



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 10 MAY 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 26 April 2005

Minutes numbered 123 to 152

MINUTES FROM THE MAYOR

REPORTS FROM COMMITTEES

File: S02110
Meeting held 21 April 2005
Minutes numbered KTC7 to KTC9

File: S02131
Meeting held 30 April 2005
Minutes to be circulated separately

- 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.*

- To determine Development Application No. 1364.04 which seeks consent for the demolition of existing structures on site and construction of 58 dwellings within three separate buildings; associated access, basement parking and landscaping.

File: 1294/04

Ward: St Ives
Applicant: Newhaven Place Pty Ltd
Owner: Newhaven Place Pty Ltd

To determine Development Application 1294/04 which seeks consent for the demolition of existing structures on site and construction of 47 units and associated basement carparking and strata subdivision.

Recommendation:

Approval

- GB.3 **10 To 16 Marian Street, Killara - Demolition Of Existing Structures And Construction Of 5 Residential Flat Buildings Providing 60 Dwellings; Including Basement Parking, Landscaping And Strata Subdivision** **177**

File: DA1388/04

Ward: Gordon
Applicant: Mirvac Projects Pty Ltd
Owner: Mirvac Projects Pty Ltd

To determine Development Application No 1388/04 which seeks consent for the demolition of existing structures and construction of 5 residential flat buildings containing a total of 60 dwellings and including basement parking and landscaping.

Recommendation:

Approval

- GB.4 **51 Benaroon Avenue, St Ives - Demolition Of Dwelling And Subdivision Of One Lot Into Two Lots** **259**

File: 0003/05

Ward: St Ives
Applicant: Mr G Ford & Mrs L Ford
Owner: Mr G Ford & Mrs L Ford

To consider development application 3/05 for the demolition of an existing dwelling and the subdivision of one lot into two Torrens Title lots.

Recommendation:

Approval

GB.5 Code Of Meeting Practice 273

File: S02211

To report to Council following exhibition of an amended Code of Meeting Practice.

Recommendation:

That the amended Code of Meeting Practice be adopted.

GB.6 2005 Future Of Local Government Summit 320

File: S02049

To advise Council of the inaugural "Future of Local Government" Summit.

Recommendation:

That any interested Councillors advise the General Manager by 20 May 2005 if they wish to attend the 2005 "Future of Local Government" Summit.

GB.7 Public Place And Schools Recycling 326

File: S02294

To advise Council of services provided to schools for recycling and to consider public place recycling services.

Recommendation:

That the advice on the Schools Waste Education Package be received and noted and that Council continues with the development of Public Event recycling services, with appropriate conditions included in the Waste Management Plan.

GB.8 Minutes Of Heritage Advisory Committee Meeting 348

File: S03816

That Council receive and note the Minutes of the Heritage Advisory Committee meetings.

Recommendation:

That Council receive and note the Minutes of the Heritage Advisory Committee.

GB.9 Preparation Of An Local Environmental Plan For Minor Amendments 368

File: S02036

For Council to consider the need to resolve to prepare a new Local Environmental Plan to make minor amendments to the Ku-ring-gai Planning Scheme Ordinance, as amended.

Recommendation:

That Council resolve to prepare and exhibit a draft Local Environmental Plan to amend the Ku-ring-gai Planning Scheme Ordinance, as amended, as detailed in this report.

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

NM.1 Amendment To DCP 55 372

File: S04158

Notice of Motion from Councillor L Bennett dated 2 May 2005.

I move:

- “A. That DCP 55 be amended to delete 4.4 C-4 ("On sites where a building length greater than 36 metres has been justified by an applicant, that portion of a building in excess of 36m shall be sufficiently recessed and/or articulated so as to present to the street as a separate building").
- B. That the draft amendment be publicly exhibited in accordance with clause 18 of the Environmental Planning and Assessment Regulations 2000.”

NM.2 Timing Of Site Inspections 373

File: S02554

Notice of Motion from Councillor E Malicki dated 2 May 2005.

I move:

“That all Councillors should have the opportunity to formally vote on the most appropriate time for site inspections to be held.

I further move that this time be Saturday mornings.”

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

The Item listed hereunder is recommended for consideration in Closed Meeting, Press & Public excluded for the reason stated below:

- C.1 **Legal Advice On Depot Site**
 (Section 10A(2)(g) - Advice concerning litigation)

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File: S02054

Report by Director Technical Services dated 26 April 2005.

Brian Bell
General Manager

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Environmental Planning & Assessment Act 1979 (as amended)

Section 79C

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

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	1 TO 9 WONIORA AVENUE - DEMOLITION OF EXISTING STRUCTURES ON SITE AND CONSTRUCTION OF 58 DWELLINGS WITHIN THREE SEPARATE BUILDINGS; ASSOCIATED ACCESS, BASEMENT PARKING AND LANDSCAPING AND STRATA SUBDIVISION
WARD:	Wahroonga
DEVELOPMENT APPLICATION N^o:	1364/04
SUBJECT LAND:	1 to 9 Woniara Avenue
APPLICANT:	Woniara Avenue Pty Ltd
OWNER:	A. & L. Cameron, C. & J. Madden, E. & M. Bramble, M. Johnson, R. Fitzsimmons, J. & D. Johnson
DESIGNER:	Owen and Gilsenan Architects
PRESENT USE:	Residential
ZONING:	Residential 2(d3)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	KPSO - LEP 194, DCP31 - Access, DCP55 - Ku-ring-gai Multi-unit Housing, DCP40 - Waste Management, DCP43 - Car Parking, DCP47 - Water Management
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP55, SEPP65
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	20 December 2004, 12 April 2005 (Amended plans)
40 DAY PERIOD EXPIRED:	29 January 2005
PROPOSAL:	Demolition of existing structures on site and construction of 58 dwellings within 3 separate buildings; associated access, basement parking and landscaping and strata subdivision.
RECOMMENDATION:	Approval

DEVELOPMENT APPLICATION N^o	1364/04
PREMISES:	1-9 WONIORA AVENUE
PROPOSAL:	DEMOLITION OF EXISTING STRUCTURES ON SITE AND CONSTRUCTION OF 58 DWELLINGS WITHIN THREE SEPARATE BUILDINGS; ASSOCIATED ACCESS, BASEMENT PARKING AND LANDSCAPING AND STRATA SUBDIVISION
APPLICANT:	WONIORA AVENUE PTY LTD
OWNER:	A. & L. CAMERON, C. & J. MADDEN, E. & M. BRAMBLE, M. JOHNSON, R. FITZSIMMONS, J. & D. JOHNSON
DESIGNER	OWEN AND GILSENAN ARCHITECTS

PURPOSE FOR REPORT

To determine Development Application No. 1364.04 which seeks consent for the demolition of existing structures on site and construction of 58 dwellings within three separate buildings; associated access, basement parking and landscaping.

EXECUTIVE SUMMARY

Issues:	Courtyard setback, wall plane areas, separation for visual privacy, NatHERS rating.
Submissions:	Fifty-four letters received, all in objection.
Pre-DA Consultation:	Yes
Land & Environment Court Appeal:	Proceedings No. 10209 of 2005. A deemed refusal appeal was lodged on 18 March 2005
Recommendation:	Approval

HISTORY

Site history:

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

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Development application history:

DA1364/04

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|------------------|---|
| 7 December 2004 | Pre-development application consultation held between Council Officers and applicant. Three proposed layouts were tabled, at which the third option (the one now proposed) was preferred by both the applicant and Council officers. This layout was considered to maximise the northern outlook and break the buildings to the street frontage. A matter of particular concern was the interface between this site and the adjoining single dwellings, which includes the heritage listed property No. 7 Burns Road. |
| 20 December 2004 | Application lodged. |
| 23 December 2004 | Request from Council to the applicant to provide a plan indicating calculations of deep soil and built-upon areas. |
| 14 January 2005 | Plan showing calculations of deep soil and built upon calculations provided. |
| 1 February 2005 | Comments received from Council's Heritage Officer. |
| 3 March 2005 | Revised plans submitted from applicant, to ensure further compliance with DCP55. Revised plans consisted of an amended compliance table illustrating compliance with DCP55 and SEPP 65, and minor revisions to plans |
| 3 March 2005 | Comments received from Council's Development Engineer. Further information required. |
| 8 March 2005 | Comments received from Council's Landscape Officer. A revised landscape plan was requested. |
| 9 March 2005 | Meeting held between the applicant, Council Officers and Council's Urban Design Consultant. Concern was expressed about the chosen layout of the proposal, and the lack of separation between the three buildings.

A further meeting was held in the following week between Council's Consultant Urban Designer and the applicant. It was agreed that the form of the development was the best possible for the site and that there were no further options which would yield the same result. |
| 18 March 2005 | Appeal against Council's deemed refusal of the application filed in the Land and Environment Court. The first callover was on 22 April 2005 and the second callover is set down for 12 May 2009. |

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| 4 April 2005 | Letter from Council to the applicant, clarifying remaining issues, which included the possible relocation of the basement parking area to beneath one of the buildings. |
| 7 April 2005 | Meeting held between the applicant and Council Officers to discuss outstanding issues. At the meeting, it was agreed that the basement parking area was best located in the position as currently proposed. |
| 12 April 2005 | Further amended plans received from applicant. |

THE SITE AND SURROUNDING AREA

The site

Visual Character Study category: 1920-1945

Legal Descriptions:	Street Address	Legal description
	1 Woniora Avenue	Lot 2 DP300066
	3 Woniora Avenue	Lot 99 DP2666
	5 Woniora Avenue	Lot 98 DP2666
	7 Woniora Avenue	Lot 97 DP2666
	9 Woniora Avenue	Lot 96 DP2666
Bush fire prone land:	No	
Endangered species:	No	
Urban bushland:	No	
Contaminated land:	No	

The site is known as 1-9 Woniora Avenue, Wahroonga and is comprised of five separate lots. The site is located on the northern side of Woniora Avenue.

The site has an area of approximately 5262m² and is rectangular in shape, with the exception of a deeper boundary to No. 1 Woniora Avenue. It has a total southern frontage to Woniora Avenue of 83.82 metres. The northern boundary of the property adjoins four single residential properties on Burns Road (one of which, No. 7, is a heritage listed property). The northern boundary has a total length of 83.82 metres. The eastern boundary is approximately 70.71 metres in length and adjoins five single dwellings. The western boundary is approximately 60.96 metres in length and adjoins No. 11 Woniora Avenue, which is comprised of three dwellings (two x 2-storey and one x single storey).

The site has a change in level from RL181.84 to RL176.55, sloping from the south-eastern corner at the road frontage to the north-western corner adjacent to 3/11 Woniora Avenue.

Numbers 1, 5, 7 and 9 Woniora Avenue all contain two storey dwelling houses.
Number 3 Woniora Avenue contain a single storey dwelling house.

The existing dwellings have front setbacks of 6.5 to 10.5 metres from Woniora Avenue.

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The titles are not affected by any easements or watercourses.

The site is not located within any conservation area but adjoins the National Trust Urban Conservation Area No. 27. The site is not subject to any heritage listings but lies adjacent to No. 7 Burns Road, a listed dwelling which was designed by William Hardie Wilson and which was occupied by the late Sir Lional Lindsay. Number 8 Woniora Avenue, which lies across the road, is also listed. This dwelling was resided in by Sir Sydney Nolan in the 1940s.

The proposed development site is not subject to bushfire restrictions.



No. 1 Woniora Avenue



No. 3 Woniora Avenue

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No. 5 Woniora Avenue



No. 7 Woniora Avenue



No. 9 Woniora Avenue

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Surrounding development:

The predominant form of existing development in the locality consists of dwelling houses, sited on large blocks of land and surrounded by gardens.

There are some examples of more modern apartment or townhouse style developments in the area. The largest development in the street is the 3 storey residential flat building opposite the site at 86-90 Coonanbarra Road. Numbers 4-6 Woniora Avenue also contain a six unit development which was completed in 1990. No. 11 Woniora Avenue was the subject of a development approval for townhouse and villa development some 10 years ago, and accommodates three dwellings, two of which are two-storey and one is single storey.



Nos 86-90 Coonanbarra Road, located on the opposite side of Woniora Avenue.



No. 8 Woniora Avenue.

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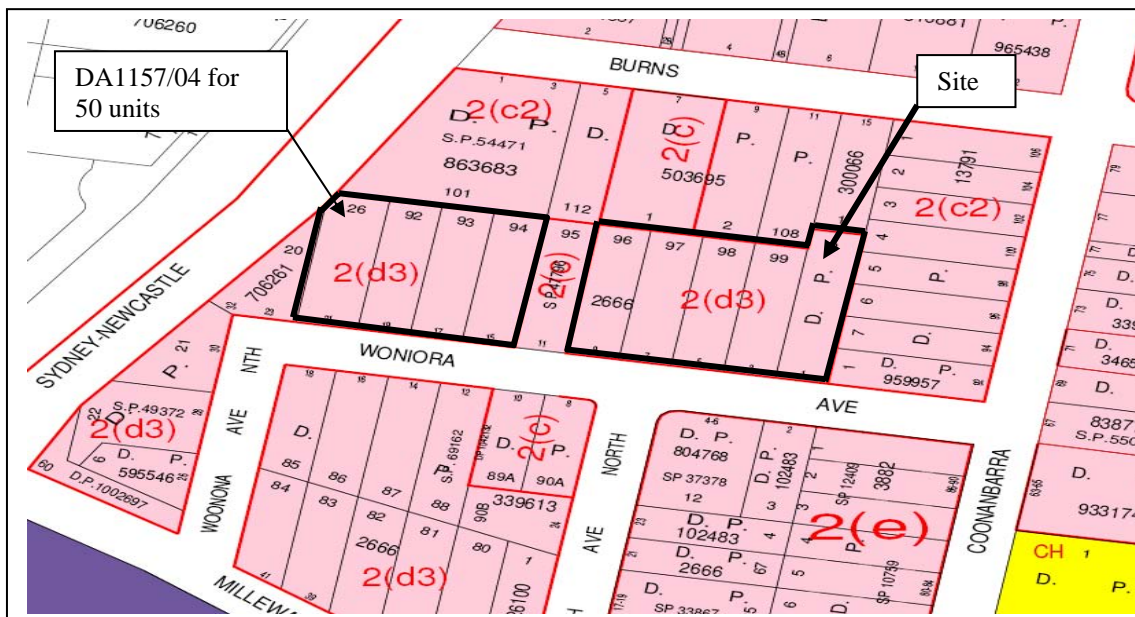


Looking eastwards along Woniora Avenue.

Zoning:

The Residential 2(d3) zoning in Woniora Avenue includes the subject site and the properties from 15 Woniora Avenue and westwards. No. 11 Woniora Avenue is zoned Residential 2(c2). Immediately to the north and east of the site, the land is zoned Residential 2(c2). This zone does not provide for apartment buildings but does allow for apartment conversions and limited dual occupancies. To the south, on the opposite side of Woniora Avenue, the land is zoned either 2(d3) or 2(c). The map below indicates the zoning.

There is also a separate application with Council for the development of 15-21 Woniora Avenue, for a total of 50 apartments (DA1157/04).



Context of the site.

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THE PROPOSAL

The proposal is to demolish the existing structures on site and construct three residential flat buildings accommodating 58 dwellings, consisting of 8 x 1 bedroom apartments, 8 x 2 bedroom apartments and 42 x 3 bedroom apartments.

