



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 1 FEBRUARY 2005 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A

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

APOLOGIES

DECLARATION OF PECUNIARY INTEREST

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

ADDRESS THE COUNCIL

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

DOCUMENTS CIRCULATED TO COUNCILLORS

CONFIRMATION OF MINUTES

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 14 December 2004

Minutes numbered 610 to 648

MINUTES FROM THE MAYOR

PETITIONS

PT.1 **81 Clanville Road, Roseville - Heritage Property - Objection To Proposed Long Day Care Centre - (Four Hundred & Four [404] Signatures)**

File: DA1266/04

We object to the proposed Long Day Care Centre on the grounds that it will:

1. significantly and unacceptably reduce safety for motorists, passengers and pedestrians, particularly young children and the elderly using Clanville Road.
2. significantly and unacceptably increase traffic congestion in Clanville Road.
3. materially adversely affect the amenity of Clanville and surrounding roads, and
4. increase the likelihood of traffic lights being installed at the intersections of Clanville, Archbold and Carnarvon Roads with the consequence of unacceptably causing Clanville Road to become a major thoroughfare.

REPORTS FROM COMMITTEES

Minutes of Inspections Committee

File: S02131

Meeting held 11 December 2004

Minutes numbered INS23 & INS24

Meeting held 15 January 2005

Minutes numbered INS1 & INS2

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 **1 Boronia Avenue, Turrumurra - Demolition Of The Existing Buildings And Construction Of A Detached Dual Occupancy Development**

1

File: DA1421/03

Ward: Comenarra

Applicant: I. Tavakoli C/- Glendinning Minto and Associates

Owner: I and R Tavakoli

To determine development application No. 1421/03, which seeks consent for the demolition of the existing buildings on the site and the construction of a detached dual occupancy development.

Approval

- File: 0979/04

Ward: Wahroonga
Applicant: K. & R. Reid
Owner: J. Palfreyman

To determine development application No. 0979/04, which seeks consent for the demolition of the existing structures on site and the Torrens Title subdivision of one lot into two allotments.

Approval

- File: DA935/04

Ward: Roseville
Applicant: MC Jacques
Owner: MC & CA Jacques

To determine development application NO 935/04, which seeks consent for a detached double carport, a water tank and additions and alterations to an existing dwelling.

This matter has been called to Council by Councillor Innes.

Refusal

- File: DA582/04

Ward: Comenarra
Applicant: Loraine Unicomb
Owner: Loraine Unicomb

To determine development application DA582/04 which seeks consent for additions and alterations to existing dwelling, new swimming pool, cabana and front wall.

Recommendation:

Refusal

- GB.5 **21 Oxley Avenue, St Ives - Demolition Of Existing Dwelling And Construction Of Detached Dual Occupancy** **107**

File: DA510/04

Ward: St Ives

Applicant: Masterton Homes and Mr and Mrs Rubin

Owner: Mr and Mrs Rubin

To determine Development Application No 510/04, which seeks consent for the demolition of the existing dwelling and the construction of a detached dual occupancy.

Recommendation:

Approval

- GB.6 **5 Murdoch Street, Turramurra - Demolition Of A Dwelling And Construction Of A Detached Dual Occupancy** **140**

File: DA0867/04

Ward: Wahroonga

Applicant: Louise and Robert Clark

Owner: Louise and Robert Clark

To determine Development Application No.867/04, which seeks consent for the demolition of the existing dwelling and the construction of a detached dual occupancy.

Recommendation:

Approval

- GB.7 **3 To 5 Merriwa Street, Gordon** **183**

File: DA0271/04

To address the issues raised at the site inspection of 15 January 2005 and for Council to determine development application DA 271/04, for the construction of a six level commercial building.

Recommendation:

Approval.

- GB.8 **1a Kalang Avenue, Killara** **301**
- File: DA0319/04
- To address the issues raised at the site inspection of 11 December 2004 and for Council to determine two applications; one for the modification of consent to DA 3702/93 and the other DA 319/04 for the erection of a new dwelling house.
- Recommendation:**
- Approval.
- GB.9 **Investments Cash Flow & Loan Liability As At 30 November 2004** **389**
- File: S02722
- To present to Council the investment allocation, the performance of investment funds, monthly cash flows and details of loan liability for November 2004.
- Recommendation:**
- That the summary of investments, daily cash flows and loan liability for November 2004 be received and noted.
- GB.10 **Investment Cash Flow & Loan Liability As At 31 December 2004** **398**
- File: S02722
- To present to Council the investment allocation and the performance of investment funds, monthly cash flow and details of loan liability for December 2004.
- Recommendation:**
- That the summary of investments, daily cash flows and loan liability for December 2004 be received and noted.
- GB.11 **E – Notification** **407**
- File: S03673
- To report to Council on investigation into "E-Notification" at Pittwater Council.
- Recommendation:**
- That the report to Council on "E-Notification" Services at Pittwater Council be received and noted.

GB.12 Minutes Of Heritage Advisory Committee Meeting Held 11 October 2004 411

File: S02152

That Council receive and note the Minutes of the Heritage Advisory Committee meeting held 11 October 2004.

Recommendation:

That Council receive and note the minutes of the Heritage Advisory Committee meeting held 11 October 2004.

GB.13 Amendments To Water Management Development Control Plan (DCP47) 418

File: S02252

To seek Council's endorsement to exhibit proposed amendments to Council's DCP 47 - Water Management relating to on-site detention and retention requirements for various types of developments.

Recommendation:

That Council exhibits for comment the amendments proposed for DCP47 as described in this report.

GB.14 84 Yanko Road, West Pymble - Dual Occupancy (Attached) 425

File: DA1393/03

Ward: Comenarra

Applicant: Masterton Homes and Mr and Mrs Mehta

Owner: Mr and Mrs Mehta

To determine Development Application No 1393/03, which proposes an attached dual occupancy development.

Recommendation:

Approval.

GB.15 177 Rosedale Road, St Ives - Various Organisations Option To Renew Licence 465

File: P30032

To advise Council of the organisations exercising their options to renew their licence for areas located within the Ku-ring-gai Community Groups Centre, located at 177 Rosedale Road, St Ives.

Recommendation:

That Council authorise the exercise of the option by:

- Action for People with Disability Inc.
- Alcoholics Anonymous
- Hornsby Ku-ring-gai Community College
- Jewish Care
- Lorna Hodgkinson Sunshine Home

for the premises at 177 Rosedale Road, St Ives.

GB.16 Analysis of Land & Environment Court Costs 2nd Quarter 2004/2005**469**

File: S02466

To provide information in relation to proceedings to which Council is a party in the Land and Environment Court for the half - year ended 31 December 2004, including appeals commenced, costs incurred by Council and outcomes.

Recommendation:

That the analysis of Land & Environment Court costs for the half - year ended December 2004 be received and noted.

EXTRA REPORTS CIRCULATED AT MEETING**MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN****NM.1 Council Adoption Of Ku-ring-gai Multi-Unit Housing Development Control Plan No 55 - Pacific Highway / Railway Corridor And St Ives Centre 478**

File: S03730

Notice of Rescission from Councillors A Andrew, E Malicki and L Bennett dated 20 December 2004.

We the undersigned Councillors, move the following:

“That the resolution No.633 be altered by the deletion therefrom of:

A. Definitions

Add new definition “street width – the distance between the face of kerb to face of kerb where kerb and gutter exists or the distance between the centre line of the table drains where kerb and gutter do not exist” and

Section 4.3

C-1(c) change to “Street boundary setbacks where street width is less than 12m may be reduced, but no less than 6m.”

and be replaced with:

- A. That all reference to “street width” in the DCP be changed to “road reserve width” and that the new definition of road reserve width be added to the DCP being the “distance between property boundary to opposite property boundary “and;

Section 4.3

C-1(c) be “Street boundary setbacks, where the road reserve width is less than 12m may be reduced proportionately, but be not less than 6m.”

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

**** ** ***

**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.*

PETITION

81 CLANVILLE ROAD, ROSEVILLE - HERITAGE PROPERTY - OBJECTION TO PROPOSED LONG DAY CARE CENTRE - (FOUR HUNDRED & FOUR [404] SIGNATURES)

We object to the proposed Long Day Care Centre on the grounds that it will:

1. significantly and unacceptably reduce safety for motorists, passengers and pedestrians, particularly young children and the elderly using Clanville Road.
2. significantly and unacceptably increase traffic congestion in Clanville Road.
3. materially adversely affect the amenity of Clanville and surrounding roads, and
4. increase the likelihood of traffic lights being installed at the intersections of Clanville, Archbold and Carnarvon Roads with the consequence of unacceptably causing Clanville Road to become a major thoroughfare.

RECOMMENDATION

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

DEVELOPMENT APPLICATION

SUMMARY SHEET

| | |
|---|---|
| REPORT TITLE: | 1 BORONIA AVENUE, TURRAMURRA - DEMOLITION OF THE EXISTING BUILDINGS AND CONSTRUCTION OF A DETACHED DUAL OCCUPANCY DEVELOPMENT |
| WARD: | Comenarra |
| DEVELOPMENT APPLICATION N^o: | 1421/03 |
| SUBJECT LAND: | 1 Boronia Avenue, Turramurra |
| APPLICANT: | I. Tavakoli C/- Glendinning Minto and Associates |
| OWNER: | I and R Tavakoli |
| DESIGNER: | Artec Project Management |
| PRESENT USE: | Residence |
| ZONING: | Residential "C" |
| HERITAGE: | No |
| PERMISSIBLE UNDER: | State Environmental Planning Policy No.53 |
| COUNCIL'S POLICIES APPLICABLE: | Ku-ring-gai Planning Scheme Ordinance Development Control Plan No.40 and Policy for Construction and Demolition Waste Management. Development Control Plan No.43 Car Parking. Development Control Plan No.47 Water Management. Dual Occupancy Code |
| COMPLIANCE WITH CODES/POLICIES: | No |
| GOVERNMENT POLICIES APPLICABLE: | State Environmental Planning Policies No.53 and 55 |
| COMPLIANCE WITH GOVERNMENT POLICIES: | Yes |
| DATE LODGED: | 31/10/03 |
| 40 DAY PERIOD EXPIRED: | 10/12/03 |
| PROPOSAL: | Demolition of the existing buildings and construction of a detached dual occupancy development |
| RECOMMENDATION: | Approval |

Item 1

DEVELOPMENT APPLICATION N^o 1421/03
PREMISES: 1 BORONIA AVENUE, TURRAMURRA
PROPOSAL: DEMOLITION OF THE EXISTING
BUILDINGS AND CONSTRUCTION OF A
DETACHED DUAL OCCUPANCY
DEVELOPMENT
APPLICANT: I. TAVAKOLI C/- GLENDINNING MINTO
AND ASSOCIATES
OWNER: I AND R TAVAKOLI
DESIGNER ARTEC PROJECT MANAGEMENT

PURPOSE FOR REPORT

To determine development application No. 1421/03, which seeks consent for the demolition of the existing buildings on the site and the construction of a detached dual occupancy development.

EXECUTIVE SUMMARY

| | |
|--------------------|--|
| Submissions | One submission received. |
| Issues | Minor variations to Council policy. Solar access, setbacks, FSR, rear building height cut/fill. Major variations with Council policy. Built-upon area, soft landscape area. |
| Recommend | Approval. |

THE SITE AND SURROUNDING DEVELOPMENT

| | |
|----------------------------------|-------------------------------|
| Zoning: | Residential "C" |
| Visual Character Study Category: | 1945 - 1968 |
| Lot Number: | 10 |
| DP Number: | 17207 |
| Area: | 1277 m ² |
| Side of Street: | South-west |
| Cross Fall: | To the south-west rear corner |
| Stormwater Drainage: | To the street |
| Heritage Affected: | No |
| Required Setback: | Minimum 9 metres |
| Integrated Development: | No |
| Bush Fire Prone Land: | No |
| Endangered Species: | No |
| Urban Bushland: | No |
| Contaminated Land: | No record of contamination |
| Section 94 Contribution | Yes |

The site which is known as No. 1 Boronia Avenue, being Lot 10 in DP17207 is located on the south-west side of Boronia Avenue, to the south of Roland Avenue in Turrumurra. The site contains

Item 1

a single storey dwelling and small outbuildings. The site is approximately rectangular in shape with a total area of 1277 m². The front and rear boundaries are 19.175 metres and 27.405 metres respectively, with the north-western side boundary being 55.48 metres and the south-eastern side boundary being 54.86 metres. The site slopes from the north-east corner of the lot to the south-west corner. There are a number of trees on the site and adjoining sites.

The context is a mixture of modest weatherboard cottages and some larger masonry houses. Most have clay tiled roofs.

THE PROPOSAL

The proposal is to demolish the existing dwelling and other structures on the site and to construct a detached dual occupancy development. Details of the proposed development are as follows:

Dwelling 1:

Dwelling 1 is located at the front of the site, setback 9.75 metres from the front boundary. The dwelling is two storey with a maximum ceiling height of 6.684 metres.

The dwelling contains 4 bedrooms, en-suite, bathroom, WC, WI robe, computer room and a balcony at the upper level with lounge, dining, entry, family, kitchen/meals, study, laundry, WC and a double garage at ground level. The floor space area is 293m².

Parking for 2 cars is provided with access from a curved driveway to Boronia Avenue.

Access to the private open space (slope ≤ 1 in 8, area 166m²) located behind the dwelling is available from the family room and the laundry.

Dwelling 2:

Dwelling 2 is a single storey dwelling located at the rear of the site, 7.4 metres from the rear boundary.

The dwelling contains 3 bedrooms, study, bathroom, WC, laundry, storeroom, kitchen, family, dining, lounge and a double garage. The floor space area is 184m².

Parking for 2 cars is provided with access from a driveway on the eastern side of the property.

Access to the private open space (slope 1 in 8, area 160m²) located at the rear of the dwelling is available from the family room.

Access

Access to the site will be from a driveway on the south-eastern side of the property. The driveway will be constructed against the grade and will be approximately 1.5 metres above ground level at the end. A retaining wall is to be constructed partly along the common boundary with No. 3 Boronia road.

Drainage

Stormwater drainage is to be provided (against the grade) under the driveway and will discharge into Boronia Road.

CONSULTATION - COMMUNITY

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

The following submission has been received;

Mr. and Mrs. Mark Lamprel - 3 Boronia Road, Turramurra.

No objection to the retaining wall along the common boundary between No. 1 and No. 3 Boronia Road, provided the roots of the large tree close to the common boundary in the rear of No. 3 are not damaged.

Council's Landscape Development Officer has recommended conditions be imposed so as to insure the ongoing health of this tree (**refer Condition 56**).

CONSULTATION - WITHIN COUNCIL

Landscape Development Officer

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

The site frontage is characterised by a continuous tree canopy within the front setback with a mixture of both native and exotic tree species, with an understorey of predominantly exotic shrubs within formal garden beds and lawn areas. The existing gravel driveway is located adjacent to the south eastern site boundary. The rear of the site is characterised by an open grassed area with a perimeter planting of trees and shrubs.

Impacts on trees

*The proposed development will result in the removal of 11 trees of the 39 identified on or adjacent to the site. The trees proposed for removal vary in their significance and outward health and condition and include recognised weed/undesirable species. The proposed driveway for Dwelling 1 is within both the critical root zone and the primary root zone of the *Acmena smithii* (Lillypilly) located adjacent to the front site boundary. This tree is approximately 14.0m high and appears to be in good condition. It is required that existing levels be maintained within the primary root zone and that porous paving be utilised to minimise impacts on the tree.*

Trees to be removed

*The trees proposed for removal are primarily located within the existing front setback and are either located within the proposed building footprint or the driveway. Some trees outside of the proposed works are nominated for removal, separate tree removal applications will need to be submitted for these trees to be removed. The removal of the *Acer palmatum* (Japanese Maple) located adjacent to the northern site corner cannot be supported. This tree is away from development works and will not be impacted upon*

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The following trees are proposed to be removed as part of the development application

#12 Acer palmatum (Japanese Maple) located adjacent to the northern site corner. The tree is to be retained as part of the development works as it is away from any proposed works. Its removal cannot be supported.

#3 Cotoneaster sp. located adjacent to the south east site boundary. This is an identified weed species and its removal is supported.

#4 Eucalyptus piperita (Sydney peppermint) located adjacent to the south east site boundary and the driveway. The tree is of poor form and condition. There is no objection to its removal.

#9 Eucalyptus piperita (Sydney Peppermint) located on councils nature strip. A separate tree removal application is required for the tree to be removed.

#10 Prunus species (Flowering plum) centrally located in the front garden. The tree is exempt under councils Tree Preservation Order due to being under 5.0m height. There is no objection to the trees removal.

#11 Corymbia gummifera (Bloodwood) located centrally in the front garden. The tree is in decline and in poor condition. There is no objection to the trees removal.

#17 Camellia japonica (Japanese Camellia) located adjacent to the north west site boundary. The tree is exempt under councils Tree Preservation Order due to its size being under 5.0m high.

#16 Corymbia gummifera (Bloodwood) located centrally in the front garden. The tree is located within the proposed building footprint. The tree is approximately 12.0m high and outwardly appears to be in good condition. The trees removal is NOT desired, but given its central location is difficult to retain with a dual occupancy proposal.

#15 Liquidambar styraciflua (Liquidambar) located adjacent to the north west site boundary. The tree is approximately 15.0m high and appears to be in good health. The tree is located immediately adjacent to the proposed dwelling. Although technically protected under councils Tree Preservation Order due to its height, Liquidambars are not seen as a desirable species close to development due to their invasive roots and large size.

#18 Jacaranda mimosifolia (Jacaranda) located adjacent to the proposed and existing driveway. The tree is approximately 4.0m high and is exempt under Councils Tree Preservation Order.

#24 Cotoneaster species located adjacent to the southern site corner. The tree is a recognised weed species and its removal is supported.

Item 1

#27 Acer palmatum (Japanese Maple) located adjacent to the south east site corner. The tree is located within the proposed driveway footprint and is exempt under councils Tree Preservation Order due to its size being under 5.0m.

#29 Cotoneaster species, located adjacent to the rear site boundary. The tree is a recognised weed species and its removal is supported.

In addition to the above trees being mentioned it is also required that the Acer negundo (box Elder) #35, be removed as it is a weed species as it is highly invasive.

Drainage plan

The proposed drainage plan locates drainage pipes predominantly adjacent to the dwellings and along the driveway length. Overall this can be supported subject to Thrust Boring techniques being utilised beneath the canopy drip lines of existing trees to be retained (refer Condition 52).

The application is supported with conditions (refer Conditions 45-56, 69-72, 81-83).

Engineering

Council's Engineering Assessment Officer has not raised any issue related to the application and has provided conditions for approval (*refer Conditions 57-62, 73-75, 86-93*).

STATUTORY PROVISIONS

State Environmental Planning Policy No. 53

| COMPLIANCE TABLE | | |
|--|--------------------------|------------|
| Development standards | Proposed | Complies |
| Allotment size (cl.19(1)(a)) 600m ² detached dual occ. (min) | 1277m ² | YES |
| Floor space ratio (cl.19(1)(b)) 0.5:1 (max) | 0.38:1 | YES |
| Car parking (cl.20) Dwelling 1: 2 car spaces (min) | Dwelling 1: 2car spaces | YES |
| Dwelling 2: 2 car spaces (min) | Dwelling 2: 2 car spaces | YES |

Site analysis (cl.31):

A site analysis has been submitted with the application and meets the requirements of SEPP 53.

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Streetscape (cl.32(a)):

The design of the front dwelling is contemporary and is different to the style of existing development within the street. The use of roof tiles, consistent with those of the existing surrounding dwellings in the locality will enable the dwelling to be compatible with the surrounding dwellings (**refer Condition No.44**).

Visual privacy (cl.32(b)):

There is some potential for overlooking of the rear yard and deck area of the adjoining dwelling to the south (No. 3 Boronia Road), from the elevated driveway in the vicinity of the rear dwelling. However, this is overcome by an 1800mm fence proposed to be erected on the top of the retaining wall, adjacent to the common boundary and the proposed landscaping along the driveway.

The adjoining joint owner, Mr. Mark Lamprell, has requested that landscaping indicated on the submitted Landscape Plan be included in any conditions of approval and that the roots of the large tree near the common boundary in the rear yard of No. 3 Boronia Avenue not be disturbed. These requests can be achieved in the proposed development (**refer Conditions 69, 50, 51, 52 and 56**).

Acoustic privacy (cl.32(b)):

The living areas and private open space of the proposed development will be separated from sensitive areas such as bedrooms. The proposed dwellings have adequate setbacks to neighbouring properties so as not to impact on existing acoustic privacy levels. There is some opportunity for an acoustic impact from vehicles using the elevated driveway on No. 3 Boronia Avenue, however, the proposed fencing and landscaping should help to lessen this impact.

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

Solar access to adjoining properties

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

9.00am (June 22):

The 9.00am shadowing is contained within the site and mainly within the fence line shadow on the adjoining property at the rear of the site.

12.00 noon (June 22):

Midday shadow extends to just above the base of the wall of the dwelling and to a small area of the rear yard within the existing fence shadow on the adjoining property at No.3 Boronia Road. Neither shadow is significant and no objection is raised. There are no windows in the northern wall of No. 3 Boronia Road.

3.00pm (June 22):

There is some overshadowing to the adjoining property to the south-east during the afternoon. The adjoining dwelling will be affected by a small additional shadow across the frontage of the building, within the front setback and within the rear yard extending towards the pool. No objection is raised as the solar access to the adjoining property complies with AMCORD.

Solar access to the proposed development

Dwelling No. 2 will not receive optimum levels of solar access to the internal living areas of the rear dwelling during the winter solstice. In order to provide appropriate solar access to the living areas of Dwelling No. 2, skylights are to be installed as a condition of consent (**refer Condition No.44**). Both dwellings exceed the NatHERS rating of 3.5 stars. Open space solar access is acceptable.

Stormwater (cl.32(d)):

Council's Development Control Engineer has not raised any objection to the proposal and has provided conditions (**refer Conditions Nos. 57-62, 73-75, 86-93**).

Crime prevention (cl.32(e)):

Casual surveillance of the driveway and front entries is provided.

Accessibility (cl.32(f)):

The proposed development has a reasonable level of accessibility. A driveway of a gentle grade of 0.85% will provide access to the dwellings from Boronia Avenue.

Waste management (cl.32(g)):

There is adequate space within the curtilage of both dwellings to provide for waste management facilities in accordance with Council's DCP 40 and Policy for Construction and Demolition Waste Management.

Visual bulk (cl.32(h)):

The front building on the site has a maximum height to the ridge of 8.676 metres, to the eaves 6.476 metres and is setback 9.75 metres to the street frontage.

The rear single storey dwelling is not visible in the streetscape context.

The bulk of the buildings is consistent with the surrounding dwellings.

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. There is no evidence to suggest the site is contaminated nor is there evidence to link the site to previous contaminating activities. Based on the available information in relation to the site, it would be unreasonable for Council to require the applicant to have a contamination report prepared.

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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, and scale, characteristic of the area, although the design is different it is acceptable; (iii) maintains adequate levels of soft landscaping; (iv) provides suitable egress/ingress for vehicles; (subject to some modifications) 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.

| COMPLIANCE TABLE | | |
|--|--|--------------------------|
| Development standard | Proposed | Complies |
| Building height 8m (max) | Dwelling 1: 6.684m Dwelling 2: 3.88m The following information is not a statutory control. This information is provided for the benefit of the Councillors: Height to roof ridge - Dwelling 1: 8.676m Height to roof ridge - Dwelling 2: 7.25m Height to eaves line – Dwelling 1: 6.476m Height to eaves line – Dwelling 2: 3.68m | YES YES |
| Built-upon area 60% (max) Notional built-upon area | 57.8% Dwelling 1: 54.7% Dwelling 2: 60.3% The above percentages include additional driveway required by condition. | YES |

POLICY PROVISIONS**Development Control Plan 40 – Waste Management**

There is adequate space within the curtilage of both dwellings to provide for waste management facilities in accordance with Council's DCP 40 and Policy for Construction and Demolition Waste Management

Development Control Plan No. 43 – Car Parking

The proposal complies with DCP 43 which requires the provision of 4 parking spaces. Some modification to the manoeuvring areas and driveway will be required to improve access to and from the garages to allow forward entry and exit to and from the site (**refer Condition 44**).

Council's Dual Occupancy Development Control Code

| COMPLIANCE TABLE | | |
|--|--|--------------------------|
| Development control | Proposed | Complies |
| 4.2 Streetscape: | | |
| Architectural design | | |
| • Dormer windows 200mm below roof ridge (min) | Dwelling 1: 700mm below | YES |
| • Dormer $\leq 40\%$ of gable wall (max) | Dwelling 1: $\leq 40\%$ | YES |
| Roof pitch | | |
| • 5m roof height-1 storey (max) | Dwelling 2: 3.1m | YES |
| • 3m roof height-2 storey (max) | Dwelling 1: 2m | YES |
| • Roof pitch 35^0 (max) | Dwelling 1: 23^0 Dwelling 2: 23^0 | YES |
| Fences | | |
| • Height: 900mm (solid fence) (max) | Not proposed | YES |
| • Height: 1.2m (transparent fence) (max) | Not proposed | YES |
| 4.3 Visual and acoustic privacy: | | |
| Visual privacy | | |
| • Windows to habitable rooms set back 9m from neighbouring windows (min) | Dwelling 1: $\geq 9m$ Dwelling 2: $\geq 9m$ | YES YES |
| 4.4 Solar access and design for climate: | | |
| Solar access | | |
| • Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min) | Dwelling 1: ≥ 3 hours solar access received Dwelling 2: ≤ 3 hours solar access received | YES NO |
| • Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min) | All neighbouring properties receive 3+ hours solar access | YES |

Item 1

| | | |
|---|---|---|
| Energy efficiency <ul style="list-style-type: none"> 3.5 star NatHERS Rating (min) | Both dwellings have NatHERS ratings in excess of 3.5 stars. | YES |
| 4.7 Accessibility: | | |
| Vehicular access and car parking dimensions <ul style="list-style-type: none"> Garage – 3.1m x 5.4m (min) | Dwelling 1: 5.6m x 5.9m Dwelling 2: 5.4m x 5.9m | YES YES |
| 4.9 Visual bulk: | | |
| Building setbacks <ul style="list-style-type: none"> Front building line: Minimum setback: 9m Average setback: 14m Setbacks between buildings -7m or 5m (50% of building) (min) Side setback: Ground floor: 2m (min) 1st floor: 3.3m (min) Rear setback: 8.23m (min) | Dwelling 1: 9.75m Dwelling 2: Not applicable Dwelling 1: 9.75m Dwelling 2: Not applicable 8.38m Dwelling 1: Ground Floor: 1.8m Dwelling 1: 1 st Floor: ≥4m Dwelling 2: Ground Floor: 3m Dwelling 2: 7.4m | YES YES NO YES YES NO YES NO |
| <ul style="list-style-type: none"> No garages, tennis courts, swimming pools, courtyard walls and other major built elements forward of the building line. | No major elements forward of the building line. | YES |
| Building form <ul style="list-style-type: none"> Unrelieved wall length: 12m (max) Total building length: 24m (max) | Dwelling 1: ≤12m Dwelling 2: ≤12m Dwelling 1: 16m Dwelling 2: 17m | YES YES YES |

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|--|---|---|
| Built-upon area <ul style="list-style-type: none"> Total built upon area (max): 45% Notional built-upon area | 57.8% Dwelling 1: 54.7% Dwelling 2: 60.3% | NO |
| Floor space ratio <ul style="list-style-type: none"> FSR (max): 0.5:1 1st floor – 40% | 0.38:1 Dwelling 1: 43% | YES NO |
| Height of buildings <ul style="list-style-type: none"> Dwelling fronting street: 8m (max) Rear dwelling: 3.6m (max) Building envelope: 45⁰ from horizontal at any point 3m above boundary Building envelope: 45⁰ from horizontal at any point 1m above boundary | Dwelling 1: 6.684m Dwelling 2: 3.88m Dwelling 1 North boundary South boundary East boundary West boundary Dwelling 2 North boundary South boundary East boundary West boundary | YES NO YES YES YES YES YES YES YES YES |
| Cut and fill (building works) <ul style="list-style-type: none"> Cut & fill: 900mm & Total 1800mm (max) | Dwelling 1: 900mm (cut) & 1200mm (fill) Dwelling 2: 800mm (cut) & 1500mm (fill) | NO NO |
| Section 5: Landscaping & Open Space | | |
| Total soft landscaping : 55% (min) Notional soft landscaping: | 42.2% Dwelling 1: 45.3% Dwelling 1: 39.7% | NO |
| Tree retention and refurbishment <ul style="list-style-type: none"> No. of Trees: 4 (min) | 4 Trees | YES |

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| Cut & fill (landscaping) <ul style="list-style-type: none"> Cut & Fill: 900mm & Total 1800mm | No objection to cut and fill from Landscape. | YES |
| Open space provisions <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) | Dwelling 1: 166m ² Dwelling 2: 160m ² Dwelling 1: 7.64m Dwelling 2: 7.4m Dwelling 1: ≤1 in 8 Dwelling 2: 1 in 8 Dwelling 1: 3+hours of solar access. Dwelling 2: 3+hours of solar access. | YES YES YES YES YES YES |

Control: Solar access and design for climate

Solar access to all the living areas of the rear dwelling do not meet the minimum 3 hour requirement. Sky lights will provide reasonable levels of solar access to the rear dwelling (**refer Condition 44**).

Control: Building setbacks

The front dwelling is setback 9.75 metres from the front boundary. The adjoining dwelling to the south-east is setback 14 metres with other dwellings on this side facing Boronia Road between Kissing Point Road and Yeramba Street setback even further. This is not seen as a significant impact as the development site adjoins a corner site, is generally on the line of the adjoining garage and the north-west corner of the site has ample existing trees and shrubs on the common boundary, within the development site and on the footpath. The proposal will also be extensively landscaped in this location.

The north-west side boundary setback to the front dwelling is 1.8 metres where technically it should be 2 metres for a two storey dwelling, however, the dwelling is only single storey on this north-western side and no objection is raised to this minor variation.

The rear setback for the rear dwelling is 7.4 metres in lieu of 8.23 metres. It would be possible to achieve the required control by moving the building forward and still comply with the setback requirement between buildings. Given the location of the adjoining dwelling at the rear of the site this is unnecessary.

Control: Built-upon area

The built-upon area of the site is 57.8% as opposed to the requirement of 45%. However, the proposal is generally consistent with surrounding development, has generous setbacks from the boundaries and does not have stormwater drainage issues.

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Control: Floor space ratio

The first floor of dwelling 1 exceeds the maximum percentage of floor space for the upper level of 40% by 3%. The upper level is well setback from both adjoining buildings and the only windows on the side elevations are to a bathroom, toilet and walk in robe on the south and a "highlite" window (dormer) to the computer area on the north.

Control: Height of buildings

The maximum height of the rear dwelling is 3.88 metres as opposed to the height requirement of 3.6 metres. However, the variation in height only affects approximately 6m² of the floorspace of the dwelling and is insignificant. The dwelling is single storey and is consistent with the building heights of surrounding development. The non-compliance does not result in a development having a height inconsistent with other developments in the area, nor does it contribute to any adverse amenity impacts to surrounding developments.

Control: Cut and fill (building works)

Dwelling 1 has a cut of 900mm and a fill of 1200mm, the excess fill being 300mm.

Dwelling 2 has a cut of 800mm and a fill of 1500mm, the excess fill being 600mm.

The excess fill areas of both dwellings are relatively minor when compared to the ground level footprints. The area of excess fill within the footprint of Dwelling 1 is approximately 13m², 7% of the ground floor footprint area of 168m².

The area of excess fill within the footprint of Dwelling 2 is approximately 20m², 11% of the ground floor footprint area of 183m².

The excess fill areas are unlikely to generate unacceptable amenity issues on the adjoining property at No. 3 Boronia Road.

Control: Total soft landscaping

Total soft landscaping is 12.8% deficient. The Landscape Assessment Officer has not raised this non-compliance as an issue. There is adequate area on the site for acceptable landscaping and stormwater will drain to Boronia Road.

Section 94 Plan

The development attracts a section 94 contribution of \$12,459.72, which is required to be paid (**refer Condition 68**).

LIKELY IMPACTS

Impacts related to the development have been discussed within the body of this report.

SUITABILITY OF THE SITE

The site is not constrained by subsidence, slip or contamination.
The development is permissible with consent within the residential zone.
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.

CONCLUSION

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

RECOMMENDATION

THAT the Council, as the consent authority, grant development consent to DA 1421/03 for demolition of the existing building and structures on the site and the construction of a detached dual occupancy development on land at 1 Boronia Avenue, Turramurra, being Lot 10 in DP17207, 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.1421/03 and Development Application plans prepared by Artec Project Management, reference number P0304 Drawings 01 to 10, dated 10 October, 2003 and lodged with Council on 31 October, 2003.
- 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

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

Demolition

- 6 The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
- 7 Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
- 8 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.
- 9 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.
- 10 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.

- 12 Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
- 13 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;

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- 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.
- 14 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.
- 15 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.
- 16 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.
- 17 All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
- 18 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.
- 19 Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
- 20 Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
- 21 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.
- 22 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.
- 23 A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
- 24 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.

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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.

- 25 All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.

Construction

- 26 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.

- 27 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.

- 28 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.
- 29 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.
- 30 A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
- 31 To maintain existing ground levels all excavated material (other than that required to be used in approved fill ares) shall be removed from the site.

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32 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.

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

34 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.

35 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.

36 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.

37 If the work involved in the erection or demolition of a building:

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

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

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

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

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- 38 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.
- 39 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.
- 40 The buildings are not to be used or occupied until an Occupation Certificate has been issued.
- 41 Prior to the issue of the Construction Certificate, the applicant shall submit for approval a Waste Management Plan in accordance with Council's Development Control Plan No.40 and Policy for Construction and Demolition Waste Management.
- 42 Energy efficiency is to be achieved in accordance with the submitted NatHERS assessment rating.
- 43 All courtyard fencing is to be in accordance with the requirements of Council's Code unless as otherwise shown on the plans or as conditioned.
- 44 The following modifications to the development are required;
 - The garden bed on the southeast corner of the street frontage dwelling is to be reduced in size to a maximum length of 1 metre forward of the building.
 - The right angle bend from the driveway to the garage of the rear dwelling is to be eased to provide a 3 metre radius curve.
 - The end of the driveway adjacent to the rear dwelling is to be extended 2 metres. This extension will need to be suspended so as not to interfere with the root system of the tree on the neighbouring property.
 - The awning to the front entry of the rear dwelling is to be modified to remove/relocate the most eastern column which interferes with egress from the most western garage space.
 - Roof tiles, consistent with those of the existing surrounding dwellings are to be used for the roofing of both dwellings.
 - To improve solar access to the internal living areas of the rear dwelling during the winter solstice skylights are to be installed to the kitchen, dining and lounge areas.

