 2(d3) as requested by DIPNR (to correct the Minister's omission) is recommended with Council to separately consider interface issues as now under review.
2. The provision to permit dual occupancy subdivision for those dual occupancies approved under SEPP 53 is supported for strata subdivision only. There were respondents who requested that the provision not be so limited. This is not supported. To encourage additional torrens title dual occupancy allotments adds to pressures for higher density development on these new lots and changes existing subdivision patterns which may impact on future planning. The developers of dual occupancies who will benefit by being able to strata subdivide their sites so as to enable separate sale are people who have not acted to protect their own interests by lodging development applications for subdivision when it was widely known that an exemption from SEPP53 for the areas in which their development is situated was imminent.
3. No objections have been raised to the Child Care Centre provisions of the Draft LEP. The inclusion of this provision in Draft LEP 204 as exhibited is recommended.
4. It is recommended that Council adopt Draft LEP 204 as exhibited.

RECOMMENDATION

- A. That Council adopt Draft Local Environmental Plan No 204 as exhibited.
- B. That the Draft Local Environmental Plan No 204 as adopted, the Council Planning report and details of submissions be forwarded to the Department of Infrastructure Planning and Natural Resources in accordance with Section 68(4) of the Environmental Planning and Assessment Act 1979.
- C. That Council request the gazettal of Draft Local Environmental Plan No 204 as adopted.
- D. That all parties who made submissions and those whose lands are the subject of proposed zoning change under the exhibited Draft Local Environmental Plan No 204 be advised of Council's resolution.

Rod Starr
Senior Urban Planner

Antony Fabbro
Manager Urban Planning

Leta Webb
Director
Planning and Environment

Attachments:

- A - Council resolution of 9 November 2004.**
- B - Letter of 15 October 2004 from DIPNR.**
- C - Draft LEP 204 as exhibited.**
- D - Authorities consulted under Section 62.**
- E - Rural Fire Service letter and attachment.**
- F - Copies of submissions received**

71 BEECHWORTH ROAD, PYMBLE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To address the issues raised at the site inspection of 11 December 2004 and for Council to determine a development application for the construction of a detached dual occupancy development.

BACKGROUND:

Council at it's meeting of 7 December 2004 deferred consideration of the application pending a site inspection.

COMMENTS:

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

RECOMMENDATION:

Approval

PURPOSE OF REPORT

To address the issues raised at the site inspection of 11 December 2004 and for Council to determine a development application for the construction of a detached dual occupancy development.

BACKGROUND

An assessment report was prepared and considered by Council on 7 December 2004. Council resolved to defer determination pending a site inspection. The site inspection was carried out on Saturday, 11 December 2004. The following matters were raised at the site inspection and are addressed as follows:

1. Percentage of soft landscaping within the front setback

It was requested that a numerical analysis of the hard/soft areas be provided in relation to the front setback area.

The total area for the front setback has been calculated as 232m², with soft landscaping comprising 144.5m² (62.3%) of the front setback area. The minimum soft landscaped area for two storey dual occupancy developments as specified by the Dual Occupancy Development Control Code is 60% of the site area. The proportion of soft landscaping within the front setback is satisfactory.

2. Privacy

It was requested that Council Officers reassess in greater detail the privacy impacts from a first floor balcony (bedroom within house 1) upon the properties to the west and that the possibility of providing additional boundary screening or solid privacy screens to the deck be considered to further mitigate adverse impacts.

The adjoining property to the west of the subject property is known as No 73 Beechworth Road, Pymble. The dwelling at 73 Beechworth Road has a minimum setback of approximately 45m to the front street boundary. As a result of the increased front setback of the dwelling at 73 Beechworth Road, the majority of private open space is within the front setback. The proposed balcony on the first floor of Dwelling 1 at 71 Beechworth Road is orientated towards the entry of the dwelling and the open space of No 73 Beechworth Road. The balcony will be set back 7m from the western boundary and will have a separation distance of 25m from the front entry to the dwelling at 73 Beechworth Road.

The proposed balcony is to be located outside of bedrooms 1 and 2 on the first floor of Dwelling 1. The balcony will have an area of 11m². There is the potential for a loss of privacy to the front open space area of 73 Beechworth Road, however, the following should be noted:

- The balcony is connected to two bedrooms, so the use of the balcony will be associated with the use of the bedrooms, that is, limited periods of the day normally at night or early morning. The use of the balcony is unlikely to be for entertaining.

Item 13

- Screen planting is proposed along the western boundary. The plant species selected (*Syzigium luehmanni*) will achieve a maximum height of 3.0m.
- Given a separation distance of 45m between the balcony and the front entry of the dwelling at 73 Beechworth Road, in association with the screening potential of the canopy of existing trees and proposed screen planting along the common boundary of 71 and 73 Beechworth Road, a loss of privacy to the adjoining property is unlikely.

As the screen planting along the western boundary will take time to reach a mature height, it is recommended that the height of the balustrade to the balcony on the first floor of dwelling 1 adjacent bedrooms 1 and 2 should be extended to 1.2m instead of the minimum of 1m specified in the Building Code of Australia. It is anticipated that the balcony will be used primarily for sitting and the additional 200mm will reduce the angle of sight and restrict the direct overlooking from persons to the front open space of 73 Beechworth Road (**refer Condition No 14A**).

3. Impacts on vegetation

It was requested that the potential impacts on the vegetation of the site and adjoining properties be assessed in greater detail for Council's consideration including clarification as to the loss of canopy trees on site and the impact on trees to be retained, particularly in relation to the trees at the rear of the site.

Council's Landscape Assessment Officer has reassessed the proposal and provides the following comments:

Tree removal

Trees indicated to be removed on the landscape plan are

- *122 - Stenocarpus sinuatus (Firewheel Tree), of 6 metres height and 1 metre canopy spread, is located within the driveway turning area forward of the double garage of proposed Residence 2.*
- *124 - Pittosporum eugenioides 'Variegata' (Variegated Tarata), of 4 metres height and 2 metres canopy spread, is located within the driveway to proposed Residence 2.*
- *138 - Eucalyptus pilularis (Blackbutt), of 25 metres height and originally of 12 metres canopy spread, although due to 1 limb and some branch removals from its eastern side, its canopy spread has been substantially reduced on its inner property side. The applicant's tree report comments that this tree has not been substantially pruned.*
- *139 - Acer palmatum (Japanese Maple), of 4 metres height and 6 metres canopy spread, is located 2 metres of the northwestern corner of proposed Residence 2.*
- *148 - Eucalyptus pilularis (Blackbutt), of 25 metres height and 15 metres canopy spread.*

Of these trees Nos 138 and 148 are considered to be canopy species.

Canopy Spread/ pruning

*The landscape plan incorrectly indicates the canopy spread of the trees numbered 138 & 148 (Blackbutts) to the rear of the property. In fact the canopies of these trees have been previously trimmed to the side nearest the proposed dwelling 2 and therefore neither tree would overhang the dwelling. The plan also incorrectly identifies tree number 174, a *Leptospermum petersonii* on the adjacent property, this small tree does not overhang No 71 Beechworth Road.*

The landscape plan shows the canopies of trees in a symmetrical fashion to approximate the spread which is a graphical convention and does not necessarily indicate the actual accurate and real shape of such canopies.

Having examined the tree canopies on site and compared these to the proposed extent of the dwellings, I am of the opinion that with the possible exception of the Cedrus, (tree 48) to the front of the property where very minor overhang of eaves may occur, there is little to no significant overhang of tree canopies to the proposed rooflines of the dwellings.

Construction impacts on trees.

Having reviewed the drawings there would appear to be no obvious detrimental impacts on trees adjacent to the site from the proposed works.

The major impacts are likely to be related to the two large Blackbutt trees (Nos 138 and 148) to the rear of dwelling 2.

*The construction of strip footings for dwelling 2, will result in potential loss of structural roots approximately 4m of tree 148. This would have a detrimental impact on the health of this tree. As the dwelling is above existing grade at the rear, it would be feasible to suspend the slab using a piers system and this would minimise root loss (**refer Condition No 604**).*

Tree 138 is 6.0m away from the dwelling. This distance is sufficient to minimise root damage due to footing excavation.

The extent of fill to the rear of the site to meet with the proposed floor level would have a detrimental impact on both trees 138 and 148.

*I have proposed conditions in regard to pier and beam footings and fill in proximity to these trees to further minimize impacts (**refer Condition Nos 60A & 36A**).*

Landscape plan

*As the family room to dwelling 2 is well above grade there will be a need for a landing and steps which will be in proximity to tree 148. Details of this will need to be indicated on the landscape plan (**refer Condition No 62**).*

Item 13

I note that the plan indicates Kunzea ambigua along the western boundary as a screen planting to 2.5m while this is a locally occurring species would prefer a more upright form of plant in these fairly restricted areas such as Syzigium luehmanni (refer Condition No 62).

Screen planting rather than vines should be undertaken adjacent to dwelling 1 western boundary (refer Condition No 63).

Additional conditions:

Prior CC

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

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

<i>Tree/Location</i>	<i>Radius in Metres</i>
<i>T148 Euclayptus pilularis/adjacent dwelling 2</i>	<i>6.0m</i>

**Special
General**

There shall be no changes to existing ground levels by way of fill within the radius of the trunks of the following trees :

<i>Tree/Location</i>	<i>Radius in Metres</i>
<i>T138 Euclayptus pilularis/adjacent dwelling 2</i>	<i>6.0m</i>
<i>T148 Euclayptus pilularis/adjacent dwelling 2</i>	<i>6.0m</i>

Landscape Plan

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.

NOTE: 1. Tree 138 - Eucalyptus pilularis (Blackbutt) and Tree 148 - Eucalyptus pilularis (Blackbutt) are to be retained and shown on the landscape plan, as well as, the screen planting required below and 1 additional indigenous tree.

The following additional amendments are to be indicated on the plan

Syzigium luehmanni "aussie compact" to be substituted for Kunzea ambigua to western boundary.

Screen/ buffer planting capable of 3.0m in height is to be identified adjacent to the dwelling along the western boundary and also to the northern boundary where the clothes line is indicated..

To facilitate establishment of screen/ buffer planting the proposed clothes lines are to be located to the proposed utility areas.

Proposed steps landing to dwelling 2 family room are to be indicated. The proposed landing and steps are to be designed to avoid any detrimental impact on tree 148.

The plan must be submitted to Council and approved by Council's Landscape Development Officer prior to the release of the Construction Certificate.

ADDITIONAL MATTERS FOR CONSIDERATION

1. Bushfire Hazard Assessment

As a result of inconsistencies between the Bushfire Hazard Assessment submitted in support of the development application and comments from Council's Landscape Assessment Officer and Mr Cliff Viertel of 77 Beechworth Road, Pymble, the proposal was referred to the Rural Fire Service for reassessment. The two main bushfire issues related to the required Asset Protection Zone and fire fighting access. The comments from the Rural Fire Service are as follows:

Based upon an assessment of the plans and documentation received for the proposal, the NSW Rural Fire Service, in respect to bushfire matters, provides the advice that the development should have the following conditions:

- 1. Construction shall comply with AS3959 - 1999 level 2 'Construction of Buildings in bushfire prone areas.*
- 2. Roofing shall be gutterless or have leafless guttering and valleys are to be screened to prevent the build up of flammable material.*
- 3. Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the structure.*
- 4. The entire property shall be managed as an 'inner protection area' as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.*
- 5. Access to the rear of the property shall be provided for fire fighting purposes.*
- 6. All fencing shall be constructed from non-combustible materials.*

Comment: The Rural Fire Service have added two additional conditions to the four conditions provided in their original response of 11 May 2004. Conditions 3 and 5 are the new conditions provided by the Rural Fire Service (**refer Conditions 50 to 53B**). It is to be noted that 'Access' referred to in Condition 5, is pedestrian access as confirmed by Mr Colin Manton of the Hornsby Rural Fire Service.

RECOMMENDATION

That Development Application No 406/04 for demolition of existing dwelling, swimming pool, metal garden shed, timber outbuilding and construction of a detached dual occupancy development at 71 Beechworth Road, Pymble being Lot 30, DP 22115 be approved for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No 406/04 lodged with Council on 23 April 2004 and Development Application plans prepared by Hans Waldmann and Associates, Drawing Nos 801-01-04, 801-02-04 and 801-03-04 dated January 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.

Administration

4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.

Construction

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,

Item 13

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. To maintain existing ground levels all excavated material shall be removed from the site.
12. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
13. 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.

Special

14. Your attention is directed to the operation of the Commonwealth Disability Discrimination Act 1992, which may impose greater obligations on providing access to disabled persons other than compliance with the Building Code of Australia. You are advised to seek advice from the Human Rights and Equal Opportunity Commission (phone (02) 9284 9600) in respect of your application.

To ensure compliance with the Building Code of Australia, the theatre room window in the northern wall of House No 2 is to be increased in size to provide adequate natural light and ventilation.

- 14A In order to maintain reasonable levels of visual privacy to adjoining properties, the balustrades to the first floor balcony of dwelling 1 are to be constructed to a height of 1200mm.

Demolition

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

Item 13

17. 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.
18. 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.
19. 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.
20. The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.
21. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
22. 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.
23. 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.

Item 13

24. 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.
25. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
26. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safely stockpiled and not likely to become a harbourage for vermin.
27. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
28. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
29. 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.
30. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
31. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
32. 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.
33. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.

Landscape

34. 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

Item 13

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.

35. The landscape works, including screen planting and tree replenishment shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
36. Any imported fill material shall be restricted to material from the local soil landscape on which the site is located or be derived from sandstone geology sites.
- 36A There shall be no changes to existing ground levels by way of fill within the radius of the trunks of the following trees:

Tree/Location	Radius in Metres
T138 <i>Eucalyptus pilularis</i> /adjacent dwelling 2	6.0m
T148 <i>Eucalyptus pilularis</i> /adjacent dwelling 2	6.0m

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

No/Tree/Location	Radius From Trunk
48 / <i>Cedrus deodara</i> (Himalayan Cedar) Adjacent to and near the southern end of the property's western (side) boundary.	5m

38. On completion of the landscape works including tree planting and screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
39. 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)

Item 13

Chlorophytum comosum (Spider Plant)
Cinnamomum camphora (Camphor laurel)
Hedera helix (English Ivy)
Hedera sp. (Ivy)
Hedychium gardnerianum (Ginger lily)
Nephrolepis cordifolia (Fishbone fern)
Olea europaea subsp. africana (African Olive)
Tradescantia albiflora (Wandering Jew)

40. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

Engineering

41. 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.
42. An on-site stormwater detention and/or retention system(s) must be provided for each dwelling in accordance with Council's requirements described in chapter 6 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website. Separate systems are to be provided for each residence, except where a single combined system may be located in a common location readily accessible by both owners (such as under a shared driveway). In this case appropriate cross burdens are to be created on title(s) as necessary.
43. For stormwater control all paved areas are to be drained to the main drainage system. This may require the installation of suitable cut-off structures, inlets and/or barriers that direct runoff to the formal drainage system.
44. 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.**
45. 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.

46. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Applicant's Bushfire Consultant

Asset Protection Zone

47. To provide reasonable and satisfactory approach to bushfire safety for the proposed development, occupants and fire fighters the following conditions are to be complied with:
- a) That the areas around the existing and the new dwellings be retained as mown lawns, maintained gardens, paths and individual trees.

Dwelling Garden Positions

- b) That gardens containing timber or bark mulch are not located directly below the windows of any dwelling. Such gardens are to be a minimum of 1.0m radius from a window.
- c) That gardens located against the external wall of any dwelling shall not contain shrubs larger than 1.0m in height.