The three buildings are of similar design, with similar width, height and depth. They are all of 4.6 storeys, with setbacks of 13 metres to Woniora Avenue.

A setback of 6 metres has been provided to both the eastern and western side boundaries, with the minimum interzonal interface setback of 9 metres being provided to the second floor and above. To the rear, a setback of 10 metres has been provided.

The buildings reach a maximum height of 13.4 metres, as measured to the perimeter of the fourth floor. The overall height to the topmost part of the fifth floor is of 17.2 metres (as measured at the northern end of Block B).

All units are accessible by three separate lifts provided from two pedestrian access points. One vehicular access is proposed between Blocks B and C.

Parking is available for 120 vehicles within two levels of basement parking provided from the one access point. This is comprised of 104 resident spaces and 16 visitor spaces. Garbage storage is also provided within the basement.

A communal area of private open space has been provided to the rear of the buildings (the northern side of the site) and along the north-eastern side of the site, where the boundary is uneven. The landscaping plan provided with the application depicts a rose garden and seating at this point.

The proposed buildings will be finished in a variety of building materials, as detailed on the photomontage and model provided with the application.

CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, owners of 176 surrounding properties were given notice of the application. In response, 54 submissions from the following were received:

<i>No.</i>	<i>Name</i>	<i>Address</i>
1.	<i>Berry, H.W.</i>	<i>Unit 3, 4-6 Woniora Avenue</i>
2.	<i>King, Ron and Nerida</i>	<i>Unit 1, 25-29 Millewa Avenue</i>
3.	<i>Ritchie, Vivienne Michele</i>	<i>33 Millewa Avenue</i>
4.	<i>Puckeridge, Lyn</i>	<i>4/68 Coonanbarra Road</i>
5.	<i>Cockinos, Mr and Mrs</i>	<i>4 Douglas Avenue</i>
6.	<i>Garrett, John and Helen</i>	<i>4 Burns Road</i>
7.	<i>Dundas-Smith, Robert</i>	<i>104 Coonanbarra Road</i>
8.	<i>Boettcher, Assoc Prof Brian</i>	<i>7/86 Coonanbarra Road</i>
9.	<i>Bentley, Helen</i>	<i>8/1 Burns Road</i>
10.	<i>Allison, Mrs D.</i>	<i>2/4-6 Woniora Avenue</i>

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| 11. | <i>Ford, Jean and Jack</i> | <i>1/4 Woniora Avenue</i> |
| 12. | <i>Strata Plan 47796</i> | <i>1/11 Woniora Avenue</i> |
| 13. | <i>Hellyer, R.J. & J.M.</i> | <i>1/11 Woniora Avenue</i> |
| 14. | <i>Grant, Juliet</i> | <i>Woodhut Pty Ltd, 40 Monteith Street, Turramurra, NSW 2074</i> |
| 15. | <i>Connolly, G.L.</i> | <i>24 Neringah Avenue</i> |
| 16. | <i>Chaney, L. & P.</i> | <i>3A Stuart Street</i> |
| 17. | <i>Mead, Margaret</i> | <i>Principal
Wahroonga Preparatory School
61 Coonanbarra Road</i> |
| 18. | <i>Middlebrook, Peter</i> | <i>83 Coonananbarra Road</i> |
| 19. | <i>Watson, B. & N.</i> | <i>6/1 Burns Road</i> |
| 20. | <i>Brown, B.D. & S.</i> | <i>4/1 Burns Road</i> |
| 21. | <i>Ferris, Mal and Family</i> | <i>92 Coonanbarra Road</i> |
| 22. | <i>Gissing, John & Janet</i> | <i>9a Water Street</i> |
| 23. | <i>Browne, Eva</i> | <i>PO Box 864 Wahroonga</i> |
| 24. | <i>Gibson, Nicole</i> | <i>102 Coonanbarra Road</i> |
| 25. | <i>Jarrett, Stephen</i> | <i>5/86-90 Coonanbarra Road</i> |
| 26. | <i>Edleston, Mrs G.</i> | <i>9/86-90 Coonanbarra Road</i> |
| 27. | <i>Matthews, Mrs B.</i> | <i>3/86-90 Coonanbarra Road</i> |
| 28. | <i>Wilson, Mark and Adelene</i> | <i>2 Woniora Avenue</i> |
| 29. | <i>Vickery, Victoria and Dennis</i> | <i>11 Burns Road</i> |
| 30. | <i>Tolhurst, Mr P.</i> | <i>3/28 Woonona Avenue</i> |
| 31. | <i>Wilson, R.</i> | <i>12 Burns Road</i> |
| 32. | <i>McGhee, E.</i> | <i>8/82-4 Coonanbarra Road</i> |
| 33. | <i>Croston, David & Sue</i> | <i>96 Coonanbarra Road</i> |
| 34. | <i>Petersen, L.K.</i> | <i>7 Burns Road
(C/O Ken Willis and Associates, Consulting Town Planners, 50 Rushall Street, Pymble)</i> |
| 35. | <i>Abraham, Margi</i> | <i>21 The Glade</i> |
| 36. | <i>Rothery, Brian & Lenore</i> | <i>1/68 Coonanbarra Road</i> |
| 37. | <i>Miller, L.C.</i> | <i>5/1-3 Burns Road</i> |
| 38. | <i>King, Clayton & Prue</i> | <i>98 Coonanbarra Road</i> |
| 39. | <i>Town, Rhonda and Murray</i> | <i>71 Coonanbarra Road</i> |
| 40. | <i>Hill, Graeme and Doris</i> | <i>6 Burns Road</i> |
| 41. | <i>Au, Dr Anthony and Titus, Dr Kamini</i> | <i>9 Burns Road</i> |
| 42. | <i>Benson, Frank</i> | <i>4 Clwydon Place</i> |
| 43. | <i>Clifton, Anna</i> | <i>73 Coonanbarra Road</i> |
| 44. | <i>Gowing, R. & S.</i> | <i>29 Illoura Avenue</i> |
| 45. | <i>Chapman, Amanda</i> | <i>97 Coonanbarra Road</i> |
| 46. | <i>Pointon, B.A. & P.M.</i> | <i>45 Braeside Street</i> |
| 47. | <i>Smith, Mary, David & Emily</i> | <i>20 Bareena Avenue</i> |
| 48. | <i>Fraser, Rev. Murray</i> | <i>Presbyterian Church of Australia, Wahroonga
Presbyterian Church
Cnr Stuart Street and Illoura Avenue,
Wahroonga</i> |

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49.	Hessell, Tim & Pen	106 Coonanbarra Road
50.	Phelan, Miss Robyn	2/11 Woniora Avenue
51.	Thomas, G. & W.J.	1/28 Woonona Avenue
52.	Brew, Don	86 Braeside Street, Wahroonga
53.	Collins, Lorraine	2/67 Coonanbarra Road
54.	Johnson, Rick and Lynne	5 Burns Road

Impact upon character of the area

Anything over three storeys is out of character with the area.

LEP194 provides for multi-unit development of this scale within Wahroonga, which will enable housing choice for families to stay within the area. By virtue of LEP 194, the future character of the area will be three to five storey development.

The village atmosphere of the shopping centre will be ruined.

The proposed development will have no impact upon the character of the Wahroonga shopping precinct.

Large frontages should be provided to accommodate trees.

A setback of 13 metres has been provided to Woniora Avenue, in accordance with the required setback in DCP55.

Visual impact of the development – change from five houses to three apartment blocks.

The height and bulk of the building will not be compatible within the existing local context. However, LEP194 allows for some situations where unit blocks are situated next to single storey residential dwellings. Nevertheless, five storey apartment buildings are part of the future character of the area and a change in scale to the new apartment buildings is inevitable.

The proposed development does not respect the context of the site, as required by Principle 1 of SEPP65. The site is located within the 1920-1945 Visual Character Category, which requires generous front setbacks with mature trees and low fencing. Urban Conservation Area 27 – Wahroonga (East Side) also adjoins the site to the north and east. The UCA has been identified by the National Trust and is graded as State Significant. Whilst the UCA has no statutory authority, it is good planning practice that future development adjacent to this UCA recognises and respects the significance of this precinct, which is largely due to the gardens and natural landscape setting. Sufficient setbacks to accommodate substantial mature trees should be provided.

Setbacks and impact upon the conservation area have been addressed under Part 3 of the DCP55 assessment later in this report.

The proposed materials (brick, render and broad expanse of glass) are totally out of character with other structures close by or viewed from the rear of 92 Coonanbarra.

Proposed materials include brick to the ground and first floor, which relates to materials of the surrounding low scale residential dwellings that are primarily brick. The upper floors are to be cement rendered and painted. It is common practice to have a lighter, rendered element on the top levels, which provides for a solid base and a less obtrusive or less heavy top half. Use of brick and tile for the whole of the blocks would be more visually obtrusive than the materials proposed.

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The photomontage is incorrect. It fails to show shadows cast by the development and shows sun on the southern elevation. Trees shown on the photomontage are also unrealistic as they will take years to grow. The applicant should be required to provide photomontages which include neighbouring dwellings and perspectives from neighbouring properties.

The photomontages are provided for indicative purposes only and are not to scale. The shadow diagrams provided with the application provide the necessary information in order to complete an assessment. The trees depicted are illustrative only, to give an impression of how the buildings would appear against the 13-15 metre high trees - such tree heights should be eventually attainable within the setbacks provided.

The safety and security of the area will be in question.

The levels of security and surveillance provided for by the design are compliant with SEPP 65 and DCP55.

No thought has been given to high quality urban design and no attempt has been made to have the property blend into the area.

Consideration was given by the applicant to several different types of layouts for the apartments. Given the site orientation, need for interzonal interface and the requirement to present a smaller frontage to Woniora Avenue, current layout site plan was the preferred option.

Heritage

The development is not in keeping with the historic precinct formed by the Uniting Church, Wahroonga Park, the Sulman designed Coonanbarra Café building and the Church Manse. The excessive scale, the design and roof line is unsuitable for its location near to federation homes and gardens.

Consideration has been given to the impact upon the conservation area within the assessment below.

The scale of the proposal, in terms of height, width, and density, is in accordance with the provisions of both LEP194 and DCP55. As the roof line is flat and set in from the fourth floor, the roof will barely be discernible from neighbouring properties. A pitched roof would potentially add to the bulk and massing of the buildings and might cast additional shadow.

The proposed development adjoins the heritage listed properties at 7 Burns Road, 8 Woniora Avenue and Urban Conservation Area 27. Clause 25D of the Ku-ring-gai Planning Scheme Ordinance requires consideration of the impact of multi-unit development on the heritage significance of any heritage item in the vicinity of the proposal. The current Heritage Impact Statement only mentions landscaping issues.

The Heritage Impact Statement addresses impacts to both numbers 7 Burns Road and 8 Woniora Avenue and was considered sufficient by Council's Heritage Advisor to complete his assessment. Consideration of heritage related matters occurs in detail within the context of this report.

Aesthetics

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The apartments look like stacked “shoe-boxes”. Other flats in the area have some sort of architectural merit. There is a pre-fabricated look to the proposed buildings, it is not residential in character but rather like an office block or cheap government building.

Consideration of the design characteristics of the proposal has been carried out by Council’s Urban Design Consultant, who has determined that the materials, proportions and overall design are satisfactory.

The subject site is relatively free of constraints, without significant topographic or landscape impediments to future development. There are options for a more acceptable and reasonable form of higher density development on the site. There are opportunities to maximise the northerly orientation, whilst breaking down the building bulk and increasing the setbacks to accommodate enhanced spatial separation and landscape screening.

As mentioned above, consideration was given by the applicant to several different site layouts, including two lengthy buildings (one to the front, one to the rear) and two buildings with wider frontages to Woniora Avenue. Given the site orientation, need for appropriate zone interface and the requirement to present a smaller frontage to Woniora Avenue, the current layout/site plan was the preferred option.

Residential amenity

The impact of the development upon the aural and visual privacy of neighbouring residents at 7, 9, 11 and 15 Burns Road, 11 Woniora Avenue, and 92, 94, 96, 98 and 100 Coonanbarra Road. The development has balconies/terraces running almost the full length of each respective block on the third and fifth levels overlooking the neighbouring residents of 11 Woniora Avenue and 92, 94, 96 and 98 Coonanbarra Avenue. No. 11 Woniora Avenue will be overlooked from both sides. The canopies of the existing trees are an insufficient buffer.

Consideration of residential amenity impact has been provided below. It is concluded that the separation distances are acceptable to provide for reasonable levels of aural and visual privacy.

Loss of sunlight to neighbouring properties, particularly No. 11 Woniora Avenue.

Dwellings 1 and 2 at No.11 Woniora Avenue will experience shading in the morning until approximately 11:00am. Conversely, Nos 92-96 Coonanbarra Road will experience shading in the afternoon from 1:00 onwards. However, each of the neighbouring properties will receive the necessary 3 hours as prescribed within both the Residential Flat Design Code and DCP55.

Almost the whole northern wall of Block A faces directly towards No. 7 Burns Road (a listed property) and only a few metres from No. 7’s private areas, is glass windows, doors and balconies with ‘grandstand views’.

In order to make the most of this aspect, there are a number of windows and balconies on these northern elevations. It is anticipated that the 10 metres setback provided, which is well in excess of the 6 metres required, will provide potential for a large degree of screening. This has been assessed by Council’s Landscape Officer, who concurs that good landscape screening will be achieved within this considerable setback area.

Television and mobile telephone coverage will be interrupted by the development on both sides of No. 11 Woniora Avenue.

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Telephone and mobile coverage is not an assessment matter under the heads of consideration of s79C of the Environmental Planning and Assessment Act.

Laundry will appear on balconies. Is it possible for Council to ensure that no balconies are used to dry washing etc?

This is a matter that Council cannot enforce. It may be a requirement on the Strata agreement, should the Strata Management require it.

The possible erection of air-conditioning units on the sides of the blocks, which will have a visual and acoustic impact on adjoining residents.

Condition No. 85 requires the submission of details for any air-conditioning devices at Construction Certificate stage.

How will the underground car park be ventilated? Where and how will this be directed and will they have suitable filters to reduce pollution?

Condition No. 84 requires that exhaust ventilation from the car park is directed away from adjoining residential properties. Details will be required at Construction Certificate stage.

Impact of noise from the Newcastle freeway upon the inhabitants of the apartments, particularly those at above first floor level.

It is envisaged that there will be not be significant levels of noise to this apartment development. The site and the land to the west immediately up to the freeway is occupied by dwellings and is currently acceptable. This matter would need to be addressed for any other developments to the west of the site, including that proposed for 15-21 Woniora Avenue

Lack of suitable play space on site for families with young children. The buildings are wide and centred on the site and there is no sunny garden for the people in the proposed flats to enjoy between the 3 blocks or surrounding their balconies.

The development provides for sufficient levels of private open space in accordance with the provisions of DCP55. This is further addressed below.

Loss of views to the Waitara ridgeline from No. 96 Coonanbarra Road.

Loss of a view in itself is not reason or justification to refuse such a development. It needs to be taken into account that significant amounts of land to the west of Coonanbarra Road are now zoned 2(d3). If the views are not impeded by the immediate development at 1-9 Woniora Avenue, then they will likely be by other developments.

Bulk and scale

Principle 2 of SEPP65 requires consideration of the bulk and scale of the development. Whilst some efforts have been made to increase boundary setbacks at the higher levels of the proposed western and eastern buildings, the relationship between the overall scale of the buildings and that of the surrounding residential development is unbalanced.