Landscape

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- 45 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.
- 46 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.
- 47 Separate written approval under Council's Tree Preservation Order is required prior to the removal or pruning of the following trees within the subject property:

Tree/Location

Acer palmatum (Japanes Maple) #12
Adjacent to northern site corner

Eucalyptus piperita (Peppermint) #9
Boronia Ave nature strip

- 48 The landscape works shall be completed prior to issue of the Occupation Certificate and maintained in a satisfactory condition at all times.
- 49 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.
- 50 No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

| Tree/Location | Radius From Trunk |
|---|-------------------|
| <i>Acmena smithii</i> (Lillypilly) Adjacent to north east (Front) site boundary | 4.0m |
| <i>Liquidambar styraciflua</i> (Liquidambar) Adjacent to south east site boundary in front garden of neighbouring property | 5.0m |
| <i>Brachychiton acerifolius</i> (Illawarra Flame Tree) Adjacent to south east site boundary | 4.0m |
| <i>Celtis australis</i> (Hackberry) | 6.0m |

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Adjacent to south eastern site boundary in rear garden of neighbouring property

- 51 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>Acmena smithii</i> (Lillypilly) Adjacent to north east (Front) site boundary | 4.0m |
|--|------|

| | |
|---|------|
| <i>Liquidambar styraciflua</i> (Liquidambar) Adjacent to south east site boundary in neighbouring property | 5.0m |
|---|------|

| | |
|--|------|
| <i>Brachychiton acerifolius</i> (Illawarra Flame Tree) Adjacent to south east site boundary | 4.0m |
|--|------|

| | |
|---|------|
| <i>Corymbia gummifera</i> (Bloodwood) Adjacent to south east site boundary | 3.0m |
|---|------|

| | |
|--|------|
| <i>Celtis australis</i> (Hackberry) Adjacent to south eastern site boundary in rear garden of neighbouring property | 6.0m |
|--|------|

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

| Tree/Location | Radius From Trunk |
|--|-------------------|
| Beneath the canopy drip line of ANY tree protected by councils Tree Preservation Order to be retained. | |

- 53 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.
- 54 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.
- 55 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.

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- 56 To preserve the ongoing health and vigour of the *Celtis australis* (Hackberry) located adjacent to the south east (side) site boundary, Any driveway works required to be undertaken beneath the canopy drip line of the tree are to be constructed utilising pier and beam/suspended slab construction methods. Documentary evidence of compliance with this requirement is to be submitted to the principal certifying authority prior to the issue of the Construction Certificate.

Engineering

- 57 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.
- 58 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. Unless otherwise approved, 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: 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.

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- 59 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.
- 60 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 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 AUS-SPEC.

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.

- 61 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.
- 62 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.

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

Administration

- 63 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.

- 63 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*

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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).

- 65 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.
- 66 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.

Construction

- 67 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

Item 1

- 68 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 DWELLINGS 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 Turramurra/Warrawee | \$1,966.00 |
| 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 |
| 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

- 69 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 Architect/Designer to enhance the amenity of the built environment and protect the Ku-ring-

Item 1

gai landscape character. The plan must be submitted to the principal certifying authority for approval prior to the release of the Construction Certificate.

- 70 The four (4) canopy trees to be planted on site 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.

- 71 A CASH BOND/BANK GUARANTEE of \$4 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of the 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.

- 72 A cash bond/bank guarantee of \$2 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

Acmena smithii (Lillypilly)

Adjacent to north east (front) site boundary

Engineering

- 73 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.

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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.

- 74 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 be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.
- 75 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 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 .

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CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

Administration

- 76 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.

Construction

- 77 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.
- 78 A construction management plan must be submitted for the approval of Council's Development Engineer before the commencement of demolition, excavation or construction works. The Plan must:
- a. **Describe the anticipated impact of the construction works on:**
 - local traffic routes
 - pedestrian circulation adjacent to the building site;
 - and on-street parking in the local area; and;
 - b. **Describe the means proposed to:**
 - manage construction works to minimise such impacts;
 - provide for the standing of vehicles during construction;
 - provide for the movement of trucks to and from the site, and deliveries to the site; and
 - c. **Show the locations of:**
 - any site sheds and any anticipated use of cranes and concrete pumps;
 - any areas of Council property on which it is proposed to install a construction zone, or to erect structures such as hoardings, scaffolding or shoring, or to excavate.

The Plan must make provision for all materials, plants, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding shoring or excavation need separate consent from Council. Standing of cranes and concrete pumps on Council property will need consent on each occasion.

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

Pollution

Item 1

- 79 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.
- 80 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.

Landscape

- 81 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 |
|---|-------------------|
| Acmena smithii (Lillypilly) Adjacent to north east (front) site boundary | 4.0m |
| Celtis australis (Hackberry) Adjacent to south eastern site boundary in rear garden of neighbouring property | 3.0m |

- 82 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.
- 83 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

- 84 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

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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

- 85 A survey report shall be submitted to the Principal Certifying Authority prior to occupation, which certifies that the development has been constructed in accordance with the terms of this consent in relation to built upon area, building levels and setbacks.

Engineering

- 86 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.
- 87 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 issue of the Occupation 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.

- 88 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 issue of the Occupation Certificate.
- 89 Prior to issue of the Occupation Certificate, 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 must be fully repaired to the satisfaction of Council's Development Engineer and at no cost to Council.
- 90 The Section 73 Sydney Water compliance certificate must be obtained and submitted prior to issue of the Occupation Certificate.
- 91 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 issue of the Occupation Certificate.

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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)

- 92 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.
- 93 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

Item 1

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

- 94 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.
- 95 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.
- 96 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.
- 97 To ensure compliance with this determination a Registered Surveyor's Report confirming reduced levels as shown on the approved plans with particular regard to the future finished level of the ground floor shall be submitted to the Principal Certifying Authority on completion of that floor.
- 98 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).
- 99 For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.

Item 1

- 100 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.

- 101 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.

- 102 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.
- 103 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.

104. 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.

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- 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 buildings comply with the relevant deemed to satisfy provisions of the Building Code of Australia.
- f. A Registered Surveyor's Reports confirming approved floor levels for all floors.

G Stewart
Executive Assessment Officer

M Prendergast
Manager
Development Assessment Services

M Leotta
Team Leader
Development Assessment - North

M Miocic
Director
Environment & Regulatory Services

Attachments:

- Locality Plan**
- Architecturals (10)**
- Confidential (3)**
- Landscape Concept**
- Drainage Concept**
- Site Analysis (2)**
- Shadows**
- Contours**

DEVELOPMENT APPLICATION

SUMMARY SHEET

| | |
|---|--|
| REPORT TITLE: | 134 JUNCTION LANE, WAHROONGA - SUBDIVISION OF THE SITE INTO TWO ALLOTMENTS AND DEMOLITION OF THE EXISTING STRUCTURES ON SITE. |
| WARD: | Wahroonga |
| DEVELOPMENT APPLICATION N^o: | 0979/04 |
| SUBJECT LAND: | 134 Junction Lane, Wahroonga |
| APPLICANT: | K. & R. Reid |
| OWNER: | J. Palfreyman |
| DESIGNER: | K. & R. Reid |
| PRESENT USE: | Single dwelling |
| ZONING: | Residential 2C |
| HERITAGE: | No |
| PERMISSIBLE UNDER: | Ku-ring-gai Planning Scheme Ordinance |
| COUNCIL'S POLICIES APPLICABLE: | KPSO, Subdivision Code |
| COMPLIANCE WITH CODES/POLICIES: | Yes |
| GOVERNMENT POLICIES APPLICABLE: | SEPP 1, SEPP 55 |
| COMPLIANCE WITH GOVERNMENT POLICIES: | Yes |
| DATE LODGED: | 22 September 2004 |
| 40 DAY PERIOD EXPIRED: | 1 November 2004 |
| PROPOSAL: | 134 Junction Lane - Subdivision of the site into two allotments and demolition of the existing structures on site. |
| RECOMMENDATION: | Approval |

Item 2

| | |
|--|---|
| DEVELOPMENT APPLICATION N^o | 0979/04 |
| PREMISES: | 134 JUNCTION LANE WAHROONGA |
| PROPOSAL: | 134 JUNCTION LANE - SUBDIVISION OF THE SITE INTO TWO ALLOTMENTS AND DEMOLITION OF THE EXISTING STRUCTURES ON SITE. |
| APPLICANT: | K. & R. REID |
| OWNER: | J. PALFREYMAN |
| DESIGNER | K. & R. REID |

PURPOSE FOR REPORT

To determine development application No. 0979/04, which seeks consent for the demolition of the existing structures on site and the Torrens Title subdivision of one lot into two allotments.

EXECUTIVE SUMMARY

| | |
|---|---|
| Issues: | <ul style="list-style-type: none">• Allotment size |
| Submissions: | One submission received. |
| Land & Environment Court Appeal: | Appeal lodged No. 11550 of 2004 lodged 14 December 2004. Callover scheduled for 25 January 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:

DA 0979/04

- Application lodged 22 September 2004.
- Further information letter sent 29 September 2004 requesting:
 - Full scale plan showing subdivision.
 - Plan of all structures to be demolished.
 - A stormwater management plan, indicating gravity drainage for each lot and legal ability to use interallotment drainage easements.
- Information received 6 October 2004 from applicant not satisfying Council request.

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- Further letter sent 25 November 2004 requesting:
 - A stormwater management plan indicating gravity drainage for each lot.
- Information received 8 December 2004 from applicant satisfying Council request.
- Deemed refusal Appeal (11550 of 2004) lodged by applicant 14 December 2004. Callover is scheduled for 25 January 2005.

THE SITE AND SURROUNDING AREA

The site

| | |
|----------------------------------|----------------------|
| Zoning: | Residential 2C |
| Visual Character Study Category: | 1945 - 1968 |
| Lot Number: | 1 |
| DP Number: | 549246 |
| Area: | 1856.8m ² |
| Heritage Affected: | No |
| Bush Fire Prone Land: | No |
| Endangered Species: | No |
| Urban Bushland: | No |
| Contaminated Land: | No |

The subject allotment is legally described as Lot 1 in D.P. 549246 and has a site area of 1,856.8m². The site is located on the northern and lower side of Junction Lane. The site is of regular shape with a mild to moderate cross fall from south-west to north-east. The site has frontage to Junction Lane, measuring 39.39m. The rear (northern) boundary is equal in length with the front boundary. The western and eastern side boundaries measure 47.14m. The site is one allotment removed from the intersection of Junction Lane and Eastern Road.

The site contains a single level brick and tile dwelling in the south-western portion of the site and three ancillary buildings located in the eastern portion of the site. Vehicular access is from Junction Lane.

The site contains established lawns, interspersed with plantings of exotic specimen trees and locally-indigenous native species, primarily around the perimeter of the site. In total, the site supports 31 trees. There are several significant trees located on the periphery of the site, including two Sydney Red Gums and a Turpentine tree located on the nature strip along the Junction Lane frontage and a large Blackbutt tree located on the western side boundary with 197 Eastern Road.

Surrounding development:

The surrounding area contains an eclectic mix of architectural designs and elements. Building line setbacks are generally consistent and overall landscaping commensurate with typical residential streets within the municipality. Dwellings within the locality are generally one and two storey residences on smaller allotments than the subject site. The immediate locality also supports medium

Item 2

density development, with multi-unit residential complexes located on the adjoining site to the east at 197 Eastern Road and opposite the site at 195 Eastern Road.

THE PROPOSAL

Consent is sought for subdivision of one allotment into two Torrens title lots of equal area and dimension. The proposal also involves demolition of the existing dwelling and associated ancillary buildings. Proposed Lots 1 and 2 will be vacant, with separate frontage to Junction Lane.

The proposed allotments do not comply with the minimum allotment sizes specified in s58B(c)(i) of the KPSO. The applicant has lodged a SEPP 1 objection in relation to this non-compliance which forms part of the proposal.

The proposal has the following indices:

Proposed Lot 1:

Area = 928.4m²

Regular shaped allotment with a frontage of 19.695m to Junction Lane. Vehicle access will be directly from Junction Lane.

Dimensions = north (rear): 19.695m, west: 47.14m, east: 47.14m, south (front): 19.695m.

Proposed Lot 2:

Area = 928.4m²

Regular shaped allotment with a frontage of 19.695m to Junction Lane. Vehicle access will be directly from Junction Lane.

Dimensions = north (rear): 19.695m, west: 47.14m, east: 47.14m, south (front): 19.695m.

CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, adjoining owners were given notice of the application. In response, one submission was received.

1. M. Prideaux – 136 Junction Lane

The submission raised the following issue:

Concern over the possible location of an interallotment drainage easement over their property.

The applicant has negotiated permission to install a drainage easement through No. 4 Morris Avenue, Wahroonga. This will enable discharge of stormwater to Morris Avenue. Council's Development Engineer has confirmed the suitability of this arrangement. Accordingly, an easement over the property at 136 Junction Road is not required.

CONSULTATION - WITHIN COUNCIL

Engineering

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

"The applicant has now submitted documentary evidence that the downstream neighbour is willing to grant a drainage easement. The registration of the easement should be done as part of Schedule A, to ensure that the consent only operates when a legal point of discharge to the downstream drainage system exists.

Although it is apparent that a dwelling at the front of Lot 1 could use the existing piped connection to the table drain, an interallotment drainage easement should also be created along the rear boundary of proposed Lot 2 to allow for drainage from the lower, rear portion of Lot 1. A pipe should be installed to create a fully serviced lot.

The need to use the pipe would depend on the future development of Lot 1. ie if a dual occupancy were proposed, then stormwater from the rear dwelling could drain to the easement and from the front dwelling could drain to the street. Even a single dwelling would most likely have ancillary hard surface ie paving, possibly a rear terrace at a lower level etc which would not be able to drain to the street by gravity.

Construction of the interallotment drainage system through the downstream property can be done at this stage as well, ie prior to release of the linen plan.

There are no driveway works required as both lots have frontage to the lane. Kerb and gutter is not required in conjunction with this development, due to the large trees in the road reserve.

*There are no engineering objections to the proposed development."***(Refer Conditions 1 (Schedule A), 10-15, 38, 43-49).**

Landscaping

Council's Landscape and Tree Assessment Officer raises no objection, subject to conditions being imposed (**refer Conditions 5-9, 36, 37 & 42**).

CONSULTATION – OUTSIDE COUNCIL

No external referrals or concurrence are required as the proposal does not constitute integrated development nor is the allotment located within a bushfire zone.

STATUTORY PROVISIONS

Item 2

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.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

The site is within the catchment of the Hawkesbury River and, as such, the development is subject to the provisions of this environmental planning instrument. The aim of SREP 20 is to “protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.”

The SREP requires consideration of a number of matters such as water quality, flora and fauna, wetlands and heritage etc.

The proposed development meets the general strategies of the SREP. A conditions is recommended to control runoff and sediment from the site during construction (**refer Condition 14**).

Ku-ring-gai Planning Scheme Ordinance (KPSO)

| Development Standard | Proposals Numeric Compliance | Complies |
|--|--|--------------------------|
| Site Area: 1856.8m ² | | |
| Subdivision for dwelling houses | | |
| • Site area: 929m ² (min) | Lot 1:928.4m ² Lot 2: 928.4m ² | NO NO |
| • Site width: 18m (min) at a distance of 12.2m from the street alignment | Lot 1:19.695m ² Lot 2:19.695m ² | YES YES |

Subdivision requirements

- *Site area*

The proposal does not comply with the maximum allotment size development standard specified in s58B(c)(i) the KPSO. Proposed lots 1 and 2 will each have a site area of 928.4m², where the development standard specifies a minimum allotment size of 929m². Accordingly, the proposal infringes the development standard by 0.6m² for lots 1 and 2. The applicant has submitted a SEPP 1 objection to exceed this standard. An assessment against SEPP 1 provisions is detailed below:

Purpose of the development standard.

Item 2

The intent of this development standard is to ensure that allotments resultant from subdivision are of sufficient area to reasonably accommodate residential development in accordance with the objectives and policies for residential zones as set out in Schedule 9 of the KPSO. Likewise, the development standard aims to ensure subsequent residential development will be consistent with the design requirements set out in Development Control Plan (DCP) 38.

The applicant has provided the following reasons to justify non-compliance:

- The proposed allotments are of sufficient size to adequately support a single dwelling that will comply with Council's requirements and Development Control Plan 38.
- The variation enables the economic use of the land to satisfy the objectives of the Environmental Planning & Assessment Act 1979.

Is compliance unreasonable or unnecessary?

Proposed lots 1 and 2 fail to comply with the minimum allotment size development standard by 0.6m². The degree of non-compliance is minor and would not preclude subsequent residential development of the resultant allotments in accordance with the aims and objectives of Schedule 9 of the KPSO or the design requirements set out in DCP 38. The submitted subdivision plan demonstrates that both lots are of uniform shape and are not unduly burdened by easements, topography, or any other known constraints. Both allotments can accommodate a suitable building platform, without undue impact on landscaping.

Under these circumstances, strict compliance with the development standard is considered unnecessary and unreasonable.

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

For the reasons stated above the application is not inconsistent with Clause 3 nor the objects specified in section 5 (a)(i) and (ii) of the Act.

The proposed non-compliance will not adversely impact on the streetscape and landscape amenity of the surrounding residential zone or generate adverse effects in relation to stormwater flows. Accordingly, the SEPP 1 objection has merit and compliance with the development standard is unreasonable and unnecessary and it is considered that granting of development consent would be consistent with the aims and objectives set out in Clause 3 of SEPP 1.

Aims and objectives for residential zones

The development: (i) maintains the amenity and environmental character of the residential zone; and (ii) would allow for residential development compatible with the character of the area. Consequently, the aims of the KPSO have been satisfied.

POLICY PROVISIONS

Item 2

Subdivision Code

| COMPLIANCE TABLE | | |
|---|--|--------------------------|
| Development Standard | Proposals Numeric Compliance | Complies |
| Site Area: 1856.8m ² | | |
| Subdivision | | |
| • Site area: 929m ² (min) | Lot 1:928.4m ² Lot 2:928.4m ² | NO NO |
| • Site width: 18.29m (min) at a distance of 12.2m from the street alignment | Lot 1:19.695m ² Lot 2:19.695m ² | YES YES |

Subdivision:

- *Site area*

Non-compliance with the minimum site area requirement for lots 1 and 2 has been discussed under the KPSO provisions above. It is considered that a SEPP 1 objection can be supported. There will not be an undue impact on soft landscaping or residential character and sufficient area of appropriate dimension is provided for both lots, to enable the construction of a dwelling that could be reasonably expected to meet the objectives and policies of Schedule 9 of the KPSO and the design requirements of Development Control Plan 38.

Section 94 Plan

The subject site contains one dwelling. Accordingly, a s94 contribution is applicable in respect of one additional allotment. The development attracts a section 94 contribution of \$33,057.22, which is required to be paid by **Condition No. 41**.

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

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, is of the opinion that the objection under *State Environmental Planning Policy No. 1 – Development Standards* to clause 58B(c)(i) of the Ku-ring-gai Planning Scheme Ordinance is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case. There will not be an undue impact on landscaping or residential character and sufficient area of appropriate dimension is provided for both lots to enable the construction of a dwelling that could be reasonably expected to meet the objectives and policies of Schedule 9 of the KPSO and the design requirements of Development Control Plan 38.

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that the granting of consent to DA 0979/04 is consistent with the aims of the Policy, grant development consent to DA 0979/04 as a **deferred commencement approval** for subdivision of one allotment into two, including demolition of all existing structures on site on land at 134 Junction Lane, for a period of two (2) years from the date of the Notice of Determination subject to the following conditions:

SCHEDULE A

Item 2

1. Prior to operation of the consent, the applicant shall submit, for approval by Council's Development Engineer, 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).

SCHEDULE B

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans numbered 51/04 Sheets 1 and 2, dated 17 August 2004 and 1 October 2004, respectively, drawn by Ross Reid & Associates Pty Ltd, and endorsed with Council's approval stamp, except where amended by the following conditions:
2. The works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.
3. 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.
4. The building platforms indicated on the approved plans are indicative only and do not form part of approval given under this consent.
5. 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.
6. The following trees shall be protected and maintained in any future development of the site by ensuring that no excavations, soil level changes or construction works occur beneath the canopy of the following trees for a specified radius in metres from the trunk of that tree, except any driveway as approved by Council:

| Tree No. | Tree | Location | Radius in Metres |
|----------|--|----------------|--|
| 1 | <i>Angophora costata</i> (Sydney Red Gum) | Road reserve | 7m |
| 2 | <i>Angophora costata</i> (Sydney Red Gum) | | 6m |
| 3 | <i>Syncarpia glomulifera</i> (Turpentine) | | 6.5m |
| 5 | <i>Cedrus deodara</i> (Himalayan Cedar) | Lot 2 | 6m |
| 6 | <i>Chamaecyparis obtusa</i> (Hinoki False Cypress) | Lot 1 | 4m |
| 7 | <i>Jacaranda mimosifolia</i> (Jacaranda) | Lot 2 | 4.2m to S, min. 3m to W, 5.5m remaining radius |
| 14 | <i>Eucalyptus pilularis</i> (Blackbutt) | 197 Eastern Rd | 7m |

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Note: The proposed building envelopes are not approved as some of the above trees are located within the building envelope.

7. Driveway access to Lot 2 shall be determined in consultation with a qualified arborist to minimize any negative impact of a driveway on the trees located within Council's nature strip. This information shall be submitted with any future application for a dwelling at the site.
8. Vehicle access during demolition works shall be through the front garden and sufficiently clear of existing trees. Note the tree protection condition which will not permit access over the existing driveway access points.
9. The applicant shall ensure that at all times during the demolition period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
10. 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.
11. A 1.0 metre wide drainage easement is to be provided from proposed Lot 1 along the rear boundary of proposed Lot 2 and piped to connect to the interallotment drainage line through the downstream property.
12. 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.**
13. 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.
14. 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

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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.

15. 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.
16. 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.
17. **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.
18. 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.
19. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
20. 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.
21. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.

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22. 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.
23. 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.

24. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
25. 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.
26. 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.
27. 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.
28. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.

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29. 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.
30. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
31. 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.
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.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

34. 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.
35. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
 - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.

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36. Existing trees and vegetation on the site shall not be disturbed except with the approval of Council and the following tree/s shall be fenced off before demolition commences.

| Tree/Location | Radius From Trunk |
|---|------------------------------------|
| Fence together with 1 continuous fence | |
| Tree 1- <i>Angophora costata</i> (Sydney Red Gum) | 7m except in road |
| Tree 2 – <i>Angophora costata</i> (Sydney Red Gum) | 6m except in road |
| Tree 3 – <i>Syncarpia glomulifera</i> (Turpentine)/ All in Council's road reserve | 6.5m except in road |
| Tree 5 – <i>Cedrus deodara</i> (Himalayan Cedar)/ Front garden | 6m |
| Tree 6 – <i>Chamaecyparis obtusa</i> 'Crippsii' (Golden Cripps Cypress) / Front garden | 4m |
| Tree 7 – <i>Jacaranda mimosifolia</i> (Jacaranda)/ Adjacent to carport | 5.5m except where carport intrudes |

37. 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.

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

38. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), 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.
 - the drainage line from the rear corner of proposed Lot 1 through proposed Lot 2 to connect to the interallotment drainage system through the downstream property.

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:

- 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,
- The contributing catchment calculations and supporting pipe sizing information,
- Longitudinal section showing existing ground levels and proposed pipe invert levels, grades and flow capacities,

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- 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.
39. 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.
40. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
41. A 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 ALLOTMENT 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 |

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| | | |
|-----|--|------------|
| 7. | Acquisition of Open Space -Wahroonga | \$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 |
| 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 THE ISSUE OF A SUBDIVISION CERTIFICATE

42. All Wisteria and Ivy shall be removed from existing tree without damaging the trees infested prior to release of the Subdivision Certificate.
43. Prior to release of the linen plan/issue of the Subdivision Certificate, the construction of the required drainage line through proposed Lot 2 and the interallotment drainage system must be completed in full. The designing engineer or equivalent professional engineer must supervise the works. At the completion of works, and prior to issue of the Subdivision Certificate the following shall be submitted to the Principal Certifying Authority (PCA):
 - a. Certification from the supervising engineer that that the as-constructed works comply with the approved design documentation, and
 - b. A full works-as-executed drawing of the as built drainage lines (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).
44. Prior to release of the linen plan/issue of the subdivision certificate, 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 must be fully repaired to the satisfaction of Council's Development Engineer and at no cost to Council.
45. Prior to release of the linen plan/issue of the subdivision certificate, the Section 73 Sydney Water compliance certificate **which refers to the subdivision application** must be obtained and submitted to the Council.

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46. For endorsement of the linen plan/issue of the subdivision certificate, the applicant shall submit an original plan of subdivision plus six (6) copies, suitable for endorsement by Council. The following details must be submitted with the plan of subdivision and copies:
- a. The endorsement fee current at the time of lodgment,
 - b. The 88B Instruments plus six (6) copies,
 - c. A copy of the Occupation Certificate.
 - d. The Consulting Engineer's certification of the on-site stormwater detention facility. This must be on the standard Council on-site detention certification sheet, available from Council.
 - e. A copy of all works-as-executed plans required under the consent,
 - f. All Surveyor's and/or Consulting Engineer's certification(s) required under this consent,
 - g. The Section 73 (Sydney Water) Compliance Certificate for the subdivision.

Council will check the consent conditions on the subdivision. Failure to submit the required information will delay endorsement of the linen plan, and may require payment of rechecking fees.

Note 1: Plans of subdivision and copies must not be folded.

Note 2: Council will not accept bonds in lieu of completing subdivision works.

47. For endorsement of the linen plan / subdivision certificate issue, the Applicant shall submit an original instrument under Section 88B of the Conveyancing Act with the plan of subdivision, plus six (6) copies. This is to create any required easements, rights-of-carriageway, positive covenants, restrictions-on-use or other burdens/benefits as may be required. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the same.
48. Prior to release of the linen plan/issue of the subdivision certificate, the applicant shall create all burdens including but not limited to drainage easements, easements for services and rights-of-carriageway, as required. A registered surveyor is to certify, prior to release of the linen plan/issue of the subdivision certificate, that all existing interallotment drainage lines, services and/or driveways are fully contained within the proposed burdens and/or that future provision of such are fully covered by the proposed burdens. Alternatively, where the surveyor is of the opinion that no interallotment easements or rights-of-carriageway are required, then certification to this effect must be submitted to the Principal Certifying Authority (PCA).
49. Prior to release of the linen plan/issue of the subdivision certificate, the provision of separate underground electricity, gas, telstra, sewer and water services, or appropriate conduits for the same, shall be provided to each allotment. A suitably qualified and experienced engineer or surveyor is to provide certification that all new lots have ready underground access to the services of electricity, gas, Telstra, sewer and water.

Mark Leotta
Team Leader – North Team
Development and Regulation

Matthew Prendergast
Manager
Development Assessment
Services

Michael Miocic
Director
Development and Regulation

Attachments: **Location Sketch**
 Landscape Plan

DEVELOPMENT APPLICATION

SUMMARY SHEET

| | |
|---|---|
| REPORT TITLE: | 8 WOODLANDS ROAD, LINDFIELD - ALTERATIONS, ADDITIONS AND CARPORT |
| WARD: | Roseville |
| DEVELOPMENT APPLICATION N^o: | 935/04 |
| SUBJECT LAND: | 8 Woodlands Road, Lindfield |
| APPLICANT: | MC Jacques |
| OWNER: | MC & CA Jaques |
| DESIGNER: | T Bomford |
| PRESENT USE: | Residential |
| ZONING: | Residential 2(a) |
| HERITAGE: | No |
| PERMISSIBLE UNDER: | Ku-ring-gai Planning Scheme Ordinance |
| COUNCIL'S POLICIES APPLICABLE: | Development Control Plan 38, Development Control Plan 40, Development Control Plan 43, Development Control Plan 47 |
| COMPLIANCE WITH CODES/POLICIES: | No |
| GOVERNMENT POLICIES APPLICABLE: | N/A |
| COMPLIANCE WITH GOVERNMENT POLICIES: | N/A |
| DATE LODGED: | 13 September 2004 |
| 40 DAY PERIOD EXPIRED: | 23 October 2004 |
| PROPOSAL: | Alterations, additions and carport |
| RECOMMENDATION: | Refusal |

Item 3

| | |
|--|---|
| DEVELOPMENT APPLICATION N^o | 935/04 |
| PREMISES: | 8 WOODLANDS ROAD, LINDFIELD |
| PROPOSAL: | ALTERATIONS, ADDITIONS AND CARPORT |
| APPLICANT: | MC JACQUES |
| OWNER: | MC & CA JACQUES |
| DESIGNER | T BOMFORD |

PURPOSE FOR REPORT

To determine development application NO 935/04, which seeks consent for a detached double carport, a water tank and additions and alterations to an existing dwelling.

This matter has been called to Council by Councillor Innes..

EXECUTIVE SUMMARY

| | |
|------------------------|-------------------------------|
| Issues: | Streetscape. |
| Submissions: | No submissions were received. |
| Recommendation: | Refusal. |

HISTORY

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

THE SITE

| | |
|----------------------------------|---|
| Zoning: | Residential 2(a) |
| Visual Character Study Category: | 1920 -1945 |
| Lot Number: | 43 |
| DP Number: | 10267 |
| Area: | 976m ² |
| Side of Street: | North-eastern |
| Cross Fall: | South-west to north-east |
| Stormwater Drainage: | To street |
| Heritage Affected: | No |
| Required Setback: | Minimum 12 metres and 14 metres average |
| Integrated Development: | No |
| Bush Fire Prone Land: | No |
| Endangered Species: | Not affected |
| Urban Bushland: | No |
| Contaminated Land: | No |

THE SITE AND SURROUNDING DEVELOPMENT

Item 3

The Site

The allotment measures 15.24 metres wide by 64 metres deep and contains a two storey dwelling set back from its boundaries as follows:

| | |
|--|--------------|
| Front setback | 15 metres |
| Rear setback | 25 metres |
| Side set back (North eastern boundary) | 2.45 metres |
| Side setback (South western boundary) | 1.035 metres |

A carport accommodating tandem parking for two cars is located along the east elevation of the dwelling, with a setback of approximately 150mm to the side boundary.

There is an in-ground swimming pool in the rear yard and the site contains several trees.

A solid brick fence and gates, measuring 1.5 to 1.8 metres high (RL 87.09), screen the property from Woodlands Road.

Surrounding development

The surrounding area is described in the Ku-ring-gai Visual Character Study as being characterised by single dwellings on single lots, with the majority of construction being within the period 1920 to 1945. A mix of architectural styles and periods are evident within the wider streetscape. The predominant housing style in the street is a mix of single and double storey dwellings where garages/carports are either set back behind the building line or incorporated within the lower level of the building flush with the front building line. Whilst there are 6 (six) exceptions in this part of Woodlands Road, they are long established and pre-date the current DCP:

| Address | Setback to Woodlands Road |
|-------------------|---------------------------|
| 6 Woodlands Road | 8 metres |
| 12 Woodlands Road | 11 metres |
| 20 Woodlands Road | 3.5 metres |
| 22 Woodlands Road | 4 metres |
| 28 Woodlands Road | 8 metres |
| 32 Woodlands Road | 12 metres |

Setbacks on the southern side (low side) of Woodlands Road are generally in excess of 11 metres while the setbacks on the northern side (high side) range from approximately 12-14 metres.

An attached, two storey, dual occupancy is located opposite the site (1a & 1b Woodlands Road) and as a corner allotment it presents a side setback of approximately 4 to 5 metres to Woodlands Road.

THE PROPOSAL

Consent is sought to construct a detached double carport, new driveway and paving within the front yard. The driveway and front fence are re-aligned closer to the north eastern side boundary which requires a new vehicle crossover and also the removal of a street tree. The proposed paving and

Item 3

carport add approximately 130m² of hard surface which constitutes more than 45% of the 288m² of the front setback area.

The carport will measure 6.3 metres in length and 6.3 metres in width and be set back 8.4 metres from the front boundary and 400mm from the north-eastern (side) boundary. Some excavation is proposed to provide a suitable grade for the carport and associated driveway. Excavation will have a maximum depth of approximately 430mm to achieve a finished floor level of RL 85.7.

A pitched roof with terracotta tiles is proposed with a ridge height 4 metres above the floor level at approximately RL 89.7.

The proposal also entails:

- a minor first floor addition (6m²) comprising an en-suite to an existing bedroom;
- 2000 litres rain water tank in the north-western (side) setback.

CONSULTATION - COMMUNITY

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

No submissions were received.

CONSULTATION - WITHIN COUNCIL

Consultation within Council was not considered necessary.

The Landscape Development Officer raised no objection to the removal of the street tree but indicated that the 400mm side setback is inadequate to provide landscaped screening between the carport and the adjacent property.

The Development Engineer has no objection to the proposal.

STATUTORY PROVISIONS

State Environmental Planning Policy No.55

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

Ku-ring-gai Planning Scheme Ordinance

| COMPLIANCE TABLE | | |
|--|------------------------------|----------|
| Development Standard | Proposals Numeric Compliance | Complies |
| Site Area: 975.5m ² | | |
| Building Height 8m (max) | 6 m (existing) | YES |
| Built-Upon Areas 60%(585m ²)(max) | 51% (497m ²) | YES |

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Aims and objectives for residential zones

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

Visual Impacts

- The proposed carport is inconsistent with the existing streetscape and detracts from the visual character of the locality by being located 8.4 metres from the front boundary, 400mm from the north eastern side boundary and forward of the existing building line on site. There is insufficient room to accommodate screen planting along the north eastern boundary.
- The proposal will result in a dominant structure of excessive scale and bulk within the front setback area of the dwelling. With the exception of the 6 examples listed earlier in the report, carparking within the context of the existing streetscape is predominantly in-line with or set behind the building line. Consequently, the introduction of the proposed carport will result in a streetscape presentation which is out of keeping with the majority of front setbacks in the area.

Diminished landscape quality

The building bulk, height, location and footprint of the proposed carport and associated paved areas will dominate the natural landscape setting, and provide for insufficient soft landscape area for planting.

An excessive proportion of hard surface paved area is proposed to the front setback of the site and fails to ensure the landscape quality of the locality.

POLICY PROVISIONS

DCP 38 - Ku-ring-gai Residential Design Manual

| COMPLIANCE TABLE | | |
|---|-----------------------------------|---------------------------------|
| Site Area: 975m ² | | |
| Development Control | Proposals Numeric Compliance | Complies |
| 5.1 Streetscape: | | |
| Building Setbacks (s.5.1.3) | | |
| <ul style="list-style-type: none"> • Front Setback: 14m (Ave) -75% front elevation 12m (min) – 25% front elevation | <p>>15m 8.4m</p> | <p>YES NO</p> |
| <ul style="list-style-type: none"> • Side Setback: Ground Floor: 2m(min) 1st Floor: 2.5m (min) | <p>1.035m (existing) 2.2m</p> | <p>NO NO</p> |
| <ul style="list-style-type: none"> • Rear Setback: 12m(min) | <p>>25m</p> | <p>YES</p> |
| Front Fences (s.5.1.5) | | |

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|---|--|---------------------------------|
| • Height: 1.2m(max)- (Fencing present in street) | 1.5m to 1.8m (existing) | NO |
| 5.2 Building Form: | | |
| FSR (s.5.2.1) 0.37:1 (max) | 0.35:1 | YES |
| Height of Building (s.5.2.2) • 2 storey (max) and 7m (site <20° slope) | 2 storey & 6m (no increase to existing) | YES |
| Building Height Plane (s.5.2.3) 45° from horizontal at any point 3m above boundary | 1m over a distance of 6m | NO |
| First Floor (s.5.2.4) • FSR: < 40% total FSR | 20% | YES |
| Roof Line (s.5.2.6) • Roof Height (5m – single storey) (3m – two ⁺ storey) • Roof Pitch 35° (max) • Dormer Control >200mm below main roof ridge Occupies<40% face of gable Occupies<20% face of roof or slope | 1.8m <35° 800mm <40% <20% | YES YES YES YES YES |
| Built-Up Area (s.5.2.7) 54% (501.7m ²) (max) | 53.9% (501m ²) | YES |
| Cut & Fill (s.5.2.15) • max cut 900mm • max cut & fill across building area of 1800mm and 900mm | 500mm 700mm | YES YES |
| 5.3 Open Space & Landscaping: | | |
| Soft Landscaping Area (s.5.3.3) 46% (427.3m ²) (min) | 46.1% (428.3m ²) | YES |
| Tree Replenishment (s.5.3.6) 5 Trees Required | 6 trees provided | YES |
| Useable Open Space (s.5.3.8) Min depth 5m and min area 50m ² | Depth >5m Area >100m ² | YES |
| 5.5 Access & Parking: | | |
| No. of Car Parking Spaces (s.5.5.1) 2 spaces behind building line | 2 spaces forward of building line | NO |
| Size of Car Parking Space (s.5.5.2) 5.4m x 5.4m | 5.9m x 6.5m | YES |
| Driveway Width (s.5.5.6) 3.5m | 3m | YES |
| 5.7 Ancillary Facilities: | | |
| Outbuildings (s.5.7.3) • Setback from boundary: 2m | 450mm (east boundary) | NO |

Building height plane variation

There is a minor non-compliance with the building height plan along the north-western elevation of the first floor bathroom addition.