Building Construction (AS3959)

Front Dwelling Building Construction

48. There is no level of construction required under AS3959-1999 for the front dwelling, however we have recommended the following to protect from ember attack:
- That all open-able windows shall be screened with aluminium, steel or bronze metal mesh having a maximum aperture size of 1.8mm to prevent ember attack.
 - That all external doors shall be fitted with weather strips or draft excluders (sliding doors are excluded).
 - All external doors, other than the front door, shall be screened with aluminium, steel or bronze metal mesh at 1.8mm aperture size.
 - That all gutters and valleys be provided with materials designed to prevent the accumulation of leaf litter. These gutter protector materials shall have a flammability index of <5. ('Guttergard' leaf guard or similar)

Rear Dwelling Building Construction

49. That all aspects of the rear dwelling meet the standards set out in AS3959-1999 for Level 2 construction, in particular:
- a) That all external walls, other than the brick veneer, shall be constructed of non-combustible materials such as weathertex, A/C sheet or plank or mini-orb, Blue Board or other non-combustible cladding. • That window frames are either non-combustible, fire-retardant-treated timber or DAR hardwood.
 - b) That all open-able windows shall be screened with steel or bronze metal mesh having a maximum aperture size of 1.8mm to prevent ember attack. (Aluminium shall not be used).
 - c) That all external doors shall be fitted with weather strips or draft excluders (aluminium sliding doors are excluded).
 - d) All external doors, other than the front door, shall be screened with steel or bronze metal mesh at 1.8mm aperture size.
 - e) That plastic external air vents or registers shall not be used.
 - f) That metal mesh screens shall be provided to all vents and weep holes. The aperture size shall be not more than 1.8mm. (Aluminium shall not be used).
 - g) That the whole of the roof shall be of non-combustible material, eg colour bond style metal sheeting or cement / clay tiles or masonry shingles.
 - h) That the whole of the roof system shall be sarked. Sarking shall have a flammability index of not more than 5.
 - i) That all eaves shall be fully enclosed and the fascia or gaps between the rafters shall be sealed. Any lining and or joining strips shall be non-combustible.
 - j) That all fascias shall be of non-combustible construction.
 - k) That all gutters, valleys and downpipes shall be of non-combustible materials.
 - l) That all gutters and valleys be provided with materials designed to prevent the accumulation of leaf litter. These gutter protector materials shall have a flammability index of <5. ('Guttergard' leaf guard or similar)
 - m) That all exposed external water pipes shall be of metal.
 - n) That where LPG gas bottles are installed they shall be positioned with the safety valves facing away from the building or at a location having the least bushfire impact. All gas cylinders shall have clearly marked gas shut off valves positioned for easy access by fire fighters.

NSW Rural Fire Service

50. Construction shall comply with AS3959 - 1999 Level 2 'Construction of Buildings in bushfire prone areas'.
51. Roofing shall be gutterless or have leafless guttering and valleys are to be screened to prevent the build up of flammable material.
52. The entire property shall be managed as an 'Inner Protection Area' as outlined within Section 4.2.2 in Planning for Bushfire Protection 2001.

Item 13

53. All fencing shall be constructed from non-combustible materials.
- 53A Access to the rear of the property shall be provided for fire fighting purposes.
- 53B Roller doors, tilt-a-doors and the like shall be sealed to prevent entry of embers into the structure.

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

Administration

54. 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.

55. 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).
56. 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.

Item 13

57. 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 Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - 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.
 - 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.
 - Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.

Construction

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

Special

59. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE ADDITIONAL DWELLING IS CURRENTLY \$12,459.72. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 20 December 2000, calculated for additional person as follows:

1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New child care centre (including land acquisition and construction of facility)	\$252.13
4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Acquisition of Open Space - Pymble	\$1,966.00
8.	Koola Park upgrade and reconfiguration	\$143.09

Item 13

9.	North Turramurra Sportsfield development	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

Landscape

60. The following changes shall be shown on the plans submitted with the Construction Certificate:
- Tree 138 - *Eucalyptus pilularis* (Blackbutt) and Tree 148 - *Eucalyptus pilularis* (Blackbutt) shall be retained and shown to be retained all plans;
 - the rainwater re-use tank shall be located in the internal corner between the rear of the garage and the pantry for Residence 2 to provide more space for boundary screen planting.

- 60A To preserve the following tree/s, footings of the proposed shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 50mm shall be severed or injured in the process of any site works during the construction period. The beam shall be located on or above existing soil levels.

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

Tree/Location	Radius in Metres
T148 <i>Euclayptus pilularis</i> /adjacent dwelling 2	6.0m

61. 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.

62. 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

Item 13

Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character.

NOTE: 1. Tree 138 - *Eucalyptus pilularis* (Blackbutt) and Tree 148 - *Eucalyptus pilularis* (Blackbutt) are to be retained and shown on the landscape plan, as well as, the screen planting required below and 1 additional indigenous tree.

- *Syzygium luemanni* “aussie compact” to be substituted for *Kunzea ambigua* to western boundary.
- Screen/buffer planting capable of achieving 3.0m in height is to be indicated adjacent to dwelling along the western boundary and also to the northern boundary where the clothes line is indicated.
- To facilitate establishment of screen/buffer planting the proposed clothes lines are to be located to the proposed utility areas.
- Proposed steps landing to dwelling 2 family room are to be identified. The proposed landing and steps are to be designed to avoid any detrimental impact on tree 148.

The plan must be submitted to Council and approved by Council’s Landscape Development Officer prior to the release of the Construction Certificate.

63. A plan detailing screen planting of the property’s western, northeastern and eastern boundaries shall be submitted to Council prior to the release of the Construction Certificate and approved by Council’s Landscape Development Officer, prior to completion of building works. The plan shall incorporate species capable of attaining a height of 3 metres.
64. The property shall support a minimum number of 8 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council’s policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council’s Landscape Development Officer, prior to commence of work.
65. The single tree to be planted shall be an indigenous tree and 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.
66. A CASH BOND/BANK GUARANTEE of \$2,000 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

Item 13

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.

67. A CASH BOND/BANK GUARANTEE of \$10,000 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

No/Tree/Location

138 / *Eucalyptus pilularis* (Blackbutt) / Adjacent to and towards the northern end of the property's western (side) boundary.

140 and 141 / 2x*Eucalyptus pilularis* (Blackbutt) / Adjacent to and near the northern end of the property's western (side) boundary.

148 / *Eucalyptus pilularis* (Blackbutt) / Close to the property's northeastern (rear) boundary.

48 / *Cedrus deodara* (Himalayan Cedar)/Front Western boundary

68. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

Engineering

69. 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 shall be generally based on the concept plan 343359/0 by AFCE Environment + Building, and shall be advanced for construction issue 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 100m² roof area for each 5000 litres of storage. Overflow shall revert to the

Item 13

main drainage system. 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.

70. 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.
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 available on the Council website and at Council, and AS 3500.2 - Plumbing and Drainage Code.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

Administration

72. 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.

Pollution

73. To preserve and enhance the natural environment, the downslope side of the proposed construction area of the site is to be enclosed with a suitable erosion control barrier (e.g. straw bales or geofabric fence) along contour before any other work on the site commences.
74. 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.

Special

Item 13

75. A Compliance Certificate pursuant to Section 73 Sydney Water Act 1994, as evidence of compliance with the provisions of Division 9 of that Act, to be obtained from Sydney Water prior to the commencement of any work on the site.

Landscape

76. 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.

No./Tree/Location	Radius in Metres
140 / <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to and near the northern end of the property's western (side) boundary.	6.5m
141 / <i>Eucalyptus pilularis</i> (Blackbutt) Close to and near the northern end of the property's western (side) boundary.	5m
142 / <i>Syncarpia glomulifera</i> (Turpentine) Close to and near the northern end of the property's western (side) boundary.	3m
149 / <i>Angophora costata</i> (Sydney Red Gum) Adjacent to the property's central northeastern (rear) boundary.	5m

77. 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 approved RESIDENCE 1 and 2 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:

No./Tree/Location	Radius From Trunk
48 / <i>Cedrus deodara</i> (Himalayan Cedar) Adjacent to and near the southern end of the property's western (side) boundary.	5m
138 / <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to and towards the northern end of the property's western (side) boundary.	6m
148 / <i>Eucalyptus pilularis</i> (Blackbutt) Close to the property's northeastern (rear) boundary.	6m

78. 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.
79. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

Administration

80. Prior to the release of any occupation certificate, a compliance certificate must be obtained from an accredited certifier, certifying that the building works for the building to be occupied comply with the plans and specifications approved by this development consent; and any construction certificate associated with this consent for the buildings to be occupied. If the PCA is not the Council, then this compliance certificate must be submitted to the Council at the same time as the occupation certificate is submitted to the Council in accordance with Clause 151(2) of the E P & A Act regulations.

Construction

81. To ensure compliance with the consent, a final report from a Registered Surveyor shall be submitted to Council confirming floor/ceiling levels and boundary setbacks prior to occupation.

Landscape

82. 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.
83. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site 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 instruments for protection of detention/ retention and re-use 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.

Item 13

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 reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

84. 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 systems, and also applies if the Principal Certifying Authority (PCA) is not the Council.

85. 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.
86. 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).
87. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the installed rainwater retention 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 certify:

- Compatibility of the retention system(s) with the approved Construction Certificate plans.
- Compliance with AS 3500.2 & AS3500.3:1998.
- Overflow from the installed retention devices directed to an approved disposal point.
- The capacity of the retention storage as approved.
- Provision of leaf gutter guards to all roof gutters.
- Measures to prevent mosquito breeding nuisance.
- Provision of a readily maintainable "first flush" system to collect sediment/debris before entering the tank(s).

Item 13

- Installation of proprietary tank products in accordance with manufacturers' specifications.
- The structural adequacy of tank and supporting structures/slabs.
- Where required by this consent, that all toilet flushing, laundry and garden tap water usage for the approved development is sourced from the stormwater retention tank(s).
- All pumping equipment is readily accessible for maintenance and cleaning purposes and the adequacy of the pumping mechanism to achieve delivery rates as required.
- An air gap being provided at the top of the tank(s).
- Mains backflow prevention devices being installed at all relevant locations for reticulated systems
- Sediment sump of 150mm minimum being provided at the base of the tank(s)
- All recycled stormwater outlet points having permanently affixed plaques in readily observable locations which read "Recycled Stormwater – Not For Drinking" or equivalent.
- The provision of water mains back-up system to each collection tank for periods of low rainfall.
- Evidence of Sydney Water approval to the proposed system.
- The provision of filtration devices on each system to ensure no blockage of delivery plumbing systems.
- Compliance with relevant sections of the latest "Plumbing and Drainage Code of Practise " issued by the Committee on Uniformity of Plumbing and Drainage Regulations in NSW.

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.

88. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the as-built on-site detention 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

Item 13

- 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)
89. 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.
90. 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.

BUILDING CONDITIONS

Construction

91. 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.
92. Any mechanical ventilation installed in a dwelling shall comply with the requirements of Part 3.8.5.0 of the Building Code of Australia Housing Provisions. Documentary evidence of

Item 13

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.

93. 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.
94. 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).
95. 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.
96. 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.
97. 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.
98. 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.

Item 13

99. 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.

100. 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.
101. 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. A Compliance Certificate that the building is protected and complies with Australian Standard 3959 Construction of Buildings in Bushfire Prone Areas.

Scott Cox
Team Leader
Development Assessments
Team - Central

Matthew Prendergast
Manager
Development Assessments

Michael Miocic
Director
Development & Regulation

Attachments: **Locality Plan**
 Architectural Plans
 Site Plan
 Shadow Plan
 Site Analysis
 Landscape Concept
 Original report to Council meeting of 17 November 2004.

Item 14

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	8 TO 12 ADA AVENUE & 7 MUNDERAH ROAD, WAHROONGA - DEMOLITION OF EXISTING DWELLINGS ON SITE & CONSTRUCTION OF 34x3 BEDROOM DWELLINGS WITHIN THREE SEPARATE BUILDINGS; ASSOCIATED ACCESS, BASEMENT PARKING & LANDSCAPING
WARD:	Wahroonga
DEVELOPMENT APPLICATION N^o:	1046/04
SUBJECT LAND:	8 to 12 Ada Avenue and 7 Munderah Road, Wahroonga
APPLICANT:	Carrington Wahroonga Pty Limited
OWNER:	Carrington Wahroonga Pty Limited
DESIGNER:	Sandberg Schoffel 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, DCP31 - Access, DCP55 - Ku-ring-gai Multi- unit Housing, DCP40 - Waste Management, DCP43 - Car Parking, DCP47 - Water Management
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP 55, SEPP65
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	8 November 2004
40 DAY PERIOD EXPIRED:	17 November 2004
PROPOSAL:	Demolition of existing structures on site and construction of 34 x 3 bedroom dwellings within three separate buildings; associated access, basement parking and landscaping
RECOMMENDATION:	Approval

Item 14

DEVELOPMENT APPLICATION N^o
PREMISES:
PROPOSAL:

DA1046/04
8 to 12 Ada Avenue & 7 Munderah Street, Wahroonga
Demolition of existing structures on site and
construction of 34 x 3 bedroom dwellings within three
separate buildings; associated access, basement
parking and landscaping.

APPLICANT:
OWNER:
DESIGNER

Carrington Wahroonga Pty Ltd
Carrington Wahroonga Pty Ltd
Carrington Wahroonga Pty Ltd

PURPOSE FOR REPORT

to determine Development Application No.1046/04 which seeks consent for the demolition of existing structures on site and construction of 34 x 3 bedroom dwellings within three separate buildings; associated access, basement parking and landscaping

EXECUTIVE SUMMARY

Issues:	Street boundary setback (Ada Avenue), side boundary setback, ground floor courtyard setback, wall plane area, minimum plan dimension (bedrooms), housing mix, NatHERS rating.
Submissions:	Two submissions received (one in support, one in objection).
Land & Environment Court Appeal:	Proceedings No. 11466 of 2004. A deemed refusal appeal to the application was lodged on 30 November 2004, 53 days after lodgement of the Development Application. The next callover for the appeal is 9 March 2005.
Recommendation:	Approval.

HISTORY

Site history:

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

Development application history:

DA1046/04
15 July 2004

Pre-development application consultation held between Council Officers and applicants. Two buildings of five storeys were originally proposed. Particular concern was raised about: the number of single aspect units with consequent solar access and ventilation problems;

Item 14

the lack of building 'transition' to Munderah Street with consequent impact upon adjoining low density development; the excessive bulk and length of the building fronting Ada Avenue and the lack of sufficient front setbacks.

- | | |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8 October 2004 | Application lodged. |
| 22 October 2004 | Request from Council to applicant for further information to show: <ul style="list-style-type: none"> ▪ deep soil planting areas; and ▪ a detailed landscape plan. |
| 28 October 2004 | Further information received by Council, including landscape plans, tree assessment and tree impact report. |
| 3 November 2004 - | |
| 3 December 2004 | Neighbour notification period, in which two letters were received. One was in support of the application, and one was in objection to the application. |
| 30 November 2004 | Appeal filed in the Land and Environment Court. |
| 7 December 2004 | Comments received from Council's Development Engineer. No concerns raised, subject to conditions being imposed. |
| 20 December 2004 | Comments received from Council's Consultant Urban Designer. No concerns raised. |
| 21 December 2004 | Comments received from Council's Landscape Officer. Several concerns raised (issues discussed within the content of this report). |
| 22 December 2004 | Issues filed by Council in response to the deemed refusal appeal as follows: <ol style="list-style-type: none"> 1. Inadequate plans and information <p>Particulars:</p> <ol style="list-style-type: none"> <i>1.1. The proposed built upon area calculation is incorrect as it does not include all built upon areas as defined by LEP194. The built upon area calculations do not appear to include basement areas, disabled access areas and other features. Revised calculations are required with an accompanying diagram showing workings.</i> <i>1.2. The proposed deep soil zone area calculation is incorrect as it appears to include areas and structures which, by definition within LEP194, are prohibited and as such should be excluded from nominated deep soil areas. Areas that have been included within the deep soil zone that need to be excluded include; disabled access ramps/paths, garden beds between structures that are less than 2.0 metres in width, the area above the stormwater detention tank, the proposed substation kiosk and all areas outside the site area. Revised calculations are required with accompanying diagram showing workings.</i> |

Item 14

- 1.3. *Shadow diagrams for 3pm June 21 have not been provided.*
- 1.4. *The landscape plan is conceptual only and does not adequately detail the planting proposed for the site.*
- 1.5. *The submitted arborists report fails to identify existing trees on site, particularly the Eucalyptus saligna's (Bluegums), and also misidentifies other tree species.*
- 1.6. *The proposed substation noted on the ground floor plan of Block C has not been shown on either the landscape plan or discussed within the arborists report. It has also been included within deep soil zone calculations.*

2. Overdevelopment

Particulars:

- 2.1. *Should the calculations for built upon area and deep soil areas be incorrect, the proposal raises concerns with regards to overdevelopment of the site. SEPP 1 objections will also be required.*

3. Impact upon trees shown to be retained

Particulars:

- 3.1. *A disabled access ramp is located immediately adjacent to and within both the primary and critical root zones of a highly significant Eucalyptus saligna (Bluegum) No. 16, centrally located adjacent to the Ada Avenue site frontage. There are no construction details for the access ramp, but it is noted from spot heights that the ramp is approximately 2.0 metres above natural ground level adjacent to the tree, and includes a blockwork retaining wall. The construction of this wall and the associated fill will have adverse impacts upon tree No.16 which may result in it becoming unstable or going into decline resulting in death. This is not acceptable.*
- 3.2. *The submitted arborists report fails to mention any impacts as a result of the construction of the disabled ramp and states that no building work is to occur within the Critical Root Zone with only a 20% incursion within the Primary Root Zone. In addition, the arborist clearly states that no construction should take place within the Critical Root Zone, especially cut or fill, and that if construction were to take place within the Critical Root Zone, it should involve suspended platforms, supported by pier and beam. Piers should be located outside of the Primary Root Zone and Critical Root Zone. It is required that the proposed disabled ramp be relocated outside of the critical root zone and constructed utilising pier and beam construction methods with a suspended slab.*
- 3.3. *The Block C – Ground Floor Plan notes the proposed location of a substation kiosk to serve the development. This location will result in significant adverse impacts upon the root system of Bluegum No. 7 located adjacent to the eastern site boundary.*

4. Location of proposed substation

Particulars:

- 4.1. *The proposed location of the kiosk will result in adverse impact on the streetscape, and will not allow for screen shrub planting.*

5. Matter raised by objectors

Particulars:

- 5.1. *Letter from Dennis Stobo to Council dated 2 December 2004;*

Item 14

5.2. Letter from Gennaro Abignano to Council dated 3 December 2004.

- 20 January 2005 Revised drawings received from applicant, as follows:
- DWG WAH-AR-DA-001 Rev E
 - DWG-AR-DA026 dated December 2004
 - Revised Landscape Plan WAR-LA-DA-001LO1D dated 10 January 2005; and
 - Revised Shadow Diagram WAH-AR-DA-023-Revision E.
- 24 January 2004 Report submitted from applicant in response to landscape issues.