Consideration of bulk and scale is provided within the assessment below and the proposal is considered to be acceptable in these respects.

Isolated site

Item 1

Number 11 Woniora Avenue will effectively become an isolated site, zoned 2(c) squeezed in between two 5 storey developments. Overshadowing will be cast on the property from either side all day. All privacy will be lost to this dwelling.

It is agreed that the zoning of this property is unfortunate and will not result in good planning outcomes. It is anticipated that, with adequate setbacks to respect the zone interface, these impacts will be minimised as far as possible.

With respect to the 'isolation' of the site, LEP194 only provides for consideration of isolation of similarly zoned properties, to ensure that all Residential 2(d3) properties have opportunity to be developed to their full potential. Nevertheless, it is clear from the plans, and from the limited lot size, that there will be little scope for the redevelopment of No.11 Woniora Avenue.

No provision has been made for fencing along the western boundary adjacent to No. 11 Woniora Avenue.

Condition No. 63 requires suitable fencing along the sides and rear of the site.

Infrastructure

Sydney is running out of water and having difficulties providing electricity, transport, hospitals, education. Yet more apartments are proposed.

The provision of additional dwellings is in accordance with the policies of State Government to increase residential density within Sydney. It is expected that the State Government took such issues into account when fixing the increased development yields for this part of Ku-ring-gai.

Does the development meet with the requirements of BASIX with regard to energy and resource consumption?

The implementation of BASIX for Multi-Unit residential developments will become mandatory across NSW from 1 July 2005. BASIX does not apply at any stage of the approval process for a multi-unit development, where the application is lodged prior to 1 July 2005.

The proposal does not incorporate best practice in order to minimise energy and resource consumption, in accordance with Principle 5 of SEPP65. The application provides scant detail on the proposed energy conservation features. The design quality statement states (p.5) that 'the design does not rely on the use of air conditioners or mechanical ventilation'. However, there are internal bathrooms and laundries located on the ground floor through to Level 3 that will require mechanical ventilation. Additionally, there are no clothes drying facilities available for future residents of the proposed development. Reliance on clothes dryers is not environmentally sustainable and opportunities for natural clothes drying should be afforded to all residents.

The development achieves compliant levels of cross ventilation. The use of mechanical ventilation for bathrooms and laundries does not render the development unsatisfactory under SEPP 65. The use of communal open air drying facilities is more common in developments where communal laundry facilities are promoted. Furthermore, these developments are generally also of a lesser scale than 5 storeys. The failure of the development to provide communal open air drying facilities does not render it unsatisfactory in respect of SEPP 65.

Item 1

The footpaths are uneven and ill-kept, such as outside the western area on Coonanbarra Road. Woniora Avenue itself needs extensive upgrading in terms of road structure, kerbing and guttering. Who will be responsible for this?

The applicant will be required to upgrade the frontage of the site (*refer to Condition No. 74*). Upgrading of the rest of Woniora Avenue or Coonanbarra Road is not within the scope of this application and cannot be required of the applicant.

The application contains a services diagram that does not correspond with the existing sewer system. The development has the existing sewer line passing through open space when according to diagram 207599 the line passes directly under No. 11 Woniora Avenue. Although some provision has been made to move this line, it raises huge concerns with its ability to cater for 58 dwellings in place of the existing 5 dwellings.

Water and sewage would be dealt with through Sydney Water, which would provide to the applicant details of water and sewage extensions and charges to be paid. This would be ensured via a condition of consent (*refer to Condition No. 50*).

Geotechnical Concerns

To ensure that the ground does not subside, a large portion of the land should be set aside for planting.

In order to ensure there are no adverse impacts upon the dwellings at No. 11 Woniora Avenue due to excavation works, conditions of consent requiring dilapidation and structural reports are recommended (*refer to Condition Nos. 87 and 88*).

Traffic

An additional 58 units means another 100 vehicles in this area, which is already choked with vehicles owned by commuters using the nearby train service. The other application in the street will bring the total to 108 apartments. The cumulative impacts of these applications should be considered. There are a number of localised traffic 'bottle-necks' in and around Wahroonga that will be exacerbated by the proposed development.

The land in question has been rezoned to permit higher residential densities. The application has provided for sufficient parking in accordance with the requirements of DCP55 and LEP194. The cumulative impacts of development on land zoned 2(d3) is controlled by the provisions within LEP 194 and DCP 55. This development is compliant with the car parking requirement and deemed acceptable in terms of traffic generation.

This application, in combination with the other for 15-21 Woniora Avenue, will result in a doubling of car movement accessing Coonanbarra Avenue. Council should consider either closing off the Coonanbarra Road end of Woniora forcing traffic to the major road next to the rail line being Millewa via Neringa or North Woonona. This would create a cul-de-sac of apartments that can only be accessed from Millewa which also accesses Hornsby. Or else, close access to Junction Road forcing all Hornsby-bound traffic to use the existing major roundabout at Grosvenor and Junction.

This is not within the scope of this application and it is envisaged that State Government would have to some extent looked at the traffic generation within the area when determining the rezoning.

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Nevertheless, Council's Development Engineers have assessed the application and determined that the proposal is satisfactory in respect to traffic impacts.

There are two nearby schools and a large number of elderly who use the area. Traffic should be kept to a minimum around the area so that their safety is not impacted upon.

Council's Development Engineers have assessed the application on this basis and conclude that the proposal is satisfactory.

The railway bridge is already an enormous problem (traffic-wise). The new round-about will cause chaos, especially if we add another 150 cars to this tricky spot.

Council's Development Engineers have assessed the application on this basis and determine that the proposal is satisfactory.

A comprehensive and integrated transport and land use management plan is required for the Wahroonga Centre which addresses the concerns raised about the traffic congestion and accessibility.

This matter is beyond the scope of this application.

Developments such as these are being encouraged by NSW Government to be close to railstations so that there will be less cars on the streets. Given this objective, it appears reasonable that a minimum amount of parking be made available for each unit so as not to increase traffic flows in an already busy area.

Council's LEP 194 and DCP 55 propose a minimum car parking control with which the proposal is compliant.

Accessibility

Claims that the development is close to public transport and that this form of development provides for many infirm, aged and handicapped are negated by the fact that use of rail transport is not available for these members of our community due to lack of disabled/wheelchair access to Wahroonga Station.

The facilities provided at the railway station is a matter that is outside of the scope of this application. The application satisfactorily provides for disabled access and, therefore, meets requirements of LEP194 and DCP55.

Ecology

There has been no evidence of the potential environmental impact upon the birds, wallabies etc of the area.

The area is not known to be urban bushland or hold high environmental significance. Further, the land in question has been in residential use for many years. Given the above, it is not thought that any ecological report is necessary.

Impact of the development upon Spring Gully Creek and the wide range of wildlife that it nurtures.

Due to the distance of the Spring Gully Creek, which passes through 19 Woniora Avenue, it is not thought that the development would have any potential impact upon the waterway. Sedimentation

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control during construction will ensure that the development has as minimal impact as possible on any nearby waterways (*refer to Condition No. 44*).

Landscape

The landscape plan complies with the numeric standards. However, it needs to be ensured that the tree protection measures recommended in the report prepared by Footprint Green are enforced and that amendments to the Site Management Plan should be required to remove the materials stockpile proposed to be located adjacent to the street frontage under trees indicated for retention.

Condition No. 57 requires that no materials are stockpiled beneath trees subject to a Tree Preservation Order.

Twenty-one trees are proposed for removal. It is requested that Council apply the stringent requirements of its tree removal policy in respect of each and every tree the subject of this application.

The application and relevant landscape plans have been considered by Council's Landscape Assessment Officer, who's comments, concluding that the proposal is satisfactory, are contained below.

Tree at the rear of 1 Woniora Avenue (a large turpentine tree of 100 years old) appears to be lost in this application. This tree and one at the rear of 96 Coonanbarra Road are the only 2 remaining trees from the original Turpentine forest in this area. This tree is protected by a Tree Preservation Order. Why is it being removed? Further, what protection will be given to the tree at the rear of 96 Coonanbarra?

According to Council's Landscape Assessment Officer, the Turpentine tree located within the site has two dead leaders (branches) and is in decline. Its removal is therefore not objected to. With regard to the tree at the rear of 96 Coonanbarra Road, this tree is located a sufficient distance from the development site as not to require tree protection measures.

Residents to the rear (north) would like to see substantial mature trees to be planted on the northern boundary.

This has been indicated upon the landscape plans. The landscape plans show a total of 10 Camellias to be planted on this boundary (to a height of 4 metres). A Turpentine is also proposed, to a mature height of 20 metres.

Property values

The property values of existing residences will be severely diminished.

Property values are not a planning consideration under the terms of s79C of the Environmental Planning and Assessment Act.

Demolition/construction

How will access to No. 11 Woniora Avenue be controlled with safety and without disruption during this time?

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Condition No. 90 requires a detailed Construction and Traffic Management Plan to be submitted to and approved by Council's Traffic Engineer, which will require consideration of construction traffic impacts upon 11 Woniara Avenue.

Risk of soil subsidence, rock disturbance and vibration to No.11 Woniara Avenue, which will cause permanent damage to the foundation and cracking to walls etc of the buildings.

In order to ensure there are no adverse impacts upon the dwellings at No. 11 Woniara Avenue due to excavation works, conditions of consent are recommended requiring dilapidation and structural reports for both 11 Woniara Avenue and the road itself (***refer to Condition Nos. 87 and 88***).

Disposal of demolition and excavation material followed by continual delivery of construction materials will present a traffic hazard which has not been resolved.

Condition No. 90 requires a detailed Construction and Traffic Management Plan, which, inter alia, must address these issues.

Non-compliance with DCP55

There a number of minor areas of non-compliance with DCP55, including, no common clothes-drying facility, which has implications for resource use and sustainability, further, whether there is sufficient distance to maintain reasonable levels of privacy for adjoining properties to the north.

Despite some noncompliances, the proposal is considered to be acceptable overall, refer to DCP55 assessment below.

No assessment of DCP47

No discussion of the proposal in relation to DCP47 – Water Management.

An assessment against the provisions of DCP47 has been carried out by the applicants. Council's Development Engineer has also undertaken this assessment and considers the details provided to be satisfactory, subject to the imposition of an appropriate condition (***refer Condition No. 105***).

The potential for water run-off into neighbouring properties.

Refer to Council's Development Engineer's comments below which address this matter.

Urban Design Review Panel

Council has resolved to establish a SEPP65 Design Review Panel. This development application is one of the first to be submitted under LEP194. It is critical that this application be carefully and thoroughly assessed. It is requested that Council convene a design review panel and allocate adequate resources to support the panel's consideration of the proposal.

The Design Review Panel has not yet been constituted. Council is currently using the services of a consultant Urban Designer, Mr Russell Olsson, to assess LEP194 applications. Mr Olsson's assessment and conclusions are included within this report.

Other

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The poll in March 2004 indicated that 93.0% of voters affirmed that “Ku-ring-gai residents believed that five-storeys adjacent to private dwellings was inappropriate”. This should not be easily cast aside.

LEP194 has been gazetted by the NSW State Government and, as such, allows for multi-unit development to a height of five storeys.

CONSULTATION - WITHIN COUNCIL

Urban Design Consultant

Council’s consultant Urban Design Consultant, Russell Olssen, has assessed the proposal and comments as follows:

1.0 Design Review

Principle 1 - Context

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

The existing context is comprised of the natural setting and the existing built form in Woniora Avenue and Neringah Avenue (North). The natural setting includes street tree planting, landscaped front gardens and rear gardens, often with dense landscaping and tall trees.

The existing built form context is comprised of detached 1 and 2 storey houses, and this is likely to remain the context due to the existing zoning on 3 sides of the subject site. The site is zoned 2 (d3) and adjoining sites to the north and east in Coonabarra Road and Burns Road are zoned 2 (c2).

The site to the immediate west of the site is a heritage item and is not zoned 2 (d3). The sites on the corners of Neringah Avenue (North) are not zoned for medium density development. The proposed buildings on the subject site will be visually prominent due to their scale in the future surrounding low rise context. Within the constraints of this scale difference, the architectural design of these relatively larger buildings relates reasonably well to its neighbours, with a strongly delineated brick base on the lowest 2 floors, which relates to the brick 1 and 2 storey adjoining houses. The proposed landscape design within the front and side setbacks complements the existing landscape context.

Principle 2 - Scale

‘SEPP 65 : Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development.

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In precincts undergoing transition proposed bulk and height needs to achieve the scale identified for the desired future character of the area.'

The scale of these buildings will always be greater than the surrounding buildings due to the zoning of the sites. The scale differences between these proposed buildings and surrounding buildings have been minimised by the stepped building form on the eastern and western buildings at the 2nd floor level and the dark masonry lowest 2 floors, which relate to the adjoining houses.

Principle 3 - Built Form

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

The building setbacks between different land use zones on 3 sides of the site are substantial, being 6m at the lowest levels and 9m at the upper levels. The required set back from the street under DCP 55 is 14m, which is greater than any existing front setbacks for houses in the Woniora Avenue. These setbacks have been complied with in this design, which, in combination with the 50% deep soil area, creates substantial areas for large tree planting in the setbacks around the buildings.

These setbacks have created constraints on the layout of buildings on the site, if the development is also to achieve 35% building footprint area on the site. The proposed arrangement of 3 buildings is acceptable given these constraints, however it leads to potential privacy issues between the buildings, which are, in some locations, 12m apart. It is recommended that privacy screening is provided between all habitable rooms in the facades between Block A, Block B and Block C.

Principle 4 - Density

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

The density in terms of building footprint being 35% complies with LEP 194. However, the DCP 55 control regarding the car park ramp being located within the building footprint, has not been complied with. It is recommended that the yield in terms of apartment floor area is reduced as necessary to accommodate the car park ramp.

Principle 5 - Resource, energy and water efficiency

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

The apartment layout creates an acceptable percentage of cross ventilated apartments and living areas with sun access.

Principle 6 - Landscape

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

The location of the car park ramp compromises the communal courtyard space between Block B and Block C. It also reduces the amount of deep soil area and creates a visual interruption in the landscaped street frontage. It is recommended that the car park ramp is located under one of the three buildings . The driveway may have the same 1:20 grade for the first 6m, as currently proposed, and may descend steeply thereafter, with a garage door in the base of the building. This location would also allow the pedestrian entry to Block C to be located between Block B and C. This should be considered, however if other site planning constraints mitigate against its relocation, the pedestrian entry may remain in its current location.

Principle 7 - Amenity

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

It is recommended that privacy screening is provided between all habitable rooms in the facades between Block A, Block B and Block C.

Principle 8 - Safety and Security

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

Acceptable.

Principle 9 - Social Dimensions

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

Acceptable

Principle 10 - Aesthetics

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

The architectural design of the facades and front fences, in terms of proportions, materials, colours, balcony framing and sun-screening is exemplary.