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The purpose of the building height control is to ensure that heights are the same or similar to the characteristic building heights in the locality; promote the retention and sharing of views; maintain solar access and privacy to properties. In this regard, the non-compliance can be supported as the underlying objectives of ensuring the amenity of neighbouring properties in terms of overshadowing and privacy and maintaining bulk/scale relationships will be achieved.

Front and side building setback and car parking forward of the building line

The proposal is inappropriately located on the site having regard to the existing setback of adjoining properties and the setback pattern of the street block within which the proposal is situated.

The proposed carport will be set back 8.4 metres from the front boundary and 400mm off the eastern side boundary. The breach of the 12 metres setback and more importantly the provision of a car parking structure forward of the front façade of the house results in an unsatisfactory streetscape impact. The development will result in a utilitarian structure forward of the house and will not only compete with the house as a dominant element within the streetscape but will also reduce the dwelling's existing landscaped garden setting.

The predominant streetscape surrounding the subject site is one that exhibits generous front setbacks to dwellings with substantial landscaping elements within the front setbacks of sites. Clause 5.1.3 of DCP 38 requires that development be appropriately located to maintain the streetscape character and discourages the provision of garages, carports or other structures for the parking of cars on the front boundary or between the boundary and the primary façade of the front of the building. In this location, DCP 38 specifies a minimum setback of 12 metres and an average setback of 14 metres. The proposed setback of 8.4 metres to Woodside Road is a significant departure which cannot be justified.

CONCLUSION

The key aims and objectives referred to in the KPSO and the Development Control Plan No. 38 would not be met by the proposal in relation to the planning requirements that apply to the subject site. The proposed double carport and associated paving removes opportunity for landscaping in the front setback which departs from the planning controls dealing with streetscape and landscaped setting in this location.

The proposal is inconsistent with the character of the area and there is no justifiable reason why Council's development controls should be relaxed to accommodate the proposed additional vehicular accommodation, in view of its impacts and given that the existing carport which is compliant with the DCP and KPSO provisions can accommodate two cars.

The proposal fails to have regard to the location of the site and its relationship to adjoining properties and for Council's desire to maintain and enhance high quality residential development within a landscaped setting.

RECOMMENDATION

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

THAT Council, as the consent authority, refuse development consent to Development Application No. 935/04 for a detached double carport and additions and alterations to an existing dwelling on land at 8 Woodlands Road, Lindfield, as shown on plans referenced Drawing No. A/01/B, A/02, A/03, A/04 & A/05, dated 8 September 2004, drawn by Tom Bomford Studio for the following reasons:

Streetscape

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

Particulars

- i) The proposal will result in a dominant structure of excessive scale and bulk and will be unsympathetic to the natural and built environment in this location. It does not provide for sufficient soft landscaping area and is inconsistent with the objectives set out in Schedule 9 (Clauses 1(a), 1(b), 2(e), 2(f) of the Ku-ring-gai Planning Scheme Ordinance.

It is proposed to cover more than 45% of the front setback area with hard surface area which will undermine the streetscape setting of the locality due to an inadequate landscaped area in the front setback compared to the adjoining properties and the street in general.

- ii) The proposed carport being located 8.4m from the street fails to comply with the minimum front setback requirement of 12m as prescribed by clause 5.1.3 of Development Control Plan 38.
- iii) The proposed carport being located 400 metres from the north-eastern boundary fails to comply with the setback requirement of 1.5 metres as prescribed by Clause 5.1.3 of Development Control Plan No.38.

C Swanepoel
Executive Assessment Officer

R Kinninmont
Team Leader
Development Assessment – Team South

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development and Regulation

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

DEVELOPMENT APPLICATION

SUMMARY SHEET

| | |
|---|---|
| REPORT TITLE: | 2 CYNTHIA STREET, PYMBLE - ADDITIONS AND ALTERATIONS TO EXISTING DWELLING, NEW POOL, CABANA AND FRONT WALL |
| WARD: | Comenarra |
| DEVELOPMENT APPLICATION N^o: | 582/04 |
| SUBJECT LAND: | 2 Cynthia Street, Pymble |
| APPLICANT: | Loraine Unicomb |
| OWNER: | Loraine Unicomb |
| DESIGNER: | Design Confidential |
| PRESENT USE: | Residential |
| ZONING: | Residential 2C |
| HERITAGE: | No |
| PERMISSIBLE UNDER: | Ku-ring-gai Planning Scheme Ordinance |
| COUNCIL'S POLICIES APPLICABLE: | KPSO |
| COMPLIANCE WITH CODES/POLICIES: | No |
| GOVERNMENT POLICIES APPLICABLE: | SEPP 1 SEPP 55 |
| COMPLIANCE WITH GOVERNMENT POLICIES: | Yes |
| DATE LODGED: | 24/05/04 |
| 40 DAY PERIOD EXPIRED: | 3 July 2004 |
| PROPOSAL: | Additions and alterations to existing dwelling, new pool, cabana and front wall |
| RECOMMENDATION: | Refusal |

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|--|--|
| DEVELOPMENT APPLICATION N^o | 582/04 |
| PREMISES: | 2 CYNTHIA STREET, PYMBLE |
| PROPOSAL: | ADDITIONS AND ALTERATIONS TO EXISTING DWELLING, NEW POOL, CABANA AND FRONT WALL |
| APPLICANT: | LORAINÉ UNICOMB |
| OWNER: | LORAINÉ UNICOMB |
| DESIGNER | DESIGN CONFIDENTIAL |

PURPOSE FOR REPORT

To determine development application DA582/04 which seeks consent for additions and alterations to existing dwelling, new swimming pool, cabana and front wall.

This matter has been called to Council by Councillor Hall.

EXECUTIVE SUMMARY

| | |
|----------------|--|
| Issues: | <ul style="list-style-type: none">• Streetscape (garage protruding forward of main façade of the dwelling).• Pool safety.• Insufficient information. |
|----------------|--|

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|---------------------|--------------------------------|
| Submissions: | Two submissions were received. |
|---------------------|--------------------------------|

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|---|-------------------|
| Land & Environment Court Appeal: | No appeal lodged. |
|---|-------------------|

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|------------------------|---------|
| Recommendation: | Refusal |
|------------------------|---------|

HISTORY

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

THE SITE

| | |
|----------------------------------|-------------------------------|
| Zoning: | Residential 2C |
| Visual Character Study Category: | 1945-68 |
| Lot Number: | 48 |
| DP Number: | 12951 |
| Area: | 1008.60m ² |
| Side of Street: | North eastern |
| Cross Fall: | From north-east to south-west |
| Stormwater Drainage: | Existing |

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|-------------------------|-------------|
| Heritage Affected: | No |
| Required Setback: | 11.6 metres |
| Integrated Development: | No |
| Bush Fire Prone Land: | No |
| Endangered Species: | No |
| Urban Bushland: | No |
| Contaminated Land: | No |

SITE DESCRIPTION

The site is generally level, with a cross fall from north-east to south west. The site has an area of 1008.6 m², with a frontage of 20.115 metres and a depth of 50.29 metres. The site contains several trees, two of which are to be removed to accommodate the proposed development.

A single storey, rendered residence, with a tile roof is situated on the site. The garage is located to the rear of the property and is accessed via a concrete driveway, adjacent to the eastern boundary. A patio is located to the front of the dwelling, while a verandah is located to the rear. The existing dwelling has a front setback of approximately 18 metres. The site has a picket front fence, with a height of 1.2 metres.

Surrounding development

The surrounding area is described in the Ku-ring-gai Visual Character Study as being characterised by single dwellings on single lots, with construction being within the period 1945-68. A mix of architectural styles and periods are evident within the wider streetscape. Surrounding dwellings are single and two storey located on varying lot sizes with varying degrees of landscaping.

The building line setback along both sides of Cynthia Street is varied. The building setbacks range from approximately 4 metres to 20 metres.

The positioning of garages and carports in Cynthia Street varies from 6 metres to approximately 25 metres from the street frontage. The majority of the garages and carports are integrated into the dwellings, apart from about eight sites, where the garages or carports are not integrated with the dwelling. The majority of these predate RDGP 38.

Front fences in the street are consistent with properties having low hob walls and shrubs, while many properties have no front fence. The site adjacent to the subject site on the western boundary also has a picket fence with a height of 1.2 metres, while the property to the east has a palisade fence with a height of approximately 1.3 metres.

THE PROPOSAL

The proposal is for additions and alterations to the existing single storey dwelling, including a first floor addition, removal of hard landscaping, construction of a new garage forward of the building line, and cabana, swimming pool and front wall. No details are provided with regard to the cabana. The first floor addition is orientated towards the north-eastern (front) portion of the site.

Details of the proposed development are as follows:

Ground floor

- Double garage
- Front entry porch
- Swimming pool at rear of site.
- Deck attached to extended family room and swimming pool.
- Relocated French doors from lounge to dining room. Window to replace entry frame in lounge.
- The cabana is to replace the existing garage.

First Floor

- Rumpus room.
- Bed 4 and bed 5.
- Bathroom.

Fencing

A front wall is proposed to replace the existing 1.2 metre high picket fence. The proposed wall will be 1.63m high, with 1.7 metres high, rendered brick, piers and 900mm high metal infill panels. No other boundary fencing is proposed.

CONSULTATION - COMMUNITY

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

The following comments have been received:

«Comments Received»

The following comments have been received:

«Comments Received»

1. *1 Hesperus Street, Leonard W. Skelton*
2. *7 Yarrara Road, John Frizza*

The submissions raised the following issues:

The objector from 1 Hesperus Street, stated that no information was provided regarding the proposed cabana.

The applicant has been advised that should the DA be approved, a separate development application will have to be lodged for the cabana, due to insufficient information being provided with the current DA.

The objector from 7 Yarrara Road, requested bushes and/or trees be planted in the area of the south-eastern side of the proposed dwelling to reduce the visual impact of the proposed garage and first storey and the loss of existing trees.

This issue could be addressed through conditions of consent.

CONSULTATION - WITHIN COUNCIL

Consultation within Council was not considered necessary.

Consultation within Council was not considered necessary.

Landscaping

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

The proposed rear extension would appear to be within 3.0m of an existing Angophora costata to the rear western side boundary. I suggest reconfiguring or deleting the "work station area so that the building is a minimum of 4.0m from this tree.

Provided this is done, then the conditions I have provided can be applied. However, as this report recommends refusal of the application, this matter has been included as a reason for refusal (refer 1(iii)).

Other Comments

The proposed garage will result in the removal of a mature healthy Chamaecyparis sp. (Cypress), approximately 11m high and a Jacaranda 10m high with a severe trunk inclusion and of fair form.

As the front yard is quite heavily treed neither of these trees are particularly visible from the street and therefore I do not object to their removal.

Engineering

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

The proposed development is for alterations and additions to 2 Cynthia Street Pymble. The site drains to the rear. The additions comprise the construction of a new second storey addition, cabana, swimming pool, double garage and timber deck. There will be a decrease in the built upon area on this site of 50m².

A perusal of the submitted drawings reveals the following concerns:

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The proposed driveway opening does not comply with AS/NZS 2890.1 (2004) - "Off-street car parking". The opening should be increased to a minimum 3.0m. This matter can be addressed through conditions of consent, however, as this report recommends refusal of the application, this issue has been included as a reason for refusal (refer 1(iv)).

STATUTORY PROVISIONS**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)

| COMPLIANCE TABLE | | |
|---|-------------------------------------|-----------------|
| Development Standard | Proposals Numeric Compliance | Complies |
| Site Area: 1008.60m ² | | |
| Minimum size allotments | | |
| • Site Area: 929m ² (min) | 1008.60m ² | YES |
| • Site Width: 18m (min) | 20.115m | YES |
| • Height: 7m or 2storey (max) | 6.7m or 2 storey | YES |
| Building height 7m (max) | 6.7m | YES |
| Built Upon Area 60% (max) | 43.80% | YES |

Aims and objectives for residential zones:

The development is unsatisfactory having regard to the following aims and objectives for residential development as outlined by Clause 1.(a) and 2.(e) of Schedule 9:

- (i) Is of a design which is not characteristic of the area where the proposed double garage protrudes significantly forward of the front façade of the dwelling and results in an unsatisfactory streetscape impact. The introduction of a utilitarian structure forward of the house will not only compete with the house as a dominant element within the streetscape but will also reduce the dwelling's landscaped garden setting, typical of streets within Ku-ring-gai.

POLICY PROVISIONS**Development Control Plan No. 38 - Ku-ring-gai Residential Design Manual**

| COMPLIANCE TABLE | | |
|------------------------------------|-------------------------------------|-----------------|
| Development Control | Proposals Numeric Compliance | Complies |
| 5.1 Streetscape: | | |
| Building setbacks (s.5.1.3) | | |

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| | | |
|---|---|---------------------------------|
| <ul style="list-style-type: none"> Front setback: 14m (Ave) -75% front elevation 12m (min) – 25% front elevation Side setback: Ground floor: 2.4m(min) 1st floor: 3m (min) Rear setback: 12m(min) | 10.485m – 65.4% front elevation 11.870m – 34.6% front elevation 1.5m 3.1m 1m (existing) | NO NO NO YES NO |
| Front fences (s.5.1.5) | | |
| <ul style="list-style-type: none"> Height: 1.2m(max) | 1.630m | NO |
| 5.2 Building Form: | | |
| FSR (s.5.2.1) 0.37:1 (max) | 0.28:1 | YES |
| Height of building (s.5.2.2) | | |
| <ul style="list-style-type: none"> 2 storey (max) and 7m (site <20° slope) | 2 storey & 6.7m (first floor to ground line) | YES YES |
| Building height plane (s.5.2.3) 45° from horizontal at any point 3m above boundary | 0.6m | NO |
| First floor (s.5.2.4) | | |
| <ul style="list-style-type: none"> FSR: < 40% total FSR | 24.7% | YES |
| Roof Line (s.5.2.6) | | |
| <ul style="list-style-type: none"> Roof height (3m – two⁺ storey) Roof pitch 35° (max) | 2.1m 29° | YES YES |
| Built-upon area (s.5.2.7) 52% (524.47m ²) (max) | 43.80% (441.83m ²) BUA reduced | YES |
| Unrelieved wall length (s.5.2.8) 8m (min) | 5.6m | YES |
| Solar access (5.2.11) 4h solar access to adjoining properties between 9am to 3pm | 3 hours to the rear yard of 9 Yarrara Road | NO |
| Cut & fill (s.5.2.15) | | |
| <ul style="list-style-type: none"> Max cut 900mm max cut & fill across building area of 1800mm and 900mm no cut or fill within side setbacks | 300mm 0.57mm | YES YES NO |
| 5.3 Open space & landscaping: | | |
| Soft landscaping area (5.3.3) 48% (484.13m ²) (min) | 56.2% (566.77m ²) | YES |
| Tree replenishment (s.5.3.6) 7 Trees required | 8 trees provided | YES |
| 5.5 Access & parking: | | |
| No. of car parking spaces (s.5.5.1) 2 spaces behind building line | 2 spaces forward of building line | NO |
| Size of car parking space (s.5.5.2) 3.1m x 5.4m | 6.7m x 6.230m | YES |
| Driveway width (s.5.5.6) 3m min | 2.5m | NO |
| 5.7 Ancillary facilities: | | |
| Swimming pools (s.5.7.1) | | |
| <ul style="list-style-type: none"> Setback from boundary: 2m | 2m | YES |

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| | | |
|---|-------|-----|
| • Pool coping <500mm above ground level | 200mm | YES |
| • Pool excavation not below the canopy of trees | | YES |

a. Streetscape***Building setbacks***

A 12 metre minimum front setback is required. The applicant proposes a front setback of 11.87m with a non-compliance of 13mm. This non-compliance would be acceptable were it to relate to the dwelling house proper. However, the non-compliance relates to garaging forward of the existing building line resulting in the dominance of car parking on the streetscape.

Side setbacks to the proposed garage should be a minimum of 2.4 metres from the eastern boundary. Landscaping is still possible within the 1.460 m setback proposed and the garage is single storey with a length of 5.5 metres. Accordingly, this is a minor non-compliance as it is over a short distance, given that the building has a proposed length of 19 metres.

Fencing

The Visual Character Study distinguishes lots within the 1945-1968 era by an absence of front fences except in noisy or busy streets but often with low herbaceous borders and original accommodation for one or two cars within or attached to the main structure of the residence.

The Visual Character Study discourages front fences, overshadowing of neighbours established gardens and car accommodation for more than one car visible from the street.

The proposed front fence is not supported as it does not conform with the streetscape as it is too high and does not comply with the requirements of the DCP 38 Section 5.1.5 *Front Fences*. The proposed front fence does not conform to the streetscape character and is not consistent with the established pattern of fences which are either considerably lower or nonexistent. The existing picket fence is 1.2 metres in height and should remain.

The pool fencing should be re-designed to comply with the Swimming Pool Act 1992.

b. Building Form***Height of building***

There is an encroachment to the building height plane on the first floor of the north east elevation by 0.6m. This is minor and has little implication on the shadow already cast on the rear yard of 9 Yarrara Road as indicated by the submitted shadow diagram.

c. Open Space and Landscaping

To protect the existing *Angophora costata* on the rear western boundary, the work station area should be reconfigured or deleted, so that the building is a minimum of 4 metres from the tree.

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d. Access and Parking

Car parking forward of the building line

The garage will be set back 11.87 metres from the front boundary. The remainder of the front façade of the dwelling will be set back 22 metres from the front boundary. There will be a maximum of 10.4 metres between the proposed garage and the front of the existing dwelling. The proposed garage protrudes significantly forward of the façade of the dwelling and results in an unsatisfactory streetscape impact. The existing garage is situated to the rear of the site and complies with the relevant provisions of DCP 38. The proposed introduction of a utilitarian structure forward of the house will compete with the house as a dominant element within the streetscape. The garage should be integrated within the development and set behind the main building line to ensure no undue building dominance on the streetscape.

The proposed driveway width does not comply with AS/NZS 2890.1 (2004) - "Off-street car parking". The crossing should be increased to a minimum of 3 metres in width at the front boundary.

CONCLUSION

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

RECOMMENDATION

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

THAT Council, as the consent authority, refuse development consent to Development Application No. 582/04 for additions and alterations to the existing dwelling, and construction of a new garage and swimming pool, cabana and front wall on land at 2 Cynthia Street, Pymble, as shown on plans 01 to 07, dated February 2004, and prepared by Design Confidential for the following reasons:

Streetscape

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

Particulars

- (i) The proposed garage fails to comply with clause 5.5.2 of DCP 38 in that it provides car parking forward of the building line where it is possible to provide parking behind the building line.
- (ii) The proposed garage fails to comply with clause 5.5.3 of DCP 38 in that the design of carport and garage structures should be sympathetic to existing development on-site and

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consider adjacent buildings. Further, carport and garage structures should not dominate the site or the streetscape.

- (iii) The proposed work station area is within 3.0m of an existing *Angophora costata* to the rear western boundary. The work station area should be reconfigured or deleted, so that the building is a minimum of 4 metres from the *Angophora costata*.
- (iv) The proposed driveway opening does not comply with AS/NZS 2890.1 (2004) - "Off-street car parking".
- (v) The proposed front fence does not conform to the streetscape as it is too high and does not comply with the requirements of DCP 38, Section 5.1.5 *Front Fences*. The proposed front fence is not consistent with the established pattern of fences, which are considerably lower or non-existent. The existing picket fence is 1.2 metres in height and should remain.

Shivesh Singh
Development Assessment Officer

Mark Leotta
Team Leader
Development Assessment – Team North

Matthew Prendergast
Manager Development Assessment Services

Michael Miocic
Director Development & Regulation

Attachments:

- Site Plan**
- Elevations**
- Shadow Diagrams**
- Site Analysis Plan**
- Landscape Plan**
- Notification Sketch**
- Floor Plans (confidential)**

DEVELOPMENT APPLICATION

SUMMARY SHEET

| | |
|---|---|
| REPORT TITLE: | 21 OXLEY AVENUE, ST IVES - DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF DETACHED DUAL OCCUPANCY |
| WARD: | St Ives |
| DEVELOPMENT APPLICATION N^o: | DA0510/04 |
| SUBJECT LAND: | 21 Oxley Avenue, St Ives |
| APPLICANT: | Masterton Homes and Mr and Mrs Rubin |
| OWNER: | Mr and Mrs Rubin |
| DESIGNER: | Masterton Homes |
| PRESENT USE: | Residential Dwelling House |
| ZONING: | 2c |
| HERITAGE: | No |
| PERMISSIBLE UNDER: | Ku-ring-gai Planning Scheme Ordinance |
| COUNCIL'S POLICIES APPLICABLE: | Development Control Plan 43 - Car Parking, Development Control Plan 40 - Waste Management, Dual Occupancy Development Control Code |
| COMPLIANCE WITH CODES/POLICIES: | Yes |
| GOVERNMENT POLICIES APPLICABLE: | SEPP53, SEPP55 |
| COMPLIANCE WITH GOVERNMENT POLICIES: | Yes |
| DATE LODGED: | 19/05/2004 |
| 40 DAY PERIOD EXPIRED: | 28 June 2004 |
| PROPOSAL: | Demolition of existing dwelling and construction of detached dual occupancy |
| RECOMMENDATION: | Approval |

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| DEVELOPMENT APPLICATION N^o | DA0510/04 |
| PREMISES: | 21 OXLEY AVENUE, ST IVES |
| PROPOSAL: | DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF DETACHED DUAL OCCUPANCY |
| APPLICANT: | MASTERTON HOMES AND MR AND MRS RUBIN |
| OWNER: | MR AND MRS RUBIN |
| DESIGNER: | MASTERTON HOMES DA510/04 |

PURPOSE FOR REPORT

To determine Development Application No.510/04, which seeks consent for the demolition of the existing dwelling and the construction of a detached dual occupancy.

EXECUTIVE SUMMARY

| | |
|---|--|
| Issues: | <ul style="list-style-type: none">• Front setback• Side setback• Unrelieved wall length• Built-upon area• Cut and fill |
| Submissions: | One submission was received in objection to the development. |
| Land and Environment Court Appeal: | Not applicable. |
| 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:

| | |
|-------------------|---|
| 19/05/04 | DA lodged. |
| 25/05/04-11/06/04 | Notification period. |
| 31/05/04 | Further information requested with respect to Council's Water Management DCP47. |
| 18/06/04 | Stormwater plans submitted in accordance with Council's DCP47. |

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| 05/10/04 | Meeting with applicant to discuss concerns with respect to front and side setback and streetscape. |
| 27/10/04 | Amended plans received. |
| 03/11/04 | Amended landscape plan received. |
| 09/11/04-23/11/04 | Further neighbour notification undertaken. |

THE SITE AND SURROUNDING AREA

The site

| | |
|----------------------------------|---------|
| Visual character study category: | 1945-68 |
| Lot number: | 9 |
| DP number: | 224444 |
| Heritage affected: | No |
| Bush fire prone land: | No |
| Endangered species: | No |
| Urban bushland: | No |
| Contaminated land: | No |

The subject site is comprises Lot 9 in DP224444 and is known as 21 Oxley Avenue, St Ives. The site is a regular shaped corner allotment, located on the north-western side of Oxley Avenue and Karen Road.

The subject site consists of a single storey 1960/70s project house, in blond brick and a flat roof. A swimming pool and carport also occupy the site.

Surrounding development:

The locality consists of low density single and two storey dwellings, with no immediate dual occupancies in the vicinity of the site.

THE PROPOSAL

The proposal is to demolish the existing structures on site and construct two single storey dwellings as a detached dual occupancy development. Details of the proposed development are as follows:

Dwelling 1:

Dwelling 1 consists of an entry, living/dining room, kitchen/family/meals/rumpus room and four bedrooms. One bathroom, an ensuite, laundry and double garage are also provided, with access from Karen Road.

Dwelling 2:

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Dwelling 2 consists of an entry, living/dining room, kitchen/family/meals/rumpus room and four bedrooms. One bathroom, an ensuite, laundry and double garage are also provided, with access from Karen Road.

Amended plans dated 27 October 2004

The amended plans increased the setback of both dwellings to the western rear boundary from 900mm to 1500mm. The plans also relocated the garages so that they did not project forward from the two dwellings.

CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, owners of surrounding properties were given notice of the application. In response, one submission was received:

Original scheme notified 25 May 2004

1. Richard and Margaret Hughes, 23 Oxley Avenue.

This submission raised the following issues:

Inappropriate location of windows to the rear of Dwellings A and B. Dwelling A will overlook the front patio and door. Dwelling B will overlook the swimming pool to the rear of 23 Oxley Avenue

Amended plans, including an increased set back to the western boundary, were requested. These revised plans were provided on the 27 October 2004. These amended plans are addressed below.

What is the intended construction of the two proposed dwellings – full brick and tile? Window type is also not stated.

The intended construction is brick veneer with roofing tiles. A schedule of external finishes has been provided which illustrates that the dwellings will have different colour finishes and thus will not appear identical.

What is intended with respect to the boundary fencing?

A 1.8 metres high boundary fence is proposed at the boundary of 23 Oxley Avenue. This is proposed to be topped with a 300mm lattice screen.

Will the application involve the removal of the existing driveway and crossover?

A condition has been imposed which will ensure the removal of the existing crossover. The driveway has been shown on the landscape plan to be removed, and this will also be ensured through condition (*refer Condition No 64b*).

Where will the rubbish bins for each dwelling be stored?

There is no demarcated area as such for the rubbish bins, however, the site is large enough to accommodate rubbish bins.

Amended plans dated 27 October 2004

The amended plans were also notified. Submissions from the following were received:

1. Richard and Margaret Hughes, 23 Oxley Avenue.

The submission in response to the amended plans raised the following issues:

Impact of the rear windows of both Dwellings A and B on privacy.

Both dwellings are proposed to have three windows facing towards 23 Oxley Avenue – one to serve a rumpus room and one to each of two bedrooms. From the elevations and levels provided, it has been determined that only the windows to the rumpus room and bedroom 4 of Dwelling 2 will allow for any possible views over the rear of 23 Oxley Avenue. A condition is therefore recommended requiring that these windows are no lower than 1.7 metres above finished floor level (*refer to Condition No.46*).

The height and materials of the proposed boundary fencing. A metal fence would attract heat and severely damage surrounding garden plants, shrubs and trees. The proposed height (some 2470mm plus 300mm) will be unsightly from 23 Oxley Avenue. For these reasons a lapped and capped wooden fence is preferred.

A lapped and capped fence would be more consistent with the style of fencing within the area and would also resolve any concern with respect to the consequent heat damage to plants at No.23 Oxley Avenue. A condition is therefore recommended requiring that the fence revert back to the originally proposed timber lapped and capped design (*refer to Condition No.47*).

With respect to the height of the fencing, the overall height is necessitated by the change in levels between 21 and 23 Oxley Avenue. The fence will at one point reach 2.6 metres (plus 300mm for the lattice). However, given the short length over which this height will extend, and the distance to the dwelling at 23 Oxley Avenue, the height of the fence will not cause serious adverse effect upon the neighbours.

CONSULTATION - WITHIN COUNCIL

Engineering

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

“This DA is recommended for approval, subject to standard engineering conditions.”

These engineering conditions have been included within the recommendation (*refer Condition Nos. 37-43, 48-51, 64-71*).

Landscaping

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

"The Landscape Section finds the proposal acceptable in relation to landscape issues provided the following conditions are imposed."

Council's Landscape Development Officer has recommended approval, subject to conditions to secure replenishment trees, and to ensure a revised more adequate landscape plan (*refer Conditions Nos.44-45, 58-62, 72-73*).

STATUTORY PROVISIONS

State Environmental Planning Policy No 53

| COMPLIANCE TABLE | | |
|---|--|----------------|
| Development standards | Proposed | Complies |
| Allotment size (cl.19(1)(a)) <ul style="list-style-type: none"> 600m² detached dual occ. (min) | 1105m ² | YES |
| Floor space ratio (cl.19(1)(b)) <ul style="list-style-type: none"> 0.5:1 (max) | 0.3:1 (334.75m ²) | YES |
| Car parking (cl.20) <ul style="list-style-type: none"> Dwelling 1: 2 car spaces (min) Dwelling 2: 2 car spaces (min) | Dwelling 1: 2 car spaces Dwelling 2: 2 car spaces | YES YES |

Site analysis (cl.31):

The documentation submitted with the application is considered satisfactory with respect to the requirements of clause 31 and Schedule 5 of SEPP 53.

Streetscape (cl.32(a)):

The proposed development will be of suitable appearance and satisfies the streetscape principles of SEPP 53. The scale and bulk of the proposal is compatible with those found in the locality, being an eclectic mix of single and two storey dwellings, with well-landscaped gardens.

Visual privacy(cl.32(b)):

Given that both dwellings are single storey, there are no insurmountable problems with respect to visual privacy.

The dividing fences and landscaping proposed to the boundaries of 23 Oxley Avenue and 25 Willis Avenue are sufficient to ensure no overlooking from living areas of the proposed dwellings. Screen planting to be used along the western boundary consists of a number of *Murraya* plants, which at maturity can grow to a height of 4 metres.

A condition is, however, recommended to ensure that the sill height of the windows serving bedroom 4 and the rumpus room of Unit B are no lower than 1.7 metres. This is due to the change in levels over the two properties, which would result in the proposed Unit B being able to view into 23 Oxley Avenue (*refer to Condition No. 46*).

Acoustic privacy(cl32(b)):

Adequate setbacks have been provided to ensure that there will be no impact upon the acoustic privacy of intended residents or neighbouring properties. Living areas and private open space has also been separated from sensitive areas such as bedrooms

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

Solar access to adjoining properties

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

9.00am (June 22):

At this time of day the shadowing will extend from the site into the neighbouring property at 23 Oxley Avenue.

12.00 noon (June 22):

At this time of day the shadowing will extend into Oxley Avenue, and will not impact upon neighbouring sites.

3.00pm (June 22):

At this time of day the shadowing will extend into Karen Road, and will not impact upon neighbouring sites.

Solar access to the proposed development

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

Stormwater (cl.32(d)):

Stormwater disposal has been considered by Council's Development Engineers and is considered to be satisfactory, subject to the imposition of appropriate conditions (*refer to Condition 50*).

Crime prevention (cl.32(e)):

Both dwellings provide pedestrian and vehicular access from Karen Road. In addition, the proposed entries at ground floor level allow general observation opportunities of the dwelling entry areas. The occupants of the dwelling will enjoy acceptable levels of both passive and active surveillance in accordance with the crime prevention objectives under State Environmental Planning Policy No 53.

Accessibility (cl.32(f)):

The dwellings are single storey only and, therefore, provide a high degree of accessibility. Both dwellings have direct street access and convenient parking.

Waste management (cl.32(g)):

Suitable space exists on the property for the storage of waste management containers.

Visual bulk (cl.32(h)):

The building form, setbacks and height of the proposed development are consistent with those of surrounding development, which is comprised of a variety of one and two storey dwellings.

The proposal provides an acceptable response to the built environment of the immediate locality. The architecture within the street is varied in respect to design, bulk and scale. Having considered the scale of the surrounding developments, the proposal is in keeping with the area.

The proposal does not disrupt the character of adjoining buildings and would not detract from the amenity of the 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 and further investigation is not warranted in this case.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

| COMPLIANCE TABLE | | |
|----------------------------------|---|--------------------------|
| Development standard | Proposed | Complies |
| Building height 8m (max) | Dwellings 1 and 2: 2.44m (to ceiling) The following information is not a statutory control. This information is provided for the benefit of the Councillors: Height to roof ridge – Dwelling 1: 4.7m Height to roof ridge – Dwelling 2: 5.1m Height to eaves line – Dwelling 1: 3.0m Height to eaves line – Dwelling 2: 3.2m | YES |
| Built-upon area 60% (max) | 42.6 % | YES |
| Notional built-upon area | Dwelling 1 : 38% Dwelling 2 : 54% | YES YES |

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.

POLICY PROVISIONS**Council's Dual Occupancy Development Control Code**

| COMPLIANCE TABLE | | |
|--|---|-----------------|
| Development control | Proposed | Complies |
| 4.2 Streetscape: | | |
| Roof pitch | | |
| • 5m roof height - 1 storey (max) | Dwellings 1 & 2: - 3.6 m | YES |
| • Roof pitch 35° (max) | Dwellings 1 & 2 – 20.5° | YES |
| 4.3 Visual and acoustic privacy: | | |
| Visual privacy | | |
| • Windows to habitable rooms set back 9m from neighbouring windows (min) | Dwelling 1 - 5.9m between Dwelling A and 23 Oxley Avenue. | NO |

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| 4.4 Solar access and design for climate: | | |
|--|--|---|
| Solar access <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 and 2: 4 hours solar access received</p> <p>All neighbouring properties receive 3+ hours solar access</p> | <p>YES</p> <p>YES</p> |
| Energy efficiency <ul style="list-style-type: none"> 3.5 star NatHERS Rating (min) | <p>Dwellings 1 and 2 - 3.5 stars</p> | <p>YES</p> |
| 4.7 Accessibility: | | |
| Vehicular access and car parking dimensions <ul style="list-style-type: none"> Garage – 6.2m x 5.4m (min double) | <p>Dwellings 1 and 2: 5.95m x 5.5m</p> | <p>NO</p> |
| 4.9 Visual bulk: | | |
| Building setbacks <ul style="list-style-type: none"> Front building line: Dwelling A: Consistent with adjoining development Dwelling B: Minimum setback 7m, with 50% of façade at 5m Setbacks between buildings – 7m Side setback: Dwelling 1: 2.27m, Dwelling 2: 2.26m | <p>Dwelling A: 9.0m from Oxley Avenue, 5.12m from Karen Road.</p> <p>Dwelling 2: 5.095 from Karen Road.</p> <p>7m</p> <p>Dwellings 1 & 2: 1.5m</p> | <p>YES</p> <p>NO</p> <p>YES</p> <p>NO</p> |
| Building form <ul style="list-style-type: none"> Unrelieved wall length: 12.0m (max) Total building length: 24m (max) | <p>Dwelling 2 Rear elevation 18.6m</p> <p>Dwellings 1 & 2 18.8m</p> | <p>NO</p> <p>YES</p> |
| Built-upon area | | |

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| <ul style="list-style-type: none"> Total built upon area (max): 40% Notional built-upon area | <p>42.0%</p> <p>Dwelling 38% Dwelling 54%</p> | NO |
| Height of buildings <ul style="list-style-type: none"> Dwelling 1: 8m Dwelling 2: 3.6m and overall height of 8.0m Building envelope: 45⁰ from horizontal at any point 3m above boundary | <p>Dwelling 1: 2.44m (ceiling); 4.7m (overall height)</p> <p>Dwelling 2: 2.44m (ceiling); 5.1m (overall height)</p> <p>Dwellings 1 & 2 – all boundaries comply</p> | <p>YES</p> <p>YES</p> <p>YES</p> |
| Cut and fill (building works) <ul style="list-style-type: none"> Cut & fill: 900mm & Total 1800mm (max) | 2000mm – for retaining wall between Dwelling 1 and 2 | NO |
| Section 5: Landscaping & Open Space | | |
| Total soft landscaping : 50% (min) Notional soft landscaping: | <p>58%</p> <p>Dwelling 1: 62% Dwelling 2: 46%</p> | YES |
| Tree retention and refurbishment <ul style="list-style-type: none"> No. of Trees: 6 (min) | 6 trees are required by Conditions (<i>refer to Conditions Nos 59-61</i>). | YES |
| Cut & fill (landscaping) <ul style="list-style-type: none"> Cut & Fill: 900mm & Total 1800mm | 2000mm (cut) located between Dwellings 1 and 2. | NO |
| Open space provisions <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) | <p>Dwelling 1: 118m² Dwelling 2: 100m²</p> <p>Dwelling 1: 7.2mx14.2m Dwelling 2: 5.4mx14m</p> <p>Dwelling 1: Level Dwelling 2: 1 in 12</p> | <p>YES YES</p> <p>YES YES</p> <p>YES YES</p> |

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|--|--|------------|
| <ul style="list-style-type: none"> 50% receives 3+ hours solar access (min) | Dwelling 1: Open space receives 4 hours solar access Dwelling 2: Open space receives 4 hours solar access | YES YES |
|--|--|------------|

Part 4.2 Streetscape:

- Visual Character*

The proposed development is consistent with the visual character of the area, which is comprised of a variety of single and two storey dwellings. The development will also maintain the tree dominated streetscape through tree replenishment (*refer to Condition No. 59-61*).