THE SITE AND SURROUNDING AREA

The site

Visual Character Study category: Pre 1920-1945

Legal Descriptions:	Street Address	Legal description
	8 Ada Avenue	Lot A DP 420247
	10 Ada Avenue	Lot A DP443868
	12A Ada Avenue	Lot 1 DP542501
	12 Ada Avenue	Lot 2 DP542501
	7 Munderah Street	Lot 3 DP542501

Heritage affected: The site is located within a National Trust Draft Urban Conservation Area.

Bush fire prone land: No

Endangered species: No

Urban bushland: No

Contaminated land: No

The site is known as 8-12 Ada Avenue and 7 Munderah Street and is comprised of five separate lots at the junction of Ada Avenue and Munderah St. The properties are located on the eastern side of Ada Avenue, and the northern side of Munderah Street.

The site is rectangular in shape and has an area of approximately 5294m², with a total frontage of 116 metres to Ada Avenue and 50 metres to Munderah Street. The eastern boundary is staggered, with boundaries of 45 metres and 76 metres in length (121 metres in total). The northern boundary is also staggered, with lengths of 36.4 metres and 14 metres.

Item 14

The land slopes gradually down from the northern site boundary. The site is located on the high side of both Ada Avenue and Munderah Street.

Number 8 Ada Avenue supports a 1960s single storey residence. A single garage and inground swimming pool also occupy the site.

Number 10 Ada Avenue supports a single storey residence with garaging for two vehicles at basement level. The dwelling was constructed in 1959.

Number 12A Ada Avenue supports a two storey dwelling house. This property was subdivided from the larger lot comprising 12 Ada Avenue and 7 Munderah Streets in 1970. The two-storey residence with basement garage was constructed in the 1970s. An inground pool is located to the rear of the site.

Number 12 Ada Avenue supports the earliest building on the site, which was constructed in the mid to late 1930s. It is an Inter-war period two-storey brick residence, with a round arched front door. A double carport occupies part of the frontage of the site.

Number 7 Munderah supports a 1970s single storey dwelling. The property has dual frontages to Munderah and Ada, and is accessed from Munderah Street.

All of the dwellings are located on the high point on their land, with similar front setbacks from the street boundaries. The five titles are not affected by any easements or watercourses. The site is located within the Mahratta draft Urban Conservation Area proposed by the National Trust.



Site (7 Munderah
Street)

View north-east up Ada Avenue. Photo taken from outside 7 Ada Avenue.

Item 14



View from the corner of Ada/Munderah looking east along Munderah Street.



No. 8 Ada Avenue. Photo taken at front boundary (Ada Avenue).



Item 14

Number 10 Ada Avenue. Photo taken from opposite side of Ada Avenue.



Number 12 Ada Avenue. Photo taken from opposite side of Ada Avenue.



Number 12A Ada Avenue. Photo taken from opposite side of Ada Avenue.

Item 14



Number 7 Munderah Street

Surrounding development:

Abbotsleigh Senior School is located to the west of the site, on the opposite side of Ada Avenue. A three and four storey building occupies the school site at the corner of Pacific Highway and Ada Avenue.

Directly to the north of the subject site, is a multi-unit aged care facility (1614-1634 Pacific Highway) of some six storeys in height. This has been completed within the last two months.

Development to the south of the site (across Munderah Street) and further east along Munderah Street is primarily low-density residential dwellings, one and two storeys in height.

Zoning:

The Residential 2(d3) zoning extends across the south and western portion of the block, with the northern part adjoining the Pacific Highway zoned for Special Uses 5(a) as it is occupied by the aged care facility. To the south of Munderah Street, the properties are zoned as Residential 2(c2), which does not provide for apartment buildings, but which does allow for apartment conversions and dual occupancies.

Item 14



Photos of adjoining aged care facility at 1614-1634 Pacific Highway.

Left: Photo taken from boundary of 8 Ada Avenue.

Right: Photo taken from outside Abbotsleigh School, western side of Ada Avenue.



8 Ada Avenue

View of adjoining aged care facility at 1614-1634 Pacific Highway. Photo taken from access point off Ada Avenue.

Item 14



View of 8 Ada Avenue with aged care facility to the rear. Photo taken from western side of Ada Avenue.



Abbotsleigh Senior School. Photo taken from Eastern side of Ada Avenue, outside site.

Item 14



Adjoining residential dwelling at 5 Munderah Street.

THE PROPOSAL

The proposal is to demolish the existing structures on site and construct three separate buildings accommodating a total of 34 x three-bedroom dwellings.

Pedestrian access is provided to the front of each building, with one vehicular access provided to Building A and one shared vehicular access provided to Buildings B and C.

Private open space is provided to each of the units, ranging from 98m²-144m² terrace areas in the ground floor units, 21m² - 39 m² balconies in the upper level units and 138m²-190m² terraces for the penthouse units.

The proposed buildings will be finished in a variety of building materials, as detailed on the photomontage and the model provided with the application.

Details of the proposed development are as follows:

Building A (northern building)

Building A occupies the northern corner of the site, and contains a total of nine units over five levels. All units are to be accessed off one central lobby providing lift access to all units, with both pedestrian access and vehicular access leading from Ada Avenue. Nineteen (19) resident parking spaces are provided in a single level basement car park, with two (2) visitor spaces provided at grade next to the driveway. Communal bicycle spaces are also provided adjacent to the driveway.

Building A is situated at staggered setbacks from Ada Avenue, with distances of 8.63m, 10.44m and 12.24 metres from the front boundary (Ada Avenue). A distance of 11.4 metres from the northern boundary adjoining the aged care facility, and 8.0 metres from the rear boundary adjoining No. 5 Munderah Street have been provided. Building A is separated from Building B by a minimum of 9.4 metres.

Item 14

Building B (central building)

Building B occupies the centre of the site, between Buildings A and C, and contains a total of eighteen units over five levels. All units are accessed off one central lobby, providing lift access to all units. Pedestrian access and vehicular access is gained from Ada Avenue. The vehicular access also serves the southern Building C. Fifty-four resident car parking spaces are located within two underground levels of basement car parking. This will again be shared with Building C. Additionally, four disabled parking spaces are provided, one visitor parking space is provided adjacent to the car park driveway and 7 visitor parking spaces are provided within the basement. Communal bicycle spaces are provided adjacent to the lift.

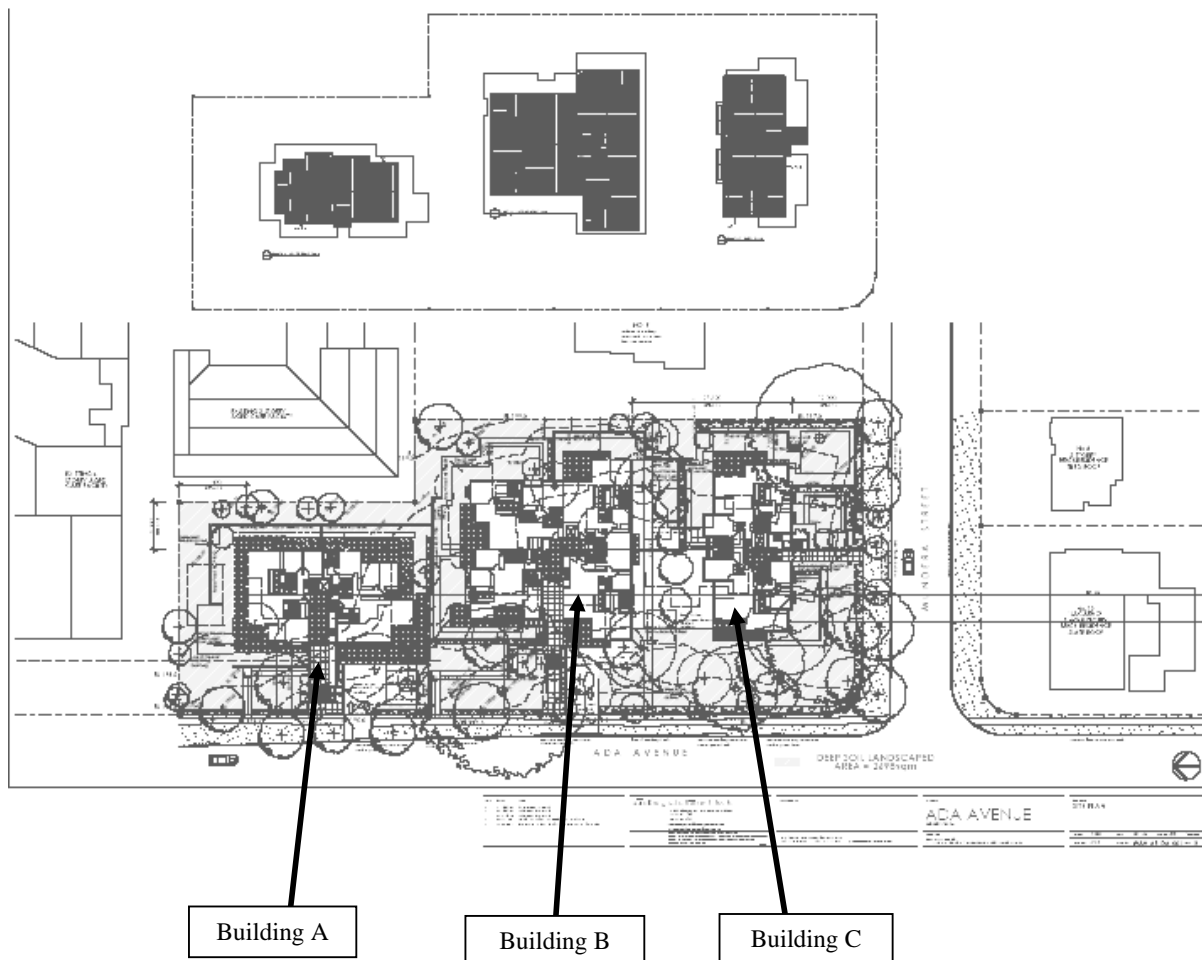
Building B is also situated at varying distances from the front boundary (Ada Avenue), with distances of between 11.53 metres and 15.43 metres provided. A minimum of 9.4 metres from the adjoining northern Building A, and 6.6 metres from the rear boundary adjoining No. 5 Munderah Street has been provided. Building B is separated from the southern Building C by a minimum of 10.8 metres.

Building C (southern building)

Building C is located at the southern side of the site, with frontages to both Ada Avenue and Munderah Street. The building contains a total of 7 units over 4 levels. All units are accessed off one central lobby, providing lift access to all units. Primary pedestrian access is gained from Munderah Street, with vehicular access gained by the shared driveway in Ada Avenue. The vehicular access also serves the southern Building C. Fifty-four resident car parking spaces are located within two underground levels of basement car parking. This will again be shared with Building C. Additionally, four disabled parking spaces are provided, one visitor parking space is provided adjacent to the car park driveway and 7 visitor parking spaces are provided within the basement. Communal bicycle spaces are provided adjacent to the lift.

Building C is situated a minimum of 12.84 metres from the Ada Avenue boundary, 9.2 and 12 metres from the Munderah Street boundary and 6.0 metres from the rear boundary adjoining No. 5 Munderah Street. Building C is separated from the northern Building B by a minimum of 10.8 metres.

Item 14



Amended plans dated 20 January 2005

The amended plans proposed the following clarifications and alterations:

- A revised site plan, with new calculations for the deep soil landscaped area and revised location of the electrical substation kiosk;
- A new plan DA026, which included the building footprint area plan;
- Revised shadow diagrams, with the 3:00PM shadow correctly shown.
- Revised landscape plan, accurately showing the location and dimensions of the proposed electrical substation kiosk.

CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, owners of 48 surrounding properties were given notice of the application. In response, submissions from the following were received:

Original scheme dated 8 November 2004

Item 14

1. Dennis Stobo, 18A Ada Avenue, in support
2. Gennaro Abignano, 5 Munderah Street, objector

The submissions made the following comments:

The shadow diagrams are incorrect and do not correctly show the impact on 5 Munderah Street

The revised plans provided on 20 January 2005 included revised 3:00pm shadow diagrams. These plans indicate that at 3:00pm the neighbouring residence No.5 Murdoch Street, will be shaded. However, No.5 Murdoch Street will not be shaded at 9am or at 12pm, and will have satisfactory and compliant levels of solar access.

The presentation that the applicants held was very informative and answered many questions that the neighbours had. There has been a lot of uncertainty about medium density development within the area. The fear has always been that there would be big, ugly, cheap buildings proposed. It would appear that this is not the case with this development.

No further comment is required.

Amended plans dated 20 January 2005

Due to their minor revisions and clarifications the amended plans were not notified.

CONSULTATION - WITHIN COUNCIL

Urban Design Officer

Council's consultant Urban Design Officer, Russell Olssen, has commented on the proposal as follows:

1.0 LEP 194 / DCP 55 COMPLIANCE

The main controls with which the DA complies are:

- 35% site cover (33% provided).
- 4.6 and 3.6 storey building heights.
- 50% deep soil landscaping (51% provided).
- 12m separations between windows, on site and across boundaries to existing buildings.
- 12m setback from street with 40% of the building allowed to be set back only 10m. Building A is set back 10.44m, however this is for less than 40% of the length of the total building length.
- Balcony sizes - minimum 10 sqm (>15 sqm provided).

2.0 SEPP 65 RESIDENTIAL DESIGN CODE COMPLIANCE

Item 14

The main SEPP 65 guidelines with which the DA complies are

- *60% of apartments naturally ventilated (100% provided).*
- *70% of apartment to receive 3 hours sunlight in mid winter (75% provided).*
- *12m separations between windows, on site and across boundaries to existing buildings.*

3.0 OUTSTANDING ISSUES

*This DA complies with the numerical standards in the LEP, DCP and SEPP 65.
Outstanding qualitative issues include:*

- *relationship with existing aged housing to the north;*
- *relationship with the house at No 10 Munderah Street (Lacarno); and*
- *aesthetics generally.*

3.1 Relationship with existing aged housing to the north

The separation distances between this housing and the proposed development are

- *12m from the adjoining 2 storey building to Building A.*
- *21m from the adjoining 6 storey building to Building A.*

These setbacks comply with SEPP 65 guidelines.

The 6 storey adjoining aged care building does not overshadow Building A at 12 noon on June 21. The balconies and living areas are oriented away from the adjoining Aged Care buildings and receive north-western sunlight after 12 noon. This contextual relationship is acceptable.

3.2 Relationship with the house at No 10 Munderah Street (Lacarno)

This site adjoins an existing 2(a) residential area, however the two are separated by Munderah Street. Building C is only 4 storeys high, and the top storey has been set back towards the north, away from the 2(a) area. This approach has minimised overshadowing of the street. The proposed landscape of existing and new native trees (including Sydney Blue Gum) on the Munderah Street frontage will provide a good landscaped setting. This contextual relationship is acceptable.

3.3 Aesthetics generally

The proposed palette of a sandstone base, warm coloured rendered walls and timber louvres contains natural materials (stone and timber) and warm colours (yellow tones) which will relate reasonably well to the landscaped setting. The composition of elements is acceptable.

4.0 CONCLUSION

Item 14

This DA complies with the main numerical standards of LEP 194, DCP 55 and SEPP 65.