2.0 Recommendations

It is recommended that:

- privacy screening is provided between all habitable rooms in the facades between Block A, Block B and Block C.*
- the car park ramp is located under one of the three buildings . The driveway may have the same 1:20 grade for the first 6m, as currently proposed, and may descend steeply thereafter, with a garage door in the base of the building. The yield in terms of apartment floor area is to be reduced as necessary to accommodate the car park ramp.*

Comment:

Council's development assessment staff met with the applicant to discuss the scope for an alternative to relocating the driveway and car entry point to beneath the central building. This option could be achieved, however, in order to provide adequate clearances for garbage trucks, a cavernous opening beneath the building would result. This entry point would be highly visible within the context of the street and, in the opinion of Council assessment staff, would result in an unsatisfactory streetscape outcome. The proposed location of the vehicle entry point, is more concealed due to its greater driveway length and due to the bend in the driveway will not be highly evident in the streetscape.

Heritage

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

The site was recently rezoned under LEP 194 to allow medium density development. Four houses are proposed to be demolished. A heritage report was submitted with the application and is considered acceptable. The report does not describe the existing buildings on the site.

Demolition of the existing buildings is considered acceptable but I recommend recording of the buildings to the Heritage Office guideline before demolition

Heritage Impacts – UCA

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Selection of the sites for Council's Residential Development Strategy took a considerable amount of time and developments such as this application were predicted. It is disappointing that Council followed a strategy of selecting sites near the railway stations, as these areas strongly represent the major development period in Ku-ring-gai and have considerable historic values.

The northern boundary of the site adjoins the Wahroonga UCA No 27. When seen from the UCA, this development would be out of context with the existing development which is one and two storey houses set in mature gardens. The apartments would overlook the rear of houses in Burns Road however the tree cover would assist in reducing overlooking and would help break down the scale.

Impacts on Heritage Items within the vicinity of a heritage item

The applicant's heritage report, notes there are two heritage items located "within the vicinity". The heritage report considers the curtilage of the items will not be affected by the development. In taking that approach, the applicant states:

Provision of adequate visual catchments to the heritage item from major viewing points and from it to outside elements with which it has important visual and functional relationships.

8 Woniara Avenue

The heritage item at No 8 Woniara Avenue is noted in the heritage report. It is a very modest timber house the former home of Sidney Nolan, a noted artist. The heritage report claims its curtilage is limited to what is seen from the corner of Woniara and Neringah Avenue South and from the opposite side of the subject site and there is no important relationship to other nearby areas or items.

The heritage item is a relatively small timber cottage. As it has visual presence due to its corner location, the development would not cause loss of views to the item. The item does not have any significant views to other areas. The development would overlook its front façade and garden and may cause some overshadowing, particular in winter. In my opinion, the main impact is the change in context and scale brought about by the proposed development.. This building, together with the other development at 15-21 Woniara Avenue would visually dominate the streetscape.

Although not included in the heritage listing, the adjoining lot at No 10 Woniara contains the artist's studio and garden. The applicants report states that No 10 is important and should be included with the listing for No 8. The house at No 8 was listed as part of a Woniara Avenue timber house group. The group included No 8, 11, 12, 14, 15 & 16 Woniara Avenue. Council allowed the heritage listing to Nos 11, 12, 14, 15 and 16 to be removed. It would be now appropriate for Council to consider amending the listing to include No 10 which contains the artist's studio.

7 Burns Avenue

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No 7 Burns Road directly adjoins the northern boundary of the subject site. The house is believed to be designed for the noted artist Lionel Lindsay. It is a relatively small brick house designed by Hardy Wilson. The site of No 7 Burns was subdivided c 1960 and the remnant garden is partially contained on the site of No 9 Burns Road.

The applicant's heritage report considers that the heritage significance of No 7 Burns Avenue is dependant on its symmetrical façade and presentation to Burns Road and it will not be affected by the development. It considers that the retained trees will provide adequate 'buffering' of the proposed development.

It is my opinion that the development would change the setting and contextual relationship of the heritage item by presenting as a fairly bulky block at the rear boundary. It would cause some visual dominance of the heritage item when seen from Burns Road. It would overlook the back yard and rear of the house although the existing mature trees at the rear of No 7 would provide some screening.

Conclusions

I raise no objections to demolition of the existing houses, provided recording is undertaken prior to demolition.

This application should be considered in context as the adjoining site at 15-21 Woniara Avenue which is similarly zoned. The design of the elevation is contemporary and seeks to provide some visual relief and interest. The layout roughly follows the existing subdivision pattern of lots running north to south with spaces in between although they provide little opportunity for screen planting due to the location of the basement. The scale of the building is very much larger than the existing context of one and two storey houses.

In my opinion, the departure in context and scale, particularly the height and mass will cause visual dominance to the streetscape, nearby heritage items and the adjacent UCA.

Landscaping

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

The site

It is proposed to demolish the existing dwellings and associated structures and construct a five storey residential flat building with basement car parking on the amalgamated site of 5262sqm with vehicular access from Woniara Ave. The site is characterised by an established landscape setting with mature trees and shrubs within formal garden beds and lawn expanses. The site is typically urban with horticultural plantings and single residential dwellings.

Impacts on trees/Trees to be removed/Tree replenishment

The proposed development will result in the removal of all the existing vegetation and trees located on site. The two most significant trees on site include tree #'s 14 and 57, both of which are Syncarpia glomulifera (Turpentine). Tree 14 is a large tree approximately 14m high with a 20m canopy spread. The tree has two dead leaders (trunks) and is considered to be in decline. Tree 57 is also a large mature tree which is approximately 18m high with a 12m canopy spread. The tree is identified by the consulting Arborist as showing signs of instability. Both trees are located within the development area and as such are proposed to be removed. Landscape Services raises no objection to the removal of the nominated trees and vegetation subject to adequate tree replenishment being undertaken on site.

Arborist's report

A detailed arborist's report has been submitted with the application. The report by Footprint Green (Melanie Howden) identifies and assesses 68 trees as being located on or associated with the site. 29 trees are located on site and 8 within the road reserve in front of the property.

Landscape plan

The submitted landscape plan cannot be supported by Landscape Services. As proposed the landscape will not have any tall (canopy) trees planted on site which does not comply with the objectives of the LEP or comply with Council's DCP55. Under Council's DCP a total of 18 trees able to attain a minimum height of 13m is required. This can be conditioned. Revised plans have provided 18 Syncarpia glomulifera (Turpentine) which comply with Council's requirement. However, only one species has been selected which does not comply with the objectives of the LEP for biodiversity. It can be conditioned for a greater diversity of tree species to be utilised on site. It should also be noted that all the proposed trees have been planted immediately adjacent to the site boundary heavily relying on neighbouring properties for the tree canopy

Spot heights have now been placed on the landscape plan which partially addresses previous concerns.

The extensive use of stepping stones (400 x 400mm concrete pavers) within grassed areas is impractical for disabled access and is high maintenance. It is recommended that the stepping stones adjacent to the eastern and western site boundaries be changed to a solid pathway 1.0m wide and the stepping stones through the grass be deleted. This has not been addressed in the revised plans and can be conditioned.

Deep soil landscaping

By the applicant's calculations, the proposed development will result in a deep soil landscape area of 50.1%, which numerically complies with the LEP requirements. Landscape services does not agree with the areas calculated as deep soil landscaping.

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It can be conditioned that proposed gravel paths with stepping stones be hard paved and reduced to 1.0m width to comply with deep soil landscaping definitions. Landscape services can then agree with the applicants calculated areas for deep soil landscaping.

Drainage plan

The revised sewer main and storm water plan can be supported by Landscape Services as previous concerns have been addressed.

The application can be supported with conditions (refer to Conditions Nos 52-59, 69, 99-109)).

Engineering

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

Summary

The applicant has submitted additional plans and details. There are no engineering matters relating to the plans which cannot be addressed by conditions.

Amended drawings which were considered are listed:

- *Owen & Gilsenan architectural drawings Issue D;*
- *B. T. Ryan & Associates concept plan and detail sheet, Issue B.*

Sydney Water

The plans submitted, and the letter from Sydney Water, indicate that the relocation of a sewer main is proposed. There are no objections to this work, provided it is carried out in accordance with the requirements of Sydney Water.

Subdivision

The application form indicates that subdivision is proposed under this DA, so subdivision conditions are included. So that the building is not constructed across lot boundaries, the Applicant will be required to consolidate all the lots prior to issue of the Construction Certificate.

Stormwater management

To comments made in the letter from B.T. Ryan & Associates, the following, briefly, responds:

Council's requirements for concept stormwater management plans are outlined in DCP 47 Appendix 13;

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The minutes for the pre-DA meeting include a Rod Wilson from B.T.Ryan & Associates among the attendees;

Runoff from neighbouring properties should not be routed through the site's on site detention storage. This will affect the operation of the system and may raise issues of responsibility in future. If the engineer feels the need to cater for overland flow, then a separate interceptor drainage system should be provided. A condition is recommended to that effect.

The amended concept stormwater management plan has been designed generally in accordance with the Council requirements contained in Water Management DCP 47, although I note no reference on the plans to the intended use of the retained roofwater. A stormwater retention requirement of 3000 litres per unit applies (total 174m³) – and this water is to be used for toilet flushing, laundry, car washing and irrigation. The split in volumes between the detention and retention has not been shown. Actually if the retention volume is less than the 174m³, with corresponding larger detention this will be acceptable. With this particular aspect of DCP 47 in the process of being amended, consideration of the amendments would have this result.

Refer to Conditions Nos 38-51, 70-80, 87-92, 93-98, 101-110.

STATUTORY PROVISIONS

State Environmental Planning Policy No. 65 – Design quality of residential flat development

The application includes a design verification statement by the project architect, Glenn Gilsenan of Owen and Gilsenan Architects. Mr Gilsenan has verified that he is a qualified designer and member of the NSW Architects Registration Board and has designed the proposal in accordance with the design quality principles set out in Part 2 of SEPP65.

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

Context:

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

The existing context is comprised of the natural setting and the existing built form in Woniora Avenue and Neringah Avenue (North). The natural setting includes street tree planting, landscaped front gardens and rear gardens, often with dense landscaping and tall trees.

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The existing built context is comprised of detached, 1 and 2 storey, houses and this is likely to remain the context due to the existing zoning on 3 sides of the subject site. The site is zoned 2 (d3) and adjoining sites to the north and east in Coonabarra Road and Burns Road are zoned 2 (c2). Adjoining to the immediate west of the site, is a heritage item which is not zoned 2(d3). The sites on the corners of Neringah Avenue (North) are not zoned for medium density development. The proposed buildings on the subject site will be visually prominent due to their scale in the surrounding low rise context.

Within the constraints of this scale difference, the architectural design of these relatively larger buildings relates reasonably well to its neighbours, with a strongly delineated brick base on the lowest 2 floors, which relates to the brick construction of the 1 and 2 storey adjoining houses. The proposed landscape design within the front and side setbacks complements the existing landscape context.

Scale:

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

The scale of these buildings will always be greater than the surrounding buildings due to the zoning of the sites. The scale differences between these proposed buildings and surrounding buildings have been minimised by the stepped building form on the eastern and western buildings at the 2nd floor level and the dark masonry of the lowest 2 floors, which relate to the adjoining houses.

Built form:

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

The building setbacks between different land use zones on three sides of the site are substantial, being 6m at the lowest levels and 9m at the upper levels. The required set back from the street under DCP 55 is 14m, which is greater than any existing front setbacks for houses in the Woniora Avenue. These setbacks have been complied with in this design, which, in combination with the 50% deep soil area, creates substantial areas for large tree planting in the setbacks around the buildings.

These setbacks have created constraints on the layout of buildings on the site, if the development is also to achieve 35% building footprint area on the site. The proposed arrangement of 3 buildings is acceptable given these constraints, however, it leads to potential internal privacy issues between the buildings which are, in some locations, 12m apart. Privacy screening is therefore provided between all habitable rooms in the facades between Block A, Block B and Block C.

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Density:

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

The density in terms of building footprint being 35% complies with LEP 194. The FSR, at 1.24:1, is below the maximum of 1.3:1 specified in DCP55.

Resource, energy and water efficiency:

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

The apartment layout creates an acceptable percentage of cross ventilated apartments and living areas with sun access.

Landscape:

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

The development provides sufficient setbacks within which to provide large canopy trees that will screen the building and allow for integration of the development into the wider landscape context. Internally, the development provides sufficient open space areas for the use of the occupants of the building.

Amenity:

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

Privacy screening is provided between all habitable rooms in the facades between Block A, Block B and Block C to ensure adequate privacy and amenity.

Safety and security:

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

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There are no envisaged safety or security issues. The proposal will have high levels of safety and security due to its location along the Woniora Road frontage. The two pedestrian pathways are clearly visible from the streets, with unimpeded sightlines which would be enhanced with lighting.

Furthermore, all of the common open space areas will be visible from the apartments, with no concealed or entrapment areas.

Social dimensions:

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

A reasonable mix of apartments has been provided to allow housing choice.

Aesthetics:

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

The architectural design of the facades and front fences, in terms of proportions, materials, colours, balcony framing and sunscreening is of a high standard.

Residential Flat Design Code

Relating to the local context:

The design of the proposal does not easily fit the 'typologies' within the Residential Flat Design Code, but would be best defined as a 'garden apartment complex' as defined within the Residential Flat Design Pattern Book. This form of development is most suitable for sites within suburban areas, where opportunities for larger outdoor areas can be achieved.

This type of design reinforces the landscape character with large terraces and roof gardens. Given the relatively level nature of the site and the possibilities for terraces, this is a most suitable design type for the site.

The proposal is sited over five separate allotments and will require land amalgamation. This amalgamation will result in a site with a single frontage which is capable of achieving the permissible five storeys (*refer to Condition No. 70*).

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The building envelope is considered satisfactory having regard to the desired future character of locality.

Site analysis:

An appropriate site analysis was submitted indicating building edges, landscape response, access and parking and building performance.

The proposal is considered to provide acceptable locations for deep soil landscape areas.

The orientation of the site ensures adequate solar access to habitable areas and private open space within the development and to adjoining residential development.

The merits of the application with respect to access and privacy are discussed below.

Building design:

The proposal provides for satisfactory residential amenity to its intended occupants.

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

State Environmental Planning Policy No. 55 – Remediation of Land

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

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

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 2400m ²	5262m ²	YES
Deep landscaping (min): 50%	50.2% (2643m ²)	YES
Street frontage (min): 30m	83.82m	YES
Site coverage (max): 35%	35% (1842m ²)	YES
Top floor area (max): 60% of level below	60% of storey below.	YES
Storeys and ceiling height (not inclusive of 5th floor): 4 storeys and 13.4 metres	4 storeys and 13.4 metres	YES

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Car parking spaces (min):		
Resident spaces: One space per dwelling (total of 58 required).	104 resident spaces provided.	YES
Visitor spaces: 14.5 visitor spaces required.	16 visitor spaces provided	YES
Zone Interface 9 metre setback at 3 rd and 4 th floors required.	9 metres provided on zone interface to west and east	YES
Manageable housing (min): 10% (5.8 units)	All apartments are visitable by wheelchair units; 6 units (10%) are adaptable in accordance with the requirements of AS1428 and AS4299.	YES
Lift access: required if greater than three storeys	Provided to all units	YES

Heritage /conservation areas (cl.61D – 61I):

The site is located adjacent to proposed Urban Conservation Area 27 – Wahroonga East. The site is also located in the proximity of two heritage items, one at No. 8 Woniora Avenue and one to the rear at 7 Burns Road.

The application is accompanied by a heritage statement addressing the impact upon the two listed buildings.

The proposed Building A (the closest to either listed building) is located some 38 metres from No. 7 Burns Road and 39 metres from No. 8 Woniora. This clearly complies with the numerical standard of DCP55 which requires 15 metres separation distance. Further, it is thought that the planting which will be able to be established within the front and rear setbacks will be sufficient to ensure limited impact upon the heritage items.