Part 4.3 Visual and acoustic privacy:

- Visual privacy*

Dwelling 1 proposes three windows serving a rumpus and two bedrooms facing towards 23 Oxley Avenue. These are separated 5.9m from adjoining windows at 23 Oxley Avenue.

Given the single-storey height of the development, the planting within the side boundary and the fencing that is proposed along this boundary, the separation distance provided is sufficient and will maintain the visual privacy of 23 Oxley Avenue. It is, however, recommended that a condition be imposed seeking high sill heights to the rumpus and western facing bedrooms of Dwelling 2, which is necessitated by the changing levels over 21 and 23 Oxley Avenue (*refer to Condition No. 46*).

Part 4.5 Stormwater and water management:

Stormwater disposal has been considered by Council's Development Engineers and is considered to be satisfactory, subject to the imposition of appropriate conditions (*refer to Condition No. 50*).

Part 4.6 Crime prevention:

The proposed dwellings will provide pedestrian and vehicular access from Karen Road. In addition, the proposed entries at ground floor level allow general observation opportunities of the dwelling entry areas.

Part 4.7 Accessibility:

Safe pedestrian links are available to local facilities from the subject property. Convenient access and parking is available for future residents of the proposed development.

Part 4.8 Waste management:

Suitable space exists on the property for the storage of waste management containers.

Part 4.9 Visual bulk:

- ***Building setbacks***

The application proposes a setback for Dwelling 2 of 5.095m from Karen Road. This is contrary to the requirement of 5m (minimum) and 7m (average) required by the Dual Occupancy Code.

The setback is satisfactory in the context of the limited setbacks provided along Karen Road. Setbacks of 4 or 5 metres are typical of other properties on Karen Road, which reads as a secondary street frontage.

- ***Building form***

The application proposes an unrelieved wall length to the rear of Dwelling 2 of 18.6m. Due to the change in levels over the site, this wall will not be able to be viewed from either Dwelling 1, or from any neighbouring property. Due to the proposed fencing, limited glimpses of this wall will be seen from the front street. The building form of Dwelling 2 will therefore have no impact upon the streetscape or neighbouring properties.

- ***Built upon area***

Council's Dual Occupancy Code requires a total built-upon-area of no more than 40%. The proposed development incorporates a total built-upon-area of 42%. Dwelling 1 has a notional built-upon-area of 38% and Dwelling 2 a notional built-upon-area of 54%.

The purpose of this control is to require adequate proportion of the site for stormwater infiltration and soft landscaping. There have been no concerns raised by Council's Development Engineer with respect to stormwater infiltration and, consequently, this is satisfactory. A suitable amount of soft landscaping can also be provided on site.

- ***Cut and fill***

Council's Dual Occupancy Code requires no greater than 900mm cut or fill relative to natural ground level. The application proposes a cut of 2000mm for the retaining wall between Dwellings 1 and 2.

The retaining wall will not impact upon any trees to be retained, nor will it significantly alter the natural landscape – the retaining wall will provide for level ground to the north of Dwelling 1 for private open space.

The proposed level of cut and fill is therefore considered to be acceptable.

- ***Views***

There are no significant views to be protected around the subject site, however, the proposed development will maintain building setbacks and street views along Karen Road and Oxley Avenue.

Part 5 Landscaping and open space:

- *Cut and fill*

Council's Dual Occupancy Code requires no greater than 900mm cut or fill relative to natural ground level. The application proposes a cut of 2000mm for the retaining wall between Dwellings 1 and 2.

As mentioned above, the cut will not impact upon any trees to be retained nor will it significantly alter the natural landscape.

Part 9 Managing construction or demolition:

A waste management plan has been submitted and is satisfactory. A suitable condition of consent will ensure that the construction and demolition is carried out in accordance with DCP40 - Construction and Demolition Waste Management (*refer to Condition No. 23*).

Development Control Plan 31 – Access

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against Council's Dual Occupancy Code and the proposal is acceptable in this regard.

Development Control Plan 40 – Construction and Demolition Waste Management

Matters for assessment under DCP 40 have been taken into account in the assessment of this application against Council's Dual Occupancy Code and the proposal is acceptable in this regard.

Development Control Plan No. 43 – Car Parking

The proposal complies with DCP 43 which requires the provision of 4 parking spaces.

Development Control Plan 47 – Water Management

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against Council's Dual Occupancy Code and the proposal is acceptable in this regard.

Section 94 Plan

The development attracts a section 94 contribution of \$25,973.53 which is required to be paid by *Condition No. 57*.

LIKELY IMPACTS

All likely impacts of the proposal have been assessed elsewhere in this report and are satisfactory, subject to conditions.

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.

Condition Nos. 46 and 47 have been imposed in order to address the concerns of the objector.

PUBLIC INTEREST

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

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for discussion.

CONCLUSION

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

RECOMMENDATION:

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

THAT the Council, as the consent authority, grant development consent to DA 0510/04 for the demolition of the existing dwelling and associated structures on site, and erection of two new dwellings with associated landscaping, on land at 21 Oxley Avenue, 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 0510/04 and Development Application plans prepared by Masterton Homes, Job No. 853037, reference numbers 1 of 5 (Amendment B) and 2 of 5 (Amendment B) dated 22-10-04 and lodged with Council on 27 October 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.

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

Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.
10. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
11. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
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.

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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.
 - 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

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- 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 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.

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- 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.
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.

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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 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.
38. 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.
39. 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.
40. 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 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.

41. 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

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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.

42. 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”.
43. 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.
44. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council’s Tree Preservation Order) without prior written consent of Council is prohibited.

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

45. The 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.
46. In order to protect the amenity and privacy of the adjoining property No.23 Oxley Avenue, the windows serving the rumpus and bedroom 4 of Dwelling 2 (or Dwelling B) shall have a lower sill level of 1.7 metres above FFL.
47. In order to protect the amenity and privacy of the adjoining property No.23 Oxley Avenue, the fence to be located on the western boundary shall be of lapped and capped construction, to a height of 1.8 metres (as measured from natural ground level at 21 Oxley Avenue), with a 300mm trellis fixed atop. The fence shall not extend forward of Dwelling 1 to Oxley Avenue.

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

48. **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,

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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.

49. 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 Council's Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 - Plumbing and Drainage Code.
50. The stormwater plan prepared by Rafeletos Zanuttini P/L, dated 3/5/04, is not approved for reasons which include:
The drainage design does not comply with Council's Water Management Plan DCP47;
A mandatory on-site retention and re-use system must be provided in accordance with Council's requirements described in Chapter 6 of Council's Water Management Plan DCP47;

Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention/retention including the above issues 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.

51. 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

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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.

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

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

53. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
54. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
55. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.

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- b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
- c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
- d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.

56. 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.

57. 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 \$25,973.53. 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 |
| Medium dwelling (75 - under 110 sqm) | 1.75 persons |

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

58. An amended plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted 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.
59. The landscape plan by Landscape Architectural Services, Drawing No. LP 63604/1 B, dated May 2004 is not approved and will require the following amendments.
- The plan does not comply with Council's Tree Replenishment Policy. Six new trees that attain a height of 13 metres are to be planted on the property.
 - The plan shall indicate proposed changes to soil levels adjacent to the south eastern corner of Dwelling B.
 - To promote biodiversity 25% of the trees and shrubs shall be locally occurring species.
 - The proposed retaining wall shall be located a minimum distance of 600mm from the western boundary adjacent to Dwelling A.
60. 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.
61. The 6 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.
62. A CASH BOND/BANK GUARANTEE of \$2,000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

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

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

63. 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

64. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following works must be completed:
- a. Construction of the new driveway crossing and layback in accordance with the levels and specifications issued by Council,
 - b. Removal of all redundant driveway crossings, pipe crossing and/or kerb laybacks. Full reinstatement of these areas to footway, and/or turfed verge and/or kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - c. Any sections of damaged grass verge are to be fully replaced with a non-friable turf of native variety to match existing.

Any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

65. 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.

66. Prior to issue of an Occupation Certificate or issue of the Subdivision Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the 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

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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 Subdivision Certificate.

67. Prior to occupation, issue of an Occupation Certificate or issue of the Subdivision Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site 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 Subdivision Certificate.
68. 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.
69. 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.
70. 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

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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)

71. 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).
- 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.

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- 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 Practice" 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.

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

BUILDING CONDITIONS

74. 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.

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75. 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.

76. 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.

77. 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.

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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.

K Lithgow
Executive Assessment Officer

M Prendergast
Manager
Development Assessment Services

M Leotta
Team Leader
Development Assessment - North

M Miotic
Director
Environment & Regulatory Services

Attachments: **Site Location Plan**
 Site Plan
 Floor Plans
 Elevations
 Landscape Plan

DEVELOPMENT APPLICATION

SUMMARY SHEET

| | |
|---|---|
| REPORT TITLE: | 5 MURDOCH STREET, TURRAMURRA - DEMOLITION OF A DWELLING AND CONSTRUCTION OF A DETACHED DUAL OCCUPANCY |
| WARD: | Wahroonga |
| DEVELOPMENT APPLICATION N^o: | DA0867/04 |
| SUBJECT LAND: | 5 Murdoch Street, Turramurra DA0867/04DA0867/04, Turramurra |
| APPLICANT: | Louise and Robert Clark |
| OWNER: | Louise and Robert Clark |
| DESIGNER: | Design Criteria |
| PRESENT USE: | Residential |
| ZONING: | Residential 2c |
| HERITAGE: | No |
| PERMISSIBLE UNDER: | Ku-ring-gai Planning Scheme Ordinance |
| COUNCIL'S POLICIES APPLICABLE: | Development Control Plan 43 - Car Parking, Development Control Plan 40 - Waste Management, Dual Occupancy Development Control Code |
| COMPLIANCE WITH CODES/POLICIES: | Yes |
| GOVERNMENT POLICIES APPLICABLE: | SEPP55, SEPP53 |
| COMPLIANCE WITH GOVERNMENT POLICIES: | Yes |
| DATE LODGED: | 24 August 2004 |
| 40 DAY PERIOD EXPIRED: | 3 October 2004 |
| PROPOSAL: | Demolition of a dwelling and construction of a detached dual occupancy |
| RECOMMENDATION: | Approval |

| | |
|--|---|
| DEVELOPMENT APPLICATION N^o | DA0867/04 |
| PREMISES: | 5 MURDOCH STREET, TURRAMURRA |
| PROPOSAL: | DEMOLITION OF A DWELLING AND CONSTRUCTION OF A DETACHED DUAL OCCUPANCY |
| APPLICANT: | LOUISE AND ROBERT CLARK |
| OWNER: | LOUISE AND ROBERT CLARK |
| DESIGNER | DESIGN CRITERIA |

PURPOSE FOR REPORT

To determine Development Application No.867/04, which seeks consent for the demolition of the existing dwelling and the construction of a detached dual occupancy.

EXECUTIVE SUMMARY

- Issues:**
- Visual privacy
 - Visual bulk
 - Building form
 - Built-upon area
 - Floor space ratio
 - Height (rear dwelling)
 - Building envelope
 - Cut and fill

Submissions: Three submissions were received in objection to the development.

Land & Environment Court Appeal: Not applicable.

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:

DA 0867/04

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| | |
|--------------------|--|
| 24/08/04 | DA lodged with Council. |
| 27/08/04 | Photo montage submitted. |
| 03/09/04 | Additional information sought pursuant to Clause 54. |
| 06/09/04- 20/09/04 | Notification Period |
| 26/10/04 | Meeting held on site between Council officers and applicant to discuss issues relating to the landscape and hydraulic plans. |
| 04/11/04 | Further letter sent again requesting a number of amended plans. |
| 23/11/04 | Revised plans received. |
| 13/12/04-27/12/04 | Further notification carried out for revised plans. |

DA 1645/03

This previous application (lodged 12 December 2003) also sought the demolition of the existing dwelling and construction of a dual occupancy. The application presented a number of problems which could not be resolved, and was consequently withdrawn on 8 June 2004 following lengthy discussions between the applicant and Council officers.

THE SITE AND SURROUNDING AREA

The site

| | |
|----------------------------------|---------|
| Visual character study category: | 1945-68 |
| Lot number: | 91 |
| DP number: | 11414 |
| Heritage affected: | No |
| Bush fire prone land: | No |
| Endangered species: | No |
| Urban bushland: | No |
| Contaminated land: | No |

The subject site comprises Lot 91 in DP11414 and is known as 5 Murdoch Street, Turramurra. The site is a regular shaped allotment of 1525m² and is located on the southern side of Murdoch Street. The site slopes from north to south, with a total fall of six metres.

The subject site consists of a single storey brick and tile dwelling, with detached carport. Access is provided from the north-western corner of the site.

Surrounding development:

The locality consists of both single and two storey dwellings, with no recent development.

THE PROPOSAL

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The proposal is to demolish the existing structures on site and construct two x two-storey dwellings as a detached dual occupancy. Details of the proposed development are as follows:

Dwelling 1:

Dwelling 1 is sited to the front of the property, 11.0 metres from the front boundary. The dwelling is of two storeys, however, from the front of the property the dwelling appears as single storey. Parking is provided within a double garage to the front of the property. To the western side of the dwelling, a driveway is proposed to serve the rear property. A distance of 4.4 metres is provided for this purpose.

At lower ground level the dwelling consists of rumpus room, two bedrooms, bathroom and laundry. At upper floor level the dwelling consists of an entry, living room, family/meals/kitchen, dining room, three bedrooms (one with ensuite), a bathroom and separate toilet.

Private open space of 217.2m² is provided to the rear or south of the dwelling.

Dwelling 2:

Dwelling 2 is sited to the rear of the property, 13.8 metres distant from the rear of Dwelling 1. This dwelling is also of two storeys. Access to the dwelling is obtained via a driveway along the west of the site, and parking is provided within an attached double garage.

At ground level the dwelling consists of an entry, study, living room, dining room, family/kitchen, rumpus room, bathroom and laundry. A terrace is provided to the rear of the dwelling. At upper floor level, the dwelling consists of four bedrooms (one with ensuite) and one bathroom.

Amended plans received 23.11.2004

Amended plans, dated 14-11-04 and received on 23-11-04, raised the floor level of Dwelling 2 by 600mm to minimise excavation near an adjoining tree – the large Sydney Blue Gum at No. 3 Murdoch Street. The revised plans also created a drainage easement along the eastern boundary for proposed Dwelling 1, and indicated the position of the rainwater tanks along the eastern boundary.

CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, owners of surrounding properties were given notice of the application. The following comments have been received:

Original scheme dated 24 August 2004

1. P. & J. Leuver, 7 Murdoch Street, 20 September 2004.

The submission raised the following issues:

Dwelling 1 is too far forward and not consistent with No.7 and the rest of the streetscape.

Dwelling 1 has a front setback of 11.0m, which is compliant with the 9 metres setback requirement of the Dual Occupancy Code.

Shadow impact to 7 Murdoch Street.

Shadow diagrams have been provided, which indicate that No. 7 Murdoch Street will only be subject to shadowing from midday onwards. Satisfactory and compliant levels of sunlight are received to this dwelling (this is further particularised below).

The 1800mm high fence will restrict views and daylight.

The boundary fencing has not been particularised, aside from indications on the shadow diagrams. Discussion with the applicant reveals that they would want a 1.8 metre high fence along the eastern boundary. In order to meet with Council's Exempt and Complying Development DCP46, the fencing would be required to be no higher than 1.8 metres, and to not be forward of the building line of Dwelling 1. This would not restrict views of the street from 7 Murdoch Street, and, being between the two dwellings, would provide necessary acoustic and visual privacy.

Setback between Dwelling 1 and 7 Murdoch Street is limited – potential noise, damp and loss of air to No. 7 Murdoch Street.

A distance of 1.5 metres has been provided for the single storey setback, and 2.1 metres has been provided to the second storey. This is adequate distance provided for circulation and daylight to 7 Murdoch Street.

Overlooking and loss of privacy due to the eastern windows of Dwelling 1.

The second storey eastern-facing windows of Dwelling 1 serve bedrooms and bathrooms. No habitable rooms are proposed at first floor which would overlook the neighbouring dwelling.

Existing trees, including some 40-50 year old Camellia trees will have to be removed on the boundary to make way for the 1800mm high fence.

As mentioned above, the application has not included details of the erection of a fence on this boundary. Any fence to be erected would have to be in accordance with Council's Exempt and Complying Development.

The distance between Dwelling 2 and the eastern boundary, like Dwelling 1, still fails to comply with the legal 3 metres limit as stipulated in the DCP.

Dwelling 2 has been provided with a minimum single storey setback of 2.03 metres to the eastern boundary, and 2.63 metres to the upper storey. Whilst this is not consistent with the Dual Occupancy Code (which requires minimum setbacks of 3.0 metres for rear dwellings) it is considered that the set back provided is ample to maintain the amenity of the neighbouring property No. 7 Murdoch Street. The proposed Dwelling 2 will still provide for adequate daylight and sunlight to the neighbouring property.

Amended plans dated 23 November 2004

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The amended plans were also notified. Submissions from the following were received:

1. David and Genevieve Goswell, 8 Tallong Place
2. W.R. and P. Gibson, 16 Tallong Place

The submissions in response to the amended plans raised the following issues:

Dwelling 2 does not fit within the building envelope and is over the 7 metres height limit.

Dwelling 2 slightly infringes on the building envelope in relation to the eastern boundary (adjacent to 7 Murdoch). This is, however, only through the eaves of the dwelling and will not impact upon solar access to this property. The site is constrained on the western side by the neighbouring property's large Sydney Blue Gum thus necessitating the placement of Dwelling 2 on the eastern side of the property.

With regard to the height limit, the dwelling measures 7.7 metres to the ridge and is still compliant with the 8 metre height limit as set out within the KPSO.

Overshadowing from both dwellings onto adjoining properties.

The shadow diagrams provided demonstrate that there will be compliant and acceptable levels of solar access to neighbouring properties. This is further particularised below under the assessment against Council's Dual Occupancy Code.

Any additional drainage to Tallong Place (as proposed within this scheme) will require upgrading of the Tallong Place drainage capacity. There is currently only one stormwater exit in Tallong Place, which cannot cope with existing stormwater levels - an additional drain is required in Tallong Place. This has been the subject of numerous discussions with Council. Council will be held liable for any stormwater damage which may occur to properties in Tallong Place from street run-off.

This matter has been considered by Council's Development Engineers. The proposed dual occupancy in of itself does not necessitate the upgrading of the Tallong Place drainage capacity.

With respect to this application, both dwellings will be required to provide on site detention tanks (as per the drainage plan). The application is considered to be acceptable to Council's Development Engineers, subject to necessary conditions (*refer to Condition Nos 1-3 of Schedule A and Conditions 62, 63, 86, 87 of Schedule B*).

CONSULTATION - WITHIN COUNCIL

Landscaping

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

"The proposal is supported with conditions".

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These conditions are attached as **Condition Nos 49-59, 67, 75-79.**

Engineering

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

'Development Engineers generally have no objections to the revised plans. The proposed driveway gradients are considered satisfactory. A turning area has been provided for the rear dwelling, which is also considered satisfactory. Doorway width for both garages is to be increased to comply with AS2890.1. A condition will be imposed to cover this requirement (refer to Condition No 44).

With respect to drainage disposal, it is noted from the concept plan that the applicant intends to create a drainage easement over downstream property(s). However, no written evidence has been received from the downstream owner(s) granting such easement. In this case written evidence from downstream owner(s) must be submitted to Council stating their agreement to granting the easement.

Upon receipt of such evidence, Development Engineers have no further objections to the proposal. A deferred commencement consent is considered appropriate'.

Written evidence has been provided from the downstream property owner (10 and 10A Tallong Place) that the easement will be acceptable. However this still needs to be formalized and a deferred commencement consent is therefore appropriate. Conditions as required by the Development Engineer are attached as **Condition Nos 1-3 of Schedule A and 37-48, 61-66, 80-87 of Schedule B.**

STATUTORY PROVISIONS

State Environmental Planning Policy No. 53

| COMPLIANCE TABLE | | |
|---|-------------------------------|----------|
| Development standards | Proposed | Complies |
| Allotment size (cl.19(1)(a)) • 600m ² (min) | 1525m ² | YES |
| Floor space ratio (cl.19(1)(b)) • 0.5:1 (max) | 0.33:1 (506.3m ²) | YES |
| Car parking (cl.20) • Dwelling 1: 2 car spaces (min) | Dwelling 1: 2 car spaces | YES |
| • Dwelling 2: 2 car spaces (min) | Dwelling 2: 2 car spaces | YES |

Site analysis (cl.31):

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The documentation submitted with the application is satisfactory with respect to the requirements of Clause 31 and Schedule 5 of SEPP53.

Streetscape (cl.32(a)):

Murdoch Street is characterised by a mixture of single and two storey developments. The visual character of the area is between 1945-1968.

The design of the dwellings, particularly Dwelling 1 which proposes a single storey appearance from the street, will be suitable within the streetscape. The Dwelling is well-relieved and can be enhanced through planting within the 11.0 metres - 13.27 metres front setbacks.

For the above reasons, the proposed development will not detract from the mixed character of the streetscape and is in accordance with the streetscape provisions of SEPP53.

Visual privacy (cl.32(b)):

There are several windows to the first floor levels of both of the proposed dwellings which afford views to neighbouring properties. However, at first floor level facing east, none of these windows serve living areas. To the west, Dwelling 1 includes some windows serving the dining room and meals room facing towards No. 3 Murdoch Street. No. 3 Murdoch Street includes windows within the side elevation facing towards the subject site. It is therefore recommended that the dining room window, proposed to be located at a distance of 5.6 metres from the side elevation of No. 3 Murdoch Street, should be obscure glazed or have a window sill to a level of 1.7 metres above floor level (*refer to Condition No. 60*).

Both dwellings have otherwise been provided with sufficient setbacks to the boundaries of the site which minimise any potential for overlooking of the adjoining sites.

Acoustic privacy (cl.32(b)):

Substantial areas of 217.2m² and 319.8m² have been provided for outdoor open space to the south of proposed Dwelling 1, and to the south and west of Dwelling 2.

The size and siting of the proposed open space is suitable to ensure no acoustic impact upon neighbouring properties. Landscaping will be possible on the boundaries of 3 and 7 Murdoch Street to ensure that the private open space areas are well screened and provide privacy from both neighbouring residents and the residents of the development.

A distance of 2.4 metres separates proposed Dwelling 1 and No. 7 Murdoch Street. Adequate setbacks have been provided between dwellings to ensure no adverse acoustic effects on neighbours.

For the above reasons, it is unlikely that there will be any adverse impact upon the acoustic privacy of the neighbouring properties.

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

Solar access to adjoining properties

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

9.00am (June 22):

The overshadowing will extend into the rear of the adjoining residence at No. 3 Murdoch Street.

12.00 noon (June 22):

The overshadowing will extend into the centre of the subject site.

3.00pm (June 22):

The overshadowing will extend into the rear of No. 7 Murdoch Street. There will be no consequential impact upon any neighbouring properties.

Solar access to the proposed development

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

Stormwater (cl.32(d)):

Each dwelling is provided with its own on-site detention storage tank, with stormwater being directed to Toolang Road. An easement is proposed to be provided on the eastern boundary of Dwelling 2, and to Toolang Road for this purpose. Council's Development Control Engineer does not object to the proposed development in relation to stormwater disposal and has recommended deferred commencement consent and standard conditions (*refer to Condition Nos 1-3 of Schedule A and Conditions 62, 63, 86, 87 of Schedule B*).

Crime prevention (cl.32(e)):

Both dwellings have vehicular access from Murdoch Street. Dwelling 1 has living areas which will afford viewing of the Murdoch Street access. Residents of both dwellings will also be able to survey visitors from the front doors to the dwellings due to the panel windows alongside the door. The layout is therefore satisfactory with respect to Clause 32(e) of SEPP53.

Accessibility (cl.32(f)):

Vehicular access is available from Murdoch Street. Both dwellings include double garages. Pedestrian access is available straight to Dwelling 1, whilst Dwelling 2 is accessible by pedestrians via the driveway.

The application therefore meets with the accessibility requirements of Clause 32(f) of SEPP53.

Waste management (cl.32(g)):

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Conditions have been recommended to achieve compliance with Council's standard waste management requirements (*refer to Condition No. 23*).

Visual bulk (cl.32(h)):

Both dwellings are two storeys in height. Given the setbacks provided and the layout and orientation of neighbouring development, the proposal is compatible with the characteristic local built environment. Neither dwelling will impact adversely upon the visual amenity of neighbouring properties.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP55 require Council to consider the potential for a site to be contaminated. The 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.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

The aim of this plan is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. The application proposes the continued residential use of a site. The application has been assessed by Council's Development Engineers and is considered to be satisfactory.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

| COMPLIANCE TABLE | | |
|----------------------------------|--|------------------------------|
| Development standard | Proposed | Complies |
| Building height 8m (max) | Dwelling 1: 5.72m to the ceiling of bedroom 2 Dwelling 2: 5.78m to the ceiling of bedroom 3. The following information is not a statutory control. This information is provided for the benefit of the Councillors: Height to roof ridge - Dwelling 1: 7.2m Height to roof ridge - Dwelling 2: 7.6m Height to eaves line – Dwelling 1: 5.49m Height to eaves line – Dwelling 2: 6.0m | YES YES |
| Built-upon area 60% (max) | 37.4% | YES |
| Notional built-upon area | Dwelling 1: 42% (286m ²) Dwelling 2: 34% (290.4m ²) (without access handle 36% or 245m ²) | |

Aims and objectives for residential zones:

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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.

POLICY PROVISIONS**Council's Dual Occupancy Development Control Code**

| COMPLIANCE TABLE | | |
|--|--|--------------------------|
| Development control | Proposed | Complies |
| 4.2 Streetscape: | | |
| Roof pitch | | |
| <ul style="list-style-type: none"> 3m roof height-2 storey (max) | Dwelling 1: 2.7m Dwelling 2: 1.8m | YES YES |
| <ul style="list-style-type: none"> Roof pitch 35⁰ (max) | Dwelling 1: 22 ⁰ Dwelling 2: 22 ⁰ | YES YES |
| 4.3 Visual and acoustic privacy: | | |
| Visual privacy | | |
| <ul style="list-style-type: none"> Windows to habitable rooms set back 9m from neighbouring windows (min) | Dwelling 1: 5.6 metres from dining room to No. 3 Murdoch Street Dwelling 2: 17 metres from north living room window to Dwelling 1 | NO YES |
| 4.4 Solar access and design for climate: | | |
| Solar access | | |
| <ul style="list-style-type: none"> Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min) | Dwelling 1: 3+ hours solar access received Dwelling 2: 3+ hours solar access received | YES YES |
| <ul style="list-style-type: none"> Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min) | All neighbouring properties receive 3+ hours solar access. Proposal will not impact upon solar access of neighbouring properties. | YES |
| Energy efficiency | | |
| <ul style="list-style-type: none"> 3.5 star NatHERS Rating (min) | Dwelling 1: 3.5 stars Dwelling 2: 4 stars | YES YES |
| 4.7 Accessibility: | | |
| Vehicular access and car parking dimensions | | |

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|---|---|----------------------------------|
| <ul style="list-style-type: none"> Garage 6.2m x 5.4m (min double) | <p>Dwelling 1: 5.4m x 5.1m Dwelling 2: 6.0m x 5.6m</p> | <p>NO YES</p> |
| 4.9 Visual bulk: | | |
| Building setbacks | | |
| <ul style="list-style-type: none"> Front building line: Minimum setback: 9.0m | Dwelling 1: 11.0m | YES |
| <ul style="list-style-type: none"> Setbacks between buildings -7m or 5m (50% of building) (min) | 13.8m | YES |
| <ul style="list-style-type: none"> Side setback: Ground floor: Dwelling 1: 1.5m Dwelling 2: 1.8m 1st floor: Dwelling 1: 2.0m Dwelling 2: 2.4m | <p>Dwelling 1: 1.5m Dwelling 2: 2.03m</p> | <p>YES YES</p> |
| <ul style="list-style-type: none"> Rear detached dual occupancy: minimum setback of 3.0m required. | 1.8 metres provided as single storey setback | NO |
| <ul style="list-style-type: none"> Rear setback: 11.36m (min) | Dwelling 2: 12m | YES |
| <ul style="list-style-type: none"> No garages, tennis courts, swimming pools, courtyard walls and other major built elements forward of the building line. | N/A – none in front of building line. | YES |
| Building form | | |
| <ul style="list-style-type: none"> Unrelieved wall length: 8m (max) | <p>Dwelling 1: 10.4m (Eastern elevation, Dwelling 1) Dwelling 2: 4.4m (Eastern elevation, Dwelling 2)</p> | <p>NO YES</p> |
| <ul style="list-style-type: none"> Total building length: 24m (max) | <p>Dwelling 1: 19.4m Dwelling 2: 20.0m</p> | <p>YES YES</p> |
| Built-upon area | | |

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|--|---|--|
| <ul style="list-style-type: none"> Total built upon area (max): 40% Notional built-upon area | <p>37.7% (576.4m²)</p> <p>Dwelling 1: 42% (286m²) Dwelling 2: 34% (290.4m²) (without access handle 36% or 245m²)</p> | <p>YES</p> |
| <p>Floor space ratio</p> <ul style="list-style-type: none"> FSR (max): 0.5:1 1st floor – 40% | <p>0.33:1</p> <p>Dwelling 1: 38% Dwelling 2: 42.5%</p> | <p>YES</p> |
| <p>Height of buildings</p> <ul style="list-style-type: none"> Dwelling fronting street: 8.0m (max) Rear dwelling: 7.0m (max) Building envelope: 45° from horizontal at any point 3m above boundary | <p>Dwelling 1: 7.4m (to ridge)</p> <p>Dwelling 2: 7.7m (to ridge)</p> <p>Dwelling 1 North boundary: Complies South boundary: Complies East boundary: Fails to comply at south point of dwelling – 0.8m infringement through eaves West boundary: Complies</p> <p>Dwelling 2 North boundary: Complies South boundary: Complies East boundary: Fails to comply at south point of dwelling – 1.4m infringement through eaves West boundary: Complies</p> | <p>YES</p> <p>NO</p> <p>YES YES NO YES</p> <p>YES YES NO YES</p> |
| <p>Cut and fill (building works)</p> <ul style="list-style-type: none"> Cut & fill: 900mm & Total 1800mm (max) | <p>Dwelling 1: 1000mm cut on western boundary of Dwelling 1 to achieve driveway gradient Dwelling 2: Minimal excavation.</p> | <p>NO</p> <p>YES</p> |
| Section 5: Landscaping & open space | | |
| <p>Total soft landscaping : 60% (min)</p> <p>Notional soft landscaping:</p> | <p>62%</p> <p>Dwelling 1: 58% Dwelling 1: 66%</p> | <p>YES</p> |

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|---|--|---|
| Tree retention and refurbishment • No. of Trees: 10 (min) | Adequate trees to be retained on site. | YES |
| Cut & fill (landscaping) • Cut & Fill: 900mm & Total 1800mm | 1000mm (cut) located on the western boundary adjacent to the driveway. | NO |
| Open space provisions • Area: 100m ² or 2 x 75m ² areas (min) • Min dimension 5m x 5m (min) • Grade: 1 in 8 (max) • 50% receives 3+ hours solar access (min) | <p>Dwelling 1: 217.2m² Dwelling 2: 319.8m²</p> <p>Dwelling 1: 12m x 15m Dwelling 2: 12m x 20m</p> <p>Dwelling 1: 1 in 8 Dwelling 2: 1 in 20</p> <p>Dwelling 1: At least 50% of open space receives 4 hours solar access Dwelling 2: At least 50% of open space receives 4 hours solar access</p> | <p>YES YES</p> <p>YES YES</p> <p>YES YES</p> <p>YES YES</p> |

Part 4.2 Streetscape:***Visual Character***

The proposed development is consistent with the visual character of the area, which is comprised of a variety of single and two storey dwellings. The development will also maintain the tree dominated streetscape through retention and replenishment of trees on the front boundary.

Part 4.3 Visual and acoustic privacy:• ***Visual privacy***

The application proposes a setback of 5.6 metres between Dwelling 1 and the neighbouring dwelling at No. 3 Murdoch Street. One window at first floor level serving the dining room is proposed in the eastern elevation. A condition is recommended requiring the obscure glazing of this window to a height of 1.7 metres, or that the sill level is fixed to a height of 1.7 metres (*refer to Condition No. 60*).

Part 4.5 Stormwater and water management:

Stormwater disposal has been considered by Council's Development Engineers and is considered to be satisfactory, subject to the imposition of appropriate conditions (*refer to Condition Nos 1-3 of Schedule A and Conditions 62, 63, 86, 87 of Schedule B*).

Part 4.6 Crime prevention:

The proposed dwellings will provide adequate pedestrian and vehicular access from Murdoch Street. In addition, the proposed entries at ground floor level allow for a satisfactory level of observation of the dwelling entry areas.

Part 4.7 Accessibility:

Safe pedestrian links are available to local facilities from the subject property. Convenient access and parking is available for future residents of the proposed development.

Part 4.8 Waste management:

Suitable space exists on the property for the storage of waste management containers.

Part 4.9 Visual bulk:

- ***Building setbacks***

Council's Dual Occupancy Code requires, for a rear dwelling, a minimum side setback of 3.0 metres on all boundaries. The application proposes an eastern (side) setback of 1.8 metres to Dwelling 2. A setback greater than this was proposed in the previous application, however, the eastern side of the site is limited due to the presence of a significant Sydney Blue Gum on the neighbouring property No. 3 Murdoch Street. This revised location will protect the neighbouring tree and provide for adequate setback on the boundary of No. 7 Murdoch Street. This setback is therefore adequate and will not present unacceptable visual bulk to the neighbouring dwellings.

- ***Building form***

The application proposes an unrelieved wall length of 10.4 metres on the eastern side of Dwelling 1. This wall length will be located at 2.1 metres from the boundary, which is compliant with the minimum required setback of 2.0m.

Sufficient planting will be able to be established within the setback to ensure minimal visual impact of the unrelieved wall length. Twelve camellias are proposed to be established within the setback, which will provide for a good level of screening. This will supplement the existing established camellia hedge located in between Nos 5 and 7 Murdoch Street.

- ***Built upon area***

Council's Dual Occupancy Code requires a total built-upon-area of no more than 40%. The proposed development incorporates a total built-upon-area of 37%, which is consistent with these provisions. The notional built upon area is 42% for Dwelling 1 and 34% for Dwelling 2.

Whilst future subdivision of the site would result in a slightly higher built upon area for Dwelling 1, the site coverage will still be easily compliant with the provisions of the KPSO, which requires a

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built-upon area of no more than 60%. Furthermore, the purpose of this control is to require an adequate proportion of the site for stormwater infiltration and soft landscaping. There have been no concerns raised by Council's Development Engineer with respect to stormwater infiltration and, consequently, this is considered satisfactory. Likewise, it is considered that a suitable amount of soft landscaping and a large amount of private open space can be provided on site for amenity purposes.