The potential issues of the development's relationship to its context, and its aesthetics, have been reasonably well resolved, and should not be the basis for refusal of the application.

Heritage

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

Demolition of buildings on site – heritage issues

Several of the houses on the site were identified in the 2000 Godden Mackay Logan (GML) report as potential heritage items. The heritage impact statement submitted with the report failed to acknowledge the “potential heritage” status of these properties. The sites are:

- 8 Ada Avenue
- 14 Ada Avenue

All items identified in the 2000 GML report were reviewed by staff within Council to determine future policy to manage the significance of the potential items. Both of these properties were found to have questionable heritage value and they were not considered to be of sufficient merit to warrant further investigation as individual heritage items.

The 2000 GML report also found that 12, 12A & 14 should be considered as contributory items within a potential Heritage Conservation Area.

Potential heritage items in the vicinity of the site

The 2000 GML report identified a number of potential heritage items in the vicinity of this site, including the following:

- 6 Munderah Avenue (designed by W L Vernon)
- 10 Munderah Avenue (designed by J Peddle)
- 1602 Pacific Highway
- 1610-1612 Pacific Highway

All of the above properties would have sufficient heritage significance to undertake further investigation and assessment as potential items. In considering this application, the properties that might be affected are No 6 & No 10 Munderah Avenue. My initial assessment is that No 10 would be overshadowed and visually dominated by the proposed development however I do not believe there would be adverse impacts on No 6 Munderah Avenue.

Item 14

Heritage items within the vicinity of the development

There are several heritage items close to this site:

- 4 Munderah (designed by James Peddle)
- 1614- 1618 Pacific Highway
- 1634 Pacific Highway (Estha)
- 1712 Abbotsleigh School (Vindan House)

No 4 Munderah is a James Peddle design Californian bungalow. It has been compromised by two subdivisions and is somewhat removed from this site. Council recently approved demolition of the house due to its condition and reduced heritage value. I do not believe there would be any impacts on this property.

1614-1618 Pacific Highway is a substantial house, but it is visually separated from this site and I do not believe there would be any impacts from the proposed development.

Estha at 1634, the Pacific Highway was demolished for a self care facility. All that now remains is the stone gate posts.

Due to site amalgamations the entire Abbotsleigh School site has been included on one title and the heritage listing now applies to the whole site. The heritage item is actually Vindan House which is located at 1712 Pacific Highway and is some distance from this site. There is no impact on this building from the proposed development.

Urban Conservation Area No 26 - Mahratta

The review of the National Trust UCA No 26 has just been completed (October 2004). Although the UCA review for the precinct has not been exhibited for public comment or adopted by Council, identification as a precinct places some heritage values on the site.

The UCA review breaks up the large area of UCA 26 into four smaller precincts and excludes much of the later post war buildings. It includes this site in a smaller precinct called "Ada & Lucinda Avenues Precinct" and grades No 10 & 12 Ada Avenue as Contributory items. The policy developed in the consultants report is that contributory items should not be demolished.

The heritage impact statement prepared to support the development acknowledges that the UCA is characterised by a predominance of houses on medium to large lots and has a uniform appearance. The report does not argue that demolition of the houses would have an impact on the UCA, but rather argues that the new development will have no detrimental impacts because the new buildings will be constructed of rendered brick, which is compatible with the surrounding existing development. It considers the massing, scale, setbacks and materials of the existing buildings and the style, size,

Item 14

proportions and position of the openings and façade articulation is compatible with the immediate context.

Impact on UCA No 26

The contribution of these items to the UCA is low and due to the site context with an institutional character and recent rezoning of the site I do not oppose demolition but I recommend that recording be undertaken to the Heritage Office guideline for items of local significance prior to demolition.

This site is bounded by other institutional buildings, including the school buildings and the aged care facility which is still under construction and the site is separated from the residential development in Ada Avenue by Munderah Street. Given its context the impacts have been minimised by the separation from other residential development in Ada Avenue and the proposed development steps down to 4 storeys (effectively 3 storeys due to setback of upper floor) at the corner of Munderah Street. When considering these issues I do not believe the impacts on the UCA would be unacceptable.

Conclusions

In my opinion the existing houses have a low level of heritage significance and have some contribution to the UCA but I do not believe that the level of significance warrants retention of the buildings. I recommend recording of the buildings to the Heritage Office guideline for items of local significance before demolition occurs.

The proposed development does fit into the context of the adjoining institutional development and steps down in height one floor near the adjoining residential area.

The proposed development would have some impact on the consistency and uniformity of the UCA. However, I believe the impacts have been minimised and given the zoning of the site the impacts are acceptable.

The setbacks and landscaping of the proposed buildings, in my opinion, relate to the adjoining residential development and assist in softening the impacts.

I do not believe the proposed development would have adverse impacts on nearby heritage items."

Landscaping

Council's Landscape and Tree Assessment Officer initially commented on the proposal as follows:

The site

It is proposed to demolish the existing dwellings and associated structures and construct three, multi storey unit blocks, with basement car parking, resulting in a total

Item 14

of 34 dwellings on the amalgamated site area of approximately 5 294sqm. The site is zoned for multi unit development up to five storeys under LEP194.

The site is characterised by an established landscape setting with mature trees and shrubs within predominantly formal garden beds and lawn areas. The site is dominated by a number of large indigenous trees, Eucalyptus saligna (Bluegum) primarily located adjacent to the eastern and western site boundaries. Other less significant trees, both native and exotic, are scattered over the site.

Impacts on trees/trees to be removed

The proposed development will result in the removal of a number of trees located on site, primarily through the core of the site. The larger Eucalyptus saligna's (Bluegum) located on site are being retained although with some development impact. An Arborists Report has been submitted with the application.

T7 is a significant mature Eucalyptus saligna (Sydney Bluegum) located adjacent to the south eastern site boundary. The tree is approximately 30.0m high with a 26m canopy spread. The arborist has identified a possible cavity on the lowest limb which may require the limbs removal upon further aerial inspection, otherwise the tree is identified as being in excellent condition with no other future problems identified. The development proposes a substation immediately adjacent to the tree within the critical root zone (CRZ). No mention has been made about this by the consulting arborist, who states that proposed building works are outside of the CRZ and that only 20% of the primary root zone (PRZ) will be impacted upon. The arborist states that the CRZ is 6.5m, yet excavation of approximately 1.2m is proposed within 4.0m of the tree, which conflicts with the statement that no works are proposed within the critical root zone. The arborist has not undertaken any root mapping of the trees impacted upon and as such there is insufficient detail to determine the potential impacts upon the root system as a result of the proposed excavation. Worse case scenario would result in the significant tree roots being severed within the CRZ and the tree becoming unstable.

It is required that no excavation of existing ground levels or structures (Substation) be located within the CRZ.

Disabled ramp

It is noted that a disabled access ramp is located immediately adjacent to and within both the primary and critical root zones of a highly significant Eucalyptus saligna (Bluegum) #16, centrally located adjacent to the Ada Ave site frontage. There are no construction details for the access ramp, but it is noted from spot heights that the ramp is approximately 2.0m above natural/existing ground level adjacent to the tree (#16) and includes a blockwork retaining wall. The construction of this wall and the associated fill will have adverse impacts upon the tree #16 which may result in it becoming unstable or going into decline resulting in death. This is unacceptable and cannot be supported. The submitted Arborists Report fails to mention any impacts as a

Item 14

result of the construction of the disabled ramp and states that no building work is to occur within the Critical Root Zone with only a 20% incursion within the Primary Root Zone. In addition the Arborist clearly states that a/ no construction should take place within the Critical Root Zone, especially cut or fill and if construction is to take place within the CRZ it should be involve suspended platforms, supported by pier and beam. Piers should be located outside of the Primary Root Zone and CRZ. It is required that the proposed disabled ramp be relocated outside of the critical root zone and constructed utilising pier and beam construction methods with a suspended slab.

LEP194 – Deep Soil Zone

The proposed deep soil zone area calculation is incorrect as it includes areas and structures which under LEP194 definitions are prohibited and as such result in these areas being excluded from nominated deep soil areas. Areas/structures that have been included within the deep soil zone that need to be excluded include; disabled access ramps/paths, garden beds between structures that are less than 2.0m in width, the area above the stormwater detention tank, the proposed substation kiosk, and the area shown which is outside the site area.

This may result in a significant decrease in the numerical area available as deep soil zone, which may in turn result in the development NOT complying with the LEP194 deep soil requirements.

LEP194 states that “deep soil landscaping means a part of a site area that:

- *A/ is not occupied by any structure whatsoever, whether below or above the surface of the ground (except for paths up to 1metre wide), and*
- *B/ is not used for car parking.*

The LEP also notes that any underground structure such as an on site detention system or tank is not exempt from the built upon area calculation.

Revised deep soil area calculations with an accompanying diagram showing the areas calculated are required.

Landscape Plan

The landscape plan submitted with the application is conceptual only and does not adequately detail the planting proposed for the site. A new fully detailed landscape plan will be required. This will be conditioned as part of the ‘conditions without prejudice’. It is preferred that detailed landscape plans be submitted with the application so that residents and council can see exactly what planting is proposed so that potential impacts and issues can be resolved.

Arborists Report

Item 14

It is noted that the submitted arborists report, fails to identify existing trees on site, particularly the Eucalyptus saligna's (Bluegum) which are the parent tree type for the area, and also miss-identifies other tree species. This is unsatisfactory and does not provide sufficient detail, particularly as inspections were carried out at ground level. No aerial inspections have been undertaken.

Tree management plan

No tree management plan has been submitted with the application, although it is noted that the Arborists Report details generic tree protection measures and details the potential impacts upon existing trees, the report does not detail how existing trees to be retained are to be maintained and specifically monitored and protected through the extensive development process. As there are large highly significant indigenous trees located on and adjoining the site a Tree Management Plan will be required. Although preferred to have this document as part of the development application documents, a Tree Management Plan can and will be conditioned.

Substation

It is noted that on the Block C – ground Floor Plan submitted with the application that a Substation Kiosk has been sited immediately adjacent to the southern and eastern site boundaries with no screen planting from Munderah St and within the critical root zone of a significant Eucalyptus saligna (Bluegum, #7) located adjacent to the eastern site boundary. This will result in significant adverse impacts upon the root system of the Bluegum and visual prominence within the existing streetscape. This is unacceptable and cannot be supported. It is required that the proposed substation kiosk be relocated a/ outside of the critical root zone of the Eucalyptus saligna (Bluegum) and b/ setback from site boundaries to adequately allow for screen shrub planting.

It is noted that the proposed substation has not been shown on the submitted landscape plan or discussed within the Arborists Report, and has also been included within the deep soil zone calculations which is contrary to LEP194 requirements and definitions.

The application cannot be supported due to adverse tree impacts and insufficient detail.

Revised landscape plans addressing the above concerns were submitted to Council on 20 January 2005. Following analysis of the plans provided, Council's Landscape Officer commented on the proposal as follows:

'Previous concerns with the development proposal have been resolved. Landscape Services can support the application, subject to conditions.'

Engineering

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

Item 14

Summary

In summary the application can be supported, subject to the imposition of the engineering conditions of consent.

A pre-DA meeting was held for this site in 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.

Subdivision

*The application form indicates that subdivision is not proposed under this DA, hence no further subdivision conditions will be applied under this DA. 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 (refer to **Condition No.80**).*

Traffic generation

The applicant has submitted a Traffic Report prepared by Masson Wilson Twiney. The report is of acceptable standard on which to base an assessment of the traffic related impacts of the development.

Based on the carparking requirements in LEP194, the proposal requires a minimum of 68 resident car parking spaces and 9 visitor car parking spaces. The proposal provides 73 resident car parking spaces and 10 visitor car parking spaces. The development complies with the LEP.

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 best determined by modeling the affected intersections at existing and post-developed use. The traffic generation of this development has been estimated using the RTA "Guide to Traffic Generating Developments" as follows:

	<i>Pre-Developed</i>	<i>Post-developed</i>
<i>No of dwellings</i>	<i>5 dwelling houses</i>	<i>34 units</i>
<i>Daily vehicle trips</i>	<i>45 (9 per dwelling)</i>	<i>Average of 5 per apartment per day</i>
<i>Peak hour vehicle trips</i>	<i>4.25 (0.85 per dwelling)</i>	<i>17 (0.5 average per unit)</i>

Item 14

These figures have been placed at the affected intersection within the INTANAL program. The results show that the surrounding road network would continue to operate at a 'satisfactory' level of service post development.

Construction management

A construction management plan has been submitted (refer Construction Traffic management plan by Masson Wilson Twiney, dated October 2004). This has been prepared to a detail suitable for DA assessment purposes. Conditions have been included which refer to ensuring compliance with this plan during the course of the works (refer to Condition No. 51).

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 Council’s DCP 43 – “Carparking”.

The following table summarises the 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>
<i>Sight distances</i>	<i>Convex mirror to be shown on Construction Certificate plans (refer to Condition No.87).</i>
<i>Driveway widths</i>	<i>Satisfactory, to be refined on Construction Certificate plans (refer to Condition No.87).</i>
<i>Driveway grades</i>	<i>Satisfactory</i>
<i>Height clearance in parking area</i>	<i>To be shown on Construction Certificate plans.</i>
<i>Circulation ramps and roadways</i>	<i>Inside radius at base of ramp down between level B1 and B2 to be amended on Construction Certificate plans (refer to Condition No.87).</i>

Minor amendments to the parking layout will be addressed through the imposition of suitable engineering conditions of consent. These conditions will require the necessary minor modifications to the parking layout (to be shown on the Construction Certificate plans) in order to achieve a design that is in accordance with the relevant Australian Standard 2890.1.

Garbage collection

A waste storage and collection area is required internally under Councils DCP 40 for Waste Management. This has been provided in the basement parking area and there is

Item 14

adequate provision to be provided for Councils waste collection vehicle to enter the subject site, collect the garbage and then exit the site.

Impacts on Council infrastructure and associated works – comments

*The scale of construction work for this site is expected to damage the frontage footpath and road shoulder. Accordingly, the following infrastructure works will be required by way of conditions (**refer Condition No. 105**):*

- *Construction of a fully new concrete footpath over the site frontage in Ada Avenue. Maximum crossfall to be 2.5% towards the gutter.*
- *New concrete driveway crossings from Ada Ave.*
- *Removal of all redundant driveway laybacks and re-instatement to upright kerb and gutter.*
- *Replacement of the verge area to turfed verge between new footpath and existing kerb alignment.*

*As this site is located opposite Abbotsleigh School, there is a high demand for on-street parking in this location at certain times during the day. This will make on-street parking difficult for any construction related vehicles. Although not critical to the consent, it is recommended (subject to approval by the Local Traffic Committee) that a Work Zone be installed in the vicinity of the site. Accordingly, a condition will be applied that the applicant obtain a resolution from the Traffic Committee in relation to obtaining a work zone and proceed in accordance with any recommendation from the resolution (**refer to Condition No.102**).*

*As with all development of this scale, there is the direct risk of damage to Council infrastructure during the course of the works. A \$50,000 bond to cover restoration of such damage (or completion of incomplete works by Council) is to be applied (**refer to Condition No.86**).*

Site drainage comments

The submitted concept stormwater services plans (refer plans HDA01 to HDA12 by Whipps Wood Consulting, dated 6/10/04), have been designed in accordance with the Council requirements contained within the Water Management DCP 47. A stormwater retention requirement of 3000 litres per unit applies – and this water is to be used for toilet flushing, laundry, car washing and irrigation (as a minimum).

Conditions of consent are to be applied which will require the refinement and advancement of the concept plans to a detail suitable for Construction Certificate issue.

Flooding and overland comments

The site is located towards the top of the local catchment and as such the site will not be affected by trunk flows of sufficient volume around the site to cause concern. The

Item 14

driveway level at the property boundary shall be set a minimum of 150mm above the top of the frontage kerb to prevent inundation of the basement level by flows overtopping in the gutter system.

Geotechnical / structural comments

In support of the application, the applicant has submitted a "Report on Geotechnical Investigation for Proposed Residential Development 12 Ada Ave, Wahroonga" (project 37312, dated August 2004) prepared by Douglas Partners.

The sub-surface geotechnical investigations (6 boreholes) and subsequent report are considered appropriate for the scale of development on this site. Further, the report contains suitable information and recommendations on excavation and construction techniques. Attention is paid to the protection of the adjacent property and infrastructure.