The site is also located adjacent to Urban Conservation Area 27 – Wahroonga East. The Conservation Area includes the properties to the immediate north and east of the site. It is anticipated that the setbacks, which comply with the requirements of DCP55 and which provide for satisfactory Deep Soil Landscaping, will to some degree shield the single residential dwellings from the new apartment buildings.

The rezoning to Residential 2(d3) will eventually transform the streetscape. The new apartment blocks are a new feature to the area and will clearly not be consistent with the current pattern of development. However, it is thought that with the separation distances provided both to the rear and to the side of block C that there will be as least impact as possible.

The application therefore meets with the controls of 61 D – 61 I of the KPSO as amended by LEP194.

Residential zone objectives:

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

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

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 Local context:		
Development adjacent to a heritage item:		
<ul style="list-style-type: none"> First and second storeys at least 10 metres from adjacent heritage building; 	No closer than 38 metres from heritage item (as measured from Block A to No. 7 Burns Road).	YES
<ul style="list-style-type: none"> Third and fourth storeys set at least 15 metres from adjacent heritage building. 	No closer than 38 metres from heritage item (as measured from Block A to No. 7 Burns Road).	YES
<ul style="list-style-type: none"> Setback from the front boundary so that it is no closer than adjoining heritage building. 	No adjoining heritage item. Setback is however consistent with neighbouring dwelling at 11 Woniora Avenue.	YES
Part 4.1 Landscape design:		
Deep soil landscaping (min)		
<ul style="list-style-type: none"> 150m² per 1000m² of site area = 900m² 	993m ² (Provided to the rear of the site, including rose garden)	YES
No. of tall trees required (min): 18 trees	Refer to Condition No. 53 which requires the replenishment of trees on site.	YES
Part 4.2 Density:		
Building footprint (max):		
<ul style="list-style-type: none"> 35% of total site area 	35% (1842%)	YES
Floor space ratio (max):		
<ul style="list-style-type: none"> 1.3:1 	1.24:1	YES
Part 4.3 Setbacks:		
Street boundary setback (min):		
<ul style="list-style-type: none"> 13-15 metres (<40% of the zone occupied by building footprint) 	13 metres (<i>Note: Upon the plans this reads as 12m. This is inaccurate and when scaled reads 13m</i>)	YES
Rear boundary setback (min):		
<ul style="list-style-type: none"> 6m 	10 metres	YES
Side boundary setback (min):		

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<ul style="list-style-type: none"> 6m 	6.0m to both east and west, setback at second floor and above 9.0m	YES
Setback of ground floor terraces/courtyards to street boundary (min): <ul style="list-style-type: none"> 11m 	8.0 metres to landscaped courtyard	NO
% of total area of front setback occupied by private courtyards (max): <ul style="list-style-type: none"> 15% 	34%	NO
Part 4.4 Built form and articulation:		
Façade articulation: <ul style="list-style-type: none"> Wall plane depth >600mm Wall plane area <81m² 	All wall plane depths >600mm Block A west elevation 107.6m ² + 108.76m ² Block C east elevation 92.68m ² + 96.96m ²	YES NO NO
Built form: <ul style="list-style-type: none"> Building width < 36m Balcony projection < 1.2m 	18 metres < 1.2m	YES YES
Part 4.5 Residential amenity		
Solar access: <ul style="list-style-type: none"> >70% of units receive 3+ hours direct sunlight in winter solstice >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice <15% of the total units are single aspect with a western orientation 	72% 100% 100% have at least two aspects.	YES YES YES
Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site:		

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<p>Storeys 1 to 4</p> <ul style="list-style-type: none"> • 12m b/w habitable rooms • 9m b/w habitable and non-habitable rooms • 6m b/w non-habitable rooms <p>5th Storey</p> <ul style="list-style-type: none"> • 18m b/w habitable rooms • 13m b/w habitable and non-habitable rooms • 9m b/w non-habitable rooms 	<p>9 metres between Blocks A/B/C at ground to fourth floor</p> <p>7.5m between Block A and No. 1/11 Woniora Avenue, <i>(has minor windows on the eastern elevation, and a courtyard).</i></p> <p>8.0m between No. 2/11 Woniora Avenue (habitable room windows) and Block A</p> <p>9.5m between No.3/11 Woniora Avenue and Block A <i>(no habitable room windows on the eastern elevation)</i></p> <p>No direct relationship across buildings</p> <p>14m between habitable and non-habitable rooms (between Blocks A/B/C)</p> <p>14m between non-habitable rooms (between Blocks A/B/C)</p>	<p>NO</p> <p>YES</p> <p>NO</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
<p>Internal amenity:</p> <ul style="list-style-type: none"> • Habitable rooms have a minimum floor to ceiling height of 2.7m • Non-habitable rooms have a minimum floor to ceiling height of 2.4m • 1-2 Bedroom units have a minimum plan dimension of 3m in all bedrooms. • 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms • Single corridors: <ul style="list-style-type: none"> - serve a maximum of 8 units - >1.5m wide - >1.8m wide at lift lobbies 	<p>2.7m</p> <p>2.7m</p> <p>>3.0m</p> <p>At least two bedrooms >3.0m</p> <p>Maximum 5 units</p> <p>>1.5m wide</p> <p>>1.8m wide at lift lobbies</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
<p>Outdoor living:</p>		

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<ul style="list-style-type: none"> ground floor apartments have a terrace or private courtyard greater than 25m² in area Balcony sizes: 1 bedroom unit: 10m² 2 bedroom unit: 12m² 3 bedroom unit: 15m² primary outdoor space has a minimum dimension of 2.4m 	<p>Greater than 25m²</p> <p>All >10m² All 16m² plus All 16m² plus All greater than 2.4m² dimension</p>	<p>YES</p> <p>YES YES YES YES</p>
Part 4.7 Social dimensions:		
Visitable units (min): <ul style="list-style-type: none"> 70% 	71% (41 apartments)	YES
Housing mix: <ul style="list-style-type: none"> Mix of sizes and types 	<p>8 x 1 bedroom apartments</p> <p>8 x 2 bedroom apartments</p> <p>36 x 3 bedroom apartments</p>	YES
Part 4.8 Resource, energy and water efficiency:		
Energy efficiency: <ul style="list-style-type: none"> >65% of units are to have natural cross ventilation single aspect units are to have a maximum depth of 10m >90% of units are to have a 4.5 star NatHERS rating with the remainder achieving at least 3.5 star rating 	<p>100% of the units have two aspects or more</p> <p>None of the units are single aspect</p> <p>4.5 star rating = 7% (4/58) 3.5 star rating = 100%</p>	<p>YES</p> <p>YES</p> <p>NO YES</p>
Part 5 Parking and vehicular access:		
Car parking (min): <ul style="list-style-type: none"> 58 resident spaces 14.5 visitor spaces 	<p>104 spaces (of which three accessible)</p> <p>16 marked visitor spaces (of which one accessible)</p>	<p>YES</p> <p>YES</p>

Part 3 Local context:

Part 3 of DCP 55 requires consideration of the existing and desired future character of the area in which the site is located, the maintenance of Ku-ring-gai's landscape and visual character and consideration of relevant conservation areas and heritage buildings.

Through the retention and replenishment of trees on site and the provision of good front and side setbacks, it is considered that the development will maintain (in so far as possible) the existing character of the area and appropriately responds to the future medium density character of the area.

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As outlined above, the site is located adjacent to an Urban Conservation Area and is also sited close to 8 Woniara Avenue and 7 Burns Road, which are both heritage items. It is thought that the setbacks proposed and the planting which will be able to be achieved in these setbacks, will be adequate to ensure limited impact upon the two heritage items.

It is recommended that, whilst the buildings to be demolished are not heritage items, appropriate photographic recording of the buildings is undertaken prior to demolition (*refer to Condition No. 34*).

Part 4.3 Setbacks:

The application proposes setbacks of 8 metres to the front courtyard areas for ground floor units, as opposed to the 11 metres setback required within DCP55 for sites of this large dimension.

The intent of this provision is to ensure appropriate front setbacks with deep soil zones which can support a number of large canopy trees.

The distance provided (8 metres) is sufficient given that the front setback is level and will allow for a good amount of canopy trees. Additionally, the courtyard walls will provide visual privacy to the units on the ground floor.

Part 4.4 Built form and articulation:

The application proposes wall surfaces to both the west and east which are in excess of the recommended 81m².

The Block A western elevation proposes two wall faces of approximately 107m² and 108m². These surface walls are at ground and first floor, to either end of the elevation.

The Block C eastern elevation proposes two wall faces of approximately 92m² and 96m². Again these surface walls are at ground and first floor, to either end of the elevation.

Given that these walls are at ground and first floor only, to a maximum height of 8.4 metres on the western elevation of Block A, there will be limited visual impact upon the neighbouring residents to either side. This height will be not significantly greater than a two storey dwelling, and visibility of this element should to a large degree be obscured by planting along the western and eastern 6 metre setbacks.

Part 4.5 Residential amenity

The application provides for limited setback between the three buildings, with a minimum distance of 9 metres between the three blocks.

The above issue has been addressed through the installation, where necessary, of privacy screens.

Further, minimum distances from Building A to the dwellings 1, 2 and 3 at No. 11 Woniara Avenue have been provided (7.5 metres to 1/11, 8.0m to 2/11 and 9.5m to No.3/11 Woniara Avenue). The

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relationship to Nos 1 and 3 is not so problematic due to the minor windows on the eastern elevations facing the development site. There is a courtyard which serves No. 2/11 Woniara Avenue sited in between 1 and 2 Woniara Avenue. This is the only private open space for this dwelling. Likewise, there is a courtyard on the eastern boundary of No.2/11. The vegetation provided along this boundary, the level land, plus the staggered 6 and 9 metres setback along this interface, will ensure that privacy can be retained.

No. 2/11 Woniara Avenue has a number of windows on the eastern boundary, which provide views into living areas. The dwelling is single storey and it is thought that, with suitable planting, there will be no direct window relationship and thus no adverse impact on privacy.

Part 4.6 Safety and security:

The proposed development will have high levels of safety and security due to its frontage to Woniara Avenue and the resultant possibilities for street surveillance.

The two pedestrian pathways are clearly visible from the streets, with unimpeded sightlines, and will be provided with lighting. Further, the resident basement parking areas all provide lift access to units without the need to enter on to Woniara Avenue.

All of the common open space areas will be visible from the apartments, with no concealed or entrapment areas.

Part 4.7 Social dimensions:

The application provides for a range of dwelling sizes, consisting of 8 x 1 bedroom apartments, 8 x 2 bedroom apartments and 36 x 3 bedroom apartments.

The development provides a suitable variety of unit sizes to meet market demand for a range of medium density accommodation needs.

Part 4.8 Resource, energy and water efficiency:

DCP55 requires that 90% of units meet the NatHERS rating of 4.5 stars and above. The application proposes 100% of units which meet with the 3.5 star NatHERS rating, but only 7% of units which comply with the NatHERS 4.5 star rating.

Given that all of the units are provided with at least 3 hours of sunlight in mid-winter and that all units have at least two aspects with good cross ventilation, it is thought that the NatHERS non-compliance is acceptable.

Development Control Plan 31 – Access

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

Development Control Plan 40 – Construction and Demolition Waste Management

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

Development Control Plan No. 43 – Car Parking

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

Development Control Plan 47 – Water Management

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

Section 94 Plan

The development attracts a section 94 contribution of \$1,063,719.40 which is required to be paid by *Condition No.68*.

This figure is calculated on the following basis, utilising the Ku-ring-gai Section 94 Contributions Plan 2004-2009 Residential Development as of 30 June 2004:

- 8 small dwellings (under 75 m²) = \$94,371.20.
- 8 medium dwellings (75-110m²) = \$132,268.32.
- 42 large dwellings (110-150m²) = \$998,699.94 – 5 existing very large dwellings at \$161,620 = \$837,079.94.

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 application is considered to be in the public interest.

ANY OTHER RELEVANT MATTERS NOT ALREADY ADDRESSED

Strata subdivision is included within this application. The subdivision has been considered by Council's Development Engineers, who have recommended appropriate conditions of consent

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(refer to Condition Nos 93-98). The proposed strata subdivision is acceptable when assessed against the heads of consideration pursuant to S79C of the EP&A Act. The subdivision will not result in actual or potential impacts beyond those assessed throughout this report for the construction of three (3) Residential Flat Buildings. The proposed subdivision will not result in an increased intensity, scale, bulk or form of residential development on site. All units will be allocated a sufficient number of car parks.

The proposed subdivision will also not have any impact on the provision of landscaping as already assessed in this report. It is noted that SEPP 10 is not applicable.

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 1364/04 for the demolition of existing structures on site and the construction of 58 apartments within three separate buildings, associated access, basement parking, landscaping and strata subdivision on land at 1-9 Woniora Avenue Wahroonga, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

1. The development must be carried out in accordance with plans identified within the following table, and endorsed with Council's approval stamp, except where amended by the following conditions:
 - DA01 Site Plan, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA02 Ground Floor Plan, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA03 Level 1 Floor Plan, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA04 Level 2 Floor Plan, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA05 Level 3 Floor Plan, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA06 Level 4 Floor Plan, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA07 Basement Level 1, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA08 Basement Level 2, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.

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- DA09 Block A – East and West Elevations, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA10 Block B – East and West Elevations, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA11 Block C – East and West Elevations, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA12 South and North Elevations, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA13 Section A-A, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA14 Site Analysis Plan, Issue D, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA15 Shadow Diagram 9:00am-12:00pm 21 March, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA16 Shadow Diagram 3:00pm 21 March – 9:00am 21 June, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA17 Shadow Diagram 12:00pm – 3:00pm 21 June, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05, and lodged 12.04.05.
 - DA18 Site Areas Calculations, Site Management Plan, Survey, Issue D, by Owen and Gilsenan Architects, Dated 05.04.05 Received 12.04.05
 - LDA101 Landscape Plan (Ground Floor Plan), Issue C, by Site Image Landscape Architects, Dated 14.12.04, Revised 11.04.05, and lodged 12.04.05..
 - LDA201 Landscape Planting Plan (Ground Floor Plan), Issue C, by Site Image Landscape Architects, Dated 14.12.04, Revised 11.04.05, and lodged 12.04.05..
 - LDA202 Landscape Planting Plan (Upper Levels Plan), Issue A, by Site Image Landscape Architects, Dated 15.12.04, Revised 15.12.04, and lodged 12.04.05..
 - LDA301 Landscape Plan (Ground Floor Plan), Issue C, by Site Image Landscape Architects, Dated 14.12.04, Revised 11.04.05, and lodged 12.04.05..
 - LDA302 Landscape Soils Plan (Upper Levels Plan), Issue B, by Site Image Landscape Architects, Dated 15.12.04, Revised 16.03.05, and lodged 12.04.05..
 - LDA401 Landscape Details, Issue A, by Site Image Landscape Architects, Dated 26.11.04, and lodged 12.04.05..
 - LDA402 Landscape Details, Issue A, by Site Image Architects, Dated 26.11.04, and lodged 12.04.05.
2. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
3. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
4. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority. *(Reason: To ensure that the form of the development undertaken*

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is in accordance with the determination of Council, Public Information and to ensure ongoing compliance).