- ***Floor space ratio***

While the proposal easily conforms with the floor space ratio of 0.5:1, it fails to comply with the maximum first floor ratio of 40% of total floor space. Dwelling 2 proposes a first floor of 42.5%. Nevertheless, the dwelling relates well to the mixed character of the area (comprising both single storey and two storey dwellings) and, due to the limited built-upon area and considerable landscaping provided, will not dominate the area.

- ***Height of building***

Council's Dual Occupancy Code requires, where two detached dwellings are proposed, a height (to the ridge) of no more than 7 metres for the rear dwelling. The application proposes a rear dwelling with a total height of 7.7 metres to the ridgeline.

The purpose of this control is to ensure that the relative scale and relationships between buildings are maintained and to afford reasonable solar access to adjoining development.

The area contains a variety of both one and two storey dwellings. Further, the location of the dwelling within a depression, and at a lower level than Dwelling 1 and Nos 3 and 7 Murdoch Street, will ensure that the dwelling is not visually dominant.

Council's Dual Occupancy Code also requires that dwellings not intersect the building height plane projected at an angle of 45° from a height of 3.0 metres on the boundary.

Both Dwellings 1 and 2 include non-compliances with respect to the building height plane on the eastern boundary, where both dwellings are intersected through their eaves. Given that these projections will not impact upon the solar access to the neighbouring property and that they will not include windows aside from bedroom windows, these minor infringements will have no adverse effect on the amenity of No. 7 Murdoch Street.

Accordingly, the application is acceptable with regard to the building envelope control.

- ***Cut and fill***

Council's Dual Occupancy Code requires no more than 900mm for cut or fill. The application proposes a cut of 1000mm along the western boundary, in order to accommodate adequate driveway grades. The application has been reviewed by Council's Landscape Officer, who is satisfied that a sufficient amount of landscaping will be able to be planted at the western boundary of the site. This will alleviate any adverse visual impact of the cut required.

Part 5 Landscaping and open space:

- ***Cut and fill***

As mentioned above, some 1000mm of cut is required along the western boundary, in order to accommodate adequate driveway grades. The application has been reviewed by Council's Landscape Officer, who considers that this is acceptable, subject to conditions.

Part 9 Managing construction or demolition:

To be controlled through suitable conditions of consent (*refer to Conditions Nos 8-32*).

Development Control Plan 31 – Access

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against Council's Dual Occupancy Code, and the proposal is acceptable in this regard.

Development Control Plan 40 – Construction and Demolition Waste Management

Matters for assessment under DCP 40 have been taken into account in the assessment of this application against Council's Dual Occupancy Code, and the proposal is acceptable in this regard.

Development Control Plan No. 43 – Car Parking

The proposal complies with DCP 43 which requires the provision of 2 parking spaces.

Development Control Plan 47 – Water Management

Matters for assessment under DCP 47 have been taken into account in the assessment of this application against Council's Dual Occupancy Code, and the proposal is acceptable in this regard.

Section 94 Plan

The development attracts a section 94 contribution of \$32,324.00 which is required to be paid by *Condition No.73*.

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 consideration.

CONCLUSION

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

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, Turrumurra, 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,

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- 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:
 - 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.

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

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

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

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- 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.
- 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.

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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 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;

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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.

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.

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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.
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.

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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.
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.

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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.

| 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 |

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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.
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.

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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:
 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.

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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.

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

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public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.

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:
 - 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 |

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|--|------------|
| 7. Acquisition of Open Space | \$7,851.00 |
| 8. Koola Park upgrade and reconfiguration | \$143.09 |
| 9. North Turrumurra 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 |

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> (Liquidambar) 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> (Sydney Blue Gum)/ Tree 12, western bdy, adj property | 10m |
| <i>Pistacia chinensis</i> (Pistacia)/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 |
|---------------|-------------------|
|---------------|-------------------|

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|--|------|
| <i>Camellia sasanqua</i> hedge/ eastern boundary | 1.5m |
| <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 t cnr, adj property | 3m |
| <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) 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.
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

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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.

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 to 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).

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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).
- 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.

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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 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:

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- 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.

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.

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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.

K. Lithgow
Executive Assessment Officer

M. Prendergast
Manager
Development Assessment Services

M. Leotta
Team Leader
Development Assessment – Team North

M. Miocic
Director
Development and Regulation

Attachments: **Site Location Plan**
 Site Plan
 Floor Plans
 Elevations
 Landscape Plan

3 TO 5 MERRIWA STREET, GORDON

EXECUTIVE SUMMARY

| | |
|---------------------------|--|
| PURPOSE OF REPORT: | <p>To address any issues raised at the site inspection of 15 January 2005 and for Council to determine development application DA 271/04, for the construction of a six level commercial building.</p> <p>No issues were raised by the Councillors in attendance at the site inspection.</p> |
| BACKGROUND: | <p>Council at its meeting of 14 December 2004 deferred consideration of the above application pending a site inspection.</p> |
| COMMENTS: | <p>A record of the site inspection is provided in this report.</p> |
| RECOMMENDATION: | <p>Approval.</p> |

PURPOSE OF REPORT

To address the issues raised at the site inspection of 15 January 2005 and for Council to determine development application DA 271/04, for the construction of a six level commercial building.

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

ADDITIONAL MATTER FOR CONSIDERATION

Council's Heritage Advisor, in a late report dated 22 December 2004, has advised that the land formed part of an early farm (Beans Farm) which was subdivided into residential lots and offered for sale as the Gordon Heights Estate in 1896. The lots were about 1 acre in size and intended for workers or tradesmen. A number of timber houses were built in the early period. Many of the original lots were further subdivided into smaller residential lots and additional houses built, many fairly modest in size and of brick rather than timber.

As a result of the site's history, there may be potential for archaeological relics to remain on the site, such as footings from demolished houses and pits containing household rubbish. As such it is recommended that an archaeological investigation be undertaken before disturbing the site and any special measures recommended by a suitably qualified person be incorporated into the relevant contract with the Excavator.

A suitable condition has been added to the list of draft conditions. (**refer condition 94**)

RECOMMENDATION

THAT the Council, as the consent authority, grant development consent to DA 271/04 for the erection of a six storey commercial building on land comprising Lots 4 and 2, DPs 609007 and 303900 respectively, 3-5 Merriwa Street, Gordon, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions.

GENERAL

1. The development must be carried out in accordance with plans numbered 2662_001F, 002E, 004A, 003D, 013H, 011F, 012H, 015.1D, 014G, 016G, 015D, 023E, 021D, 022E, 031E, 024D, 025C, 035D, 032E, 034D, 043D, 036D, 033C, 042C, 044D, 061, 062, dated September 2004, drawn by Nettleton Tribe Partnership P/L, 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.

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

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

9. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
10. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
11. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
12. To maintain existing ground levels all excavated material shall be removed from the site.
13. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.

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14. 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.
 - 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.

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

16. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

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

17. 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.

18. 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.

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19. To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the Construction Certificate.
20. If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

21. The developer shall submit to Council a letter from the energy supply authority and either Telstra or Optus, confirming that satisfactory arrangements have been made for the provision of underground telephone and power services, prior to the release of the Subdivision Certificate or Occupation. Application may be made to Energy Australia Phone No. 13 1525 and either Optus, Network Operations, Facsimile No 9837 9060, Phone No 9837 9010, or Telstra Phone No 12 455.
22. The fence and footings shall be constructed entirely within the boundaries of the property.
23. The carpark 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. 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.
26. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.

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27. 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.
28. 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.
29. 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.
30. 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.
31. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
32. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
33. A traffic management plan shall be submitted to and approved by the Principal Certifying Authority, where major demolitions are likely to impact on arterial or main roads.
34. 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.
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

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- b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
36. All work in relation to construction, fitting out and finish of any food preparation, storage and retail areas is to comply with Council's Code for the Construction and Fitout of Food Premises and the Food Act 1989 including the Food Regulation 2001 with the provisions of the Food Standards Code. Copies of Codes and Policies are available for purchase at Council's Offices.
37. Where any system of mechanical ventilation and/or air conditioning is proposed or installed within the premises such system shall be designed to comply with the Building Code of Australia and Australian Standard, 1668, Part 2 and AS 3666, and shall be subject to approval by the Principal Certifying Authority prior to installation.
38. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
39. Under no circumstances shall building materials, demolition waste, fill, soil or any other material from any source be placed or stored within any public reserve.
40. 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.
41. Sites shall not be re-shaped, re-contoured, excavated nor the levels on any part of the site altered without the Consent of the Council being obtained beforehand.
42. To preserve and enhance the natural environment, sediment removed from erosion and sediment control structures shall be disposed of to an approved sediment dump.
43. 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.
44. 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.

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45. To prevent pollution, any areas cleared of vegetation where there is a flowpath greater than 12.0 metres in length shall have a properly constructed silt fence erected to intercept runoff.
46. To prevent pollution, all disturbed areas which are not to be built upon or otherwise developed within 14 days shall be stabilised with mulch, woodchip or other rehabilitation methods to provide permanent protection from soil erosion.
47. 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.

48. Landscape works shall be carried out in accordance with Landscape Drawing No 03:9:2 L1 Rev B prepared by Wallman Partners and dated 27/09/2004 submitted with the Development Application. The landscape works shall be completed prior to the issue of the Occupation Certificate and be maintained in a satisfactory condition at all times.
49. 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.
50. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

| Tree/Location | Radius From Trunk |
|---|-------------------|
| #20 <i>Melaleuca quinquenervia</i> (Broad leaf paperbark) Adjacent to southern site boundary | 2.0m |
| #49 <i>Melaleuca quinquenervia</i> (Broad leaf paperbark) Adjacent to southern site boundary | 2.0m |
| #19 <i>Melaleuca quinquenervia</i> (Broad leaf paperbark) Adjacent to southern site boundary | 1.0m |
| #48 <i>Melaleuca quinquenervia</i> (Broad leaf paperbark) Adjacent to southern site boundary | 2.5m |
| #24 <i>Pittosporum undulatum</i> (Native Daphne) | 3.0m |

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Adjacent to southern site boundary

51. 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 Council shall be required at monthly intervals. Documentary evidence of compliance with this condition shall be submitted to the principal certifying authority prior to the release of the Occupation Certificate.
52. 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.
53. 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 the issue of the Occupation Certificate.
54. 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.
55. Stormwater runoff from new hard surfaces generating runoff, controlled seepage and landscaped areas that are not at natural ground level shall be piped to the in-ground street drainage system in Merriwa Street. 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. Particular attention is to be paid to ensuring there is no surcharge within the site.
56. All geotechnical aspects associated with excavation and construction of the development shall be undertaken under the supervision of a qualified and experienced geotechnical engineer and in accordance with the following documentation submitted in support of the Development Application:
 - "Report on geotechnical investigation for proposed commercial development 1 – 5 Merriwa Street, Gordon" and additional documentation by Douglas Partners, project 36791, dated March 2004.
57. The use of permanent rock anchors under Council land is not permitted. Temporary rock anchors may be permitted, where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment. If temporary rock anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act* 1993. Approval may be granted subject to conditions of consent. Four weeks should be allowed for assessment.

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58. A mandatory rainwater re-use tank system for toilet flushing and an on-site stormwater detention system must be provided for the development. Design volumes for each respective component must be in accordance with the following drainage documentation submitted in support of the Development Application:
- Concept drainage plans and supporting documentation (drawings 820016-D-101B, 102B & 103A) by Cardno MBK, dated February 2004.
59. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided at the base of the ramped driveway and connected to the main stormwater drainage system. The channel drain shall have outlet of minimum diameter 150mm to prevent blockage by leaves and silt.
60. For stormwater control any balconies are to be drained to the main drainage system via outlets fitted with raised leaf guards.
61. 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.
62. 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.
63. 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.**
64. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

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65. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 “Off-Street car parking”.
66. 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.
67. 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).
68. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage area, no doors or gates shall be provided in the access driveways to the basement carpark which would prevent this service.
69. All noise generating equipment used on the site shall not give rise to an offensive noise source as defined in the Protection of the Environment Operations Act 1997. All equipment shall be provided with suitable sound attenuation equipment designed by a suitably qualified practicing Acoustic Engineer so that when in operation the background sound pressure levels are not exceeded when measured at the boundary of the property.
70. The café shall operate within standard business hours between 7.30am and 9pm.
71. As outlined in the letter titled "1-5 Merriwa Street, Gordon" dated 3 December 2004 by Douglas Partners, any fibrous cement fragments shall be removed from site prior to the initial phase of site development. Any works associated with the removal of the fibrous cement fragments shall be carried out by a suitably qualified environmental consultant and in accordance with all relevant NSW EPA and Workcover NSW guidelines. At the completion of contamination remediation, the removal works shall be documented by an occupational health and safety consultant (eg, occupation hygienist) and all relevant documents shall be sent to Council once completed.

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

72. The premises shall be ventilated in accordance with the provisions of the Building Code of Australia and Australian Standard 1668 Parts 1 and 2. Detailed plans and specifications of the proposed mechanical ventilation systems shall be submitted to the Principal Certifying

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Authority for consideration and approved prior to the issue of the Construction Certificate.
Details shall include:

- Floor plans showing the ductwork, registers and all ancillary plant;
 - Location of intake and exhaust vents;
 - Schedule of air flow rates including fresh air and return air quantities; and
 - Sound pressure levels.
73. A report from a suitably qualified Acoustic Engineer providing details of the required performance levels and construction details of the acoustic attenuation to be provided to the individual noise generating plant to ensure when in operation the sound pressure levels do not exceed the background noise levels when measured at the boundary of the property shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.
74. Details of the proposed Fire Safety Measures to be installed in the building in accordance with the requirements of the Building Code of Australia shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.
75. A detailed Site Management Plan incorporating the following shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate:
- Temporary construction crossings;
 - Sedimentation controls and maintenance procedures;
 - Suppression of dust during construction;
 - Material storage areas away from protected trees;
 - Diversion of clean water run-off around the disturbed area of the site; and
 - Protective fencing preventing access to the site.
76. A Waste Management Plan shall be prepared to determine the extent of waste and recycled materials that will be generated from the use of the building. This plan shall be used to determine the size of the waste/recycling area to be provided. Details of the construction of the waste/recycling area complying with the provisions of Development Control Plan No. 40 shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.
77. Details of the disabled access and facilities in accordance with the provisions of Australian Standard 1428 shall be submitted to the Principal Certifying Authority for approval.
78. 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.

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79. 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.

80. 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).
81. 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.
82. 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.

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83. 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.
84. A construction management plan must be submitted for the approval of Council's Development Engineer before the commencement of demolition, excavation or construction works. The Plan must:
- a. Describe the anticipated impact of the construction works on:**
 - b. local traffic routes
 - c. pedestrian circulation adjacent to the building site;
 - d. and on-street parking in the local area; and;
 - b. Describe the means proposed to:**
 - a. manage construction works to minimise such impacts;
 - b. provide for the standing of vehicles during construction;
 - c. provide for the movement of trucks to and from the site, and deliveries to the site; and
 - c. Show the locations of:**
 - a. any site sheds and any anticipated use of cranes and concrete pumps;
 - b. any areas of Council property on which it is proposed to install a construction zone, or to erect structures such as hoardings, scaffolding or shoring, or to excavate.

The Plan must make provision for all materials, plants, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding shoring or excavation need separate consent from Council. Standing of cranes and concrete pumps on Council property will need consent on each occasion.

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

85. 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.

86. 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

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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.

87. Prior to the issue of the Construction Certificate the Applicant shall submit certification from a qualified consulting civil/traffic engineer that vehicle access, circulation and accommodation arrangements satisfy the minimum dimension requirements of Australian Standard 2890.1 - 2004 "Off-Street car parking". The certification must specifically address the following particular areas of the parking layout, as it relates to this Australian Standard:
- That minimum parking space widths correspond to the adjacent aisle widths for the correct user class facility
 - That widths of end spaces comply with the additional width requirements in 'blind aisle' situations
 - That widths and sight distances on circulation ramps and roadways comply with minimum requirements.

Where minor modifications are required to reflect the minimum requirements of Australian Standard 2890.1 – 2004 "Off-Street car parking", these shall be addressed and details must be submitted to the Principal Certifying Authority for approval with the certification required by this condition.

88. 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. Design volumes for each component must be in accordance with the concept drainage plans and supporting documentation (drawings 820016-D-101B, 102B & 103A) by Cardno MBK, dated February 2004 which . 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. Where advanced for construction issue purposes, the concept Cardno MBK drainage plans and supporting documentation (drawings 820016-D-101B, 102B & 103A), dated February 2004 shall be advanced and amended to address the following:

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- Discharge from the site to the street drainage system must occur so that the hydraulic grade line in the Merriwa Street system at the discharge point is lower than the finished level in the basement. This may require discharge from the site further downstream in the Merriwa street system.

89. 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 within the site, including toilet flushing. The necessary pumping, filtration and delivery plumbing equipment for re-use shall be shown on this design to a detail suitable for installation by the plumbing contractors. 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.
90. 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 to a detail suitable for installation by the plumbing contractors. The property drainage system (including but not limited to gutters, downpipes, subsoil drainage, 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 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.
91. The Applicant must carry out the following infrastructure works in the Public Road Reserve:
- a. Road widening in Merriwa Street, in the vicinity of proposed driveway, by trimming the existing verge area and placement of new road shoulder and kerb and gutter. The new area of road shoulder must drain to the existing sag pit adjacent to the proposed layback.
- Development Consent under the EP&A Act does NOT give approval to these works on Council property. **THE APPLICANT MUST OBTAIN A SEPARATE APPROVAL UNDER SECTION 138 AND 139 OF THE ROADS ACT 1993** for the works in the Public Road, required by this condition. The Construction Certificate must not be issued, and these works must not proceed, until Council has issued a formal written consent under the *Roads Act 1993*.

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

All works are to be designed in accordance with Council's "Specification for Road and Drainage Works". In addition, the drawings must detail existing services and trees affected by the works, erosion control requirements and traffic management requirements during the

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course of works. Traffic Control is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA “Traffic Control at Work Sites Manual”. A minimum of three (3) weeks will be required for assessment of Roads Act submissions. Early submission is highly recommended to avoid any delays in obtaining a Construction Certificate. An engineering assessment fee (set out in Council’s adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council’s Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

92. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$ 40,000 bond or bank guarantee with Council. This is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development or at the end of any maintenance period stipulated by consent conditions upon approval by Council’s Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
 - a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
 - b. The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
93. Prior to the issue of the Construction Certificate, the applicant must submit to the Principal Certifying Authority details of the proposed Vibration Monitoring Program to ensure that vibration created by the method of construction does not adversely impact on the 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:
 - a) pre-set acceptable limits for the variation of:
 - settlement
 - 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.
 - b) the location and type of monitoring systems to be used
 - c) recommended hold points to allow for inspection and certification by a geotechnical engineer and
 - d) a contingency plan should the pre-set acceptable limits be exceeded.
94. An archeological investigation of the site shall be undertaken by a suitably qualified person in this field and a report of findings provided to the Council. Should the report recommend any special measures to be implemented during excavation, then these shall be incorporated into the relevant contract with the site Excavator.

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95. The payment to Council of a contribution for Child Care Facilities in accordance with the provisions of Section 94 of the Environmental Planning and Assessment Act 1979 and Kuring-gai Municipal Council's Section 94 Contributions Plan No 1. Such contribution is calculated as \$72,711.35 and is to be paid prior to the issue of a Construction Certificate. 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. The levy is based on:

\$23.50 per additional square metre of commercial/office floorspace.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING
PRIOR TO COMMENCEMENT OF ANY WORKS ON SITE

96. Council property adjoining the construction site must be fully supported at all times during all excavation, demolition and building construction works. Details of shoring, propping and anchoring of works adjoining Council property, prepared by a qualified Structural Engineer or Geotechnical Engineer, must be submitted for the approval of the Principal Certifying Authority (PCA), before the commencement of *any* works. Backfilling of excavations adjoining Council property or any void remaining at completion of construction between the building and Council property must be fully compacted prior to the completion of works.
97. Prior to the commencement of *any* works on site and prior to issue of the Construction Certificate, qualified practitioners must undertake a closed circuit television (CCTV) inspection and then report on the existing condition of 375 mm Council drainage pipeline adjacent to the excavation face in Fitzsimons Lane. The report must be provided and approved by Council, attention Development Engineer, prior to issue of the Construction Certificate. The report is to include a copy of the video footage of the pipeline and shall extend 5 metres either side of the boundary. This condition is imposed to provide a benchmark for any lateral movement in the pipe that may be induced during excavation and construction. Any damage to the Council pipe caused as a result of the development shall immediately be repaired at no cost to Council.
98. Prior to the commencement of *any* works on site and prior to issue of the Construction Certificate, the applicant shall submit, for approval to the Principal Certifying Authority (PCA) **and** Council, a full dilapidation report/survey on the visible (including photos) and structural condition of the existing structures at the following locations:
- a) Fitzsimons Lane along the full length of the subject property boundary
 - b) Neighbouring driveway and adjacent structures at 7 – 9 Mewriwa Street, Gordon
- The report must be completed by a consulting structural/geotechnical engineer. The lateral extent of the survey must cover the likely "zone of influence" of construction induced vibration or deflection of retaining structures. The survey must be properly documented and ideally agreed to by the property owners. 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.

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99. Prior to the commencement of *any* works on site the applicant must submit, for review by Council Engineers, a Construction Management Plan. The following matters must be specifically addressed in the Plan:
- a) A plan view of the entire site and frontage roadways indicating:
 - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
 - Turning areas within the site for construction 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 area for employees, tradesperson and construction vehicles where possible
 - b) All traffic control devices installed in the road reserve must be in accordance with the RTA publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
 - c) Any likely traffic re-assigning measures required during construction must be specified. Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided. Light traffic roads and those subject to a load or height limit must be avoided at all times. A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.
 - d) Appropriate "Trucks Entering" signage at all relevant locations.
 - e) Schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
 - f) Consideration must be given to minimising construction- related traffic movements during school peak periods. For those construction personnel that drive to the site, the Applicant shall provide on-site parking so that their personnel's vehicles do not impact on the current commuter or commercial parking in the area.

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

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100. 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 and reduce impacts on the surrounding road network. 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.

101. 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 |
|---|------------------|
| #20 <i>Melaleuca quinquenervia</i> (Broad leaf paperbark) Adjacent to southern site boundary | 2.0m |
| #49 <i>Melaleuca quinquenervia</i> (Broad leaf paperbark) Adjacent to southern site boundary | 2.0m |
| #19 <i>Melaleuca quinquenervia</i> (Broad leaf paperbark) Adjacent to southern site boundary | 1.0m |
| #48 <i>Melaleuca quinquenervia</i> (Broad leaf paperbark) Adjacent to southern site boundary | 2.5m |
| #23 <i>Callistemon viminalis</i> (Weeping Bottlebrush) Merriwa St nature strip | 1.5m |
| #24 <i>Pittosporum undulatum</i> (Native Daphne) Adjacent to southern site boundary | 2.0m |
| #35 <i>Callistemon viminalis</i> (Weeping Bottlebrush) Merriwa St nature strip | 1.5m |

102. 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.

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103. 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

104. Lots 2 and 4 shall be consolidated prior to occupation of the building.
105. 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.
106. Prior to issue of an Occupation Certificate the following works must be completed:
- Construction of the new driveway crossing and layback in accordance with the levels and specifications issued by Council,
 - Removal of all redundant driveway crossings, pipe crossing and/or kerb laybacks. Full reinstatement of these areas to footway, and/or turfed verge and/or kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - Any sections of damaged grass verge are to be fully replaced with a non-friable turf of native variety to match existing.
- Any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles, poor support measures) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.
107. 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 facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

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108. 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 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. 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.
109. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):
- a. A copy of the approved Construction Certificate stormwater 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.
110. Prior to issue of an Occupation Certificate the approved road, footpath and/or drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.
111. Prior to issue of an Occupation Certificate an easement for waste collection must be provided. This is to permit legal access for Council, and Council's contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection.
112. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).

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113. Prior to issue of an Occupation 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 address:

- 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).
- Installation of any proprietary tank products in accordance with manufacturers' specifications.
- The structural adequacy of tank and supporting structures/slabs.
- That all toilet flushing 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 (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.

114. Prior to issue of the Occupation Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the as-built on-site detention system 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

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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)

115. Prior to issue of an Occupation Certificate (and at the completion of works), a qualified practitioner shall prepare a closed circuit television (CCTV) inspection and report on the post developed condition of 375 mm Council drainage pipeline adjacent to the excavation face in Fitzsimons Lane. The report is to include a copy of the footage of the inside of the pipeline and shall be submitted to Council, attention Development Engineer, for approval prior to issue of the Occupation Certificate. Any damage that has occurred to the pipeline since the commencement of construction on the site must be repaired in full to the satisfaction of Council's Development Engineer at no cost to Council.
116. The installed groundwater drainage system must be certified by a qualified geotechnical/hydrogeological engineer and this shall submitted to the Principal Certifying Authority for approval prior to release of the Occupation Certificate.
117. Prior to release of the Occupation Certificate, a record of inspections and monitoring as specified by the Geotechnical Consultants must be submitted in report form to the Principal Certifying Authority for approval. The geotechnical/hydrogeological engineer must also certify that all geotechnical work has been carried out in accordance with the consent conditions and the recommendations of the above report.
118. Prior to issue of an Occupation Certificate a record of inspections and monitoring of vibration in accordance with the approved Vibration Monitoring Program must be submitted in a report form to the Principal Certifying Authority for approval. A qualified and practising geotechnical and/or hydrogeological engineer must prepare the document.
119. Prior to issue of the Occupation Certificate the Applicant shall consolidate lot 2 of DP 303900 and lot 4 of DP 609007. Evidence of lot consolidation, in the form of Land and Property Office registered Title documents (copy) shall be provided to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. At the time of consolidation, consideration may be given to extinguishing redundant burdens, subject to the consent from all interested parties.

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120. The following details are required to be submitted to the Principal Certifying Authority upon completion of works. The matters listed below shall have a Certificate attached from a suitably qualified person to the effect that the construction and operation of the works complies with the relevant Standard or code which the Certificate must identify:

- The mechanical supply and exhaust ventilation systems installed;
- The Fire Safety Measures and Construction requirements installed in the building;
- Form 15 Final Fire Safety Certificate;
- Acoustic report on all noise generating plant; and
- Garbage/Recycling facilities

U Lang
Executive Assessment Officer

S Cox
Team Leader
Development Assessment – Team Central

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development and Regulation

Attachments: Original report to Council meeting of 14 December 2004

1A KALANG AVENUE, KILLARA

EXECUTIVE SUMMARY

| | |
|---------------------------|--|
| PURPOSE OF REPORT: | To address the issues raised at the site inspection of 11 December 2004 and for Council to determine two applications; one for the modification of consent to DA 3702/93 and the other DA 319/04 for the erection of a new dwelling house. |
| BACKGROUND: | Council, at its meeting of 7 December 2004, deferred consideration of the above applications 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 two applications; one for the modification of consent to DA 3702/93 and the other DA 319/04 for the erection of a new dwelling house.

BACKGROUND

Two separate assessment reports were prepared and considered by Council on 7 December 2004 wherein Council resolved to defer determination of both matters 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. Height of the building and front building setback

Questions were raised regarding the acceptability of the proposed height and front building setback of the dwelling.

The front of the site was inspected and the setback and height of the proposed dwelling was noted. The proposal's relationship to adjoining development was also observed. The extent of excavation at the front and south-eastern corner of the site was also detailed, particularly in relation to the rock outcrop in the south-eastern part of the site.

The suitability of the proposed height and front building setback is fully detailed in the original report relating to DA 319/04. In summary, the proposed building is single storey at the Kalang Avenue frontage and then steps down the site in three distinct levels consistent with the slope of the land. The ridge of the roof at its highest point, being RL121.250, at a distance of 7.7m from the front property boundary is approximately 5.75m in height as measured to natural ground level at this point. The eave height of the front of the dwelling varies across the frontage as the natural ground level falls from east to west by over 3m.

The front setback (variable between 1.2 and 2.6m) is significantly reduced as this is the most suitable position for the house given the topography of the site and the need to step the building down the slope to reduce its overall bulk and height and achieve maximum setbacks to the rear adjoining property.

2. Relationship of proposed dwelling to public walkway

Concerns were raised in relation to the nature of excavation proposed within the western side setback area and this aspect was requested to be re-examined by Council's staff, particularly in relation to the amount of excavation and the ability to provide deep soil planting areas and significant planting to soften the development from the walkway.

The applicant has submitted further detailed cross sections indicating the nature of site works in the setback area adjacent the western-most property boundary. The following conclusions can be drawn from the additional information, a copy of which is attached to this report.

- No retaining wall is required at the western boundary line.
- Due to excavation required at a point approximately 8m from the front property boundary (refer cross section B-B), there will be a cut of 1.4m into the ground at the western wall of the dwelling. A 600mm drain will be provided against the building wall with a 100mm thick masonry wall on top of any rock to retain any soil above the rock. A diagram of this is provided on the landscape plan in the upper right hand corner.
- Cross sections C-C and D-D show that there is no need for any retaining wall in the area adjacent to the lowest level of the dwelling, and that a pathway from the west facing side door around the building and leading to the rear of the site, can be adequately accommodated, as shown on the landscape plan.
- The landscape plan indicates approximately 10 small leaf lilly pillies (mature height 8m) to be planted alongside the western boundary. These plants are the same as those growing at the front of the site along the edge of the driveway to 1B Kalang Avenue which separates the two properties. Council's Landscape Assessment Officer was satisfied with the screen planting proposal along this boundary.

2. Impact of development on No 41 Illeroy Avenue

Concerns were raised by the adjoining owner at the rear about the impact of the building on his property, particularly in relation to the lowest level of the building.

The lowest level of the proposed dwelling is set back a minimum of 8m from the boundary of No 41 Illeroy Avenue. This setback is variable extending the maximum of 14m. This level comprises three bedrooms and there is no balcony associated with this level. Seven Blueberry Ash trees, with a mature height of 7m are to be planted adjoining the northern boundary adjacent to the rear yard area of No 41 Illeroy Avenue. Council's Landscape Assessment Officer is satisfied with the amount and type of planting in this area. The planting will suitably screen the building and provide a landscape buffer between the development and No 41 Illeroy Avenue.

4. Private open space

Concern was raised about the amount of effective private open space being provided on the subject site

Council's DCP 38 requires a minimum private open space area of 50m². Two areas are provided. One area of at least 50m² in the lower part of the site and another, smaller, BBQ area of approximately 20m² just below the living area deck in the eastern part of the site. This complies with the DCP and is considered satisfactory.

ADDITIONAL MATTERS FOR CONSIDERATION

1. A letter, dated 6 December 2004, from T and L De Haas advised Council that they had also been objectors to the S96 application. A review of the letter of objection submitted by Mr and Mrs De Haas confirms that this was in fact the case, but also confirms that there were no additional issues raised by Mr and Mrs De Haas in respect of the S96 application, which were not covered in the report in response to other letters of objection.

2. Three addresses of objectors to DA319/04 were listed incorrectly in the report to Council and this has been corrected in the process of notifying objectors in relation to Council's consideration of this matter at the meeting of 1 February 2005.

RECOMMENDATION

DA 3702/93

THAT the Council, as the consent authority, modify the consent to DA 3702/93 by the deletion of Conditions 4 and 10 as follows:

Condition 4:

"Any future dwelling is to comply with Council's DCP No 6."

Condition 10:

"Any future residential development of the site to be in accordance with the building height plane, setback and building platform requirements detailed in Drawing Nos TP1 and TP2 dated 5 October 1993 which forms part of this approval."

DA 319/04

THAT the Council, as the consent authority, grant development consent to DA319/04 for the erection of a single dwelling on land at Lot 101, DP875236, No 1A Kalang Avenue, Killara, 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 numbered DA 01H – 011H, dated March 2004 and submitted to Council in September 2004 (setbacks corrected), 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.
4. Windows marked with asterisk on the plan of the northern elevation of the proposed dwelling Plan No. 06H are to be deleted from the plans. Windows to the top level bathroom and stairwell, and middle level bathroom, shall be of translucent glazing.

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5. The balcony balustrades shall be 1.1m high, as measured from the finished balcony floor level, and of translucent glazing.
6. Construction of a 1.8m solid high boundary fence on the northern property boundary with No. 41 Illeroy Avenue, prior to commencement of the construction of the dwelling.
7. Additional screen planting is to be provided on the northern property boundary adjoining No 41 Illeroy Avenue, subject to a revised Landscape Plan to be approved by Council prior to release of Construction Certificate. The landscape plan shall provide details of all cut and fill to be undertaken on the site, as well as details of any retaining walls to be constructed. All retaining walls will need to be certified by a Geotechnical Engineer.
8. 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.
9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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.

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15. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
16. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
17. 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.
18. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
19. 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.
20. Compliance with the general terms of approval issued by Department of Infrastructure, Planning and Natural Resources:
 - i. All works proposed must be designed, constructed and operated to minimise sedimentation, erosion and scour of the banks or bed of the watercourse/foreshore and to minimise adverse impacts on aquatic and riparian environments.
 - ii. Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained, for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse/foreshore environment. These control measures are to be in accordance with the requirements of Council or the consent authority and best management practices as outlined in the NSW Department of Housing's "Managing Urban Stormwater: Soils and Construction" Manual (1998) - the 'Blue Book'.
 - iii. The Part 3A Permit from the Department is issued for works on FREEHOLD land only. This Permit is null and void for any works on Crown Land.
 - iv. Rehabilitation of the area in accordance with the 3A Permit Conditions or any direction from the Department is the responsibility of the Permit holder and owner or occupier of the land.
 - v. Work as executed survey plans of a professional standard and including information required by the Department shall be provided to the Department on request.
 - vi. If in the opinion of a Departmental Officer, works are carried out in such a manner that they may damage or adversely affect the watercourse or foreshore environment, the Departmental Officer may issue an oral or written direction to immediately stop all work/s.
 - vii. If any of the Department's Part 3A Permit Conditions are breached, the Permit holder shall restore the site in accordance with these Conditions and any other necessary remedial actions as directed by the Department. If any breach of the Part 3A Permit Conditions requires a site inspection by the Department, then the permit holder shall pay a fee prescribed by the Department for this inspection and all subsequent breach inspections.

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21. The fence and footings shall be constructed entirely within the boundaries of the property.
22. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
23. 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.

24. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
25. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
26. Under no circumstances shall building materials, demolition waste, fill, soil or any other material from any source be placed or stored within any public reserve.
27. 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.
28. Sites shall not be re-shaped, re-contoured, excavated nor the levels on any part of the site altered without the Consent of the Council being obtained beforehand.
29. To preserve and enhance the natural environment, sediment removed from erosion and sediment control structures shall be disposed of to an approved sediment dump.
30. For stormwater control and to preserve and enhance the natural and built environment, a Sediment and Erosion Control Plan relating to all areas of the site to be disturbed or affected by earthworks or construction works shall be submitted and approved with the application for a Construction Certificate. The Control Plan shall include all details of measures and methods of sediment and erosion control to be adopted, implemented and methods of sediment and erosion control to be adopted, implemented and maintained during the course of development of the site. The Control Plan shall incorporate and disclose:
 - a. All details of drainage to protect and drain the site during the construction processes;
 - b. All sediment control devices, barriers and the like;
 - c. Sedimentation tanks, ponds or the like;
 - d. Covering materials and methods;

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- e. A schedule and program of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- 31. 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.
- 32. 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.
- 33. To prevent pollution, any areas cleared of vegetation where there is a flowpath greater than 12.0 metres in length shall have a properly constructed silt fence erected to intercept runoff.
- 34. To prevent pollution, all disturbed areas which are not to be built upon or otherwise developed within 14 days shall be stabilised with mulch, woodchip or other rehabilitation methods to provide permanent protection from soil erosion.
- 35. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the watercourse in the adjacent drainage reserve. New drainage line connections to the watercourse shall conform and comply with the requirements described in sections 5.5 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
- 36. 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. Alternatively, the on site detention system may be replaced with a stormwater detention/ retention and re-use system(s) designed in accordance with Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.