*Council staff are guided by the findings and recommendations of the expert geotechnical report submitted with the development application. Based on the above geotechnical report for this site, I am in a position to conditionally approve the geotechnical aspects of this DA. These conditions will require monitoring, construction and further geotechnical design input as specified in the expert report (**refer to Condition No.49**).*

Recommendation

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

STATUTORY PROVISIONS

State Environmental Planning Policy No. 65 – Design quality of residential flat development

The application includes a design verification statement by the project architect Michael Sandberg of Sandberg Schoffel Architects. Mr Sandberg has verified that he is a qualified designer and member of the NSW Architects Registration Board, and has designed the proposal in accordance with the design quality principles set out in Part 2 of SEPP65.

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

Context:

Item 14

The context of the development is set by the adjacent six storey aged persons facility at the corner of Ada Avenue and Pacific Highway and the adjoining low density residential development to the south and within Munderah Street. The area and in particular this block bounded by Ada/Munderah/Pacific Highway, is undergoing transition having been re-zoned Residential 2(d3).

The development has been split into three separate buildings, providing two five storey buildings on the upper northern portion of the site and a four storey building (Building C) at the lower southern end of the site. The development respects the natural slope of Ada Avenue by 'stepping down' the natural grade and has less impact on adjoining low-density residential development.

The site is located within the draft Mahratta Urban Conservation Area. Council's Heritage Officer has considered the quality and significance of the buildings to be demolished and has determined that the demolition of these buildings will not erode the value of the Urban Conservation Area.

The proposed development, through tree retention and replenishment, good building design and articulation and protection of neighbouring privacy and solar access, will contribute to the desired future character of the area.

Scale:

Within the vicinity of the site, there are a variety of building types comprising varying heights and scale. Immediately adjacent to the site is a multi-unit aged care development of six storeys. Across the road is the Abbotsleigh Senior School of three storeys. To the immediate east and south across Munderah Street, are low density one and two storey residential developments.

The development, given the stepping down of the three buildings, and the setbacks provided, represents a considered response to the scale of neighbouring existing development. Further, the proposed buildings are of a scale (four and five storeys) identified as appropriate for the area.

Built form:

The design of the building elements, in particular the three separate buildings, the variety of materials to be used and the varied articulation represents high architectural quality.

The three building alignments parallel to the road and the provision of central and visible pedestrian accesses respects and defines the road and public domain and will contribute to the character of the streetscape.

Density:

The proposed density of the development is compliant with the density controls of DCP55, which seeks no greater floor space ratio than 1.3:1 for residential flat buildings. The application provides for a floor space ratio of 1.01:1.

The proposal is consistent with the desired future density of the area.

Item 14

Resource, energy and water efficiency:

The proposal achieves a 4.5 star NatHERS energy rating for 70% (or 24/34) of dwelling units, with all units achieving the minimum standard of 3.5 stars.

All apartments have been provided with cross-ventilation and no single-aspect apartments are provided. Furthermore, the recommended building depth of 10-18 metres has not been exceeded and 25% of kitchens have access to natural ventilation.

Conditions have been recommended in regard to use of energy efficient appliances, and storage of rainwater for landscape watering (*refer to Condition Nos 39, 89*).

Landscape:

The proposal provides for 50.9% of the site being a deep soil zone which is compliant with the minimum requirement of 50%. This zone is primarily provided within the two street frontages and to the rear of the buildings. This deep soil area is primarily common land within the development and its ability to accommodate large canopy trees will not be restricted in the future. The amount of landscaping provided is consistent with the desired future character of the area, which seeks canopy trees to soften the buildings and contribute to the streetscape.

Amenity:

The development provides for 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 positioned so as to minimise overlooking to existing and future adjoining developments.

A minimum floor to ceiling height of 2.7 metres has been provided, consistent with Council's requirement. Furthermore, the units are all of generous proportions, being at least 126m² in floor area, with most well in excess of 150m².

The application provides large amounts of private open space to each of the units. Terraces of 97m² to 256m² are provided for the ground floor units, 21m² to 39m² are provided for the balconies in the upper levels and terraces of 138m²-190m² are provided for the penthouse units.

The proposal provides acceptable levels of amenity to the occupants of this development and maintains existing amenity to surrounding developments.

Safety and security:

The proposal provides for good levels of safety and security through:

- (i) maximising opportunities for surveillance of public spaces on the site;
- (ii) the provision of a number of public access ways which are clearly visible from the street;
- (iii) The provision of secure car parks which are secured from external access;

Item 14

- (iv) Lift and stair access being directly from the basement car parks to apartment levels.

Social dimensions:

The application provides for only three-bedroom dwellings. This is not strictly compliant with Council's requirement to provide a range of dwellings sizes. However, the apartments are all of generous sizes and would provide high quality living environments for those residents within the local area who wish to "downsize" to an apartment.

Aesthetics:

The external appearance and composition of building elements, textures, materials and colours satisfactorily reflects the use, internal design and structure of the development. The buildings also link with the neighbouring conservation area through the conservative use of natural colours.

It is considered that in this way the buildings will contribute to the desired future aesthetic character of the area.

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

Relating to the Local Context:

The proposal is best defined as a 'stepped apartment'. This form of development is most suitable for sites where the land is sloping, where green open space is required to the front, where large terraces and balconies are desired, and where visual integration with the natural context of the site and landscape is necessary. Given the sloping nature of the site and the character of the street this type of development is most suitable for the area.

The proposal is sited over five separate allotments and will require land amalgamation. This amalgamation will result in a site with dual frontages which is capable of accommodating the proposed density of five storeys.

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

Site Analysis:

An appropriate site analysis was submitted indicating how the proposal is satisfactory in terms of building edges, landscape response, access and parking and building performance.

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 of the subject development and to adjoining residential development and provides an appropriate frontage to Ada Avenue and Munderah Street.

Item 14

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

Building Design:

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

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

State Environmental Planning Policy No. 55 – Remediation of Land

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

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

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 2400m ²	5294m ²	YES
Deep landscaping (min): 50%	50.9%	YES
Street frontage (min): 30m	116m (Ada Avenue) 50m (Munderah Street)	YES
Number of storeys (max): 5	Buildings A and B: 5 storeys Building C: 4 storeys	YES
Site coverage (max): 35%	33.8%	YES
Top floor area (max): 60% of level below	Building A: 53% Building B: 60% Building C: 60%	YES YES YES
Storeys and ceiling height (max) (not inclusive of 5th floor): 4 storeys and 13.4m	4 storeys and <13.4metres	YES
Car parking spaces (min): <ul style="list-style-type: none"> Building A: 18 x resident, 2.25 x visitor Building B: 36 x resident, 4.5 x visitor Building C: 14 x resident, 1.75 x visitor 	Building A: 19 x resident, 2 x visitor Building B and C: 54 x resident, 8 x visitor Total: 73 resident, 10 visitor	NO YES YES
Manageable housing (min): 10% (3.4 units)	11.7% (4 units)	YES

Item 14

Lift access: required if greater than three storeys	Provided to all three buildings	YES
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Car parking (cl.25J):

The development in its entirety is compliant with the amount of resident and visitor parking spaces required in LEP194. However, individually Building A does not provide for the appropriate number of visitor parking spaces. Building A requires 2.25 visitor parking spaces, where 2 spaces have been provided. Given that the extent of the breach is minimal and that the control applies to the development as a whole, no objection is raised.

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

The site is located within a potential Urban Conservation Area (National Trust UCA No. 26 – Mahratta). There are also a number of potential heritage items within the vicinity of the site, including Nos 6 and 10 Munderah Street. Council's Heritage Advisor has assessed the potential impact of the proposed development upon these sites as well as the impact of the demolition of the five dwellings.

In his opinion, the contribution of these items to the UCA is low and, due to the site context with an institutional character and recent rezoning of the site, the demolition is not opposed. However, recording of the items to be demolished should be undertaken prior to demolition (*refer to Condition No. 34*).

Further, Council's Heritage Officer considers that, whilst the proposed development would have some impact on the consistency and uniformity of the UCA, the impacts have been minimised through the 'stepping down' of the buildings and the potential for landscaping. Given the zoning of the site, the impacts are also acceptable.

The proposed development would not have any adverse impacts on nearby heritage items.

The application meets with the controls of 61 D – 61 I of the KPSO as amended by LEP194.

Residential zone objectives

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

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

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 Local context:		

Item 14

Development adjacent to a heritage item:	No closer than 80 metres from heritage item	YES
Part 4.1 Landscape design:		
Deep soil landscaping (min) • 150m ² per 1000m ² of site area = 750m ²	320m ²	NO
No. of tall trees required (min): 18 trees	6 trees to be retained Minimum of 21 trees in excess of 13 metres to be planted	YES
Part 4.2 Density:		
Building footprint (max): • 35% of total site area	33.8%	YES
Floor space ratio (max): • 1.3:1	1.01:1 (5348.14m ²)	YES
Part 4.3 Setbacks:		
Street boundary setback (min): • 10-12 metres (<40% of the zone occupied by building footprint)	Building A: Setbacks of 8.63, 10.44 and 12.24 metres Building B: Setbacks of 11.53 and 15.43 metres Building C: Setback to Ada Avenue of 12.84 metres, 9.2 metres and 12 metres to Munderah	NO YES YES
Rear boundary setback (min): • 6m	Building A: 8 metres Building B: 6.65 and 10.0 metres to external wall, 5.34 metres to balcony Building C: 6.0 metres	YES NO YES
Side boundary setback (min): • 6m	11.4m	YES
Setback of ground floor terraces/courtyards to street boundary (min): • 8m/11m	9.6m (To landscaped courtyard of Building A) 11.5m (To terrace of Building B) 7.32m (To landscaped courtyard of Building C)	YES YES NO
% of total area of front setback occupied by private courtyards (max): • 15%	4% to Ada Frontage (55.82m ² /1392m ²) 10% to Munderah frontage (58m ² /580m ²)	YES
Part 4.4 Built form and articulation:		
Façade articulation:		

Item 14

<ul style="list-style-type: none"> Wall plane depth >600mm Wall plane area <81m² 	<p>All wall plane depths >600mm</p> <p>Building A: Rear plane of 183.39m² Building B: Rear (east) plane of 109.71m², North plane of 110.88m², two south planes of 162m² Building C: <81m²</p>	<p>YES</p> <p>NO</p> <p>NO</p> <p>YES</p>
<p>Built form:</p> <ul style="list-style-type: none"> Building width < 36m Balcony projection < 1.2m 	<p>Building A: 28.8m Building B: 30.6m Building C: 15.4m</p> <p><1.2m</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
Part 4.5 Residential amenity		
<p>Solar access:</p> <ul style="list-style-type: none"> >70% of units receive 3+ hours direct sunlight in winter solstice >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice <15% of the total units are single aspect with a western orientation 	<p>100%</p> <p>50%</p> <p>No units are single aspect.</p>	<p>YES</p> <p>YES</p> <p>YES</p>
<p>Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 4</p> <ul style="list-style-type: none"> 12m b/w habitable rooms 9m b/w habitable and non-habitable rooms 6m b/w non-habitable rooms <p>5th Storey</p> <ul style="list-style-type: none"> 18m b/w habitable rooms 13m b/w habitable and non-habitable rooms 9m b/w non-habitable rooms 	<p>No direct relationship 10.8m (Between Blocks B and C)</p> <p>12m (Between Blocks A and B)</p> <p>No direct relationship 16.72m</p> <p>No direct relationship</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
Internal amenity:		

Item 14

<ul style="list-style-type: none"> Habitable rooms have a minimum floor to ceiling height of 2.7m 	2.7m	YES
<ul style="list-style-type: none"> Non-habitable rooms have a minimum floor to ceiling height of 2.4m 	2.7m	YES
<ul style="list-style-type: none"> 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms 	At least two bedrooms >3.0m	YES
<ul style="list-style-type: none"> Single corridors: <ul style="list-style-type: none"> - serve a maximum of 8 units - >1.5m wide - >1.8m wide at lift lobbies 	Maximum 4 units >1.5m >1.8m	YES YES YES
Outdoor living: <ul style="list-style-type: none"> ground floor apartments have a terrace or private courtyard greater than 25m² in area Balcony sizes: <ul style="list-style-type: none"> - 15m² – 3 bedroom unit NB. At least one space >10m ²	98m ² -144m ² terrace 21m ² -190m ² >2.4m	YES YES YES
Part 4.7 Social dimensions:		
Visitable units (min): <ul style="list-style-type: none"> 70% 	73.5%(25 units)	YES
Housing mix: <ul style="list-style-type: none"> Mix of sizes and types 	3 bedroom units	NO
Part 4.8 Resource, energy and water efficiency:		
Energy efficiency: <ul style="list-style-type: none"> >65% of units are to have natural cross ventilation single aspect units are to have a maximum depth of 10m 25% of kitchens are to have an external wall for natural ventilation and light 	100% (all have dual aspects at least) N/A – no single aspect units >25%	YES YES YES

Item 14

<ul style="list-style-type: none"> >90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating 	4.5 star rating = 70% 3.5 star rating = 100%	NO YES
Part 5 Parking and vehicular access:		
Car parking (min):		
<ul style="list-style-type: none"> 51 resident spaces 	73 spaces	YES
<ul style="list-style-type: none"> 8.5 visitor spaces 	10 spaces	YES
<ul style="list-style-type: none"> 59.5 total spaces 	83 spaces	YES

Part 3 Local context:

Part 3 of DCP 55 requires consideration of the existing and desired future character of the area in which the site is located, the maintenance of Ku-ring-gai's landscape and visual character and consideration of relevant conservation areas and heritage buildings.

Through the retention and replenishment of trees on site and the provision of good front and side setbacks, it is considered that the development will maintain the existing character of this area and appropriately responds to the desired future medium density character of the area.

The site is located within a proposed National Trust Urban Conservation Area (UCA). Consultation with Council's Heritage Advisor has revealed that the dwellings to be demolished are not significant contributory items to this UCA. The impacts of the development have also been minimised by the separation from low density residential development in Ada Avenue and by the proposed transition in levels to the corner of Munderah Street.

It is recommended that, whilst the buildings are not significant contributory items within the UCA, a Condition be imposed requiring photographic recording of the buildings to be demolished (*refer to Condition No. 34*).

Part 4.1 Landscape design:

The application fails to comply with Control C-1 of Part 4.1, which requires a single minimum landscaped area of 750m² concentrated within one area, towards the rear or middle of the site. The application provides for pockets of landscaped area, with no greater area than approximately 320m² (between Buildings B and C).

The application is otherwise compliant with all of the requirements of section 4.1. In particular, the proposal provides for deep soil landscape zones around the two frontages and at the side and rear of the property. The application also provides for a large amount of tree retention and tree replenishment.

While the application does not provide for one central landscaped area, it will still provide large pockets of landscaping and good sized communal areas of deep soil areas which are adequate for the amenity of residents and adequate for the retention of the treed character of the locality. For these reasons, the landscape design is satisfactory.

Item 14

Part 4.3 Setbacks:

The proposed buildings provide a variety of front, side and rear setbacks in order to achieve good articulation and interest to the streetscape.

Building A marginally fails to comply with the front setback to Ada Avenue. A setback of 8.63 metres is proposed to the basement garage entry. This is for a total length of 15.4 metres. The rest of Building A is set back at distances of between 10.44 metres and 12.24 metres.

As was noted at the pre-development application consultation, the setback at this particular point of the site is not so critical. This is due to the minimal setback of the adjoining aged care facility (at 13 metres from Ada Avenue) and due to the limited depth of this part of the site (at 36.4 metres). The site will still manage to maintain good overall front setbacks and the most important area of the site (at the corner of Ada and Munderah) has generous front setbacks of at least 12.84 metres to Ada Avenue and 12 metres to Munderah Street.

Building B has been provided with various rear setbacks, varying between 5.34 metres to the eastern balconies to 6.64 metres to the external wall of the building. The balconies marginally fail to comply with the minimum rear setback requirement of 6.0 metres. Given the change in levels between this part of the site and the neighbouring property No. 5 Munderah (at a higher level of RL198 as opposed to RL195.40 for the ground floor unit of Building 2) the minor shortfall of 640mm will not have serious adverse effect on the privacy of the neighbouring dwelling. Planting to a height of 15 metres along this part of the site will further help to avoid any adverse effect on the privacy of this neighbour.

The final setback non-compliance is with respect to Building C, which proposes a setback of 7.32 metres from the landscaped courtyard of Apartment 1 to Munderah Street (as opposed to the minimum of 8 metres required within DCP55). Given that this courtyard of shrubbery only and does not provide a formal patio area, is not thought that the courtyard represents an imposition upon the streetscape. The application still provides for good front setbacks for this corner site and courtyards do not occupy any other part of this frontage. This minor incursion is therefore acceptable.

Part 4.4 Built form and articulation:

The general built form and articulation of the buildings are well conceived, with good wall plane depths, building width and limited balcony projections.