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

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

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

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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.

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

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

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

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

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

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

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

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

22. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
23. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
- a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
 - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
 - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
24. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
25. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
26. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
27. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
28. 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.

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29. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
30. Fire hoses are to be maintained on site during the course of demolition.
31. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
32. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
33. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
34. Archival recording to be undertaken to the Heritage Office guideline for local heritage significance. The document is to be approved by Council's Heritage Advisor before any demolition works commence.
35. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - a. stating that unauthorised entry to the work site is prohibited, and
 - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
36. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
37. "Peep holes" shall be provided to the entrance doors of all units for personal security.
38. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to Council's stormwater pit in Woniara Avenue. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
39. A mandatory rainwater re-use tank system, together with the additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), must be provided for the development. Retained

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water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. DCP47 is available in hard copy at Council and on the Council website. A mains top-up shall be provided for periods of low rainfall.

40. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
41. A maintenance period of six (6) months shall apply to the work in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
42. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
43. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
44. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
45. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking".
46. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or

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where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.

47. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
48. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
49. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
50. The relocation of the sewer main is to be carried out in accordance with the requirements of Sydney Water.
51. Geotechnical aspects of the development works, particularly excavation, support, retention and hydrogeological considerations must be undertaken in accordance with the recommendations of the report by Coffey Geosciences dated 16 December 2004 and the subsequent geotechnical investigations carried out for construction purposes.
52. 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.

53. Landscape works shall be carried out in accordance with Landscape Drawing No LDA101 Rev C, LDA201 Rev C, LDA202 Rev A, LDA301 Rev C, LDA302 Rev B, LDA401 Rev A and LDA402 Rev A prepared by Site Image and dated 14/12/2004 submitted with the Development Application, except as amended by the following:

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- The proposed planting of *Angophora costata* (Sydney redgum) adjacent to the south west site corner/Woniora Ave is to be relocated 10m to the east so that it is away from the proposed electricity substation
- The proposed stepping stones located within the grassed areas at the rear of the site are to be deleted.
- The proposed gravel and stepping stone path adjacent to the western site boundary/Block A is to be hard paved and reduced to a maximum width of 1.0m until it reaches the rear building line.
- The proposed stepping stone within grass path located adjacent to the eastern site boundary/Block C is to be hard paved and reduced to a maximum width of 1.0m until it reaches the rear building line.
- The proposed planting of *Syncarpia glomulifera* (Turpentine) located on each side of the proposed vehicular entry/egress point are to have a minimum setback from the driveway of 4.0m
- To maintain biodiversity, the proposed tree planting of 13 *Syncarpia glomulifera* (Turpentine) located adjacent to the rear site boundary is to be a variety of tree species from both Sydney Bluegum High Forest and Sydney Turpentine Ironbark Forest, and consist of a mix of the following tree species; *Eucalyptus saligna* (Bluegum), *Eucalyptus pilularis* (Blackbutt), *Angophora floribunda* (Rough barked apple), *Eucalyptus paniculata* (Grey Ironbark).

54. REMOVAL/PRUNING of the existing trees located on Council's Woniora Ave nature strip shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000,000. Following removal of the trees from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Director Open Space at no cost to Council.

55. 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.

56. 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
Beneath the canopy drip line of ANY tree to be retained located on site or adjoining properties	

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

58. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Woniora Ave. The trees are to be planted as an evenly spaced, formal avenue planting. The tree/s used shall be 25 litre container size specimen/s:

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Tree Species

Angophora costata (Sydney redgum) x6

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. The colour, texture and substance of all external materials shall be generally as detailed in the application.
61. One hundred and nineteen (119) car parking spaces shall be provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:
- 104 - Residential
 - 15 - Visitors/Service Vehicles
- Such spaces are to be identified on-site by line-marking and numbering upon the completion of the works. Car-parking provided shall only be used in conjunction with the uses contained within the development and in the case of Strata subdivision, shall be individually allocated to residential units. Under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building. *(Reason: To ensure that adequate parking facilities to service the development are provided on site)*
62. At least one visitor parking bay shall be provided with a tap, for car washing purposes, in accordance with DCP55 Part 5.
63. Fencing, lapped and capped to a height of 1.8 metres, shall be provided to either side boundary and to the rear. Fencing shall extend to the front boundary on the eastern side of the property, and to the front setback of 1/11 Woniora Avenue on the western side of the property.

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

64. 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.

65. 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

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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).

66. 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.
67. 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.
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 53 ADDITIONAL DWELLINGS IS CURRENTLY \$1,063,719.40. 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

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Contributions Plan for Residential Development, effective from 30 June 2004, calculated for additional person as follows:

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

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

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

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

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

70. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing five lots. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. The condition is imposed to ensure a continuous structure will not be placed across separate titles.
71. Prior to issue of the Construction Certificate the Applicant shall contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including cabling, need for substations or similar within the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to Construction Certificate issue. Any structures or requirements of Energy Australia

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shall be reflected on the plans issued with the Construction Certificate to the satisfaction of the PCA. The requirements of the utility provider shall be met in full prior to issue of the Occupation Certificate.

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

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

73. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).

74. The Applicant must carry out the following infrastructure works in the Public Road:
- Construct new footpath and kerb and gutter for the full site frontage.
 - Construct a 1.8 metre kerb inlet pit and 375mm diameter pipe to connect the site to Council's street drainage system.

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*.

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

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

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

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

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

75. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater retention/detention system. The storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. The design may be generally in accordance with the stormwater concept plan prepared by B.T. Ryan & Associates, advanced as necessary for construction issue purposes.
76. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, carwashing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use shall be shown on this design to a detail suitable for installation by the plumbing contractor. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. **Water quality measures are to be provided, as required by Section 8.3 of DCP 47.**

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77. A dedicated carwashing area is to be shown on the Construction Certificate plans. The waste collection vehicle manoeuvring area or a visitor parking bay may be used for this facility. The plans are to be approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
78. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47. New connection points to the public drainage system must be shown accurately on the plan and shall be made in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004.
79. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a design detailing the provision of an interceptor drainage system. This system is to capture and convey all stormwater runoff arriving at the subject property from upslope areas to a formal drainage system, bypassing any on-site stormwater detention systems. Design details are to be prepared by a suitably qualified and experienced civil/hydraulic engineer and shall comprise suitable inlet pits, grated drains, pipes and channels. This drainage system is to be designed for storm events up to and including the 100-year ARI and in accordance with Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
80. **Prior** to the issue of a Construction Certificate the applicant shall lodge a **\$50,000** (fifty thousand dollars) public infrastructure damage bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
 - Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
 - The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
 - Works in the public road associated with the development are to an unacceptable quality.
81. Service ducts shall be provided within the building to keep external walls free of plumbing or any other utility installations. Such service ducts are to be concealed from view from the

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street. Details demonstrating compliance are to be provided in the Construction Certificate.
(Reason: To ensure quality built form of the development).

82. The following energy efficiency devices are to be installed within the development:
- Gas boosted solar, heat pump or electricity boosted solar, instantaneous gas or high efficiency centralised gas hot water heating system.
 - Dual flush toilets.
 - Low flow taps and showerheads.

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

83. All overhead electricity and other lines (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point, in accordance with the requirements of Energy Australia. Details to be shown on plans submitted with the Construction Certificate. (Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground).

84. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1. Details demonstrating compliance are to be provided with the Construction Certificate (Reason: To preserve community health and ensure compliance with acceptable standards).

84. Six (6) of the proposed apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps; such features to be designed generally in accordance with Australian Standards 1428.1 and 4299. Details demonstrating compliance are to be submitted with the Construction Certificate. (Reason: To ensure equity of access and availability of accommodation in the future for an ageing population).

85. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or other areas of the building and is not to be located on the roof. Details demonstrating compliance are to be submitted with the Construction Certificate application. (Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality).

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

86. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
87. Prior to the commencement of any works on site the applicant shall submit **to Council** a full dilapidation report on the visible (including photos) and structural condition of Woniora Avenue including full road width, any kerb and gutter and the intersection with Coonanbarra Road. The report must be completed by a consulting structural/civil engineer. A second

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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.

88. Prior to the commencement of any works on site and prior to issue of the Construction Certificate, the applicant shall submit to the Principal Certifying Authority (PCA) and Council a full dilapidation report on the visible and structural condition of the existing structure at 11 Woniora Avenue.

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

89. Prior to the commencement of any excavation works on site, the applicant must submit to the Principal Certifying Authority the results of vibration monitoring as recommended in the report by Coffey Geosciences. This is to ensure that vibration created by the method of construction does not adversely impact on the surrounding properties and infrastructure. A qualified and practising geotechnical engineer must oversee the vibration monitoring and all associated investigations. Excavation is to proceed in accordance with the recommendations of the geotechnical engineer.
90. Prior to the commencement of *any* works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:

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

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

Traffic Control Plan(s) for the site

- All traffic control devices installed in the road reserve must be in accordance with the RTA publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.

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- 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.

In addition, the plan must address:

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

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

91. Deliveries are not to be made to the site between the hours of 8.00am to 9.30am and 2.30pm to 4.00pm.
92. Prior to the commencement of any works on site, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install a 'Work Zone' along the Kings Avenue frontage of the site. Further, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed and the adopted fee paid prior to commencement of any works on the site. Where such a 'Work Zone' is not considered to be feasible by Council Traffic Engineers, the zone will not be required. This condition is to facilitate a dedicated on-street parking area for construction related vehicles during work hours. A need for a 'Work Zone' arises given the scale of the works, existing on-street parking restrictions around the site and the existing high demand for on-street parking in this location.

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

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93. An easement for waste collection must be created. 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.
94. 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.
95. 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 the consent authority. The following details **must** be submitted with the plan of Subdivision and its (5) copies, where Council is the consent authority:
- 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 retention/ detention facility. This must be on the standard Council on-site detention/ retention certification sheet, available from Council's customer services.
 - 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.

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

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

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

Note 3: If the certifying authority is not Council, then a copy of all of the above must be provided to Council

96. 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.
97. 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

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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).

98. All parking spaces and all areas of common property, including visitor car parking spaces and on-site detention facilities, which are to be common property, must be included on the final plans of strata subdivision.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

99. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
100. 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.
101. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:
- Completion of the new driveway crossing in accordance with levels and specifications issued by Council.
 - Construction of new concrete footpath and kerb and gutter over the entire site frontage of Woniora Avenue.
 - Construction of piped discharge from the site to Council's street drainage pit.
 - Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to footway, turfed verge and upright kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - Full repair and resealing of any road surface damaged during construction.
 - Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

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

102. Prior to issue of an Occupation Certificate the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater retention/detention facilities (including all ancillary reticulation plumbing) on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88B instruments for protection of on-site retention/detention facilities (DCP47 appendix 14) and to the satisfaction of Council. Registered title documents showing the covenants and

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restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to issue of an Occupation Certificate.

103. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as recommended in the report by Coffey Geosciences and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
104. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):
- A copy of the approved Construction Certificate stormwater retention/detention design for the site, and
 - A copy of the works-as-executed drawing of the as-built on-site retention/detention system, and
 - The Engineer's certification of the as-built system.
- This condition is required so Council may maintain its database of as-constructed on-site stormwater detention/retention systems, and also applies if the Principal Certifying Authority (PCA) is not the Council.
105. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
106. Prior to issue of an Occupation Certificate a certification and a works-as-executed (WAE) plan, in relation to the installed rainwater retention/detention devices, are to be submitted to the Principal Certifying Authority (PCA). Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The Certificate is to specifically state compliance with each of the relevant controls set out in appendix 6.2 of Council Water Management Development Control Plan 47. The Works-as-Executed drawing(s) is to be marked up in red on the approved Construction Certificate design, and shall include:
- As constructed levels in comparison to design levels
 - As built location of all tanks/retention devices on the property and distances to adjacent boundaries, buildings and easements
 - Dimensions of all retention tanks/devices
 - Top water levels of storage areas and RL's at overflow point(s).
 - Storage volume(s) provided and supporting calculations/documentation.

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

- As constructed levels in comparison to design levels
- As built location of all detention devices on the property (plan view) and distances to nearest adjacent boundaries, buildings and easements
- As built locations of all pits and grates in the detention system, including dimensions.

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- The size of the orifice or pipe control fitted.
- Dimensions of the discharge control pit and access grates
- The achieved capacity of the detention storage and derivative calculation.
- The maximum depth of storage over the outlet control.
- Top water levels of storage areas and RL's at overflow point(s)

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

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

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

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

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

109. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the existing structure at 11 Woniara Avenue.

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

110. Prior to issue of the Occupation Certificate the applicant shall submit **to Council** a follow up dilapidation report on the visible (including photos) and structural condition of Woniara Avenue including full road width, kerb and gutter and the intersection with Coonanbarra Road. The report must be completed by a consulting structural/civil engineer. The structural

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conditions of all structures originally assessed prior to the commencement of works, must be assessed and the results submitted to Council.

BUILDING CONDITIONS

111. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
 - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
 - c. Retaining walls and associated drainage.
 - d. Wet area waterproofing details complying with the Building Code of Australia.
 - e. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
 - f. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - g. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
112. 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.
113. 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.
114. 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.
115. 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.

Kerrin Lithgow
Executive Assessment Officer

Mark Leotta
Team Leader
Development Assessment - North

Matthew Prendergast
Manager
Development Assessment Services

Michael Miocic
Director
Development and Regulation

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	1, 3, 5 AND 7 NEWHAVEN PLACE, ST IVES - DEMOLITION OF EXISTING DWELLINGS ON SITE AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING WITH 47 UNITS AND ASSOCIATED BASEMENT PARKING AND STRATA SUBDIVISION
WARD:	St Ives
DEVELOPMENT APPLICATION N^o:	1294/04
SUBJECT LAND:	1, 3, 5 and 7 Newhaven Place, St Ives
APPLICANT:	Newhaven Place Pty Ltd
OWNER:	Newhaven Place Pty Ltd
DESIGNER:	P.D.Mayoh Pty Ltd
PRESENT USE:	Residential
ZONING:	Residential 2(d3)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Ku-ring-gai Planning Scheme Ordinance KPSO - LEP 194, DCP 31 - Access, DCP 55 - Ku-ring-gai Multi Unit Housing, DCP 40 -Waste management, DCP 43 car Parking, DCP 47 - Water Management
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP 1, SEPP 55, SEPP 65
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	3 December 2004 25 February 2005 (Amended Landscape Plan)
40 DAY PERIOD EXPIRED:	12 January 2005
PROPOSAL:	Demolition of existing dwellings on site and construction of a residential flat building with 47 units and associated basement parking and strata subdivision
RECOMMENDATION:	Approval

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DEVELOPMENT APPLICATION N^o 1294/04
PREMISES: 1, 3, 5 AND 7 NEWHAVEN PLACE, ST IVES
PROPOSAL: DEMOLITION OF EXISTING DWELLINGS
ON SITE AND CONSTRUCTION OF A
RESIDENTIAL FLAT BUILDING WITH 47
UNITS AND ASSOCIATED BASEMENT
PARKING AND STRATA SUBDIVISION
APPLICANT: NEWHAVEN PLACE PTY LTD
OWNER: NEWHAVEN PLACE PTY LTD
DESIGNER: P.D.MAYOH PTY LTD

PURPOSE FOR REPORT

To determine Development Application 1294/04 which seeks consent for the demolition of existing structures on site and construction of 47 units and associated basement carparking and strata subdivision.