An overflow is to be incorporated that will direct any excess flow to the downstream drainage system.

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

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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.

37. The applicant is to demonstrate that the existing driveway servicing Lot 52 (1B Kalang Avenue) is not to be reconstructed. The proposed driveway is to commence from the northern edge of the existing driveway access to Lot 52.
38. The stormwater drainage design submitted, dated March 2004, is not approved for reasons which include the following:
 - The on site detention design is for a 750mm depth of ponded water over the discharge control pit. In accordance with Council's Stormwater Management Manual, childproof fencing will be required around the storage. Details of this should be shown on the design;
 - Pipelaying is shown within the canopy of a tree in Council's reserve. The applicant shall consult with Council's Engineer in relation to an alternative drainage design which shall be approved by Council prior to release of the Construction Certificate.
39. Compliance with recommendations made in Jeffery and Katauskas Stability Assessment Ref 16333J Let, dated 30 October 2001.
40. 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.**
41. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

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42. Landscape works shall be carried out in accordance with Landscape Drawing No 0145/CC1 Amended prepared by Trish Dobson and dated 1 September 2004 or 16 September 2004 (Council stamp) submitted with the Development Application, except as amended by the following:
 - the extent of excavation at the eastern end of the building shall be 600mm outside the line of the building and minor battering to stabilize soil;
 - *Lomandra longifolia* shall be planted on the battered area at the top of the excavation to help stabilize the soil;
 - additional screen planting shall be provided along the northern boundary;
 - existing plants in the terraced gardens which are removed or damaged by building works shall be replaced.
43. All 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:
44. 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.
45. 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.
46. The following conditions imposed by the Rural Fire Service:
 - i. Construction shall comply with AS3959 - 1999 level 3 'Construction of Buildings in bushfire prone areas'.
 - ii. Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the structure.
 - iii. The entire property shall be managed as an 'Inner Protection Area' as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.
 - iv. All fencing shall be constructed from non-combustible materials.

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

47. 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.

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

48. 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).
49. 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.
50. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
 - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
51. The bathroom, toilet and stairwell are to be of translucent glazing to minimise overlooking to the adjoining property/s. Details are to be shown on the Construction Certificate plans.

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52. An uphill runoff cutoff system is to be provided as recommended in Jeffery and Katauskas Stability Assessment Ref 16333J Let, dated 30 October 2001. Details are to be included in the property drainage design and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
53. 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 and/or 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 a minimum 100m² roof area for each 5000 litres of storage. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer and may be incorporated on the overall site drainage plan.
54. 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.
55. The on-site detention and/or retention and property drainage system design is to be endorsed by a geotechnical engineer as to the provision of a cutoff drainage system as well as the suitability of the proposed detention/ retention storage locations, particularly if an above ground detention storage is proposed.
56. 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.

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CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

57. 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.
58. 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.
59. To preserve Tree 18 - *Castanospermum australe* (Moreton Bay Chestnut) and Tree 19 - *Syncarpia glomulifera* (Turpentine) located in the adjoining drainage reserve to the west, no work shall commence until a fence is erected 1.5 metres inside the western boundary, commencing at the dog leg in that boundary to the northern boundary, to prevent any activities, storage or the disposal of materials within the fenced area. The fence/shall be maintained intact until the completion of all demolition/building work on site.
60. To preserve Tree 5 - *Alectryon tomentosus* (Rambutan), Tree 7 - *Jacaranda mimosifolia* (Jacaranda), Tree 6 & 8 - *Pittosporum undulatum* (Sweet Pittosporum), Tree 11 *Fraxinus Sp* (Ash) and Tree 12 *Brachychiton acerifolius* (Flame Tree) no work shall commence until the area beneath their canopies is fenced off as specified below 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.

One fence shall be erected around the trees which is located mostly at the existing 'bottom of bank' and 'top of bank' near the eastern boundary (refer to survey plan dated 15-7-04). The fence shall be located at a 2.5 metres radius around Tree 5, 6 & 7 until it meets the 'bottom of the bank' RL115.85 then continue along until it crosses the 'top of the bank' (RL115.88). It shall continue along the 'top of bank' to RL 115.76 and continue west to meet a 3.5m radius of Tree 11 & 12 and run back to the 'bottom of bank' at RL112.65

61. 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.
62. To preserve the existing hedge along the concrete driveway to the south of the building, no work shall commence until a protection fence, constructed of star pickets at 2.4 metre spacings and connected by four strands of 2mm wire at 300mm spacings to a minimum height of 1.5 metres is erected along the southern boundary for the length of the hedge. No access or storage of materials is permitted within the fenced area.
63. 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

64. 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.
65. 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.
66. 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/or retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention/ retention facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

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

67. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following must be provided to Council (attention Development Engineer):
 - a. A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
 - b. A copy of the works-as-executed drawing of the as-built on-site detention/retention system, and
 - c. The Engineer's certification of the as-built system.

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

68. Prior to issue of an Occupation 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.

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69. Prior to issue of an Occupation Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the as-built on-site detention/retention 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/retention 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, and shall specifically include:

- As constructed levels in comparison to design levels
- As built location of all detention/retention 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 system, including dimensions.
- Overflow directed to an approved disposal point.

70. Prior to issue of an Occupation 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.

BUILDING CONDITIONS

71. 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.

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- 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.

72. 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.

- 73. To ensure compliance with this determination a Registered Surveyor's Report confirming reduced levels as shown on the approved plans with particular regard to the future finished level of the each floor shall be submitted to the Principal Certifying Authority on completion of that floor.
- 74. 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).
- 75. 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

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horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.

76. 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.

77. 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.

78. 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.

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79. 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 dwelling 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.

U Lang
Executive Assessment Officer

S Cox
**Team Leader
Development Assessment - Team Central**

M Prendergast
**Manager
Development Assessment Services**

M Miocic
**Director
Development and Regulation**

**Attachments: Cross sections
 2 Original reports to Council meeting of 7 December 2004**

INVESTMENTS CASH FLOW & LOAN LIABILITY AS AT 30 NOVEMBER 2004

EXECUTIVE SUMMARY

| | |
|---------------------------|---|
| PURPOSE OF REPORT: | To present to Council the investment allocation, the performance of investment funds, monthly cash flows and details of loan liability for November 2004. |
| 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 November 2004 (Minute No. 480). |
| COMMENTS: | The Reserve Bank of Australia (RBA) again left the official cash rate on hold at 5.25% during November. |
| RECOMMENDATION: | That the summary of investments, daily cash flows and loan liability for November 2004 be received and noted. |

PURPOSE OF REPORT

To present to Council the investment allocation, the performance of investment funds, monthly cash flows and details of loan liability for November 2004.

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 November 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 Financial Services Pty Limited.

COMMENTS

During the month of November Council's cash decreased by \$750,000 and gross capital appreciation on Council's investments was \$83,000.

Council's total investment portfolio at the end of November 2004 is \$18,712,300. This compares to an opening balance of \$17,271,200 as at 1 July 2004.

Council's General Fund interest on investments for November year-to-date is \$431,300. This compares favourably to the year-to-date budget of \$343,800.

Council's total debt as at 30 November 2004 is \$11,205,800. 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.

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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%.

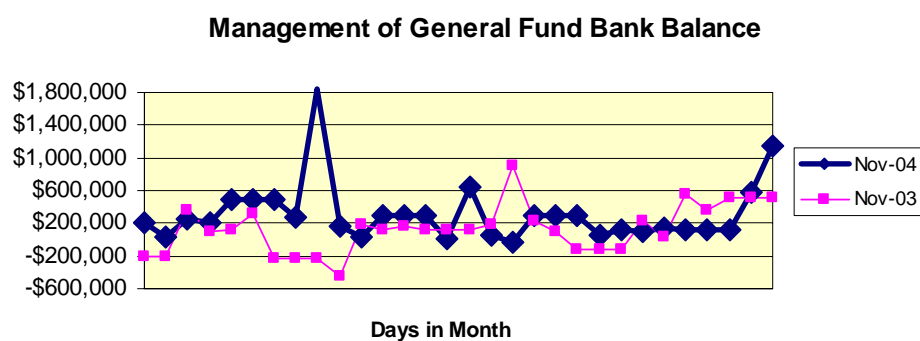
Summary of Borrowings

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.

November 2004

Management of General Fund Bank Balance

During November Council had an outflow of funds of \$750,000. Funds received from the second rate installment that fell due on 30 November were offset by the purchase of a property at 48 St Johns Avenue, Gordon and premiums paid for workers compensation insurance.



Funds Performance against the UBSWA Bank Bill Index

The weighted average return for the total portfolio of managed funds during November was 6.14% compared to the benchmark of the UBSWA Bank Bill Index of 5.56%.

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

| Fund Manager | Terms | Opening Balance | Cash flow Movement | Income Earned (net of fees) | Closing Balance | Interest Rate |
|--------------------------------|--------------|---------------------|--------------------|-----------------------------|---------------------|---------------|
| BT Institutional Managed Cash | At Call | \$1,182,556 | \$750,000 | \$4,960 | \$1,937,516 | 5.74% |
| BT Institutional Enhanced Cash | At Call | \$4,373,356 | \$450,000 | \$20,612 | \$4,843,969 | 5.87% |
| Macquarie Income Plus Fund | At Call | \$5,540,578 | \$50,000 | \$21,983 | \$5,612,561 | 6.57% |
| Perennial Cash Enhanced Fund | At Call | \$5,200,496 | (\$2,000,000) | \$17,760 | \$3,218,256 | 6.38% |
| 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 | | \$19,396,986 | (\$750,000) | \$80,837 | \$18,712,302 | |

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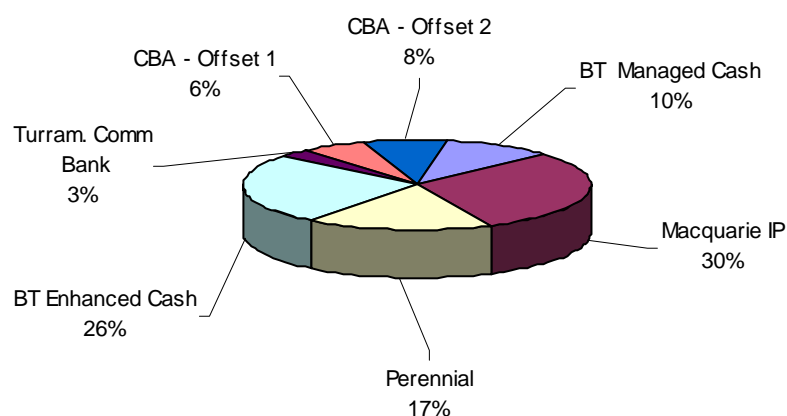
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14 January 2005**Year-to-date Funds Performance against the UBSWA Bank Bill Index**

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 –November 2004 | UBSWA Bank Bill Index Annualised for July 2004 –November 2004 |
|--------------------------------|--|--|
| BT Institutional Managed Cash | 5.68% | 5.56% |
| BT Institutional Enhanced Cash | 6.05% | |
| Macquarie Income Plus Fund | 6.44% | |
| Perennial Cash Enhanced Fund | 6.01% | |
| 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 November were allocated as follows:

Portfolio Allocation of Surplus Funds

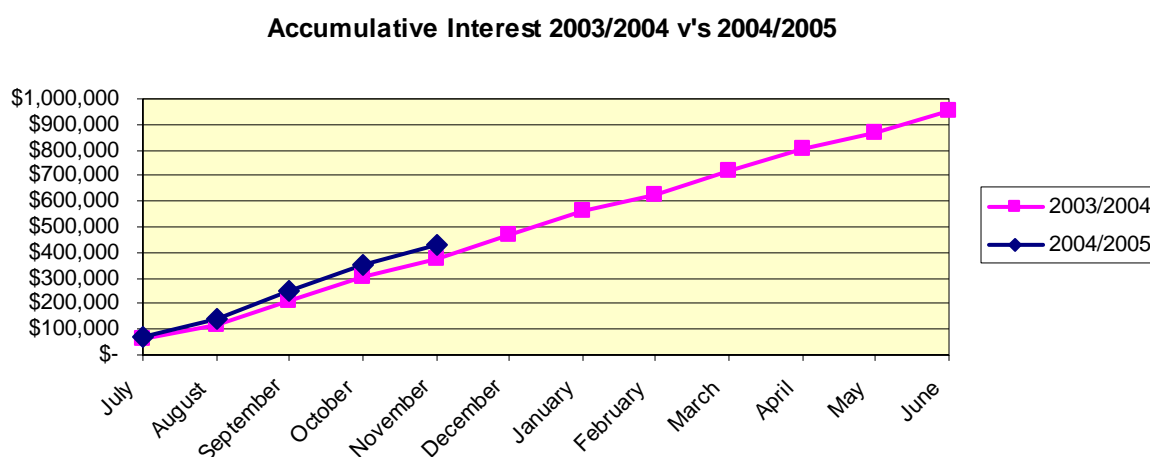
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2003/2004 versus 2004/2005

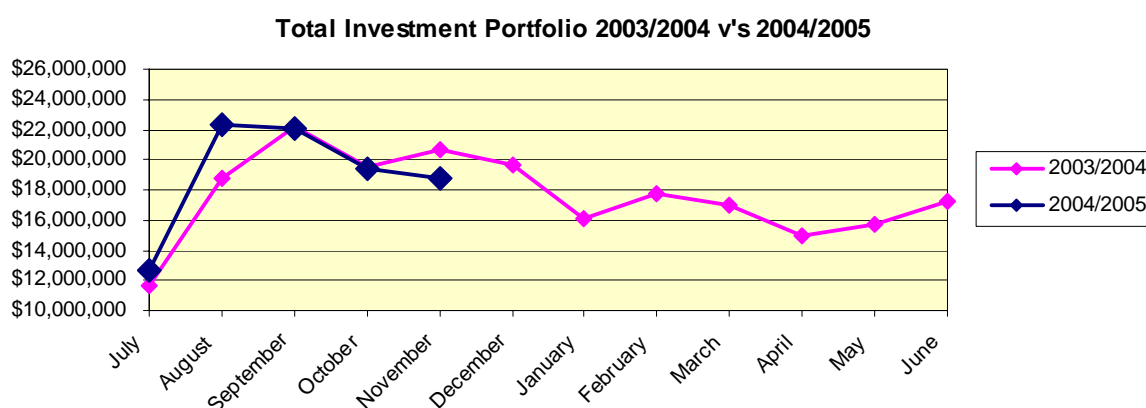
Accumulative Interest

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 November 2004, year to date interest earnings totalled \$431,300. This compares to \$374,000 at the same time last year, an increase of \$57,300.



Total Investment Portfolio

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



During November 2004 Council's investment portfolio decreased by \$750,000. In comparison, during November 2003 Council's investments increased by \$1,040,000. The main reason for this variation relates to Council's purchase of 48 St Johns Avenue, Gordon.

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Council's closing investment portfolio of \$18,712,300 in November 2004 is \$1,944,900 lower than the November 2003 closing balance of \$20,657,200.

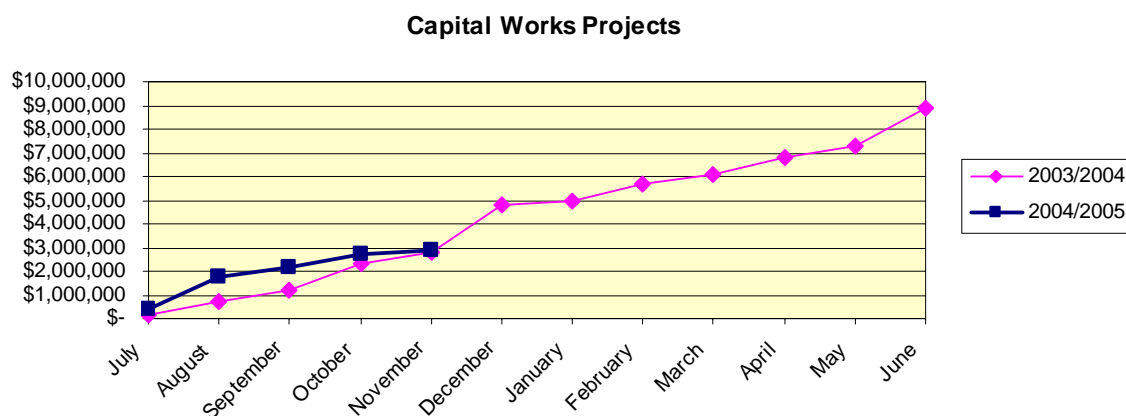
Capital Works Projects

As at the end of November 2004 Council has expended \$2,844,500 on capital works, which is \$51,900 higher than at the same time last year when \$2,792,600 had been expended.

During November 2004 Council expended \$576,900 on capital works, which compares to \$444,800 during November 2003, an increase of \$132,100.

Council's 2004/2005 total budget for capital works (excluding fleet replacement) is \$9,877,000 which leaves funds of \$7,032,500 unspent at the end of November.

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

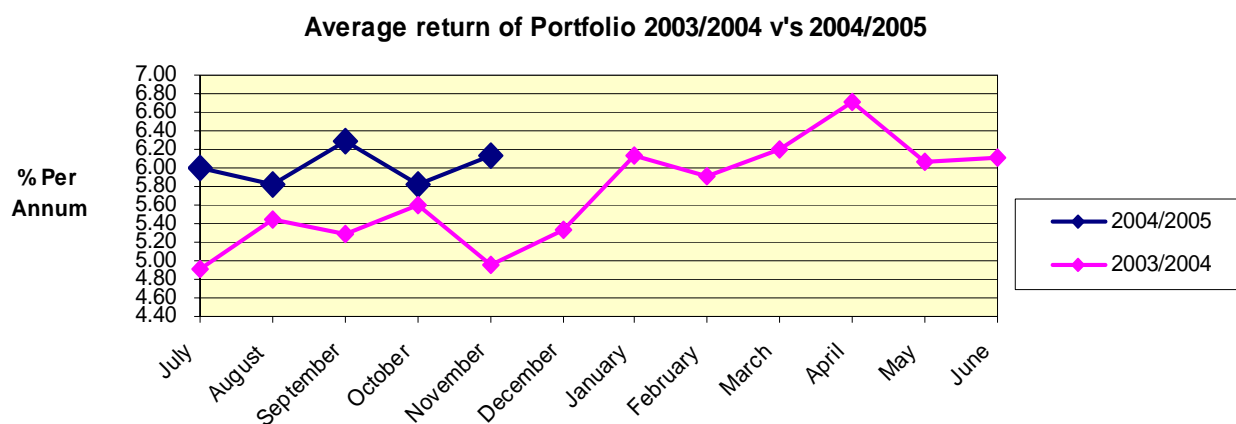
The following graph compares the monthly returns on Council's portfolio for the financial years 2003/2004 and 2004/2005.

In November 2004 earnings before fees were 6.14%, this compares to 4.95% in November 2003.

For the period July 2004 – November 2004 Council's average earnings before fees were 6.02%. This compares to 5.24% for the same period last financial year.

Item 9

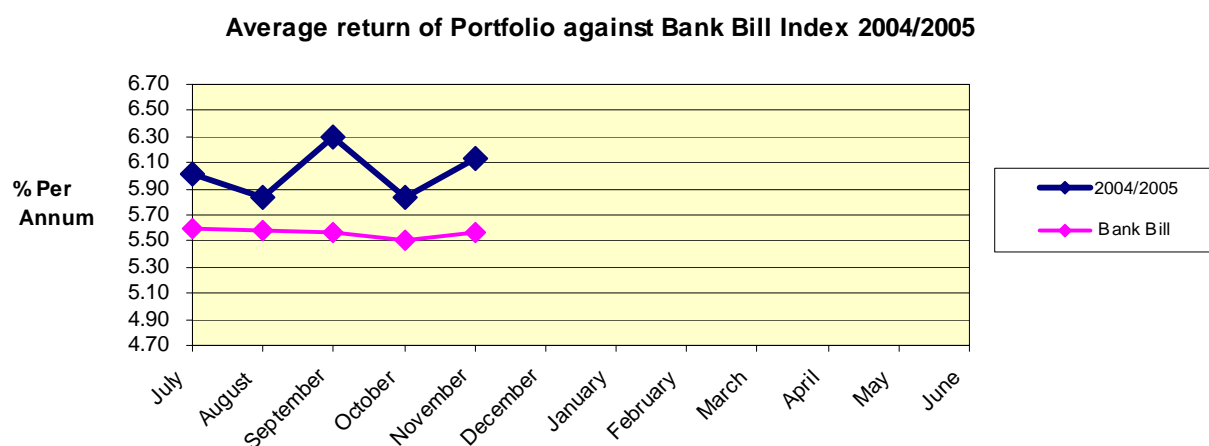
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2004/2005 Portfolio Performance against the UBSWA Bank Bill Index

Council's average portfolio return performed above the UBSWA Bank Bill Index in November. Returns above benchmark have been achieved in each of the five months this financial year.

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



Item 9

S02722
14 January 2005**Summary of Borrowings**

There were no loan repayments made in November, leaving the total level of debt at \$11,205,800.

| 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 | \$524,374 | \$475,626 | 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 | \$618,247 | \$1,981,753 | 6.32% | 26-Jun-01 | 28-Jun-11 |
| NAB | 131 | \$2,600,000 | \$389,123 | \$2,210,878 | 6.85% | 27-Jun-02 | 27-Jun-12 |
| Westpac | 132 | \$1,882,000 | \$147,788 | \$1,734,212 | 5.16% | 27-Jun-03 | 27-Jun-13 |
| CBA | 133 | \$1,800,000 | - | \$1,800,000 | 6.36% | 23-Jun-04 | 23-Jun-14 |
| TOTAL | | \$20,082,000 | \$8,876,221 | \$11,205,780 | | | |

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

The Reserve Bank of Australia (RBA) again left the official cash rate on hold at 5.25% during November. The decision means interest rates have now been stable for twelve months, with the RBA last increasing rates by 0.25 basis points in December 2003.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

As at 30 November 2004:

- Council's total investment portfolio is \$18,712,300. This compares to an opening balance of \$17,271,200 as at 1 July 2004.
- Council's General Fund interest on investments totals \$431,300. This compares favourably to the year-to-date budget of \$343,800.

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- Council's total debt is \$11,205,800. 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 November 2004 be received and noted.

Mellissa Crain
Manager Business Development

John McKee
Director Finance and Business

INVESTMENT CASH FLOW & LOAN LIABILITY AS AT 31 DECEMBER 2004

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 December 2004. |
| BACKGROUND: | Council's investments are made in accordance with the Local Government Act (1993), the Local Government (Financial Management) Regulation (1999) and Council's Investment Policy which was adopted by Council on 12 December 2004 (Minute No.480). |
| COMMENTS: | The Reserve Bank of Australia (RBA) again left the official rate unchanged at 5.25% during December. |
| RECOMMENDATION: | That the summary of investments, daily cash flows and loan liability for December 2004 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 December 2004.

BACKGROUND

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

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

COMMENTS

During the month of December Council's cash decreased by \$950,000 and gross capital appreciation on Council's investments was \$96,900.

Council's total investment portfolio at the end of December 2004 is \$17,841,300. This compares to an opening balance of \$17,271,200 as at 1 July 2004.

Council's General Fund interest on investments for December year-to-date is \$528,300. This compares favourably to the year-to-date budget of \$412,500.

Council's total debt as at 31 December 2004 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%.

Summary of Borrowings

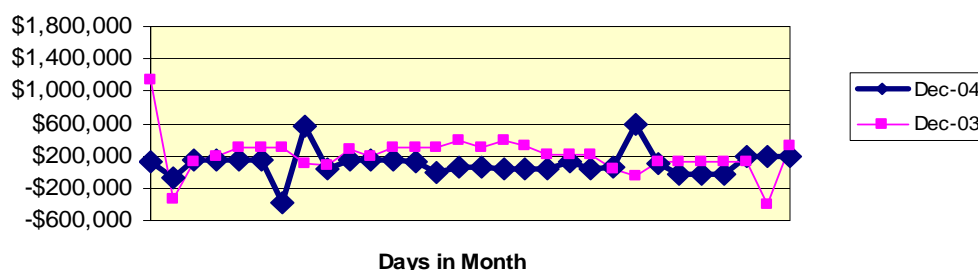
This is a summary of Council's borrowings. It lists each of Council's loans, original amounts borrowed, principal repayments made, outstanding balances, interest rates and maturity dates.

December 2004

Management of General Fund Bank Balance

During December Council had an outflow of funds of \$950,000. At the beginning of December funds were received from the second rate installment which fell due on 30 November 2004. By the end of month these funds had been utilised for repayment of Council loans and large vendor payments.

Management of General Fund Bank Balance



Funds Performance against the UBSWA Bank Bill Index

The weighted average return for the total portfolio of managed funds during December was 6.14% compared to the benchmark of the UBSWA Bank Bill Index of 5.51%.

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

| Fund Manager | Terms | Opening Balance | Cash flow Movement | Income Earned (net of fees) | Closing Balance | Interest Rate |
|--------------------------------|--------------|---------------------|--------------------|-----------------------------|---------------------|---------------|
| BT Institutional Managed Cash | At Call | \$1,937,516 | (\$1,050,000) | \$5,087 | \$892,604 | 5.68% |
| BT Institutional Enhanced Cash | At Call | \$4,843,969 | \$100,000 | \$26,419 | \$4,870,387 | 6.55% |
| Macquarie Income Plus Fund | At Call | \$5,612,561 | - | \$32,319 | \$5,744,880 | 6.42% |
| Perennial Cash Enhance Fund | At Call | \$3,218,256 | - | \$15,132 | \$3,233,388 | 5.92% |
| Turrumurra 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 | | \$18,712,302 | (\$950,000) | \$94,479 | \$17,841,259 | |

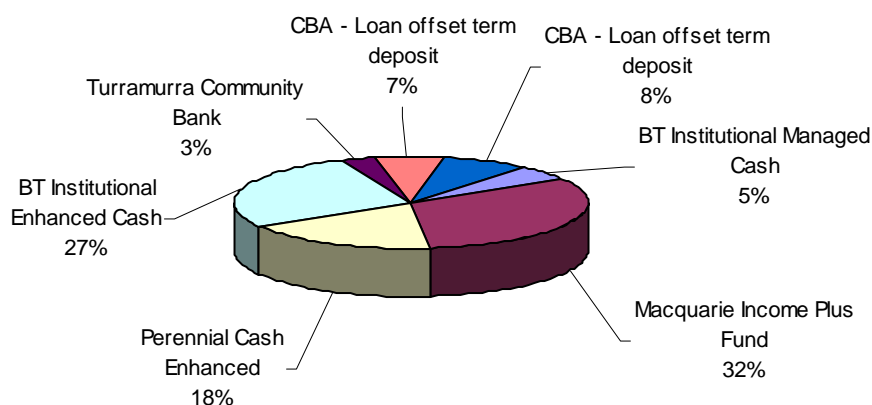
Year-to-date Funds Performance against the UBSWA Bank Bill Index

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 –December 2004 | UBSWA Bank Bill Index Annualised for July 2004 –December 2004 |
|--------------------------------|--|--|
| BT Institutional Managed Cash | 5.68% | 5.55% |
| BT Institutional Enhanced Cash | 6.14% | |
| Macquarie Income Plus Fund | 6.43% | |
| Perennial Cash Enhanced Fund | 6.00% | |
| Turramurra Community Bank | 5.66% | |
| CBA Offset No.1 | 5.57% | |
| CBA Offset No.2 | 5.57% | |

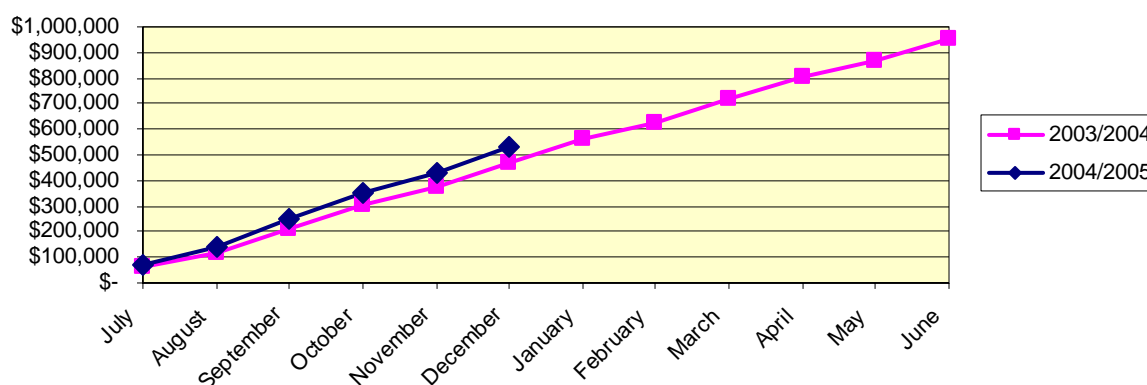
Allocation of Surplus Funds:

Council's funds during December were allocated as follows:

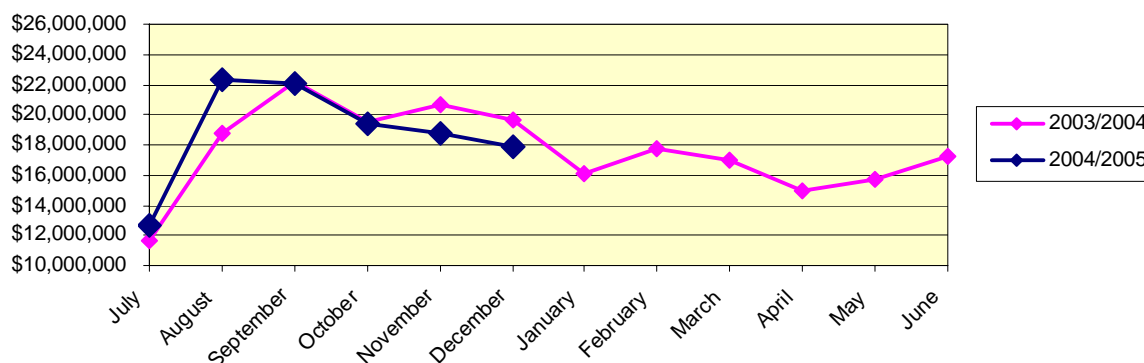
Portfolio Allocation of Surplus Funds

2003/2004 versus 2004/2005**Accumulative Interest**

The following graph compares the interest earned on an accumulative monthly basis for financial years 2003/2004 and 2004/2005. As at the end of December 2004, year to date interest earnings totalled \$528,300. This compares to \$472,500 at the same time last year, an increase of \$55,800.

Accumulative Interest 2003/2004 v's 2004/2005**Total Investment Portfolio**

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

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

During December 2004 Council's investment portfolio decreased by \$950,000. In comparison, during December 2003 Council's investments decreased by \$1,150,000.

Council's closing investment portfolio of \$17,841,300 in December 2004 is \$1,748,700 lower than the December 2003 closing balance of \$19,590,000.

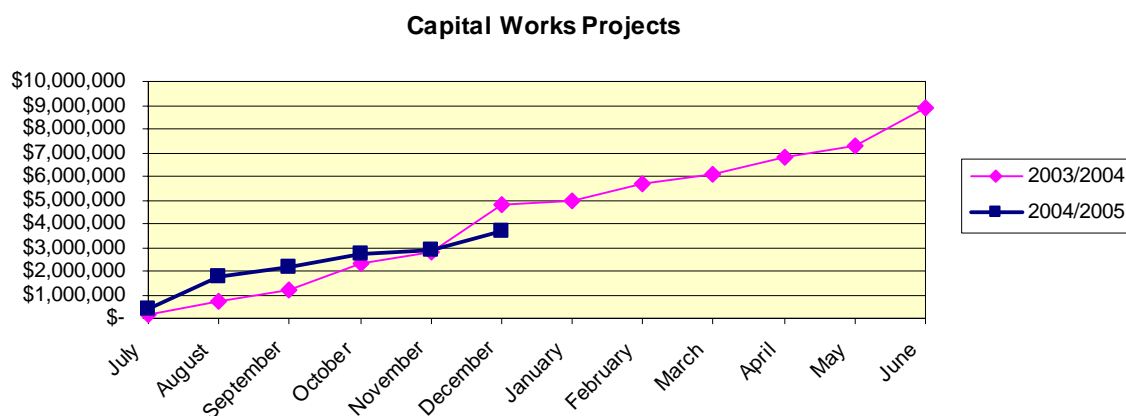
Capital Works Projects

As at the end of December 2004 Council has expended \$3,719,900 on capital works, which is \$1,058,100 lower than at the same time last year when \$4,778,000 had been expended.

During December 2004 Council expended \$875,400 on capital works, which compares to \$1,985,400 during December 2003, a decrease of \$1,110,000.

Council's 2004/2005 total budget for capital works (excluding fleet replacement) is \$9,877,000 which leaves funds of \$6,157,100 unspent at the end of December.

The following graph compares the accumulative monthly expenditure totals for Capital Works for financial years 2003/2004 and 2004/2005.

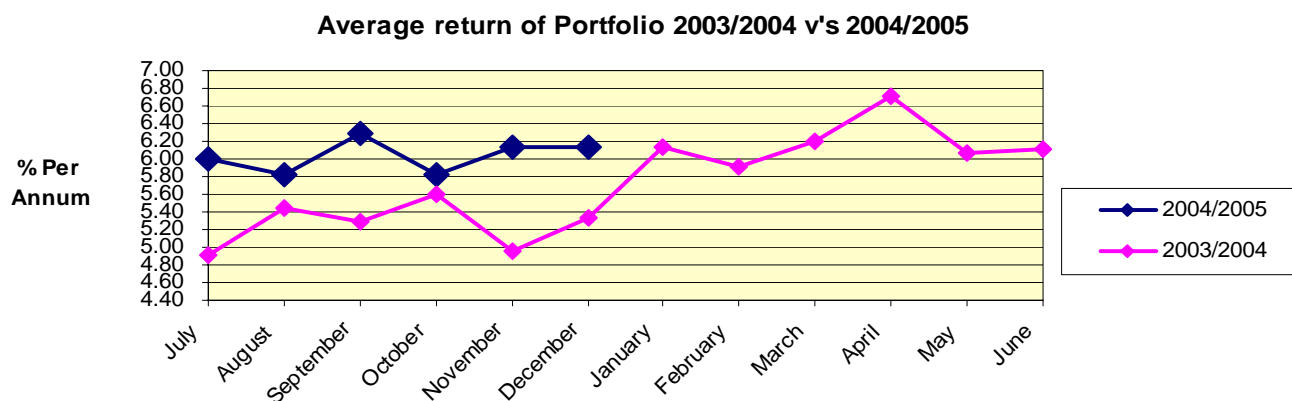


Portfolio Performance Average Return 2003/2004 versus 2004/2005

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

In December 2004 earnings before fees were 6.14%, this compares to 5.34% in December 2003.

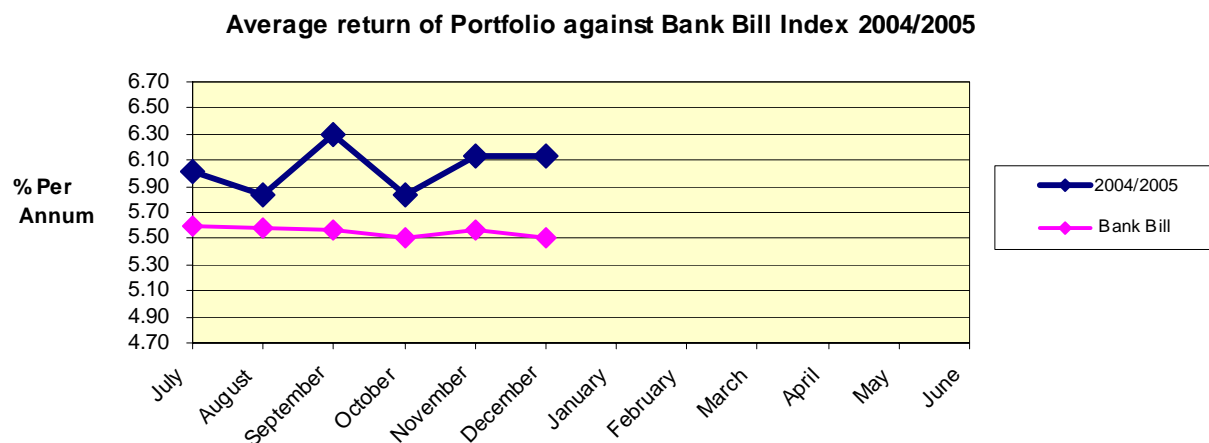
For the period July 2004 – December 2004 Council's average earnings before fees were 6.04%. This compares to 5.26% for the same period last financial year.