Several of the wall planes do exceed DCP55 Part 4.4 C-2, which sets a maximum wall plane area of 81m². The areas which fail to comply are the rear (east) plane of Building A and the east, north and south planes of Building 2. All planes which front Ada Avenue and all of the planes on Building C comply with the requirement.

It is thought that the wall planes which do not comply can be adequately addressed through a minor revision to the materials and colours to be used – particularly to Building B. At present there is

Item 14

limited variety in the colour of façade to this building. Some variation to the colour schemes will provide for more interest and break up the bulk of these facades (*refer to Condition No.68*).

Part 4.6 Safety and security:

The proposed development will have high levels of safety and security due to its location at a corner with dual frontages.

All of the apartments adjoining Ada Avenue and Munderah Street will be provided with good opportunities for outlook to the streets, with the landscaping for the site providing open outlooks and few formal hedges to obscure views. The three pedestrian pathways are clearly visible from the streets, with unimpeded sightlines, and will be provided with lighting.

Furthermore, all of the common open space areas will be overlooked by apartments, with no concealed or entrapment areas.

Part 4.7 Social dimensions:

The application does not provide for a housing mix, as is required by Control 5 of Part 4.7, as all of the units are of 3 bedrooms.

Given that all of the units are of generous size (of at least 126m²) and are all genuine three bedroom units, it is considered that the units will be desired within this area and will meet market demand for spacious medium density accommodation.

Part 4.8 Resource, energy and water efficiency:

DCP55 requires 90% of units to meet with the NatHERS rating of 4.5 stars and above. The application proposes 100% of units which meet with the 3.5 star NatHERS rating, but only 70% of units which comply with the NatHERS 4.5 star rating.

The units which do not meet the 4.5 star rating are the southern units and penthouse of Building A (apartments 4, 6, 8 and 9) the penthouse unit in Building B (unit 17) and the western units in Building C (apartments 1, 3, and 5).

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

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

Item 14

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

Development Control Plan No. 43 – Car Parking

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

Development Control Plan 47 – Water Management

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

Section 94 Plan

The development attracts a section 94 contribution of \$860,487.00 which is required to be paid by *Condition No.75*.

This figure is calculated on the following basis, utilising the Ku-ring-gai Section 94 Contributions Plan 2004-2009 Residential Development as of 30 June 2004:

- 25 very large dwellings (larger than 150m²) – 5 existing dwellings = \$646,480.00.
- 9 large dwellings (at 110m²-150m²) = \$214,007.00.

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 in the public interest.

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for discussion.

CONCLUSION

Item 14

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 1046/04 for the demolition of existing structures on site and the construction of 34 x 3 bedroom dwellings within three separate buildings, associated access, basement parking and landscaping on land at 8-12 Ada Avenue and 7 Munderah Street, for a period of two (2) years from the date of the Notice of Determination, subject to the following 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
DWG WAH-AR-DA-001	Rev E	Site Plan	Sandberg Shoffel Architects	14-01-05	20-01-05
DWG WAH-AR-DA-002	Rev D	Block A Plans	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-003	Rev D	Block A Plans	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-004	Rev D	Block B and C B2 Basement	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-005	Rev D	Block B and C B1 Basement	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-006	Rev D	Block B & C Ground Plan	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-007	Rev D	Block B & C Typical Plans	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-008	Rev D	Block B Lev 3 Plan & C Penthouse Plan	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-009	Rev D	Block B Penthouse Plan & C Roof Plan	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-0010	Rev D	Block B Roof Plan	Sandberg Shoffel Architects	08-10-04	08-10-04

Item 14

DWG WAH-AR-DA-0011	Rev D	Site Elevations	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-0012	Rev D	Block A Elevations – East + West	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA 0013	Rev D	Block A Elevations – North + South	Sandberg Shoffel Architects	08-10-04	08-10-04-
DWG WAH-AR-DA-0014	Rev D	Block B Elevations – West + East	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-0015	Rev D	Block B Elevations– North + South	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-0016	Rev D	Block C Elevations – East + West	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-0017	Rev D	Block C Elevations – North + South	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-0018	Rev D	Sections	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-0019	Rev D	Sections	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-0020	Rev D	Site Analysis	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-0021	Rev D	Cut and Fill Diagram	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-0022	Rev D	Existing Shadows	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-0023	Rev E	Proposed Shadows	Sandberg Shoffel Architects	12-01-05	20-01-05
DWG WAH-AR-DA-0024	-	Colour Board	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-AR-DA-0025	Rev D	Environmental Site Management Plan	Sandberg Shoffel Architects	08-10-04	08-10-04
DWG WAH-05AR-DA-0026	-	Building Footprint Area Plan	Sandberg Shoffel Architects	December 2004	20-01-

Item 14

L01	D	Landscape Plan	PSB	10-01-05	20-01-05
L02	A	Landscape Plan	PSB	10-01-05	20-01-05

2. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
3. 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.
4. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority. *(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance).*
5. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
6. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.
7. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
8. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.

Item 14

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

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

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

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

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

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

Item 14

16. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
17. Any fencing and associated footings shall be constructed entirely within the boundaries of the property.
18. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
19. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
20. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
21. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

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

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

Item 14

or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.

24. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
25. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
26. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
27. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
28. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
29. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
30. Fire hoses are to be maintained on site during the course of demolition.
31. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
32. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
33. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
34. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
35. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - a. stating that unauthorised entry to the work site is prohibited, and
 - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

Item 14

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
36. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
37. "Peep holes" shall be provided to the entrance doors of all units for personal security.
38. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the in-ground system in Ada Avenue 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.
39. A mandatory rainwater re-use tank system of minimum volume 105m³ as shown in the DA submission Hydraulic Services plans (refer plans HDA01 to HDA12 by Whipps Wood Consulting, dated 6/10/04), 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.
40. 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.
41. 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.
42. 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.
43. 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

Item 14

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.**

44. 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.
45. 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".
46. 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.
47. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
48. 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).

Geotechnical aspects of the development works, particularly excavation and support, must be undertaken in accordance with the recommendations of the "Report on Geotechnical Investigation for Proposed Residential Development 12 Ada Ave, Wahroonga" (project 37312, dated August 2004) prepared by Douglas Partners.

Item 14

49. The geotechnical implementation plan, testing and monitoring program for the construction works must be in accordance with the "Report on Geotechnical Investigation for Proposed Residential Development 12 Ada Ave, Wahroonga" (project 37312, dated August 2004) prepared by Douglas Partners. 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) and certification(s) of the geotechnical inspection, testing and monitoring programs.
50. 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.
51. All construction traffic control and management measures shall be implemented generally in accordance with the *Construction Traffic Management Plan* prepared by Masson Wilson Twiney, dated October 2004, submitted with the DA. 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.
52. For traffic and pedestrian amenity purposes, **no** truck movements shall occur in Ada Avenue during school drop-off (8.00 am to 9.30 am) nor during school collection hours (2.30 pm to 4.00 pm).
53. 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.

54. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.

Item 14

55. Landscape works shall be carried out in accordance with Landscape Drawing No L01D, WAR LA-DA-001 prepared by PSB and dated 10/01/2005 submitted with the Development Application, except as amended by the following:
- a. Tree #21 Grevillea robusta (Silky Oak) is to be removed and replaced with an Angophora floribunda (Rough Barked Apple) with a minimum pot size at planting of 25Litre
 - b. The existing Cinnamomum camphora (Camphor laurel) located on the Munderah St nature strip are to be removed and replaced with six (6) Angophora floribunda (Rough Barked Apple) with a minimum 25 Litre pot size at planting.
 - c. The Ada Ave site frontage is to be planted with six (6) additional Jacaranda mimosifolia (Jacaranda) as a formal avenue planting consistent with the existing street tree planting. A minimum 25 Litre pot size at planting is to be utilised.
56. 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.
57. 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.
58. Canopy 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

7 Eucalyptus saligna (Bluegum)
Adjacent to south east site corner

16 Eucalyptus saligna (Bluegum)
Centrally located adjacent to Ada Ave (western) site boundary

5 Eucalyptus saligna (Bluegum)
Adjacent to south west site corner

59. 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

7 Eucalyptus saligna (Sydney Bluegum)
Adjacent to south east site corner

Radius From Trunk

6.5m

5 Eucalyptus saligna (Sydney Bluegum)

3.0m

Item 14

Adjacent to south west site corner/Block C

8 Eucalyptus saligna (Sydney Bluegum) 12.0m
 Adjacent to western/Ada Ave site boundary

16 Eucalyptus saligna (Sydney Bluegum) 8.0m
 Centrally located adjacent to western/Ada Ave site boundary

19 Cedrus atlantica 'Glauc' (Atlantic Cedar) 5.0m
 Adjacent to western/Ada Ave site frontage

10C Angophora floribunda (Rough Barked Apple) 4.5m
 Adjacent to eastern site boundary

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

61. 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
19 Cedrus atlantica 'Glauc' (Atlantic Cedar)	5.0m
Adjacent to western/Ada Ave site frontage	

62. 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
7 Eucalyptus saligna (Sydney Bluegum)	6.5m
Adjacent to south east site corner	
5 Eucalyptus saligna (Sydney Bluegum)	3.0m
Adjacent to south west site corner/Block C	
16 Eucalyptus saligna (Sydney Bluegum)	8.0m
Centrally located adjacent to western/Ada Ave site boundary	
19 Cedrus atlantica 'Glauc' (Atlantic Cedar)	5.0m

Item 14

Adjacent to western/Ada Ave site frontage

10C Angophora floribunda (Rough Barked Apple) 4.5m
Adjacent to eastern site boundary

63. 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.
64. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Munderah St. The tree/s used shall be 25 litre container size specimen/s:

Tree Species

Angophora floribunda (Rough barked apple) x 6

65. Following removal of the Cinnamomum camphora (Camphor laurel) from Council's Munderah St nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Director Open Space at no cost to Council.
66. 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.
67. 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.
68. The colour, texture and substance of all external materials shall be generally as detailed in the application. The rear (east) elevation of Building B, and the rear (east), north, and south plane elevations of Buildings B and C shall be of varying colours and textures so as to provide more interest to these elevations. Details of these changes shall be submitted and agreed to by the Principal Certifying Authority prior to Construction Certificate being issued.
69. Eighty-six (83) car parking spaces shall be provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:
 - 73 - Residential
 - 10 – Visitors/Service VehiclesSuch spaces are to be identified on-site by line-marking and numbering upon the completion of the works. Car-parking provided shall only be used in conjunction with the uses contained within the development and in the case of Strata subdivision, shall be individually allocated to residential units. Under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building. *(Reason: To ensure that adequate parking facilities to service the development are provided on site)*

Item 14

70. At least one external visitor parking bay shall be provided with a tap, for car washing purposes, in accordance with DCP55 Part 5.

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

71. 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.

72. 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).
73. 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.
74. 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 14

- 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.

75. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF TWENTY-NINE (29) ADDITIONAL DWELLINGS IS CURRENTLY \$860,487.00. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

1. Community Facilities	\$1 117.76	
2. Park Acquisition and Embellishment Works	\$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 75 sqm)	1.27 persons
Medium dwelling (75 - under 110 sqm)	1.78 persons
Large dwelling (110 – under 150sqm)	2.56 persons
Very Large dwelling (150sqm or more)	3.48 persons
New Lot	3.48 persons
SEPP (Seniors Living) Dwelling	1.3persons

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

Item 14

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

77. 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 Occupation Certificate, 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.

78. A cash bond/bank guarantee of \$13 000.00 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

7 Eucalyptus saligna (Sydney Bluegum) (\$4 000.00)
Adjacent to south east site corner

8 Eucalyptus saligna (Sydney Bluegum) (\$2 000.00)
Adjacent to western/Ada Ave site boundary

5 Eucalyptus saligna (Sydney Bluegum) (\$1 000.00)
Adjacent to south west site corner/Block C

16 Eucalyptus saligna (Sydney Bluegum) (\$4 000.00)
Centrally located adjacent to western/Ada Ave site boundary

19 Cedrus atlantica 'Glaucua' (Atlantic Cedar) (\$2 000.00)
Adjacent to western/Ada Ave site frontage

Item 14

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

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

Tree/Location	Radius in Metres
16 Eucalyptus saligna (Sydney Bluegum) Centrally located adjacent to western/Ada Ave site boundary	9.0m
19 Cedrus atlantica 'Glaucua' (Atlantic Cedar) Adjacent to western/Ada Ave site frontage	5.0m

80. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing five 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.
81. 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 14

82. 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). The design may be generally in accordance with the Sediment and Erosion control details plan HDA12 by Whipps Wood Consulting (dated 01/10/04) submitted with the development application, and advanced as necessary for construction issue purposes.
83. 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 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 detail HDA11 by Whipps Wood Consulting (dated 6/10/04) submitted with the development application, and advanced as necessary for construction issue purposes.
84. 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.
85. 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.
86. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$50,000 (fifty thousand dollars) public infrastructure damage bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of

Item 14

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:

- 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 the 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.

87. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), amended plans for the basement and external vehicle access and accommodation arrangements. These plans shall incorporate the following details:
 - Minimum inside radius on the curved internal circulation ramp to be 4 metres as specified in figure 2.9 of Australian Standard 2890.1 – 2004 "Off-Street car parking".
 - Increase lane widths at intercom to clear 3.0 metres minimum (as recommended in section 3.4 of the DA submission Traffic report by Masson Wilson Twiney, dated October 2004).
 - Install convex mirror on curved ramped circulation ramp to ensure ingressing and egressing drivers are aware of each other.
 - Turning area for building A to be widened by 400 mm on its western side and turning area outside building B and C to be widened by 1.5 metres on the southern and eastern sides (as recommended in section 3.5 of the DA submission Traffic report by Masson Wilson Twiney, dated October 2004).
88. Service ducts shall be provided within the building to keep external walls free of plumbing or any other utility installations. Such service ducts are to be concealed from view from the street. Details demonstrating compliance are to be provided in the Construction Certificate. *(Reason: To ensure quality built form of the development).*
89. The following energy efficiency devices are to be installed within the development:
 - a. Gas boosted solar, heat pump or electricity boosted solar, instantaneous gas or high efficiency centralised gas hot water heating system.
 - b. Dual flush toilets.
 - c. Low flow taps and showerheads.
 Details are to be submitted for approval with the Construction Certificate. *(Reason: To promote the use of energy efficient appliances)*
90. All overhead electricity and other lines (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point, in accordance with the requirements of Energy Australia. Details to be shown on plans submitted with the Construction Certificate. *(Reason: To provide infrastructure that*

Item 14

facilitates the future improvement of the streetscape by relocation of overhead lines below ground).

91. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1. Details demonstrating compliance are to be provided with the Construction Certificate (*Reason: To preserve community health and ensure compliance with acceptable standards*).
92. Two (2) of the proposed apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps; such features to be designed generally in accordance with Australian Standards 1428.1 and 4299. Details demonstrating compliance are to be submitted with the Construction Certificate. (*Reason: To ensure equity of access and availability of accommodation in the future for an ageing population*).
93. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or other areas of the building and is not to be located on the roof. Details demonstrating compliance are to be submitted with the Construction Certificate application. (*Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality*).

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 in Metres
7 Eucalyptus saligna (Sydney Bluegum) Adjacent to south east site corner	4.5m
5 Eucalyptus saligna (Sydney Bluegum) Adjacent to south west site corner/Block C	2.0m
8 Eucalyptus saligna (Sydney Bluegum) Adjacent to western/Ada Ave site boundary	8.0m
16 Eucalyptus saligna (Sydney Bluegum) Centrally located adjacent to western/Ada Ave site boundary	8.0m

Item 14

19 Cedrus atlantica 'Glaucua' (Atlantic Cedar) 5.0m
Adjacent to western/Ada Ave site frontage

10C Angophora floribunda (Rough Barked Apple) 4.5m
Adjacent to eastern site boundary

96. 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 pedestrian footpath 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
ALL existing street tree planting to be retained Ada Ave & Munderah St	3.0m

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 the principal certifying authority 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.
99. 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 Ada Ave between the intersection with Pacific Highway and Munderah Street including full road width, kerbs, and the Munderah 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.
100. Prior to the commencement of any works on site, the applicant must submit to the Principal Certifying Authority details of the proposed Vibration Monitoring Program as specified in section 6.1.2 of the "Report on Geotechnical Investigation for Proposed Residential Development 12 Ada Ave, Wahroonga" (project 37312, dated August 2004) prepared by Douglas Partners. This is to ensure that vibration created by the method of construction does not adversely impact on surrounding property and infrastructure. A qualified and practising geotechnical engineer must prepare the Vibration Monitoring Program and undertake all associated investigations. Details to be included in Vibration Monitoring Program to include:
- pre-set acceptable limits for the variation of:
 - settlement

Item 14

- deflection or movement of retaining mechanisms such as shoring and bracing and
 - vibration in accordance with AS 2187.2 1993 Appendix J, including acceptable velocity of vibration.
 - the location and type of monitoring systems to be used
 - recommended hold points to allow for inspection and certification by a geotechnical engineer and
 - a contingency plan should the pre-set acceptable limits be exceeded.
101. 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,
 - 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 the frontage roadways,
 - 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 plan shall be prepared in conjunction with the Construction Traffic Management Plan prepared by Masson Wilson Twiney, dated October 2004, submitted with the Development Application.
 - 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.
102. 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' as close as possible to 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 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.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

Item 14

103. 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.
104. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the "Report on Geotechnical Investigation for Proposed Residential Development 12 Ada Ave, Wahroonga" (project 37312, dated August 2004) prepared by Douglas Partners, must be supplied to the Principal Certifying Authority for approval.
105. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:
- Completion of the new driveway crossings in accordance with levels and specifications issued by Council.
 - Full reconstruction of the concrete footpath over the entire site frontage of Ada Avenue.
 - 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.
 - 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. 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.
106. 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 and retention 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 detention and retention 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.
107. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):

Item 14

- A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
- A copy of the works-as-executed drawing of the as-built on-site detention/retention system, and
- 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.