EXECUTIVE SUMMARY

Issues: Street boundary setbacks (Newhaven Place, Link Road) and rear boundary setback to Building B.

Submissions: Fifty-eight (58) submissions received.

Pre DA Consultation: Yes

Land & Environment Court Appeal: Proceedings No10356 of 2005. A deemed refusal appeal was filed on 15 April 2005 (133 days after lodgement). The first callover is on 31 May 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.

Rezoning history:

The subject four allotments were identified in Council's 2002 Preliminary Draft Local Environmental Plan for medium density development as a proposed 2(d1) zone. This would have allowed for development of two (2) storeys, plus attic, at a floor space ratio (FSR) of 0.75:1. The plan evolved and became Draft Local Environmental Plan No 194. The Draft Plan was finalised

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during 2003 for exhibition, with the site being proposed as a 2(d1) zone but with a higher maximum FSR of 0.85:1. Council was then required to exhibit Draft LEP194 to allow all medium density sites the potential to develop to five (5) storeys.

The Draft Plan was exhibited, designating all medium density sites as 2(d1) zones. This included the subject lands. Council finally adopted LEP194 in December 2003. It resolved that the subject lands be zoned 2(d1). The applicable FSR under the plan was 0.75:1 for sites 1200-1999 m² and 0.85:1 for sites of 2000m² or more.

LEP No. 194 was gazetted by the Minister on 28 May 2004. The Minister zoned all medium density sites as 2(d3) permitting up to 5 storeys in height (for sites over 2,400m² or more) and establishing a maximum site cover of 35% for units and a minimum of 50% of the site for deep soil landscaping. A floor space ratio control was at the same time excluded from the Plan, but ultimately included in DCP 55.

Development application history:

DA1294/04

10 November 2004	Pre-development application consultation held with Council officers and applicant. The retention of the significant Turpentine trees and potential impact on the western development were identified as the main issues.
3 December 2004	Application lodged.
4 February 2005	Council informs applicant of a number of minor concerns with the Landscape Plan.
25 February 2005	Applicant submits amended Landscape Plan.
15 April 2005	A class 1 appeal is lodged in the Land and Environment Court against the deemed refusal of Development Application 1294/04.

THE SITE AND SURROUNDING AREA

The Site

Zoning:	Residential 2(d3)
Visual Character Study Category:	1945-1968
Lot Number:	1, 2, 3 and 4
DP Number:	225420
Area:	4143.5m ²
Side of Street:	Western
Cross Fall:	North-western
Stormwater Drainage:	To Link Road

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Heritage Affected:	No
Required Setback:	13-15 metres
Integrated Development:	No
Bush Fire Prone Land:	Yes
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The site is known as 1, 3, 5 and 7 Newhaven Place (lots 1, 2, 3 and 4 in DP 225420) and comprises four separate lots with two street frontages. The subject site has a total area of 4,143.5 m². The site has a western frontage to Newhaven Place (87 metres) a northern frontage to Link Road (60 metres) a southern boundary of 43 metres and a western boundary of 120 metres. The site is essentially flat with only a slight fall towards the north-western corner.

Surrounding development

The site is located 550 m east of the St Ives Village Centre. Surrounding development is comprised of a mixture of land uses and dwelling types.

To the north of the site, on Link Road, are the Corpus Christi School and Masada College and Synagogue. To the east of the site are dwellings zoned Residential 2(d3), which are subject to a current residential flat building proposal (DA 1424/04). To the south of the site, are further residential dwellings zoned Residential 2(d3) which are subject to a current residential development building application (DA 1425/04). To the west of the site is a two storey town house development ("The Coppins") zoned residential 2(d).

THE PROPOSAL

The proposal includes the demolition of the existing dwellings and structures on the site. It is proposed to construct two new buildings. Both buildings will be five storeys in height and will provide two levels of basement car parking, providing secure resident, disabled and visitor parking for the development. Building A is located on the northern of the site, with Building B located on the southern part of the site.

The proposal has responded to the topography of the site and takes advantage of northern solar access where appropriate. Vehicular access to the basement parking will be provided by a driveway ramp from Newhaven Place set back as much as possible from the intersection and the large trees. The basement layout has been designed to retain the large significant Turpentine trees.

The proposed development is for 47 units, comprising 4 x 1 bedroom units, 37 x 2 bedroom units and 6 x 3 bedroom units. In terms of the mix of units in the two buildings, the units will be split between 1 x 1 bedroom unit, 19 x 2 bedroom units and 2 x 3 bedroom units in Building A (northern building) and 3 x 1 bedroom units, 18 x 2 bedroom units and 4 x 3 bedroom units in Block B (southern building).

CONSULTATION - COMMUNITY

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

In response, 58 submissions were received from the following:

NAME	ADDRESS	SUBURB
Ms R M Bunton	10/18-22 Stanley Street	ST IVES
W J Meredith, Secretary, "Coppins"	5 Gillott Way	ST IVES
Strata Plan 42386		
Ms V Ritchie	33 Wallewa Avenue	WAHROONGA
Mrs L O Robinson	28/5 Gillott Way	ST IVES
K A & B R Meyer	10/5 Gillott Way	ST IVES
Mr J & Mrs V Cooper	"Coppins" 1/5 Gillott Way	ST IVES
Mr R D & Mrs R G Baird	"Coppins" 6/5 Gillott Way	ST IVES
Ms I Stening	"Coppins" 2/5 Gillott Way	ST IVES
Mr A A M Onslow	PO Box 268	ST IVES
C R Gleeson	"Coppins" Unit 35 5 Gillott Way	ST IVES
S M & H Gruenewald	28 Gillian Parade	WEST PYMBLE
Mrs J Connolly	"Coppins" 37/5 Gillott Way	ST IVES
Mr R and Mrs E Bower	"Coppins" 11/5 Gillott Way	ST IVES
Mrs N Hardy	27/5 Gillott Way	ST IVES
Mr S & Mrs Campbell	16/5 Gillott Way	ST IVES
Mr M and Mrs S Wood	"Coppins" 9/5 Gillott Way	ST IVES
W V Young	"Coppins" 4/5 Gillott Way	ST IVES
Dr S Brandl	9/18-22 Stanley Street	ST IVES5
Ms P Leonard	57 Macpherson Street	MOSMAN
Mr and Mrs L Clavin	14/18-22 Stanely Street	ST IVES
Mrs M Nowland	"Coppins" 38/5 Gillott Way	ST IVES
Mr R and Mrs P Stanley	8/18-22 Stanley Street	ST IVES
Mr E Bowen-Thomas	"Coppins" 32/5 Gillott Way	ST IVES
Dr T Burfitt-Williams	43 Douglas Street	ST IVES
Mr C R Gleeson	35/5 Gillott Way	ST IVES
Hynes Urban Planners Pty Limited	6 Whitby Road	KINGS LANGLEY
Attn: Mr B Hynes		
Mrs C Archibald	36/5 Gillott Way	ST IVES
Dr D M & Mrs E Turner	3/16 Stanley Street	ST IVES
Mr C S Oud	2 Wandeen Place	ST IVES
Mr L Bove	25/5 Gillott Way	ST IVES
J Tobin	17 Link Road	ST IVE
Mr R Abbott	8 Collins Road	ST IVE
Ms C Foster, President, St Ives	261 Mona Vale Road	ST IVES
Occasional Care		
M Kearns	46 Hunter Avenue	ST IVES
Mr B & Mrs B Lorge	6/2 Stanley Street	ST IVES

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Mrs J Kenny	7/24 Stanley Street	ST IVES
"Coppins" Strata Plan 42386 Owners Corporation Attn : Mr J Cooper, Chairman	5 Gillott Way	ST IVES
Mr R & Mrs C McCarthy	PO Box 479	WAHROONGA
Ms M Slocombe	79 Woodbury Road	ST IVES
Mr D M A O'Keefe	5/16 Stanley Street	ST IVES5
Mr S Quin on behalf of Miss D Quin	95 Watson Avenue	TOORAK GARDENS
Miss D Quin	21 Newhaven Place	ST IVES
Mr P Dalton	7 Byron Avenue	ST IVES
Mrs K Kelleher	68 Junction Road	WAHROONGA
Fr J Robson, Dean, Corpus Christie Cathedral	263 Mona Vale Road	ST IVES
Mrs P O'Donnell	15/5 Gillott Way	ST IVES
Mr W H & Mrs M J Harper	3/2 Stanley Street	ST IVES
Lt Col M C Morrison	3/5 Gillott Way	ST IVES
Mrs C Miller	44 Hunter Avenue	ST IVES
Dr R Starzecki	8 Newhaven Place	ST IVES
Mrs M P Kearins	46 Hunter Avenue	ST IVES
Ms J Grant on behalf of Dr B Tall c/- Woodhut Pty Ltd	40 Monteith Street	TURRAMURRA
Mr M J & Mrs D M MacQuillan	6/18-22 Stanley Street	ST IVES
Mrs J Hanson	18/18 Stanley Street	ST IVES
Mr J McEwen	14 Mungarra Avenue	ST IVES
Mr J R O'Keefe	5/16 Stanley Street	ST IVES
Mrs M Nowland	38/5 Gillott Way	ST IVES
Mr I Grieve, Chairman, Body Corporate, The Owners Corporation of Strata Plan No. 67372	24 Stanley Street	ST IVES

The submissions raised the following issues:

St Ives is over-developed as it is with townhouses, villas, over 55's complexes and medium density developments let alone these new 5 storey residential flat buildings.

It was never the intention of Council or Council officers to have five story apartment buildings in this area. It was acknowledged in the rezoning history, earlier in the report that Council officers considered that these properties being in close proximity to other townhouses and SEPP 5 developments should be rezoned for two storey townhouses. The site was, however, rezoned to be 2(d3) under LEP 194.

Numerous current proposals for development in this vicinity, taken as a whole and if granted consent, will result in change of so profound effect, that these matters must not be left for mere delegated determination by Council staff but ought to be the subject of scrutiny by the whole Council in public session. Indeed, this ought to occur in a venue able to contain the numbers of local residents apt to wish to express their views.

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The number of units and car parking is determined by the extent of the residential 2(d3) zoned properties in this area and the standards of LEP 194 and policy controls of DCP 55. LEP 194 development applications will be referred to full Council for determination.

Increased traffic patterns will adversely affect the safety and security of students attending Masada College and Corpus Christi Primary School in Link Road adjacent to Newhaven Place. This will also impact on worshippers attending the Masada Synagogue. I am concerned as to the safety and security of children attending the schools opposite to the propped development off Link Road. The developments will result in both increased traffic and the lack of pick-up and drop-off points, as many parents use the relative safety of Newhaven Place.

Link Road is an arterial road with the schools and community facilities to the north of this road and the newly rezoned LEP 194 residential 2(d3) zone to the south of this road. The area to the south of Link Road is not to be used as a drop off/pick up point for school children, nor is it to be used for parking for the schools and community facilities to the north of this road for safety reasons. Sufficient parking and drop-off/pick up points are provided on the northern side of Link Road to service these uses. The schools have established controls for the pick-up and drop off of children and it was never intended for Newhaven Place to be used as a pick-up/drop off spot, because Link Road would need to be traversed.

There is a strong probability that during construction more than the 4 stated trees to be removed will be lost.

Only 4 trees that are considered worthy of preservation are proposed to be removed. The development also proposes removal of a number of other trees which are either exempt (i.e. not protected) under Council's Tree Preservation Order or not considered worthy of preservation due to their current health, condition and lack of significance to the landscape. According to the applicant, the arborist was one of the first consultants engaged prior to the design being prepared. Accordingly the design seeks to maximise tree retention on the site which has been confirmed by Council's Landscape Assessment Officer. Building B has been set further back from Newhaven Place towards the rear boundary to allow the retention of a number of large Turpentine trees.

The value of our properties will be significantly reduced.

The effect of any proposed development on adjoining or surrounding property values is not a valid planning consideration under s79c of the Environmental Planning and Assessment Act.

The construction of 47 units on sites previously occupied by 4 homes will put an enormous strain on the existing infrastructure (electricity, stormwater, water telephone and sewer systems) not to mention the impact on the surrounding roads.

LEP 194 was gazetted by the Minister on 28 May 2004, after taking into account the availability of the required infrastructure. The applicant has also demonstrated that the subject site is adequately

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served by all essential services. The traffic impacts of the proposal have been assessed by Council's Engineering Assessment Officer and deemed to be acceptable.

All apartments in "Coppins" will be overshadowed by five storey buildings.

The proposal will not result in the undue overshadowing of 'Coppins' or any of the adjoining properties. The applicant has submitted detailed shadow diagrams that indicate that all sites in close proximity to the subject development will receive a minimum of 3 hours of solar access between 9:00 am and 3:00 pm on June 21. This is compliant with Council's controls.

The noise from the construction of this and all the new apartment blocks in Newhaven Place is of concern as there could be years of on-going construction in the immediate area.

An appropriate condition of consent is recommended to ensure that construction takes place during standard and reasonable hours. (*Condition No. 6*).

This proposed 47 unit apartment buildings development will result in greater levels of human and mechanical noise impacting on the adjoining developments.

Human noise is inevitable in a city and, to a large extent, uncontrollable. Adequate setbacks on adjoining residential boundaries would ensure limited acoustic impact upon neighbours.

Mechanical noise from air conditioning is not an issue as the architect has designed the development with a large number of 'cross ventilated' apartments and has not proposed the installation of air-conditioning.

The proposal is in a 'high risk' bush fire prone area close to a heavily treed public reserve and therefore should be refused in the likely event of bushfire in the area and the threat to the residents in the proposed development.

The development application was referred to the NSW Rural Fire Services (RFS) for a Bush Fire Safety Authority under section 100B of the Rural Fires Act, 1997. The RFS stated in a letter to Council, dated 1 March 2005, that *'based on an assessment of the plans and documentation, RFS is prepared to grant a Bush Fire Safety Authority with no specific conditions.'*

The development application was notified during the School/Christmas holidays, when many of the local residents were away. The notification period should be extended until the end of February 2005 to allow the residents sufficient time to lodge objections.

The application was received by Council on 3 December 2004. Council is obliged to notify the development application for 30 days as soon as possible after lodgement date. Due to the above concerns, which were expressed by several residents, the notification time frame was extended until 14 February 2005.

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The stated aims of Clause 25C(1) and stated objectives of Clause 25C(1) are not addressed as part of the Statement of Environmental Effects (SEE). The aims of Clause 25C(1) of the KPSO are:

- (a) to encourage the protection and enhancement of the environmental and heritage qualities of Ku-ring-gai.**
- (b) To encourage orderly development of land and resource in Ku-ring-gai,**
- (c) To encourage environmental, social and physical well-being so that Ku-ring-gai continues to be as enjoyable place to live in harmony with the environment.**

Having assessed the proposal against the aims and objectives of clause 25(1) of the LPSO, it is noted that the following issues have been addressed in the SEE and supporting documentation provided with the development application:

- The proposal has been orientated north-eastwards in deference to the location of “The Coppins” development adjacent to the site and so as to maximise solar access to both the proposal and also “The Coppins” development;
- The buildings have been sited so as to follow the general setbacks of the existing buildings on the site wherever possible;
- The proposal has been designed to ensure that the majority of outdoor areas and living areas are orientated north and/or north-east. Only 4 (18%) of balconies within Building A are either not orientated north or north-east;
- The proposal will provide medium density residential development as envisaged by LEP 194;
- The proposal provides a range of generous unit sizes and configurations;
- The proposal provides a range and variety of floorplans and this, together with the orientation of the units, will lead to an increase in housing choice within the area;
- Specific measures, such as privacy screens and louvers have been incorporated within the design of the proposal to alleviate residential amenity concerns for adjoining residents and in particular “The Coppins” development;
- The development has been specifically designed and set out so as to retain as many trees on the site as practically possible;
- The proposal involves extensive replanting across the site, involving the introduction of more than double the number of trees that are being removed from the site. An amended landscape plan was provided which provided clarification of a number of tree types and tree locations.