2004/2005 Portfolio Performance against the UBSWA Bank Bill Index

Council's average portfolio return performed above the UBSWA Bank Bill Index in December. Returns above benchmark have been achieved in each of the six months this financial year.

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



Summary of Borrowings

During December Council repaid \$416,500 in borrowings, reducing the total level of debt at month end to \$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) again left the official cash rate unchanged at 5.25% during December. The current economic climate of low inflation indicates that the RBA is unlikely to change interest rates in the near future.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

As at 31 December 2004:

- Council's total investment portfolio is \$17,841,300. This compares to an opening balance of \$17,271,200 as at 1 July 2004.
- Council's General Fund interest on investments totals \$528,300. This compares favourably to the year-to-date budget of \$412,500.

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14 January 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 December 2004 be received and noted.

Mellissa Crain
Manager Business Development

John McKee
Director Finance and Business

E - NOTIFICATION

EXECUTIVE SUMMARY

| | |
|---------------------------|---|
| PURPOSE OF REPORT: | To report to Council on investigation into "E-Notification" at Pittwater Council. |
| BACKGROUND: | On 9 November 2004, Council resolved that the a report be brought to Council on E-notification of Development Applications with special reference to the model adopted by Pittwater Council. |
| COMMENTS: | Pittwater Council offers a number of e-services, including some relating to the development assessment process. Pittwater Council does not, however, undertake E-notification. It is anticipated that, following introduction of Proclaim Stage 2, Ku-ring-gai Council will be able to offer some useful e-services to customers. |
| RECOMMENDATION: | That the report to Council on "E-Notification" Services at Pittwater Council be received and noted. |

PURPOSE OF REPORT

To report to Council on investigation into "E-Notification" at Pittwater Council.

BACKGROUND

On 9 November 2004, Council resolved to defer consideration of Draft Development Control Plan No 56 – Notification, pending:-

- a. A report to Council on E-notification of development applications, with special reference to the model adopted by Pittwater Council and including detailed costings of the introduction and running of such a service; and
- b. a presentation to the Planning Committee regarding options for dealing with problems relating to the notification of residents living in apartment buildings, Section 96 applications and changes to heritage items.

This report addresses part of this resolution.

COMMENTS

Pittwater Council offers a number of “E-services”, including some relating to planning, development assessment and Part 4A certificates. They are as follows:

E-Certificates Services

Customers may apply and pay for S149 planning certificates online and receive their certificates by email.

Development Application tracking details

Customers may use the internet to track the progress of any DA that has been lodged with Council. Customers may search by DA number, address or submission date. The information provided on the internet includes a description of the proposal, all documentation submitted by the applicant, key steps that have been undertaken (such as referrals) and the assessment officer's name.

Development Consents Register

Customers may use the internet to see the details of any DA that has been determined by the Council, including dates on which key steps in the assessment process were undertaken and the documentation submitted with the application.

Construction Certificate Application tracking

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Customers may use the internet to track the progress of construction certificate applications being assessed by the Council.

Mapping in Pittwater

Customers have on-line access to a variety of maps to enable confirmation of the relevant locality plans, DCPs, land zoning, whether the property has, or is in the proximity of, a heritage item, whether the land is in a hazard or risk area and whether the land is bushfire prone.

Masterplan enquiry service

Pittwater Council's online DCP allows customers to enter their property address and to download the controls relevant to their site and any of the permissible uses for that property, together with the information that must be submitted with a development application based on the type of development proposed.

E-Notification

The "E-services" offered by Pittwater Council via its website are comprehensive and customer-friendly. There is not, however, such a service as E-notification that would enable residents to automatically receive electronic advice regarding development applications that are on exhibition. Rather, residents may simply access information about applications about which they have received a notification letter, or otherwise may search randomly for applications about which they have not been notified.

Investigation has been conducted into the procedures of other Councils. There is no evidence of such a service as E-notification relating to development applications at any other Council in Australia.

At the present time, Ku-ring-gai Council is implementing Proclaim, a computerised applications system. Development application documentation is already stored electronically. It is therefore envisaged that, following introduction of Stage 2 of Proclaim (July 2005), Council will be able to begin introducing E-services such as those offered by Pittwater Council.

Implementing an electronic service for notification of DAs would be more difficult than implementing services such as those offered by Pittwater Council, particularly as Council does not have the email addresses of all residents in the local government area. It should also be noted that email addresses are subject to frequent change.

CONSULTATION

Pittwater Council has been contacted regarding E-notification and their senior officers have clarified that this service does not exist. Further research has been undertaken into the services offered by other Councils but no evidence of E-notification of DAs has been found.

FINANCIAL CONSIDERATIONS

There are no financial implications.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This report has been prepared by the Planning & Environment and Development & Regulation Departments of Council.

SUMMARY

E-Notification is currently not undertaken at Pittwater Council. It does not appear that E-Notification is undertaken at any other Council in Australia.

RECOMMENDATION

That this report regarding E-Notification be received and noted by Council.

Katherine Lustig
Environmental Planner

Michael Miocic
**Director Development &
Regulation**

Leta Webb
**Director Planning &
Environment**

MINUTES OF HERITAGE ADVISORY COMMITTEE MEETING HELD 11 OCTOBER 2004

EXECUTIVE SUMMARY

| | |
|---------------------------|--|
| PURPOSE OF REPORT: | That Council receive and note the Minutes of the Heritage Advisory Committee meeting held 11 October 2004. |
| BACKGROUND: | The Heritage Advisory Committee meeting was held on 11 October 2004. A range of heritage issues were discussed and several recommendations made. |
| COMMENTS: | The next meeting will be held February 2005. |
| RECOMMENDATION: | That Council receive and note the minutes of the Heritage Advisory Committee meeting held 11 October 2004. |

PURPOSE OF REPORT

That Council receive and note the Minutes of the Heritage Advisory Committee meeting held 11 October 2004.

BACKGROUND

The Heritage Advisory Committee is an advisory committee comprised of community members, Councillors and Council officers to assist in running the Committee. The aim of the committee is to provide advice to Council on heritage matters and to provide assistance to Council in promoting an understanding and appreciation of heritage through specific activities and events.

COMMENTS

The minutes from the 11 October 2004 Heritage Advisory Committee were confirmed with amendments at the 22 November 2004 meeting (**Minutes attached**). The next meeting will be held in February 2005.

The Minutes include a resolution from the Committee in relation to 400 Mona Vale Road and 27 Richmond Avenue. It should be noted that in receiving and noting the Minutes, Council is not endorsing the view of the Committee.

CONSULTATION

The Heritage Advisory Committee comprises of several members of established heritage organisations, community representatives and Councillors.

FINANCIAL CONSIDERATIONS

The cost of running the Committee is covered by the Planning Department budget.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Where relevant consultation with other Departments is conducted.

SUMMARY

The Heritage Advisory Committee meeting was held on 11 October 2004. A range of issues were discussed with several recommendations. A number of issues were identified for future discussion.

RECOMMENDATION

That Council receive and note the Minutes of the Heritage Advisory Committee meeting held 11 October 2004.

Antony Fabbro
Manager Strategic Planning

Leta Webb
Director Planning & Environment

Attachments: Minutes of Heritage Advisory Committee meeting held 11 October 2004.

AMENDMENTS TO WATER MANAGEMENT DEVELOPMENT CONTROL PLAN (DCP47)

EXECUTIVE SUMMARY

| | |
|---------------------------|---|
| PURPOSE OF REPORT: | To seek Council's endorsement to exhibit proposed amendments to Council's DCP 47 - Water Management relating to on-site detention and retention requirements for various types of developments. |
| BACKGROUND: | <p>The Water Management Development Control Plan (DCP) 47 was adopted by Council on 23 March 2004. Council is required to amend DCP 47 to ensure that measures are consistent with the requirements in BASIX which commenced on 1 July 2004.</p> <p>Since the operation of DCP 47, applicants for larger developments are taking up the option for on-site retention and interpreting the concession provisions in the DCP more loosely than was intended. Applicants interpret the controls to indicate that they need not install on-site detention, regardless of the impact on downstream properties.</p> <p>Amendments to the DCP are also required in line with Council's recent resolution to adopt the Riparian Policy.</p> |
| COMMENTS: | <p>Modifications to the DCP47 are required to ensure that the increased number of medium density developments along the catchment ridge does not adversely impact on a greater number of properties downstream.</p> <p>The modifications proposed are based on principles of risk management and increased efficiency. They include capping of OSD for Type 4, 5 & 6 developments and above, requirements to comply with BASIX, for subdivisions, pumping provisions and two further Appendices.</p> |
| RECOMMENDATION: | That Council exhibits for comment the amendments proposed for DCP47 as described in this report. |

PURPOSE OF REPORT

To seek Council's endorsement to exhibit proposed amendments to Council's DCP 47 - Water Management relating to on-site detention and retention requirements for various types of developments.

BACKGROUND

At a meeting on 23 March 2004, Development Control Plan (DCP) 47 was adopted by Council who resolved in part:

C. That Draft DCP47 be reviewed upon commencement of BASIX.

The Department of Infrastructure, Planning and Natural Resource's (DIPNR) Building Sustainability Index (BASIX) for developments commenced on 1 July 2004. The introduction of BASIX primarily affects Chapter 6 of DCP 47, which deals with on-site stormwater management.

Chapter 6 requires that a minimum of two different devices/techniques be used for stormwater management on each site. Both on-site detention (OSD) and a range of on-site retention (OSR) techniques are allowed. The DCP also specifically requires rainwater tank storage as one of the retention techniques.

In order to encourage the use of rainwater tank storage, the DCP provides concessions for OSD storage. However, DCP 47 is being interpreted as allowing a full dispensation from OSD where the retention tanks are sized over the site storage requirements calculated by Council's catchment factors. This was not the intent of the concession, as OSD is often necessary to reduce the impact of flooding on downstream properties.

Since the introduction of DCP 47, development applications for larger developments (in particular under LEP 194) commonly propose to employ solely OSR as the volume of rainwater tank storage required under the DCP exceeds the OSD storage volume. However, the management techniques proposed are designed to ensure that sufficient protection is afforded to downstream properties in the event of overtopping of rainwater tanks or from surface flows in high rainfall events.

Council has recently adopted a Riparian Policy and resolved to incorporate the relevant changes to DCP 47.

Amendments are therefore proposed to DCP47 in relation property drainage to clarify the limit of OSD concession, meet requirements of BASIX and incorporate information as required by the Riparian Policy.

COMMENTS

All proposed changes are highlighted in the attachment circulated separately.

Amendments to Chapter 1 – Introduction

Minor changes only are proposed in this chapter so that section 1.7 correctly reflects the current status of BASIX.

Amendments to Chapter 2 – Dictionary of Definitions

Minor changes are proposed to some definitions in order to make more clear the intent of the document. It is also proposed to add a definition of “Sydney Water” as this body is referred to a number of times in the Plan.

Amendments to Chapter 3 – Determining Development Type and Location

Minor changes only are proposed to wording in order to make more clear Council’s intent with regard to the Locations.

Amendments to Chapter 4 – Site Planning and Building Design

The amendments proposed to Chapter 4 are primarily the addition of controls consistent with the recently adopted Riparian Policy. Inclusion of these controls also entails the addition of an appendix containing riparian mapping information. The new controls will require that development and associated services are located a reasonable distance from riparian areas.

Amendments to Chapter 5 – Stormwater Discharge Leaving the Site

It is proposed to amend Chapter 5 so as to enable pump-out systems to be employed for certain types of Location D development, specifically developments up to and including new single dwellings where an easement for gravity drainage cannot be obtained.

Provided that these development are subject to strict controls regarding the impact of the pump-out system on the receiving catchment, together with stringent back up systems provided on-site in the event of pump failure/power outages (refer to controls in proposed section 5.7.9), there is no technical reason why a pump-out should not be considered in certain circumstances where an easement cannot be obtained.

Amendments to Chapter 6 – On-Site Stormwater Management

Rainwater tanks were introduced as a mandatory element of the on-site stormwater management so as to reduce the risk of total system failure as well as to help minimise demand on the mains water. The adopted DCP allows for concessions from OSD when OSR systems (eg. water tanks) are employed. It was not intended, however, that OSD systems be eliminated as a matter of course when concession options were introduced into the DCP.

Cancellation of OSD storage in development applications is mainly prevalent in Type 4 (dual occupancy), Type 5 (multi-unit) and Type 6 (business, commercial or retail premises). This is expected to cause problems in the future, following further concentration of medium density developments proposed adjoining the rail corridor, especially as these are situated on the ridge of

the catchments where they have the potential to impact on a greater number of downstream properties. Particularly given the downstream capacity of Council systems, the magnitude of some of the (concentrated) uncontrolled discharges from these large sites could be very large. It is therefore important that Council review its stance on OSD and OSR for sites such as these. In doing so, it is also important to consider the issue of overflow from rainwater tanks in the event of pump failure due to a power outage occurring in a major storm.

As such, it is considered that specifying a minimum proportion of the stormwater management that must be OSD will ensure that some protection is afforded to downstream properties and that the integrity of the drainage system capacity as well as the impacts of increased multi-unit development are appropriately managed. Specifically, the proposed amendments to Chapter 6 are:

1. Update to Section 6.4 so as to properly reflect the current status of BASIX.
2. Introduction of a retention component of 5000 litres (garden irrigation minimum) for existing dwellings retained in straight forward subdivision applications.
3. Introduction of mandatory on-site detention for Types 4, 5 and 6 development with a minimum site storage requirement (SSR) being 50% (for all Types 4), and either 50% (for eight or fewer units) or 75% (for nine or more units) for Type 5 & 6. This limits the concession for other storage devices to not more than 50% or 25% respectively.
4. Formatting of modifications to Sections 6.7 and 6.9 to reflect other changes and to improve clarity to users of the document.

Amendments to Chapter 7 – Development Adjacent to or over Existing Drainage Systems

It is proposed to add a section containing controls for the establishment of swimming pools and spas adjacent to drainage systems. Some other minor amendments and additions are proposed to improve clarity.

Amendments to Chapter 8 – Water Quality

Some additional information is proposed to be included to improve customers' understanding of processes. It is proposed to delete the section detailing the requirements for the environmental site management plan, as these are now detailed in the DA Guide. Some other minor amendments are also proposed including to the formatting.

Amendments to Chapter 9 – Road and Trunk Drainage

Some minor amendments and additions are proposed to improve communication.

Amendments to Chapter 10 – Water Conservation

Following the introduction of BASIX, some controls relating to water conservation cannot now be included. It is proposed to rename this chapter "On-site Wastewater Management" and to delete the

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introduction on water conservation as well as the general water conservation requirements such as rainwater tanks and ratings for fixtures.

Amendments to Appendices

Appendix 3 – It is proposed to remove “Flow 3” from the calculation sheet because this calculation provides a higher permitted site discharge than is warranted. Line 5 has therefore also been deleted from the adopted DCP and necessary changes made accordingly.

Appendix 4 – It is proposed to amend the formatting only to correct a printing error.

Appendix 5 – Minor amendments only are proposed to wording and references to improve clarity.

Appendix 6 – Minor amendments only are proposed to wording and references to improve clarity.

Appendix 7 – Some minor alterations and additions are proposed to the controls so as to clarify design requirements for property and interallotment drainage systems.

Appendix 8 – Some minor amendments are proposed to correct errors and improve clarity.

Appendix 11 – It is proposed to correct Section 11.1(f) for consistency with Chapter 7. It is also proposed to amend the diagram by deleting reference to information in a superseded document. Some minor amendments to wording are also proposed.

Appendix 13 – The majority of this information is now included in Council’s DA Guide. It is proposed to include the remainder of this information in the DA Guide so that all information about submission requirements is in a single location that may be easily accessed by customers. The information in the existing Appendix 13 may therefore be deleted. It is proposed to replace this information with a new *Rainwater Tank Certification Sheet*.

Appendix 15 – A new appendix is proposed containing a typical detail of a dispersal trench.

Appendix 16 – Following the adoption of Council’s Riparian Policy and in line with Council’s resolution, it is proposed to add controls to the DCP to limit development in the vicinity of riparian zones. So as to minimize the need for cross-referencing, it is proposed to include a new appendix containing the mapped information from the Riparian Policy showing the three different kinds of riparian corridor.

CONSULTATION

External engineering consultants have offered their opinion in respect to limiting the concession on OSD to afford some protection from flooding as well as the extent of the concession.

FINANCIAL CONSIDERATIONS

Costs are associated with notification in local papers and printing.

Costs to Council would primarily relate to staff time and exhibition for the proposed amendments to the DCP (for advertising, printing and staff time). If adopted, an advertisement will be placed in local papers informing the community of the proposed amendments and the cost met from the Planning & Environment Department.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Technical Services has worked in collaboration with Development & Regulation Department with assistance from Planning and Environment and Open Space.

SUMMARY

On 23 March 2004, Development Control Plan (DCP) 47 was adopted by Council. Since the adoption of the DCP, the Department of Infrastructure, Planning and Natural Resource has introduced the Building Sustainability Index (BASIX) for developments (commenced on 1 July 2004). The DCP must be updated for consistency with this planning tool.

It has also been noted that the adopted DCP is being interpreted by applicants for larger developments that they may use the concession provisions of the Plan to fully remove the requirement for on-site detention. Consistent application of this interpretation would result in insufficient protection to downstream properties. Amendments are therefore proposed to DCP47 in order to properly protect properties.

It is proposed to now include controls to enable pump-out systems for a very limited range of developments, specifically, those where an easement for gravity drainage cannot be obtained. Pump-out systems would be subject to strict control.

Additional appendices are proposed in order to provide necessary information to customers and some information in appendices has been removed where other Council documents have superseded the information provided.

Minor corrections are also proposed throughout the body and appendices of the DCP to improve communication.

RECOMMENDATION

- A. That the revised Draft DCP 47 – Water Management be placed on public exhibition for a period of 28 days.
- B. That a report be brought back to Council following exhibition of the Draft DCP.

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Ian Taylor
Manager Support Services

Greg Piconi
Director Technical Services

Robin Howard
Team Leader – Engineering Assessment Unit

Michael Miocic
Director Development & Regulation

Katherine Lustig
Environmental Planner

Leta Webb
Director Planning & Environment

Attachments: **Water DCP (amended) (Note: A3 maps have been reduced to A4. If placed on exhibition they will be full-sized.) This attachment will be circulated separately to Councillors.**

DEVELOPMENT APPLICATION

SUMMARY SHEET

| | |
|---|---|
| REPORT TITLE: | 84 YANKO ROAD, WEST PYMBLE - DUAL OCCUPANCY (ATTACHED) |
| WARD: | Comenarra |
| DEVELOPMENT APPLICATION N^o: | 1393/03 |
| SUBJECT LAND: | 84 Yanko Road, West Pymble |
| APPLICANT: | Masterton Homes and Mr and Mrs Mehta |
| OWNER: | Mr and Mrs Mehta |
| DESIGNER: | Residential Logistics P/L |
| PRESENT USE: | Residence |
| ZONING: | Residential "C" |
| HERITAGE: | No |
| PERMISSIBLE UNDER: | State Environmental Planning Policy No 53 |
| COUNCIL'S POLICIES APPLICABLE: | Ku-ring-gai Planning Scheme Ordinance Development Control Plan No 40 and Policy for Construction and Demolition Waste Management Development Control Plan No 43 Car Parking Development Control Plan No 47 Water Management Dual Occupancy Code |
| COMPLIANCE WITH CODES/POLICIES: | No |
| GOVERNMENT POLICIES APPLICABLE: | State Environmental Planning Policy No 53 and SEPP 55 |
| COMPLIANCE WITH GOVERNMENT POLICIES: | Yes |
| DATE LODGED: | 29 October 2003 |
| 40 DAY PERIOD EXPIRED: | 8 December 2003 |
| PROPOSAL: | Demolish the existing dwelling, pool and garage and erect an attached dual occupancy development. |
| RECOMMENDATION: | Approval |

| | |
|--|---|
| DEVELOPMENT APPLICATION N^o | 1393/03 |
| PREMISES: | 84 YANKO ROAD, WEST PYMBLE |
| PROPOSAL: | DUAL OCCUPANCY (ATTACHED) |
| APPLICANT: | MASTERTON HOMES AND MR AND MRS MEHTA |
| OWNER: | MR AND MRS MEHTA |
| DESIGNER | RESIDENTIAL LOGISTICS P/L |

PURPOSE FOR REPORT

To determine development application no 1393/03, which proposes an attached dual occupancy development.

EXECUTIVE SUMMARY

| | |
|------------------------|--|
| Issues: | Visual privacy, solar access, unrelieved wall length, built-upon area, upper level floor space ratio, building envelope, total soft landscaping. |
| Submissions: | One. |
| Recommendation: | Approval. |

HISTORY

Site history:

The application was lodged with Council on 29 October 2003.

It was assessed in May 2004, however, it was not considered worthy of support at that time due to the excessive paving in the front setback area and solar access.

The applicant chose to amend the application and amended plans were lodged with Council on 7 September 2004.

The amendments reduced the number of rooms in the dwellings and modified the car parking spaces from one garage each and a car space to one tandem garage for Dwelling A and one garage for Dwelling B.

The dwelling layouts were also modified to improve solar access to the Dwelling A.

THE SITE AND SURROUNDING AREA

The site

| | |
|----------------|----------------------|
| Zoning: | Residential C |
|----------------|----------------------|

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| | |
|----------------------------------|----------------------|
| Visual Character Study Category: | 1945-1968 |
| Lot Number: | 3 |
| DP Number: | 405756 |
| Area: | 930.9 m ² |
| Side of Street: | South west |
| Cross Fall: | East-west |
| Stormwater Drainage: | To the street |
| Heritage Affected: | No |
| Required Setback: | Minimum 9 metres |
| Integrated Development: | No |
| Bush Fire Prone Land: | No |
| Endangered Species: | No |
| Urban Bushland: | No |
| Contaminated Land: | No |
| Section 94 Contribution: | Yes |

The site is located on the south-western side of Yanko Road between Lovat Street and Wallalong Crescent, West Pymble. Existing on the site is a single storey dwelling, garage, deck and pool. There is an approximate 2 metres slope away from the street frontage in a westerly direction. The site is rectangular in shape with a width of 18.29 metres and a depth of 50.9 metres. The area of the site is 930.0m².

There is one significant tree located on the Yanko Road frontage of the site.

Surrounding development:

Houses in the area are predominantly single storey, however, recent approvals have been given for two storey dual occupancy dwellings on the northern side of Yanko Road.

THE PROPOSAL

Development application 1393/03 proposes the demolition of the existing dwelling, garage, deck and pool and the erection of a two storey attached dual occupancy development.

The dual occupancy comprises two dwellings (Dwellings A & B). The two dwellings are separated by a common wall and both have street presentation to Yanko Road.

Dwelling A:

Dwelling A contains a study, living room, family room, kitchen, laundry, staircase, entry, tandem garage and a porch at ground floor level.

The upper level contains three bedrooms, en-suite, computer nook, bathroom and staircase.

Dwelling B:

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Dwelling B contains a living room, family room, kitchen, laundry, staircase, entry, single garage and a porch at ground floor level.

The upper level contains three bedrooms, en-suite, bathroom and staircase.

The building is to be constructed with face brickwork and hardiplank walling, concrete roof tiles and aluminium window frames.

Vehicle access is from Yanko Road and a manoeuvring bay is provided to allow forward egress to the street.

CONSULTATION - COMMUNITY

In accordance with Council's Notification DCP, owners of surrounding properties were given notice of the application. In response, a submission was received from the following person.

Original scheme dated 29 October 2003.

1. Patricia Keys - 16 Warrabri Place, West Pymble NSW 2073.

The submission raised the following issues:

The height of the building is much larger than the adjoining dwellings.

The building complies with the height requirements prescribed under the Ku-ring-gai Planning Scheme Ordinance (KPSO) and Dual Occupancy Code.

The number of storeys proposed is out of character with the surrounding development.

The proposed development contains two storeys. Whilst inconsistent with the immediately adjoining dwellings that are single storey, the development of the site to erect a two storey building is compliant with the height control and consistent with the wider character of the Ku-ring-gai area.

Amended Plans dated 7 September 2004.

The amended plans were also notified. No submissions were received.

CONSULTATION - WITHIN COUNCIL

Landscaping

Council's Landscape Development Officer has advised as follows:

The proposed development will result in the removal of the mature Claret Ash. The tree is approximately 15.0m high with a 15.0m canopy spread and outwardly appears to be in good condition. An arborists report has been submitted detailing the health of the tree. It is noted that the tree presently has approximately 30-40% of its canopy overhanging the existing

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dwelling which is exempt under Councils Tree Preservation Order. The exempt parts of the tree include some major structural limbs and if removed the tree would be one sided with a very poor form. It is noted that the tree is over mature and, although significant within the immediate area, its removal can be supported.

The application can be supported with conditions

Engineering

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

The land drains across the lot and slightly to the rear. The development has been configured so that stormwater drainage is directed to the street. The increased stormwater runoff will be dealt with by the construction of a proposed stormwater detention system for the two dwellings.

The existing public road will satisfactorily handle the increase in traffic resulting from the development.

The sealed road and kerb and gutter are all in good condition.

There are no engineering objections to the proposal. The engineering works to be constructed in relation to this development are: -

- 1) *"On Site" Detention system for both new houses.*
- 2) *Drainage from the development to be connected to the street drainage. In this regard the drainage from the development is to be amended so that it is connected to a new inground drainage line and pit in the street.*
- 3) *Construction of one new concrete kerb and footway crossing.*
- 4) *Removal of the redundant crossing.*
- 5) *Kerb inlet pit and drainage line in the public road*
- 6) *In regard to existing public services in the footway or road the applicant is required to undertake any or all of the following items in order to make the work effective: - (a) adjustment of any services (b) repositioning of any services, or (c) raising or lowering of the lids of any services.*

STATUTORY PROVISIONS

State Environmental Planning Policy No 53

| COMPLIANCE TABLE | | |
|---|---------------------------------|----------|
| Development standards | Proposed | Complies |
| Allotment size (cl.19(1)(a)) <ul style="list-style-type: none"> 400m² attached dual occ (min) | 930.9m ² | YES |
| Floor space ratio (cl.19(1)(b)) <ul style="list-style-type: none"> 0.5:1 (max) | 0.3796:1 (353.4m ²) | YES |

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|--|---|-------------------------------------|
| Car parking (cl.20) <ul style="list-style-type: none"> Dwelling A: 2car spaces (min) Dwelling B: 1 car spaces (min) | <p>Dwelling A: 2 car spaces</p> <p>Dwelling B: 1 car spaces</p> | <p>YES</p> <p>YES</p> |
|--|---|-------------------------------------|

Site analysis (cl.31):

A site analysis has been submitted with the application and meets the requirements of SEPP 53 although, details of the dwelling to the rear of the development have not been provided. This dwelling is 36 metres distant from the proposed building and suitable screen planting exists between the proposed development and the existing dwelling.

Streetscape (cl.32(a)):

The appearance of the development when viewed in the streetscape is satisfactory given the ample setback of 12 metres, proposed street frontage landscaping and changing nature of the housing stock in this part of Yanko Road.

Visual privacy (cl.32(b)):

There are no visual privacy issues. On the south-east and south-west the development is in excess of the AMCORD standard of 9 metres from windows and doors of adjoining development. On the north-west it is 7.7 metres clear of adjoining windows at the closest point. At ground level, landscaping along the boundary and the proposed 1800mm high fence will overcome this impact. At the upper level, there is only one bedroom window.

Acoustic privacy (cl.32(b)):

There are no acoustic privacy issues. The proposed building is separated from adjoining dwellings by a minimum distance of 7.7 metres on the north-western boundary.

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

Solar access to adjoining properties

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

9.00am (June 22):

Shadows contained within the site.

12.00 Noon (June 22)

3.3 metres shadow projected onto the ground of the site to the south-east, No 82 Yanko Road.
No significant effect.

3.00pm (June 22)

11.3 metres shadow projected onto the ground of the site to the south-east, No 82 Yanko Road.

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The projected shadow falls, for the most part, within the front of the site and does not overshadow windows. No. 82 Yanko Road will have adequate solar access.

Solar access to proposed development

Dwelling A of the proposed development receives inadequate solar access to its internal living areas during the winter solstice. The private open space area receives adequate solar access.

The installation of skylights can greatly improve solar access to the internal living areas. (**See Condition 38**).

Dwelling B of the proposed development receives 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 is satisfied that the proposed dwellings can be satisfactorily drained to the street.

Crime prevention (cl.32(e)):

The development allows for general observation of who approaches the front door. Observation of the street from habitable rooms is available from the upper level master bedrooms.

Accessibility (cl.32(f)):

Accessibility for both vehicles and pedestrians is acceptable.

Waste management (cl.32(g)):

The proposal will comply with Council's waste management requirements.

Visual bulk (cl.32(h)):

Visual bulk is acceptable. The proposed building has ample setbacks and overshadowing of the building site to the south-east is insignificant.

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. There is no evidence to suggest the site is contaminated nor is there evidence to link the site to previous contamination activities based on the available information in relation to the site, it would be unreasonable for Council to require the applicant to have a contamination report prepared.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

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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.

| COMPLIANCE TABLE | | |
|----------------------------------|--|-----------------|
| Development standard | Proposed | Complies |
| Building height 8m (max) | 5.935 m | YES |
| | The following information is not a statutory control. This information is provided for the benefit of the Councillors: Height eaves line – 5.735m Height to roof ridge – 8.472m | |
| Built-upon area 60% (max) | 45.7% | YES |
| Notional built-upon area | Dwelling A: 49.2% Dwelling B: 42.2% | |

POLICY PROVISIONS**Development Control Plan 40 - Waste Management**

There is adequate space within the curtilage of both dwellings to provide for waste management facilities in accordance with Council's DCP 40 and Policy for Construction and Demolition Waste Management.

Development Control Plan No 43 - Car Parking

The proposal does not comply with DCP 43 on the basis that only 3 parking spaces are provided, whereas the control requires the provision of 4 parking spaces. However, the proposal complies with SEPP 53 and Council's Dual Occupancy Code which require 3 spaces.

Council's Dual Occupancy Development Control Code

| COMPLIANCE TABLE | | |
|-----------------------------------|-------------------|-----------------|
| Development control | Proposed | Complies |
| 4.2 Streetscape: | | |
| Architectural design | | |
| • 3m roof height - 2 storey (max) | Building: 2.357 m | YES |
| • Roof pitch 35° (max) | Building: 25° | YES |

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| 4.3 Visual and acoustic privacy: | | |
|---|---|--|
| Visual privacy <ul style="list-style-type: none"> Windows to habitable rooms set back 9m from neighbouring windows (min) | Dwelling A: 11.8m Dwelling B: 7.7m | YES NO |
| 4.4 Solar access and design for climate: | | |
| Solar access <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) | Dwelling A: <3+ hours solar access received Dwelling B: 3+ hours solar access received All neighbouring properties receive 3+ hours solar access | NO YES YES |
| Energy efficiency <ul style="list-style-type: none"> 3.5 star NatHERS Rating (min) | Dwelling A: 5 stars Dwelling B: 5stars | YES YES |
| 4.7 Accessibility: | | |
| Vehicular access and car parking dimensions <ul style="list-style-type: none"> Garage - 3.1m x 5.4m (min) | Dwelling A: 3m x 11m Dwelling B: 3.675m x 5.5m | YES YES |
| 4.9 Visual bulk: | | |
| Building setbacks <ul style="list-style-type: none"> Front building line: Minimum setback: 9m Side setback: Ground floor: 2m (min) 1st floor: 2.74m (min) Rear setback: 7.635m (min) | Dwelling A: 12m Dwelling B: 13m Dwelling A: Ground Floor: 2m Dwelling A: 1 st Floor: 2.885m Dwelling B: Ground Floor: 2.001m Dwelling B: 1 st Floor: 2.885m Dwelling A: 14.98m Dwelling B: 19.3m | YES YES YES YES YES YES |
| Building form <ul style="list-style-type: none"> Unrelieved wall length: 12m (max) Total building length: 24m (max) | Dwelling A: 20.16m and 13.22m Dwelling A: 23.92m Dwelling B: 18.42m | NO YES |
| Built-upon area | | |

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|---|---|---------------------------------|
| <ul style="list-style-type: none"> Total built upon area (max): 40% Notional built-upon area | <p>45.7%</p> <p>Dwelling A: 49.2% Dwelling B: 42.2%</p> | <p>NO</p> |
| <p>Floor space ratio</p> <ul style="list-style-type: none"> FSR (max): 0.5:1 1st floor - 40% | <p>0.3796:1</p> <p>Dwelling A: 43.75% Dwelling B: 48.73%</p> | <p>YES</p> <p>NO NO</p> |
| <p>Height of buildings</p> <ul style="list-style-type: none"> Attached dual occ: 8m (max) Building envelope: 45⁰ from horizontal at any point 3m above boundary | <p>5.935m</p> <p>Dwelling A South-east boundary: complies</p> <p>Dwelling B North-west boundary: minor gutter at front, eaves at rear</p> | <p>YES</p> <p>YES</p> <p>NO</p> |
| <p>Cut and fill (building works)</p> <ul style="list-style-type: none"> Cut & fill: 900mm & Total 1800mm (max) | <p>Dwelling A: 200mm (cut) & 600mm (fill) Dwelling B: 100mm (cut) & 600mm (fill)</p> | <p>YES YES</p> |
| Section 5: Landscaping & Open Space | | |
| <p>Total soft landscaping : 60% (min)</p> <p>Notional soft landscaping:</p> | <p>54.3%</p> <p>Dwelling A: 50.8% Dwelling B: 57.8%</p> | <p>NO</p> |
| <p>Tree retention and refurbishment</p> <ul style="list-style-type: none"> No of Trees: 6 (min) | <p>6 Trees (See Condition 71)</p> | <p>YES</p> |
| <p>Cut & fill (landscaping)</p> <ul style="list-style-type: none"> Cut & Fill: 900mm & Total 1800mm | <p>As for building works above.</p> | <p>YES</p> |
| <p>Open space provisions</p> <ul style="list-style-type: none"> Area: 100m² or 2 x 75m² areas (min) | <p>Dwelling A: 133m² Dwelling B: 173m²</p> | <p>YES YES</p> |

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|--|--|------------|
| • Min dimension 5m x 5m (min) | Dwelling A: 9m Dwelling B: 9m | YES YES |
| • Grade: 1 in 8 (max) | Dwelling A: $\leq 1:8$ Dwelling B: $\leq 1:8$ | YES YES |
| • 50% receives 3+ hours solar access (min) | Dwelling A: Open space receives 3+ hours solar access Dwelling B: Open space receives 3+ hours solar access | YES YES |

Control: Visual privacy

The proposed development is 7.7 metres distant from the windows of the adjoining dwelling to the north-west, 86 Yanko Road. At ground floor level existing screen planting within 86 Yanko Road, and proposed landscaping within the development site will overcome any adverse visual privacy impact. At the upper level there is only one window in Bedroom 2 of Dwelling B, that overlooks 86 Yanko Road and this is not a significant visual privacy issue.

Control: Solar access

Solar access to Dwelling A is poor but can be improved to an acceptable level with the installation of sky lights (See Condition 38).