108. 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).
109. 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 the 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)
110. 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:

Item 14

- 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
 - The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500.3.2, 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.
 - 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.
111. 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.

BUILDING CONDITIONS

112. 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.

Item 14

113. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
114. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
115. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

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

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

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

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

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

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

Kerrin Lithgow
Executive Assessment Officer

Matthew Prendergast
Manager
Development Assessment Services

Item 14

Mark Leotta
Team Leader
Development Assessment - North

Michael Miocic
Director
Development and Regulation

INVESTMENT CASH FLOW & LOAN LIABILITY AS AT 31 JANUARY 2005

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

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

BACKGROUND:

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

COMMENTS:

The Reserve Bank of Australia (RBA) left the official cash rate unchanged at 5.25% during January.

RECOMMENDATION:

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

PURPOSE OF REPORT

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

BACKGROUND

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

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

COMMENTS

During the month of January Council's cash decreased by \$3,600,000 and gross capital appreciation on Council's investments was \$77,300.

Council's total investment portfolio at the end of January 2005 is \$14,301,300. This compares to an opening balance of \$17,271,200 as at 1 July 2004.

Council's General Fund interest on investments for January year-to-date is \$605,600. This compares favourably to the year-to-date budget of \$498,750.

Council's total debt as at 31 January 2005 is \$10,789,300. This compares to a total debt of \$11,850,000 as at 1 July 2004.

PERFORMANCE MEASUREMENT

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

- **Management of General Fund Bank Balance**

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

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

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

- **Allocation of Surplus Funds**

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

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

Item 15

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14 February 2005

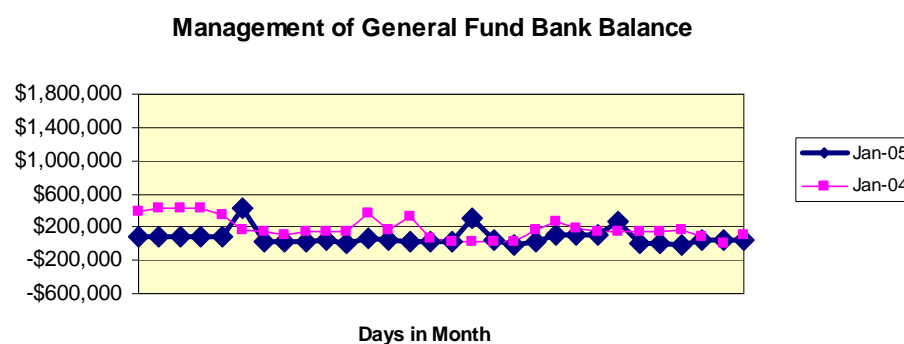
Summary of Borrowings

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

January 2005

Management of General Fund Bank Balance

During January Council had an outflow of funds of \$3,600,000. This was due to high level of expenditure and reduced income received during the month. Large monthly payments made to Collex Waste Management and Waste Services Australia, combined with the second instalment of the NSW Fire Brigade levy contributed significantly to the outflow.



Funds Performance against the UBSWA Bank Bill Index

The weighted average return for the total portfolio of managed funds during January was 5.99% compared to the benchmark of the UBSWA Bank Bill Index of 5.50%.

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

Fund Manager	Terms	Opening Balance	Cash flow Movement	Income Earned (net of fees)	Closing Balance	Interest Rate
BT Institutional Managed Cash	At Call	\$892,604	(\$650,000)	\$3,905	\$246,509	5.64%
BT Institutional Enhanced Cash	At Call	\$4,870,387	(\$700,000)	\$21,772	\$4,192,160	6.08%
Macquarie Income Plus Fund	At Call	\$5,744,880	(\$2,250,000)	\$19,048	\$3,513,927	6.25%
Perennial Cash Enhance Fund	At Call	\$3,233,388	-	\$15,314	\$3,248,702	5.99%
Turramurra Community Bank	Term Deposit	\$500,000	-	\$2,358	\$500,000	5.66%
CBA Loan Offset No 1	Offset	\$1,170,000	-	\$5,984	\$1,170,000	5.39%
CBA Loan Offset No 2	Offset	\$1,430,000	-	\$7,180	\$1,430,000	5.39%
TOTALS		\$17,841,259	(\$3,600,000)	\$75,561	\$14,301,298	

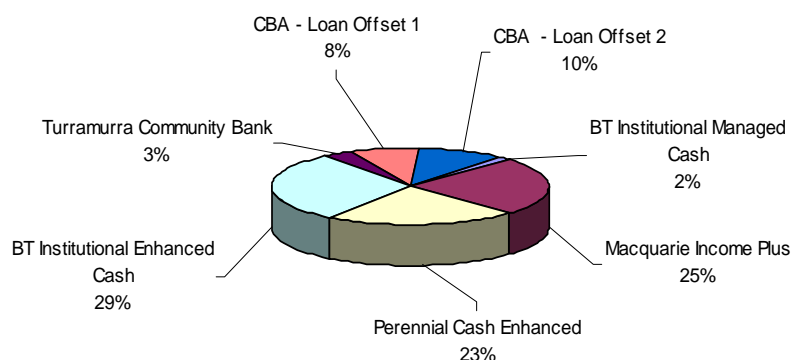
Year-to-date Funds Performance against the UBSWA Bank Bill Index

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

Fund Manager	Performance Annualised for July 2004 –January 2005	UBSWA Bank Bill Index Annualised for July 2004 –January 2005
BT Institutional Managed Cash	5.64%	5.54%
BT Institutional Enhanced Cash	6.10%	
Macquarie Income Plus Fund	6.41%	
Perennial Cash Enhanced Fund	6.00%	
Turramurra Community Bank	5.66%	
CBA Offset No.1	5.57%	
CBA Offset No.2	5.57%	

Allocation of Surplus Funds:

Council's funds during January were allocated as follows:

Portfolio Allocation of Surplus Funds

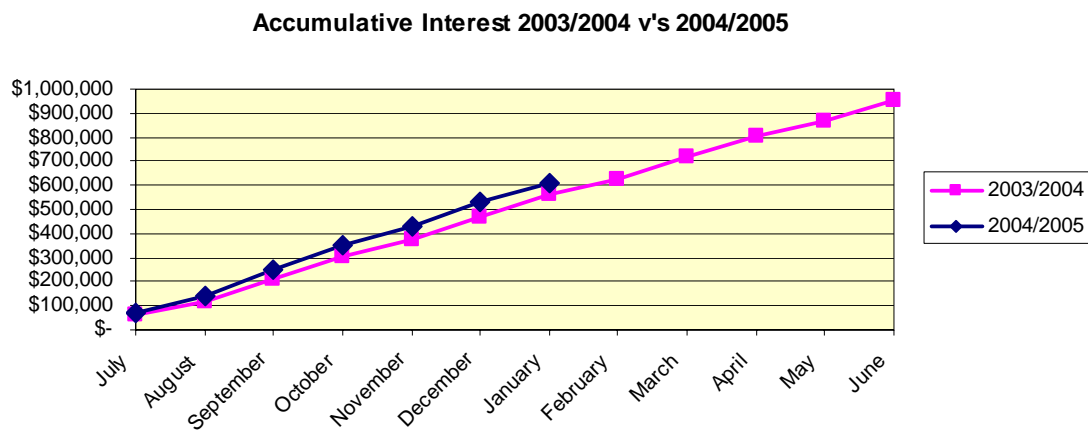
Item 15

S02722
14 February 2005

2003/2004 versus 2004/2005

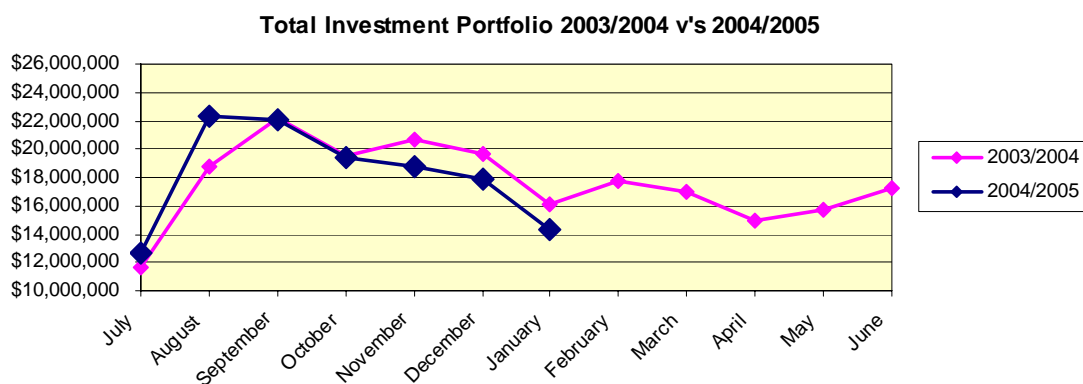
Accumulative Interest

The following graph compares the interest earned on an accumulative monthly basis for financial years 2003/2004 and 2004/2005. As at the end of January 2005, year to date interest earnings totalled \$605,600. This compares to \$559,000 at the same time last year, an increase of \$46,600.



Total Investment Portfolio

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



During January 2005 Council's investment portfolio decreased by \$3,600,000, which is the same movement as January 2004.

Item 15

S02722
14 February 2005

Council's closing investment portfolio of \$14,301,300 in January 2005 is \$1,759,500 lower than the January 2004 closing balance of \$16,060,800.

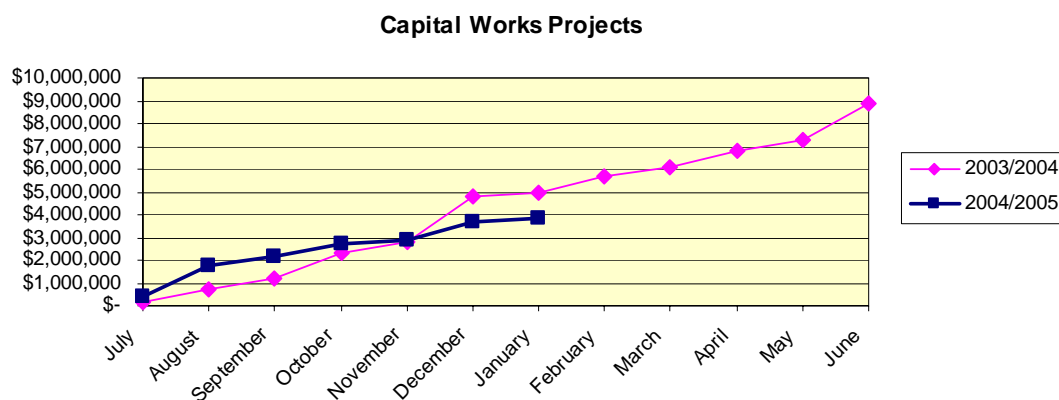
Capital Works Projects

As at the end of January 2005 Council has expended \$3,844,600 on capital works, which is \$1,130,100 lower than at the same time last year when \$4,974,700 had been expended.

During January 2005 Council expended \$124,700 on capital works, which compares to \$196,700 during January 2004, a decrease of \$72,000.

Council's 2004/2005 total budget for capital works (excluding fleet replacement) is \$9,877,000 which leaves funds of \$6,032,400 unspent at the end of January.

The following graph compares the accumulative monthly expenditure totals for Capital Works for financial years 2003/2004 and 2004/2005.



Portfolio Performance Average Return 2003/2004 versus 2004/2005

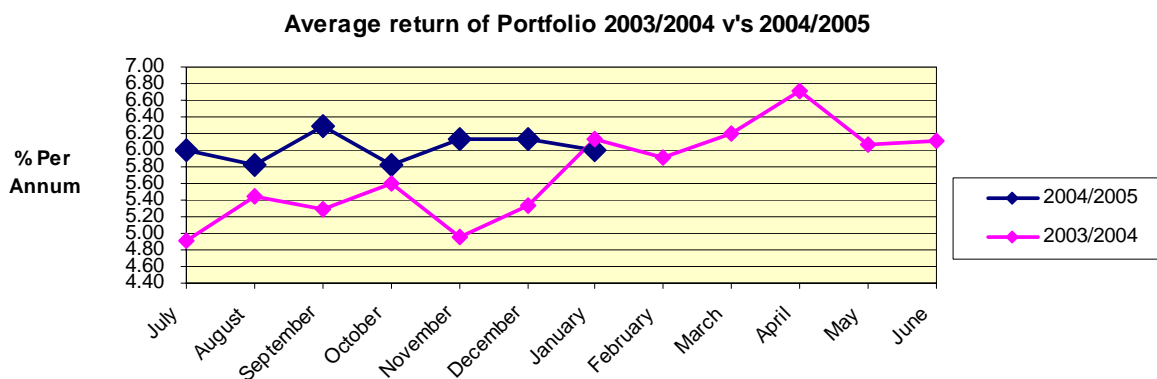
The following graph compares the monthly returns on Council's portfolio for the financial years 2003/2004 and 2004/2005.

In January 2005 earnings before fees were 5.99%, this compares to 6.14% in January 2004.

For the period July 2004 – January 2005 Council's average earnings before fees were 6.03%. This compares to 5.38% for the same period last financial year.

Item 15

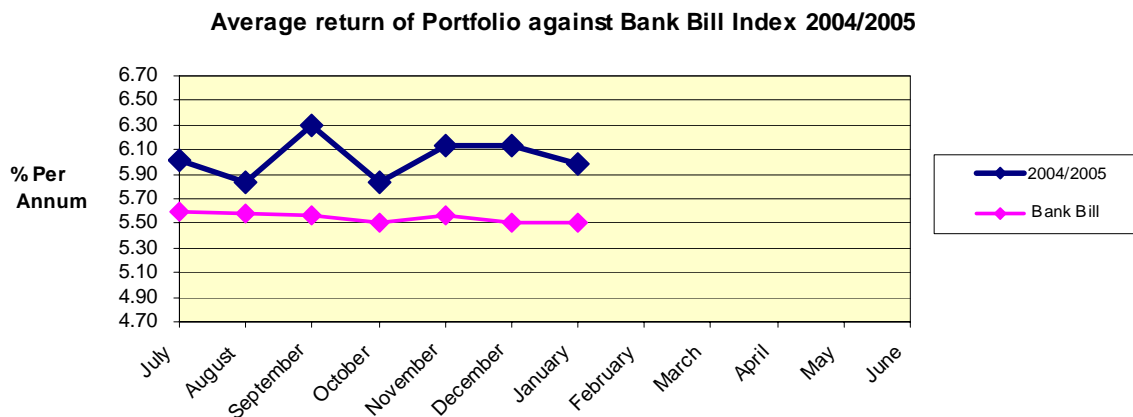
S02722
14 February 2005



2004/2005 Portfolio Performance against the UBSWA Bank Bill Index

Council's average portfolio return performed above the UBSWA Bank Bill Index in January. Returns above benchmark have been achieved in each month this financial year.

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



Item 15

S02722
14 February 2005**Summary of Borrowings**

There were no loan repayments made in January, leaving the total level of debt at \$10,789,300. This compares to a total debt at 1 July 2004 of \$11,850,000.