Control: Building form

The south-east elevation of Dwelling A, has a wall length of 20.16 metres at ground floor level and 13.22 metres at the upper level. The upper level is acceptable as the roof skirt to the ground floor level and the upper level setback reduces the impact of this variation.

Control: Built-upon area

The variation in the built-upon area of 5.7% is acceptable as the site has adequate space for landscaping and existing vegetation both within and adjoining the property will lessen the affect of the shortfall in landscape area. Moreover, stormwater drainage is also considered satisfactory by Council's Development Engineers.

Control: Floor space ratio

Despite the non compliance with the 40% first floor FSR control the articulation of the building is such, as to lessen the bulk and scale as perceived within the streetscape.

Control: Height of buildings

The variation in the building envelope on the north-western elevation of Dwelling B is not significant. The 45° angle cuts through the upper level gutter at the front of the building and the eaves at the rear.

Control: Total soft landscaping

The variation in soft landscape area of 5.7% is acceptable given the existing vegetation both within and adjoining the site together with the proposed landscaping. There are no problems with stormwater drainage dispersal and the reduced absorption area will not adversely effect adjoining development.

Section 94 Plan

The development attracts a section 94 contribution of \$12,459.72, which is required to be paid by **Condition No 67**.

LIKELY IMPACTS

Impacts related to the development have been discussed within the body of this report.

SUITABILITY OF THE SITE

The site is not constrained by subsidence, slip or contamination.
The development is permissible with consent within the residential zone.
The site is suitable for the proposed development.

ANY SUBMISSIONS

The submission received has been considered in the assessment of this application.

PUBLIC INTEREST

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

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for discussion.

CONCLUSION

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

RECOMMENDATION

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THAT the Council, as the consent authority, grant development consent to DA 1393/03 for demolition of the existing dwelling, garage, deck and pool and the erection of a two storey attached dual occupancy development on land at 84 Yanko Road, West Pymble, being Lot 3 in DP405756, 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 1393/03 lodged with Council on 29 October 2003 and Development Application plans prepared by Residential Logistics Pty Ltd., Reference number RL111, Sheets 1 and 2 dated 25 June 2003 and lodged with Council on 7 September 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 a Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.

Demolition

6. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
7. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
8. 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.
9. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.

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10. 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.

11. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
12. 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.
13. 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.
14. 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.
15. 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.
16. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
17. 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.

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18. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
19. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
20. 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.
21. 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.
22. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
23. 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.
24. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.

Construction

25. 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.
26. 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.
27. **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

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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.

28. 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.
29. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
30. To maintain existing ground levels all excavated material shall be removed from the site.
31. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
32. 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.
33. If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

Pollution

34. 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

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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.

35. 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.
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. The development shall comply with the requirements of DCP 40 and Policy for Construction and Demolition Waste Management.
38. The following modifications to the development proposal are required:
 - Skylights are to be added to the following rooms, Dwelling A, Laundry, Kitchen, Pantry, Living room, Computer nook and Stairs. Dwelling B, Laundry and Stairs.
 - The following windows are to be widened by 1 metre. Dwelling A, Living room, Dwelling B, Family room on the south western end of the proposed window..
 - The following windows are to be added. Dwelling A, Staircase upper level. Dwelling B, north-west wall of Bedroom 1.
 - The Linen Closet on the upper level of Dwelling A is to be relocated to the north-east wall of the computer nook and a window placed in the south-west wall of the upper level adjacent to the bathroom.
 - The upper level windows to the front elevation are to be double glazed or otherwise treated in accordance with AS2107 – 1987 to reduce the effects of road traffic noise.
 - The west facing windows of the family rooms of both units and the kitchen and bedroom 3 of Unit B are to be provided with suitable sun shading devices.
 - Adequate lighting is to be provided to all paths, accessways, parking areas and building entries so as to enhance amenity and security around dual occupancy dwellings. Refer to Clause 4.6.3 of Council's Dual Occupancy Code.
 - Locks are to be installed on all windows and doors, with chains and viewers to be installed on all front doors. Where security grills are fitted, they are to be sympathetic to the architectural style of the dwelling and not to restrict surveillance.
 - All new bathrooms and toilets must be provided with maximum 6/3 litre dual flush cisterns and showerheads with reduced water flow devices.
39. All stormwater and sediment control shall be undertaken in accordance with the requirements of Council's Water Management Plan (DCP 47).

Landscape

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40. 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.

41. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
42. 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.
43. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

| Tree/Location | Radius From Trunk |
|--|-------------------|
| <i>Liquidambar styraciflua</i> (Sweet Gum) | 6.0m |
| Eastern site corner in front garden | |

44. 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.
45. 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.
46. 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

47. For stormwater control the accessway directly in front of the garages should be graded away from the door and towards an escape route. The design is to be configured so that overland flow, off the accessway does not flow towards the garage door. If the driveway must grade toward the garage, then for stormwater control a 200mm wide grated channel/trench drain

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with heavy duty removable galvanised grates is to be provided in front of the garage door and connected to the main stormwater drainage system.

48. For stormwater control, (where the grade of the driveway slopes towards the footway), a 200mm wide grated drain, with heavy duty removable galvanised grates, is to be located within the property at the intersection of the driveway and Council's footway. The purpose of this grated drain is to collect all surface water from the driveway, and control it across the footway. The drainage line shall be connected to the main drainage system.
49. For stormwater control all paved areas are to be drained to the main drainage system.
50. Stormwater runoff from all hard surfaces, or landscaped areas, which are not at natural ground level, shall be piped to the newly constructed drainage pit in the street, to front the subject site at the northern boundary alignment. To ensure compliance with this condition, a Certificate from a suitably qualified person is to be submitted to the Principal Certifying Authority.
51. The stormwater line in the footway area, from the boundary pit to the Council system, shall be by way of a Steel Hot Dipped Galvanised Rectangular Hollow Section, of the appropriate size. This condition shall override any other condition or reference to uPVC pipe connections. Footway crossings in UPVC pipe will only be permitted from the point where the obvert of the subject pipe, has more than 300mm of cover to the finished ground level. The sections of the pipe laid deeper than 300mm as described in the previous sentence, can be laid in uPVC sewer grade pipe.

In the drainage line across the footway, where (1) a bend is placed, or (2) where the pipe changes from an uPVC pipe to a RHS), an inspection point (cleaning eye) shall be provided directly upstream of the subject location. The cleaning eye shall be extended to the surface and finished with a screw type lid.

52. 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 and generally in accordance with the indicative concept plan M10180 by Rafeletos Zanuttini, dated 15/09/03. 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.
53. 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.
54. 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

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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.**

55. 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 are to be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps are to 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.
56. 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".
57. In order to minimise conflicts between frontage road traffic and car park traffic, all vehicle manoeuvre are to occur within the subject property and that vehicles must egress the property in a forward direction.
58. 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. This requirement is to be demonstrated on submitted Construction Certificate drawings.
59. For the purpose of 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.
60. 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) and/or Council officers.
61. 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

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Plan specific to the subject site. 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

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

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 flagperson to control vehicle movements to and from the site.

How safe egress for vehicles will be controlled on those occasions where forward egress is not possible.

How pedestrians will be safely managed across the frontage of the site.

Parking Control

The provision of on-site parking for employee, tradesperson and construction vehicles. Establishment of a no-parking zone for the full frontage of the site prohibiting on-street parking during the relevant morning and afternoon peak periods where located on main or arterial roads, or during school peak periods where located near schools, or full time where located near shopping centres.

RTA Concurrence

Evidence of consultation with, and concurrence of, the RTA for the Traffic Control Plan where the site is located on an arterial road or where parking restrictions are proposed prior to submission with Council.

Stages

The 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 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. Evidence of RTA concurrence, as required above, is to be lodged concurrently with Council.

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.

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

Administration

62. 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.

63. 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).
64. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted 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 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 good or maintaining "Council property" (as defined) during the course of this project.

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65. 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

66. 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.
67. 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 \$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 |
| 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

68. 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.

69. The submitted landscape plan is not approved. A revised 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 Architect/Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to the principal certifying authority prior to the release of the Construction Certificate and be approved prior to the issue of the construction certificate.
70. A plan detailing screen planting of the northern and southern (side) site boundaries adjacent to the dwelling 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 4.5 metres.
71. The property shall support a minimum number of six (6) trees that will attain 13.0 metres in height on the site (three for each dwelling), to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to the principal certifying authority prior to release of Construction Certificate and approved, prior to the issue of the construction certificate. It is required that a minimum of three trees are associated with each proposed dwelling, of which it is required that a minimum of four (4) trees are native endemic species associated with Sydney Turpentine Ironbark Forest vegetation types.
72. The five (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.

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73. A CASH BOND/BANK GUARANTEE of \$4 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of the 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.

Engineering

74. The property drainage system 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 and in accordance with Council's Stormwater Management Manual. Design drawings and calculations are to be prepared by a suitably qualified and experienced hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate. A direct connection shall be made from the site into a newly constructed pit fronting the site, rather than "chasing" the grade down the street in the footpath area.

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.

75. Full construction design drawings of the proposed method of achieving the requirements for on-site stormwater detention and supporting calculations are to be prepared by a suitably qualified and experienced hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate. The Construction Certificate details are to include, but not limited to, the following issues:
The roof gutter, down pipe and drainage system of the dwelling is to be sized to catch and convey the 50 year ARI storm event to the OSD system. An engineer is to provide certification the Construction Certificate plans, that this has been achieved.

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Suitable kerbs or other approved “cut off” systems are to be provided in the OSD design to ensure a maximum possible amount of overland flow is directed to the OSD system. These kerbs etc, are to be sized for all storms up to the 50 year ARI storm event. An engineer is to provide certification the Construction Certificate plans, that this has been achieved. For both new dwellings a boundary pit is to be provided where the stormwater line crosses the front boundary.

The stormwater outlet to the street from the boundary pit to be by way of hot dipped galvanised steel section, of appropriate dimensions, except for that part of the line where the obvert of the pipe is deeper than 300mm.

In regard to existing public services in the footway or road, the applicant is required to undertake any or all of the following items in order to make the work effective: - (a) adjustment of any services (b) re-positioning of any services, or (c) raising or lowering of the lids of any services.

Where OSD storage is by way of underground storage,

A) Inflow pipes to the storage chamber are to be located below inspection grates.

B) If soil and turf are to cover the tank, then a minimum depth of soil to be 350mm.

Drainage design details are to be compatible with the landscaping plans.

Councils landscape officer is to consider the final location of all drainage infrastructure including (a) drainage lines, and (b) OSD tanks. Only after the Council Landscape Officer’s approval, can the Construction Certificate be issued.

The access grate above the control chamber is to be a grate of 600mm x 900mm or greater.

Apart from the grate above the control chamber, other grates to have the following minimum sizes, depending on the pit depth as follows:-

| Depth of Chamber below grate | Min grate and Pit size |
|------------------------------|------------------------|
| Less than 300mm | 300square |
| Less than 450mm | 450square |
| Equal to or Less than 600mm | 600square |
| Greater than 600mm | 600 x 900 |

76. For stormwater retention, provision of a 2000 litre rainwater tank *for each dwelling*, 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 shall be submitted and approved 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 facade 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

77. For the new crossing, and any works adjacent to the boundary, the following will apply:

The new crossing is to be 5.5m wide. 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 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's Technical Services Department 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" which is issued with alignment levels after payment of the appropriate fee.

The grading of such footpaths or driveways outside the property is 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: 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.

78. Submission for approval with 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, and 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.
79. The Applicant must carry out the following infrastructure works in the Public Road to facilitate a gravity fed drainage connection from the site into the Council system:

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Construction of a new double grated gully pit in Yanko Rd (fronting the northern boundary alignment of the site) and extension of the in-ground Council drainage line in Yanko road from the new pit to the existing downstream in-ground system. New drainage lines to be generally at gutter lip alignment, RC class 2 pipes with a minimum size of 375 mm.

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

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

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

To ensure that works on Council property required by this Condition are carried out to Council’s requirements, the developer must lodge a bond to the value of \$3000. The Bond may be in the form of a bank guarantee and must be lodged **prior** to the issue of a Construction Certificate. The Bond will not be released until Council has inspected the site at all hold points specified in the *Roads Act* Approval, and is satisfied that the works have been carried out to Council’s requirements. Council may use part or the entire bond to complete the works to its satisfaction if the works do not meet Council’s requirements. After Council’s final inspection of these works 10% of the bank guarantee will be retained for a further twelve (12) month period and used by Council to repair any defects or temporary works necessary after the final inspection.

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

NOTE 2: An hourly assessment fee (set out in Councils adopted fees and charges) will be charged and Council will withhold any consent until full payment of the correct fees.

NOTE 3: Plans and specifications must be marked to the attention of Councils Development Engineers. In addition, a copy of this condition must be provided, together with a

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covering letter stating the full address of the property and the accompanying DA number. Failure to do so may delay the processing of the application.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

Administration

80. 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.

Construction

81. 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.

Pollution

82. 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.
83. 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

84. 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> (Sweet Gum) Eastern site corner in front garden | 3.0m |

85. 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.
86. 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.

Administration

87. 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

88. A survey report shall be submitted to the Principal Certifying Authority prior to occupation, which certifies that the development has been constructed in accordance with the terms of this consent in relation to built upon area, building levels and setbacks.

Engineering

89. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following works must be completed:
Construction of the new driveway crossing and layback in accordance with the levels and specifications issued by Council,
All works approved under the Roads Act 1993, prior to issue of the Construction Certificate, Removal of all redundant driveway crossings, pipe crossing and/or kerb laybacks. Full reinstatement to footway, and/or turfed verge and/or kerb and gutter to the satisfaction of Council's Engineer. Reinstatement works shall match surrounding adjacent infrastructure with respect to marrying of levels and materials.
For any sections of damaged grass verge, full replacement with a non-friable turf of native variety to match existing.

Any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

90. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the approved road, footpath and/or drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the Applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.

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

The works were carried out and completed in accordance with the approved plans.
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 occupation or issue of an Occupation Certificate.

92. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed drawing issued by a suitably qualified and experienced engineer or surveyor is to be submitted to the Principal Certifying Authority prior to occupation or issue of an Occupation Certificate.

NOTE 1: The Certificate is to be with respect to compliance with:

- a. The soundness of the structure.
- b. The adequacy of the outlet control mechanism to achieve the discharge as specified.
- c. The capacity of the detention storage as specified.
- d. The size of the orifice or pipe control fitted.
- e. The maximum depth of storage over the outlet control.
- f. The adequate provision of a debris screen.
- g. The inclusion of weepholes in the base of the outlet control pit.
- h. The provision of an emergency overflow path.

NOTE 2: The certifying engineer and surveyor are to also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

NOTE 3: 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)

93. 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, the issue of the Occupation Certificate or the issue of a subdivision certificate.

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

BUILDING CONDITIONS

95. 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.
96. 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.
97. 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.
98. 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 |

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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.

99. To ensure compliance with the requirements of the Building Code of Australia the construction of walls separating units shall have a Sound Transmission Classification in accordance with the requirements of Part 3.8.6 of the Building Code of Australia Housing Provisions. Details of the proposed method of compliance are to be submitted.
100. So as to ensure adequate fire separation, walls separating occupancies are to be constructed in accordance with the requirements of Part 3.7.1 of the Building Code of Australia Housing Provisions. Details of the proposed method of compliance are to be submitted.
101. 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.

102. 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.

103. 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

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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 building complies with the relevant deemed to satisfy provisions of the Building Code of Australia.

G Stewart
Executive Assessment Officer

M Leotta
Team Leader
Development Assessment – Team North

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development and Regulation

Attachments: Locality Plan
 Site Analysis
 Shadow Diagram
 Landscape Concept
 Architecturals (2)

177 ROSEDALE ROAD, ST IVES - VARIOUS ORGANISATIONS OPTION TO RENEW LICENCE

EXECUTIVE SUMMARY

| | |
|---------------------------|--|
| PURPOSE OF REPORT: | To advise Council of the organisations exercising their options to renew their licence for areas located within the Ku-ring-gai Community Groups Centre, located at 177 Rosedale Road, St Ives. |
| BACKGROUND: | The licence agreements for the organisations expired on 31 January 2005 with those agreements containing an option to renew for a further 3 years. |
| COMMENTS: | The organisations have exercised their options to renew for a further 3 years. |
| RECOMMENDATION: | <p>That Council authorise the exercise of the option by:</p> <ul style="list-style-type: none">- Action for People with Disability Inc.- Alcoholics Anonymous- Hornsby Ku-ring-gai Community College- Jewish Care- Lorna Hodgkinson Sunshine Home <p>for the premises at 177 Rosedale Road, St Ives.</p> |

PURPOSE OF REPORT

To advise Council of the organisations exercising their options to renew their licence for areas located within the Ku-ring-gai Community Groups Centre, located at 177 Rosedale Road, St Ives.

BACKGROUND

Council is the owner of the former St.Ives Public School, purchased in 1990. The property is described as Lot 1 DP 816806, zoned Special Purpose 'A' Municipal Purposes and classified as Community Land.

On 17 December 2002 Council resolved to grant a 2 year licence with a 3 year option for:

- Action for People with Disability Inc.
- Alcoholics Anonymous
- Hornsby Ku-ring-gai Community College
- Jewish Care
- Lorna Hodgkinson Sunshine Home

to operate their organisations from various rooms within the Ku-ring-gai Community Groups Centre. The initial 2 year licence commenced on 1 February 2003 and expired on 31 January 2005.

COMMENTS

Action for People with Disability Inc.

Are a non-profit community based organisation, which protects the rights of people with a disability by providing advocacy, information and support. They have occupied area 4 of the premises since 1991.

Alcoholics Anonymous

The Northside Central Service Office of Alcoholics Anonymous is a volunteer based service that provides resources and support services to those in need. The service assists in the rehabilitation of alcoholics by providing literature on alcoholism, its problems and treatment. They have occupied Room 1 at the premises since 1991.

Hornsby Ku-ring-gai Community College

Is a non-profit community based organisation who provide affordable short courses in non-vocational and vocational subjects of interest to adults in the community. They have occupied Area 5 of the building since 1994.

Jewish Care

Provide a broad range of community welfare and accommodation services to the Jewish Community and have occupied Room 2 at the centre since 1997.

Lorna Hodgkinson Sunshine Home

Is a non-profit organisation that operates a moving ahead program for school leavers who have a disability. The service provides young adults with access to training, education, employment and recreational activities. The service has operated from Room 3 since 2001.

All of the above tenants have been meeting their responsibilities as tenants and have complied with the conditions as set out in Council's Policy for Leasing Council Property to Community Organisations. Given this it is recommended that they be granted a renewal of their licences.

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

CONSULTATION

All of the groups have exercised their option to renew for a further 3 years.

FINANCIAL CONSIDERATIONS

The current rentals being paid by the groups are:

| | |
|--|------------|
| Action for People with Disability Inc. | \$ 2,882pa |
| Alcoholics Anonymous | \$ 1,044pa |
| Hornsby Ku-ring-gai Community College | \$10,880pa |
| Jewish Care | \$ 1,044pa |
| Lorna Hodgkinson Sunshine Home | \$ 4,490pa |

and are subject to annual CPI adjustments throughout the option period.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

The current tenants have exercised their options to renew and fulfilled their obligations as tenants under the term of the lease. Accordingly, it is therefore recommended that Council grant the renewal of the lease. The conditions of the original lease stand and are reflective of the Leasing Policy at the time.

RECOMMENDATION

- A. That Council receive and note the exercise of option and approve the grant of a 3 year licence to the following community organisations:

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14 January 2005

- Action for People with Disability Inc. – Area 4
 - Alcoholics Anonymous – Room 1
 - Hornsby Ku-ring-gai Community College – Area 5
 - Jewish Care – Room 2
 - Lorna Hodgkinson Sunshine Home – Room 3
- B. That the Mayor and General Manager be authorised to execute all necessary licence documents.
- C. That Council authorise the affixing of the Common Seal of Council to the licence agreement.

Stephen Plumb
Community Facilities Coordinator

Janice Bevan
Director Community Services

ANALYSIS OF LAND & ENVIRONMENT COURT COSTS 2ND QUARTER 2004/2005

EXECUTIVE SUMMARY

| | |
|---------------------------|---|
| PURPOSE OF REPORT: | To provide information in relation to proceedings to which Council is a party in the Land and Environment Court for the half - year ended 31 December 2004, including appeals commenced, costs incurred by Council and outcomes. |
| BACKGROUND: | An applicant may commence proceedings in the Land and Environment Court for an application which has either been refused by Council or is deemed to have been refused. An appeal may also be commenced in relation to conditions imposed in relation to consent granted by Council. |
| COMMENTS: | For the half – year ended December 2004, Council’s legal costs and associated expenses in relation to Land & Environment Court matters were \$835,600. This compares to the year to date budget of \$687,500. |
| RECOMMENDATION: | That the analysis of Land & Environment Court costs for the half - year ended December 2004 be received and noted. |

PURPOSE OF REPORT

To provide information in relation to proceedings to which Council is a party in the Land and Environment Court for the half - year ended 31 December 2004, including appeals commenced, costs incurred by Council and outcomes.

BACKGROUND

Pursuant to the *Environmental Planning and Assessment Act* 1979, an applicant may commence proceedings in the Land and Environment Court in respect of an application for which Council was the relevant consent authority, and which has either been refused by Council, or is deemed by the Act to have been refused (a development application is deemed to have been refused if it has not been determined within a period of 40 days, or such longer period that may be calculated in accordance with the Act). An appeal may also be commenced in relation to conditions imposed in relation to an approval granted by Council. Council is a respondent to such proceedings.

Under Section 428 of the *Local Government Act* 1993, Council is required to report legal costs, and the outcome of each case in its Annual Report.

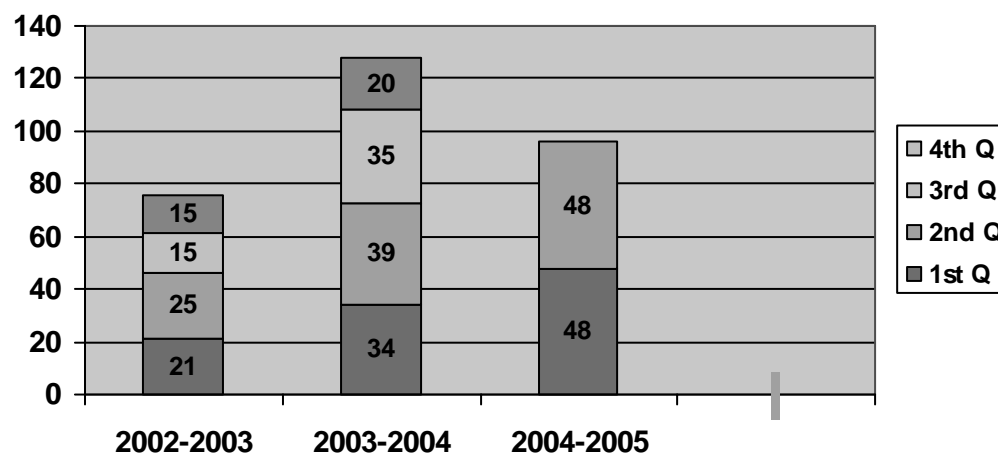
COMMENTS

APPEALS LODGED

For the half - year ended December 2004, there were 96 new appeals lodged in respect of development applications with the Land and Environment Court. This represents an increase in the number of appeals compared to previous periods. The number of appeals received in prior years is as follows:

| Financial year | Number of appeals received (whole year) |
|-------------------------|---|
| 2001/2002 | 75 |
| 2002/2003 | 76 |
| 2003/2004 | 128 |
| 2004/2005 @ 31 December | 96 |

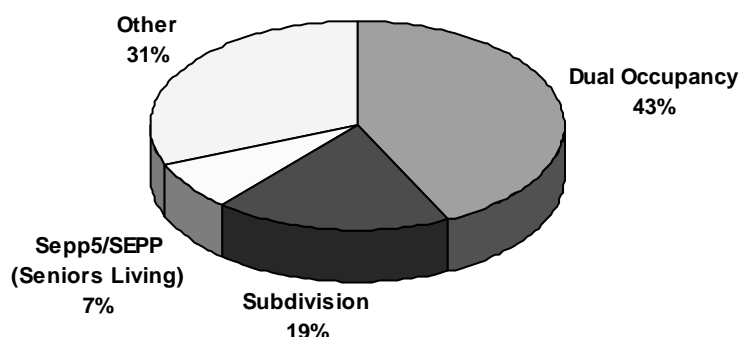
Number of Appeals Commenced



The revised procedures in the Land and Environment Court, which commenced in February 2004 and have significantly streamlined appeal procedures and reduced timeframes, is a factor which is encouraging more applicants to lodge appeals with the Court.

Fifty-three of the ninety-six new appeals were in relation to deemed (as opposed to actual) refusal of an application. Despite an overall increase in the number of appeals, this proportion (52%) represents a reduction in percentage of deemed refusal appeals compared to earlier periods. The percentage of deemed refusal appeals in the year 2003-2004 was 77%.

Appeals commenced in the half – year ended December 2004 are made up of the following categories of development:



The larger categories are appeals in respect of dual occupancy development (43%) and subdivisions (19%). It should be noted that most of the subdivision appeals represented above were in respect of sites which are also the subject of dual occupancy development proposals.

The “Other” category in the above chart comprises single dwellings, additions and alterations, fences, demolition, telecommunications structures, and one multi-unit housing development pursuant to LEP194.

COSTS

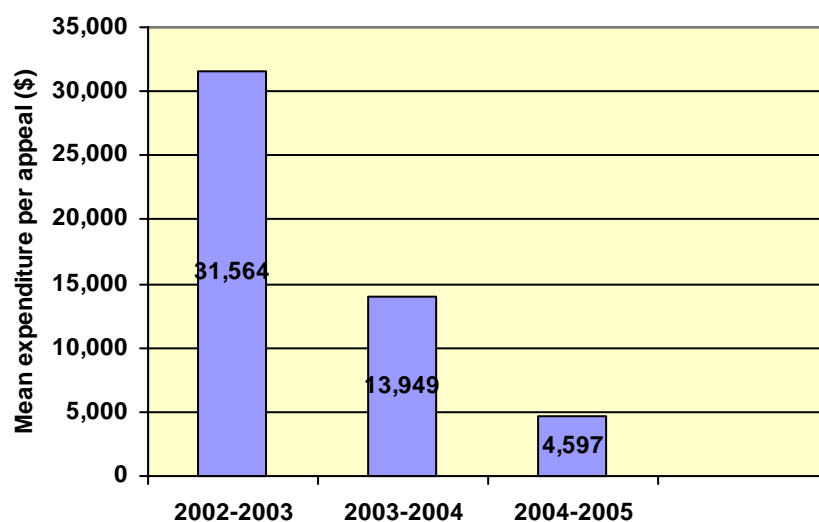
During the half – year ended December 2004, Council expended \$835,600 on legal costs and associated expenses in relation to Land & Environment Court matters. This is \$148,100 more than the year-to-date budget of \$687,500, and \$10,700 less than the same period in 2003/2004.

These costs are made up of legal fees, fees charged by consultants retained as expert witnesses (largely court-appointed experts), and other costs incurred as a result of Council’s role in the proceedings. In addition to expenditure on appeals, a further amount of \$13,000 was spent on expert legal advice regarding development assessment matters.

| Legal Costs and Associated Expenses 2001/2002 - 2004/2005 as at 31 December 2004 | | | | |
|---|----------------------------------|---------------------------------|------------------------------|-----------------------------|
| <i>Financial Year</i> | <i>1st quarter September</i> | <i>2nd quarter December</i> | <i>3rd quarter March</i> | <i>4th quarter June</i> |
| 2001/2002 (75 appeals lodged) | \$420,000 | \$423,000 | \$500,000 | \$761,000 |
| 2002/2003 (76 appeals lodged) | \$302,000 | \$452,000 | \$665,000 | \$833,000 |
| 2003/2004 (128 appeals lodged) | \$468,000 | \$378,000 | \$605,000 | \$754,000 |
| 2004/2005 (96 appeals lodged) | \$274,000 | \$562,000 | - | - |

The above table indicates that, despite an increasing number of appeals, there has been a reduction in costs incurred compared to the same period in the previous year. Costs for the 12-month period January 2004 to December 2004 were \$149,000 less than in the period January 2003 to December 2003.

A comparison of the average total costs incurred in relation to matters commenced in the past three years that have been concluded, indicates that the cost per appeal incurred by Council has reduced substantially:



Factors which may be regarded as contributing to this reduction in costs are:

- Council's more efficient processing of development applications that are subject to deemed refusal appeals so that they are determined at an earlier stage of the Court proceedings;
- Council's more efficient management of the process of instructing Council's external legal representatives;
- faster progress and determination of appeals by the Court as a result of the revised practice directions;
- the practice of the Court of frequently appointing Court-appointed experts to provide expert opinion evidence rather than allowing the parties to call their own witnesses, which results in the parties sharing the cost of the witness.

A total of \$240,900, or 29% of the total costs, was incurred in relation to 34 matters that commenced in the half – year ended December 2004. The balance relates to appeals that were commenced prior to 1 July 2004.

SUMMARY BY WARD

A summary of Land & Environment Court costs by ward is shown in the following table:

| Land & Environment Court costs by Ward for the half year ended December 2004 | | |
|---|------------------|---------------|
| Comenarra | \$52,874 | 6.3% |
| Gordon | \$230,123 | 27.4% |
| Roseville | \$128,559 | 15.3% |
| St Ives | \$199,408 | 23.8% |
| Wahroonga | \$224,672 | 27.2% |
| Total Costs | \$835,636 | 100.0% |

OUTCOMES

At an early stage of each appeal, Council, as respondent, is required to file with the Court a Statement of Issues outlining the grounds which Council asserts as warranting refusal of a development, or alternatively, that may be addressed by way of conditions of approval.

In cases where issues raised by Council are capable of resolution by the provision by the applicant of additional information, or amendment of the proposal, it is the Court's expectation that this should occur. The Court's current practice of appointing a Court-appointed expert witness, rather than allowing the parties to call their own expert evidence, strongly encourages this.

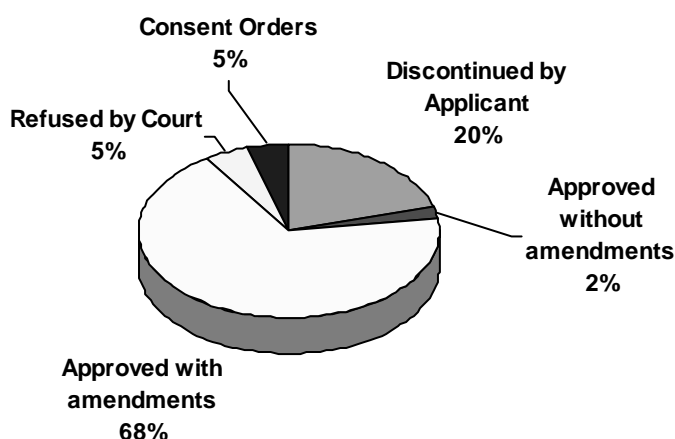
In this context, any of three outcomes can be regarded as favourable, namely:

1. If the appeal is in relation to a deemed refusal of an application which, upon assessment, is appropriate for approval: that the development is determined by Council, allowing the appeal to be discontinued by the applicant and avoiding as much as is practicable the incurring of unnecessary legal costs;
2. If the issues raised by Council are capable of resolution by the applicant providing further information, or amending the proposal: that this occurs, so that development consent should be granted, either by Council or the Court;
3. If the issues raised by Council are either not capable of resolution, or the applicant declines to take the steps that are necessary to resolve them: that the appeal is either discontinued by the applicant, or dismissed by the Court.

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5 January 2005

Of the 96 appeals commenced in the period 1 July 2004 to 31 December 2004, 44 appeals, or 46%, were resolved as at 31 December 2004. The following diagram illustrates the outcomes of those proceedings:



As indicated, one quarter (25%) of the appeals concluded were either discontinued by the applicant or refused by the Court outright. Of the other appeals, a substantial majority were subject to significant amendment to address some or all of the issues raised by Council prior to approval by the Court.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Land & Environment Court legal costs form part of Council's recurrent operating budget.

Despite the cost reductions achieved through the more efficient management of appeals on the part of Council and the Land and Environment Court, there is still a discrepancy between the budget and actual costs as at December 2004. There are three key reasons for this:

1. The considerable increase in numbers of appeal lodged due to the Courts' new practice directions. Based on an extrapolation of the numbers of appeals lodged in the six months to December 2004, it likely that there will be a threefold increase in appeal numbers in this financial year, compared to previous years.

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5 January 2005

2. Some two-thirds of the legal costs incurred in the first and second quarters of this financial year were in relation to appeals commenced before July 2004. This includes a significant proportion of appeals commenced prior to the new practice directives and appeals lodged in response to the previous backlog of development applications.
3. Dual Occupancy developments and subdivisions associated with dual occupancy developments still figure as the most significant single appeal category consuming in excess of 60% of Councils total legal costs. Appeals lodged in respect of dual occupancy development represent the highest proportion of deemed refusal appeal lodged at, or shortly after, the fortieth day.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This report has been developed with input from Council's Corporate Lawyer, Finance and Business Development and Development and Regulation.

SUMMARY

For the half year ended December 2004 Council has expended \$835,600 on legal costs and associated expenses in relation to Land & Environment Court matters. This compares to the year-to-date budget of \$687,500, a deficit of \$148,100.

Despite the cost reductions achieved through the more efficient management of appeals on the part of Council and the Land and Environment Court, there is still a discrepancy between the budget and actual costs as at December 2004. There are three key reasons for this:

1. The considerable increase in numbers of appeal lodged due to the Courts' new practice directions. Based on an extrapolation of the numbers of appeals lodged in the six months to December 2004, it likely that there will be a threefold increase in appeal numbers in this financial year, compared to previous years.
2. Some two-thirds of the legal costs incurred in the first and second quarters of this financial year were in relation to appeals commenced before July 2004. This includes a significant proportion of appeals commenced prior to the new practice directives and appeals lodged in response to the previous backlog of development applications.
3. Dual Occupancy developments and subdivisions associated with dual occupancy developments still figure as the most significant single appeal category consuming in excess of 60% of Councils total legal costs. Appeals lodged in respect of dual occupancy development represent the highest proportion of deemed refusal appeal lodged at, or shortly after, the fortieth day.

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RECOMMENDATION

That the analysis of Land & Environment Court costs for the half - year ended December 2004 be received and noted.

Mellissa Crain
Manager Business Development

John McKee
Director Finance & Business

Jamie Taylor
Corporate Lawyer

Michael Miocic
Director Development and Regulation

Attachments: Individual Case Recommendations December 2004 (Confidential).

NOTICE OF RESCISSION

COUNCIL ADOPTION OF KU-RING-GAI MULTI-UNIT HOUSING DEVELOPMENT CONTROL PLAN NO 55 - PACIFIC HIGHWAY / RAILWAY CORRIDOR AND ST IVES CENTRE

Notice of Rescission from Councillors A Andrew, E Malicki and L Bennett dated 20 December 2004.

We the undersigned Councillors, move the following:

“That the resolution No.633 be altered by the deletion therefrom of:

A. Definitions

Add new definition “street width – the distance between the face of kerb to face of kerb where kerb and gutter exists or the distance between the centre line of the table drains where kerb and gutter do not exist” and

Section 4.3

C-1(c) change to “Street boundary setbacks where street width is less than 12m may be reduced, but no less than 6m.”

And be replaced with:

- A. That all reference to “street width” in the DCP be changed to “road reserve width” and that the new definition of road reserve width be added to the DCP being the “distance between property boundary to opposite property boundary “and;

Section 4.3

C-1(c) be “Street boundary setbacks, where the road reserve width is less than 12m may be reduced proportionately, but be not less than 6m.”

RECOMMENDATION

That the above Notice of Rescission as printed be adopted.

Anita Andrew
Councillor for Comenarra

Elaine Malicki
Councillor for Comenarra

Laura Bennett
Councillor for St Ives