Lender	Loan Number	Original Principal	Principal Repayments	Balance Outstanding	Interest Rate	Draw Down Date	Maturity Date
Westpac	124	\$4,000,000	\$3,683,316	\$316,684	10.95%	02-Feb-95	02-Feb-05
Westpac	125	\$1,000,000	\$913,373	\$86,627	6.27%	02-Feb-95	02-Feb-05
Westpac	127	\$1,000,000	\$577,558	\$422,442	6.32%	29-Jun-98	29-Jun-08
CBA Offset No 1	128	\$2,600,000	\$1,430,000	\$1,170,000	5.54%	29-Jun-99	13-Jun-09
CBA Offset No 2	129	\$2,600,000	\$1,170,000	\$1,430,000	5.54%	13-Jun-00	14-Jun-10
CBA	130	\$2,600,000	\$732,979	\$1,867,021	6.32%	26-Jun-01	28-Jun-11
NAB	131	\$2,600,000	\$495,310	\$2,104,690	6.85%	27-Jun-02	27-Jun-12
Westpac	132	\$1,882,000	\$224,562	\$1,657,438	5.16%	27-Jun-03	27-Jun-13
CBA	133	\$1,800,000	\$65,647	\$1,734,353	6.36%	23-Jun-04	23-Jun-14
TOTAL		\$20,082,000	\$9,292,745	\$10,789,255			

CONSULTATION

Not applicable

FINANCIAL CONSIDERATIONS

The Reserve Bank of Australia (RBA) left the official cash rate unchanged at 5.25% during January. There are no expectations of an interest rate increase in the first half of 2005 unless inflation continues its upward trend.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

As at 31 January 2005:

- Council's total investment portfolio is \$14,301,300. This compares to an opening balance of \$17,271,200 as at 1 July 2004.
- Council's General Fund interest on investments totals \$605,600. This compares favourably to the year-to-date budget of \$498,750.

Item 15

S02722
14 February 2005

- Council's total debt is \$10,789,300. This compares to a total debt of \$11,850,000 as at 1 July 2004.

RECOMMENDATION

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

Mellissa Crain
Manager Business Development

John McKee
Director Finance & Business

PROPOSED DRAINAGE EASEMENT OVER COUNCIL LAND AT PRINCES LANE, TURRAMURRA (IRISH TOWN RESERVE) - APPLICANT AT 93 BANNOCKBURN ROAD, TURRAMURRA

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider granting a drainage easement over Council land known as Irish Town Reserve (Turramurra) to the applicant at 93 Bannockburn Road, Turramurra.

BACKGROUND:

The applicant, T and H Kermani submitted a development application (DA 1435/03) to Council to demolish the existing dwelling and construct a single storey childcare centre to accommodate 29 children and 7 staff members. The application was approved by Commissioner Hoffman in the Land and Environment Court on 29 November 2004.

COMMENTS:

The applicant submitted an application requesting a drainage easement over Council's park known as Irish Town Reserve. The proposed drainage easement will not interfere with the current usage of the park.

RECOMMENDATION:

That Council approve the granting of the proposed drainage easement over Council land known as Irish Town Reserve to the applicant at 93 Bannockburn Road, Turramurra, subject to the terms and conditions of this report and public notification in accordance with the Local Government Act (1993).

PURPOSE OF REPORT

For Council to consider granting a drainage easement over Council land known as Irish Town Reserve (Turramurra) to the applicant at 93 Bannockburn Road, Turramurra.

BACKGROUND

The applicant, T and H Kermani submitted a Development Application (DA 1435/03) to Council to demolish the existing dwelling and construct a single storey childcare centre at Lot 28 in DP 35369, known as 93 Bannockburn Road, Turramurra.

Drainage of stormwater from the development required tapping into the existing pipe shown on the allotment plan running through Council's reserve and draining out at Princes Lane.

The applicant's DA 1435/03 was approved by Commissioner Hoffman in the Land and Environment Court on 29 November 2004 as Appeal No 10536 of 2004. The approval was subject to deferred commencement conditions requiring the Applicant to submit evidence to Council that the subject site was benefited by an easement to the council pipeline and registered.

The applicant paid the relevant fee, \$525.00 (including GST) requesting Council consider an application to drain water through Council owned public reserve at the rear of the subject property, tapping into an existing stormwater drain.

Location/Property

The land subject to the proposed easement is public garden and recreation space situated at Princes Lane, Turramurra. The reserve is known as Irish Town Reserve and is situated on the north side of Princes Lane, a short distance to the east of Bannockburn Road. Residential properties adjoin the park in each direction. The reserve is located at Princes Lane, Turramurra, known as LD 2458 (**Attachment 1**)

The reserve is classified as 'Community Land' in accordance with the Local Government Act (1993) and categorised as 'Park'.

The Local Government Act (1993) was recently amended by the Local Government Amendment (Miscellaneous) Act 2002, in relation to Community Land. In particular, Section 46(a)(1) provides that "*A Council may grant an easement over community land to provide pipes under the surface of the ground for the connection of premises adjoining the community land to a facility of the Council or other public utility provider.*" An expressed authorisation in a Plan of Management is no longer required for the granting of such easement.

However, Council will still be required to carry out public notification in accordance with Section 47 of the Local Government Act (1993).

COMMENTS

Council's engineering assessment unit within the Development and Regulatory Services Department requested that the applicant provide detailed analysis of the proposed drainage easement as part of the easement application.

On 12 January 2005, Council wrote to the applicant requesting the following information in order for Council's Engineering Assessment team to assess the request and seek resolution of Council.

- 1 A survey of the existing piped system passing through the Reserve to which the connection is proposed, prepared by a registered surveyor detailing:
 - Exact location of in-ground drainage system including all pipes and pits;
 - Dimensions of all existing pipes and pits;
 - Invert levels at all junctions and pits;
 - Existing ground levels in the vicinity of the system.
- 2 A closed circuit television (CCTV) inspection of the entire in-ground drainage system.
 - A video copy of the footage to be provided to Council.
- 3 Certification by a qualified consulting civil hydraulic engineer that:
 - The existing in-ground piped system is able to operate satisfactorily and without leakage or seepage.
 - To confirm the existing pipes have adequate capacity to carry design flow rates or detention system overflows where detention systems are to be provided. Calculations to be provided to Council.
 - Connection of the property drainage pipe to the Council's drainage system should be constructed in accordance with Council's Standard Drainage Plan No. 82-024, to the satisfaction of the Director Technical Services.

The applicant has provided the requested information to Council.

The information has been reviewed by Technical Services (drainage engineers) and the following comments provided in response:

“Comments

Reference is made to Council's letter of 12 January 2005 to the applicant, Mr & Mrs Kermani in relation to technical details required to enable assessment of their proposed connection to Council's pipeline in Irish Town Grove.

I have since spoken to Mr Kermani on a number of occasions to explain the requirement of these conditions, including meeting at Council on 4 February 2005. In respect of the information requested the following is noted by exception:

1. *No detail survey of the existing pipe was supplied to determine relative levels between the connection of the proposed pipe and council pipeline that would satisfy Council standard drawing plans No 82/024. In particular, this standard indicates connection is required at/near the crown of the pipe.*

In the absence of levels, an investigation was undertaken of the site on 2 February 2005. Measurements were taken on the existing pipe cover on the nearest downstream pit, as an indication of the relative levels and plotted against proposed levels for the OSD Storage in the subject property (refer to sketch). It found, the corresponding proposed connection would occur below half the height of the pipeline (based on the depth of 180mm from ground level to obvert and 1200mm diameter) and therefore would not comply with the standard.

However, precedents of side-entry have occurred for connections to council's pipelines and the depth is indicative only. The actual depth can be determined by exposure of the pipe prior to construction and if required, redesign of the OSD carried out based on verbal offer given by Mr Kermani at a meeting at Council on 4th February.

The invert of the property drainage connection should be made 900mm above the invert of the council drainage pipeline, to ensure that flows in the Council pipeline do not adversely impact on the function of the OSD system or create a submerged orifice to occur. This matter can be addressed by condition.

2. *Certification by the engineer was supplied, but is not substantiated with evidence. It states the connection is to be in accordance with plan No 82/024 and is able to operate without leakage or seepage. Both statements are misleading, as there are no surveyed levels to substantiate, and leakage and seepage cannot be ascertained until construction is completed and system tested. Certification should be at post-construction not at pre-construction. This matter can be addressed by condition.*

In addition, Technical Services section made the following recommendations to Council in its consideration to grant consent for the applicant to connect the stormwater into the drainage system traversing the public service Lot 29 – Irish Town Reserve.

Recommendation

Technical Services has no objection to the connection subject to the following conditions being met in conjunction with the deferred commencement conditions:

1. *That connection of the property drainage from the on-site detention system to the Council drainage system shall be constructed in accordance with Council standard drawing Plan No. 82-024 to the satisfaction of the Director Technical Services. The invert of the property drainage shall be connected at an absolute minimum height of 900mm above the invert of the council drainage pipeline.*
2. *That an investigation of the depth to the pipe be undertaken by temporary excavation to expose the Council pipeline passing through Irish Town Grove to which the connection is proposed and:*

- a. *A survey of the existing pipe be prepared by a surveyor, with a scaled plan and section detailing the relative levels of the pipe crown, existing ground levels in the vicinity of the system and proposed levels in the on-site detention system. The plan and section is to be submitted to Council for approval. If the applicant is not able to achieve suitable gravity flow to the council pipeline in accordance with (1) above, the on-site detention shall be redesigned to enable compliance to the satisfaction of Director Development & Regulation.*
- b. *An inspection be carried out by Council to allow verification. The applicant or their engineer is to give council at least at least 24 hours notice to allow inspection. The preliminary excavation is to be made safe at all times including backfilling if required.*

That once consent is operational:

1. *That excavation for the connection to the Council pipeline during the construction of the on-site detention system is subject to inspection. The applicant or their engineer is to give council at least at least 24 Hours notice after completion of excavation and prior to any pipe laying commencing.*
2. *That Certification by a qualified consulting civil/hydraulic engineer be supplied for as-constructed works for the connection stating that the new connection to the council pipeline has been made in accordance with plan No 82/024 and is able to operate satisfactorily without leakage or seepage. The certification is to include photographic evidence of the connection.”.*

The plans were submitted by the applicant and were given conditional approval by the Director Technical Services on 16 February 2005, subject to Council approval.

The proposed easement will not interfere with the current usage of the reserve. The area of the proposed easement is only a small proportion of the total reserve area.

Should Council not grant this easement, the applicant has the right to lodge an application to the Supreme Court to have the matter resolved. This would involve substantial additional cost for Council and the applicant.

CONSULTATION

Officers have consulted with the applicant's planner, B T Goldsmith Planning Services Pty Ltd., the applicant, T & H Kermani and their legal representatives concerning the process involved in seeking Council approval on the granting of the proposed drainage easement and connection to the pipeline.

FINANCIAL CONSIDERATIONS

On 21 October 2004 and 9 December 2004, Council officers advised the applicant of the approximate costs involved in the proposed easement application:-

Easement application fee	\$525.00	(includes GST – Fees and charges 2004/2005)
Legal costs	\$1,500 to \$3,000	(excludes GST)
Valuation Report Costs	\$900.00	(excludes GST)
Compensation fee	\$1,000.00	(determined by the NSW Dept of Commerce, formally known as the State Valuation Office) <i>*see notes below</i>
Public notification fees	\$500 to \$1,000	(excludes GST)
Legal instruments		At full cost to applicant
Independent studies on capacity of existing pipe		At full cost to applicant
Any repairs, replacement or alterations to existing pipe		At full cost to applicant

The NSW Department of Commerce was commissioned by Council on 10 December 2004 to determine the compensation payable to Council, for the granting of the proposed easement (**Attachment 2**).

The applicant confirmed on 11 December 2004 (**Attachment 3**) that they pay the costs as outlined in Council's correspondence, dated 9 December 2004 (**Attachment 4**).

On 13 January 2005, the applicant paid the compensation amount of \$1,100.00 (includes GST) and paid the valuation report costs of \$990.00 (includes GST) associated with the compensation assessment.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Open Space consulted with Business and Finance Development, Technical Services and Development and Regulatory Services in the preparation of this report.

SUMMARY

Development Application No 1435/03 to demolish an existing dwelling and construct a single storey childcare centre at 93 Bannockburn Road, Turrumurra, was approved by the Land and Environment Court on 29 November 2004.

The approval was subject to deferred commencement conditions requiring the Applicant to submit evidence to Council that the subject site was benefited by an easement to the council pipeline and registered.

Item 16

P33906
2 March 2005

Whilst the original Development Application was being assessed, officers advised the applicant that they were required to submit an application for drainage easements, involving a separate process for approval.

Should Council not grant this easement, the applicant has the right to lodge an application to the Supreme Court to have the matter resolved. This would involve substantial additional cost for Council and the applicant.

The merits of the applicant's submission for the connection to the Council stormwater pipe has been assessed by the Technical Services drainage engineers. The remaining issues are not considered significant and are able to be addressed by conditions under recommendations made in a report of 8 February 2005, that are supported the Director Technical Services.

Council has authority to grant such easements under the Local Government Act 1993 (as amended). Council is required to carry out public notification of the proposed easement in accordance with Section 47 of the Local Government Act (1993), should it resolve to grant this easement.

Proposed Next Steps

Subject to Council resolution:

1. Public notification.
2. Council solicitors to prepare Section 88B Instrument, Terms and Conditions.
3. Applicant to carry out Technical Services Report recommendations dated 8 February 2005, in conjunction with the deferred commencement conditions.
4. Instrument to be executed.
5. Remaining associated costs to be paid by the applicant.
6. Section 88B Instrument to be lodged at Land Information Office.

RECOMMENDATION

- A. That Council approve the granting of the proposed drainage easement over Council land off Princes Lane, Turramurra, known as Irish Town Reserve to the applicant at 93 Bannockburn Road, Turramurra, as proposed in this Report.
- B. Council issue a public notice as prescribed by Section 47 of the Local Government Act (1993).
- C. That Council authorise the Mayor and General Manager to sign the documentation associated with the proposed easement, should no substantial objections be received following the public notice.
- D. That Council authorise the affixing of the Common Seal to the documentation associated with the proposed easement, should no substantial objections be received following the public notice.

Item 16

P33906
2 March 2005

- E. A report be brought back to Council if there are any substantial objections through the period of public notice.

Amanda Colbey
Manager Parks Sport & Recreation

Steven Head
Director Open Space

Greg Piconi
Director Technical Services

Ian Taylor
Manager Support Services

- Attachments:**
- 1. Location Sketch, 93 Bannockburn Road, Turramurra**
 - 2. NSW Dept of Commerce - State Valuation Office Report, PP 98663, dated 5 January 2005**
 - 3. Letter from Mr Kermani dated 11 December 2004.**
 - 4. Letter to Mr and Mrs Kermani from Council dated 9 December 2004**

REPRESENTATION ON THE KU-RING-GAI YOUTH DEVELOPMENT SERVICE INC. MANAGEMENT COMMITTEE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to determine a Councillor representative for the Ku-ring-gai Youth Development Service Inc. (KYDS) Management Committee.
BACKGROUND:	On 9 March 2004 Council approved a Development Application from the Rotary Club of Lindfield to establish and operate a Youth Development Service at the rear of the Lindfield library building.
COMMENTS:	A Management Committee has recently been established to oversee the operation of the Youth Development Service. A request has subsequently come from that committee for Council to nominate a representative to join the Management Committee.
RECOMMENDATION:	That Council determine a Councillor representative for the Ku-ring-gai Youth Development Service Inc. Management Committee.

PURPOSE OF REPORT

For Council to determine a Councillor representative for the Ku-ring-gai Youth Development Service Inc. (KYDS) Management Committee.

BACKGROUND

On 9 March 2004 Council approved a Development Application from the Rotary Club of Lindfield to establish and operate a Youth Development Service within the Lindfield library building.

COMMENTS

A Management Committee has recently been established to oversee the operation of the Youth Development Service. A request has subsequently come from that committee for Council to nominate a representative to join the Management Committee.

Council is represented on management committees and boards of a number of community organisations that are of significant interest and benefit to the community. A copy of the Ku-ring-gai Youth Development Service Constitution and Business Plan is attached (Appendix A and Appendix B). The next Management Committee meeting of the Ku-ring-gai Youth Development Service will be held on Monday 14 March 2005. Future Management Committee meeting dates and times will be decided at this meeting, taking into consideration the availability of members.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Council representation on external committees is an important component of representing the views of Council and the community on a range of matters relevant to Ku-ring-gai.

RECOMMENDATION

That Council make an appointment to the Ku-ring-gai Youth Development Service Inc. Management Committee.

Danny Houseas
Manager Community Development

Janice Bevan
Director Community Services

Attachments: **Appendix A - Ku-ring-gai Youth Development Service Constitution.**
 Appendix B - Ku-ring-gai Youth Development Service Business Plan.