Impact of this development on traffic movements at the intersection of Newhaven Place and Link Road will further impact on the intersection at Mona Vale Road, a dangerous area for accidents.

Council’s Development Assessment Engineer concluded that, while the development may result in the surrounding road network becoming busier in terms of increased traffic movements, the development is not expected to create any additional traffic problems in the surrounding road network.

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Poor standard of plans and accompanying documentation e.g. the Shadow diagrams are at a scale of 1:500. It is impossible, at that scale, to determine what the rear effects of the shadow are.

Shadow diagrams at a scale of 1:200 were lodged by the applicant, which were used to assess the degree of overshadowing. The shadow diagrams are considered to be accurate. The conclusions drawn from the diagrams is that all the adjoining properties as well as the development itself will have more than 3 hours of direct sunlight in midwinter, therefore satisfying the terms of part 4.5 of DCP 55.

The applicant has failed to show on the plans the location of plant rooms and other noise generating equipment.

As the majority of apartments are cross over apartments, air-conditioning plant rooms have not been proposed as part of the development application. The areas for the lift machinery as well as the areas to remove the exhaust fumes from the basement garages have been indicated on the development application plans.

Amended Landscape Plan dated 25 February 2005

The amended Landscape Plan was not renotified, due to its minor revisions and clarifications.

CONSULTATION - WITHIN COUNCIL

Landscaping

Council's Landscape Assessment Officer, Stephen Fenn, commented on the proposal as follows:

"Site description

The subject site is comparatively level (sloping slightly to the rear) and incorporates 4 existing allotments. Each lot contains a 2 storey dwelling positioned generally within the rear half behind a group of mature, remnant Syncarpia glomulifera (Turpentine). Groups of this species also extend across the rear of the site within adjoining properties. Exotic plant species are supplementary to the Syncarpia glomulifera (Turpentine) that dominate its landscape character.

The proposal

The proposed multi-unit development, including basement carpark, will favourably occupy most of the existing built upon space within the site and utilise the existing access point to No. 7 Newhaven Place.

Tree removals

Removal of 33 of the following 35 trees (including 6 palms), identified in accordance with the applicant's Development Impact Assessment report prepared by Earthscape Horticultural Services and dated November 2004, is supported. The report states that only 19 trees require removal for construction of the proposed development. Most of the trees identified for removal are of low value and significance to the site and surrounding landscape.

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Five existing Syncarpia glomulifera (Turpentine) canopy trees will require removing for construction of the proposed development. The existing landscape character of the site will remain largely unaltered as several Syncarpia glomulifera (Turpentine) are proposed to be re-established within the site. All trees to be preserved require protection fencing installed prior to the commencement of demolition works and careful operating methods during both demolition and construction work (Condition No 102).

1 Metasequoia glyptostroboides (Dawn Redwood) - 6, of 17 metres height, suppressed form and healthy condition, is located at the site's eastern corner. It is nominated for retention, however, it conflicts with the proposed electrical sub-station site and requires removal.

1 Cordyline australis (New Zealand Cordyline) - 3, located adjacent to the northern boundary of No 3 Newhaven Place requires removal to accommodate Building A.

5 non-locally occurring native and exotic trees: 7 to 11 that currently provide low to medium height screening to the site from Link Road will require removal as the proposed detention area surface levels are to be 300 to 400 mm below existing ground levels. These trees are to be replaced by 5 Elaeocarpus reticulatus (Blueberry Ash) of semi-mature nursery stock.

2 Syncarpia glomulifera (Turpentine) - 12 and 13, of 18 metres height and healthy condition, located adjacent to the southern boundary of No 1 Newhaven Place require removing for construction of Building A. Both these trees are currently exempt due to their proximity to the existing dwelling. Twenty nine Syncarpia glomulifera (Turpentine) are included on the landscape plan for site replenishment and screening.

3 trees: 1 Citharexylum spinosum (Fiddlewood) - 14 and 2 Pittosporum eugenioides 'Variegata' (Variegated Tarata) - 15 and 16, located adjacent to the rear boundary of No 1 Newhaven Place, are noted for consideration for removal due to their exempt status or poor condition. 1 Cupressus cashmeriana (Kashmir Cypress) - 17, is noted for retention although is not included on the landscape plan. This tree is to be retained. The 2 Pittosporum eugenioides 'Variegata' (Variegated Tarata) - 15 and 16 have been omitted from the landscape plan. The Citharexylum spinosum (Fiddlewood) - 14 is shown to be retained on the landscape proposal for the site.

3 Pittosporum eugenioides 'Variegata' (Variegated Tarata) - 34 to 36, of 5 - 7 metres height and fair condition, require removal to accommodate Building A. These trees are visually insignificant.

2 trees: 1 Prunus campanulata (Taiwanese Cherry) - 72 and 1 Ulmus glabra 'Lutescens' (Golden Elm) - 73, both of 7 metres height and of healthy and poor condition, are located adjacent to the southern boundary and on the nature strip forward of No 7 Newhaven Place. Both trees require removal to accommodate the driveway and crossing respectively.

2 Syncarpia glomulifera (Turpentine): 78 and 79, of 20 metres and 9 metres height having straight and suppressed trunks, a well elevated and irregular canopy and healthy condition, respectively. These are the largest and smallest of a clump of 3 trees that incorporates Trees 77, 78 and 79. Trees 78 and Tree 79 are located within 3 metres of Building B. Deep excavation so close to the

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trunk of both trees would most probably lead to their destabilisation and therefore both should be removed.

6 palms and 2 trees Nos 80 - 87, located forward of the dwelling at No 7 Newhaven Place, require removal for the construction of Building B. The palms and trees are not visually prominent or are exempt species.

2 Syncarpia glomulifera (Turpentine) - 93 and 94, located forward of the dwelling within No. 5 Newhaven Place, are 18 metres high, of equally suppressed form to each other and healthy condition. It is proposed to remove both trees due to their proximity to the basement carpark ramp and within the entry path sites, respectively. T93 is located 1.5 metres from the building and exhibits a slight lean towards it. However, T94 is 3.5 metres from the nearest point of the curved basement carpark ramp and to the northern side of the entry path. It should be retained within the development.

5 Cupressocyparis x leylandii (Leyland Cypress) - 98 to 102 are located adjacent to the southern boundary of No 3 Newhaven Place and beneath the canopy of a large Syncarpia glomulifera (Turpentine) - 96. They are currently exempt due to their height. Their removal will avoid future competition with the Syncarpia glomulifera (Turpentine) tree's canopy.

Landscape plan

The amended landscape plan: Dwg No L01/3-R9711 (Rev.A) prepared by Michael Siu Landscape Architects and dated 21.2.05 is satisfactory. Proposed canopy species for the site are appropriately dominated by Syncarpia glomulifera (Turpentine) except for the street frontage where Angophora costata (Sydney Red Gum) are introduced to emulate the change in canopy structure from a near pure stand of Syncarpia glomulifera (Turpentine) on most of the site and to the west to a broader range of canopy species within Sydney Turpentine Ironbark Forest community to the east.

The subject site requires a minimum number of 14 canopy trees to comply with Council's Development Control Plan No.55. Twenty mature Syncarpia glomulifera (Turpentine) are proposed to be retained. A further 30 Syncarpia glomulifera (Turpentine) and 6 Angophora costata (Sydney Red Gum) are proposed. Two Syncarpia glomulifera (Turpentine) proposed close to the western wall of Building A is to be relocated beyond the building's 3 metres exemption zone. (Condition No 58).

1 Cupressus cashmeriana (Kashmir Cypress) - 17, noted for retention in the Tree report although not shown on the landscape plan is to be included in the landscape arrangement for the site. One Alnus jorullensis (Evergreen Alder) - T2 retained within the proposed landscape arrangement is an exempt species and should be removed due to its short-term life expectancy, previous severe pruning and prominent northerly lean. (Condition No 58).

The required deep soil planting zone for the site, of 4143.5 square metres area, is 50% of the site's area. The proposed deep soil planting area is given as 2170 square metres or approximately 2.5% above the required area and does not include the 2 entry paths that are in excess of 1 metre width. The deep soil planting area is a compliant 52% of the site's area.

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The circulatory Nepean River Gravel bed, originally of 75 - 300 mm rocks, has been satisfactorily amended to partially function as a path. A typical section for the gravel bed shows it sitting upon existing grade and passing through existing and proposed groups of trees. The proposed gravel bed has also been amended so that it does not conflict with the surface detention area's berm.

*The amended landscape plan shows trees Nos 7 - 11, located adjacent to the Link Road boundary, being replaced by 7 *Elaeocarpus reticulatus* (Blueberry Ash). The former trees require removal to accommodate the proposed detention area 300 to 400 mm below existing ground levels.*

Access for disabled residents and visitors to the podium level open space between the 2 buildings is to be achieved by a gentle slope from the Newhaven Place frontage. Proposed pedestrian access between the site and the adjoining bushland reserve is supported by Council's Manager: Natural Environment and Bushland.

Several fern plantings within the front and rear gardens of No 7 Newhaven Place should be retained/ reused within the landscape arrangement for the site. (Condition No 58).

Stormwater drainage

*Excavation for the surface detention area avoids all the *Syncarpia glomulifera* (Turpentine) located within the site's northwestern corner. Mounding, to a maximum of 300 mm above natural ground beneath one side of the canopies of close-by *Syncarpia glomulifera* (Turpentine) trees, should have a minor adverse impact upon their health.*

A low level mound originally proposed having a ridge height of RL 155.65, adjacent to the site's southern boundary and adjacent to the southern half of its western boundary has been deleted from the stormwater drainage plan No.24187 1 - 1 C05 prepared by Buckton Lysenko Consulting Engineers and amended 21.2.05, as the catchment area is small and to permit some overland flow into the adjoining bushland reserve - downslope of the site.

*Stormwater drainage lines, of 100, 150 and 225mm diameter, proposed within the primary root zones of several mature *Syncarpia glomulifera* (Turpentine) trees, located within the site's Newhaven Place setback zone, are to be installed using boring excavation method to minimise adverse impact upon tree root systems and not open trenches as nominated in the applicant's Tree Management Plan prepared by Earthscape Horticultural Services and dated December, 2004 as these trees are the site's intrinsic value (Condition No. 66). The grate level of pits: P16, P17, P18 and P19 are to conform to existing ground levels."*

This application is supported subject to conditions."

Engineering

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

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

Subdivision

*The DA Application form indicates that strata subdivision is proposed under this DA, hence strata subdivision conditions will be applied in this referral response. So that the building is not constructed across lot boundaries, the Applicant will be required to consolidate all the Torrens lots prior to issue of the Construction Certificate (**Condition No 87**).*

Traffic generation

The applicant has submitted a Traffic Assessment Report with the Development Application (refer "Transport report for proposed residential development, Newhaven place, St Ives" by Colston Budd Hunt and Kafes, dated October 2004). The report is an acceptable standard on which to base an assessment of the traffic related impacts of the subject development.

Based on the requirements of LEP 194, the proposal therefore requires a minimum of 65 spaces which includes 12 visitor spaces. The proposal provides 83 spaces and complies with the LEP.

In terms of the impact of the post developed site on the road network, this can be ascertained generally by the capacity of the affected intersections to cater for the increased traffic loading. This is best determined by modelling the affected intersections at existing and then post-developed use. The Traffic Generation of this Development has been estimated using the RTA "Guide to Traffic Generating Developments" as follows:

	<i>Pre-Developed</i>	<i>Post-developed</i>
<i>No of dwellings</i>	<i>4 dwelling houses</i>	<i>4 x 1 bedroom 37 x 2 bedroom 6 x 3 bedroom</i>
<i>Daily vehicle trips Combined in/out</i>	<i>36 (9 per dwelling)</i>	<i>219 Based) on medium density averages: 4-5 per dwelling (2 or less bedrooms) 5 to 6.5 per dwelling ((3 or more bedrooms)</i>
<i>Peak hour vehicle trips Combined in/out</i>	<i>3.4 (0.85 per dwelling)</i>	<i>23.5 (0.5 per unit average)</i>
<i>Net increase in peak hour traffic</i>	<i>AM peak: 16 vehicles out of consolidated site, 4 vehicles in PM peak: 16 vehicles into consolidated site, 4 vehicles out</i>	

The Newhaven/Link Rd intersection, and the nearby major intersections have been assessed under existing conditions with the INTANAL program by the applicant's consulting Traffic Engineer (refer section 2.17 of DA submission Traffic Report). The results are as follows:

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- *Mona Vale Rd/Link Rd intersection operates currently at a 'satisfactory' level of service as defined by the INTANAL traffic model.*
- *Mona Vale Rd/Stanley Street intersection operates currently at a 'satisfactory' level of service as defined by the INTANAL traffic model.*
- *Link Road/Stanley Street intersection operates currently at a 'satisfactory' level of service as defined by the INTANAL traffic model.*
- *Link Rd/Newhaven Place intersection operates currently at a 'good' level of service as defined by the INTANAL traffic model.*

The assignment of an additional (net) 20 vehicles peak hour trips in and out combined (see table above) into the affected intersections (broken down into 80% outgoing and 20% incoming at am peak and the reverse at pm peak) is not expected to lower the operating levels of service at any intersection below 'satisfactory' level of service based on the Traffic Engineer's modelling with INTANAL.

The 24 trips over the respective peak hours (am and pm) generated by the subject development (in and out combined) is an average of one vehicle movement over the proposed driveway crossing every 2 ½ minutes in the peak hour. This is not considered significant in the cul-de-sac of Newhaven Place.

Accordingly, while the development may result in the surrounding road network becoming marginally busier in terms of increased traffic movements, the subject development being assessed is not expected to create additional traffic problems in the surrounding road network.

The cumulative impact of the development in terms of the other DA's lodged in Newhaven place is to be addressed.

Construction management

Based on the scale of works and excavations, a detailed construction traffic management plan must be submitted for review by Council Engineers prior to the commencement of any works on site. This has been conditioned. (Condition No 52).

Vehicle access and accommodation layout

Proposed vehicle access and accommodation arrangements have been assessed against the Australian Standard 2890.1 2004 - "Off street Car Parking" and Council DCP 43 - "Carparking".

The following table summarises Development Engineer's assessment of the proposed parking arrangements against the Australian Standard 2890.1 (2004) - "Off-street car parking":

Aspect	Comment
<i>Dimensions of parking spaces</i>	<i>Satisfactory</i>
<i>Parking circulation aisle widths</i>	<i>Satisfactory for less than 30 vehicle movements per hour</i>
<i>Blind aisle space dimensions</i>	<i>Satisfactory</i>

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<i>Circulation ramps</i>	<i>Single width ramps satisfactory for less than 30 vehicle movements per hour and subject to placement of traffic signal system to accommodate two-way traffic movements. Detail provided on DA plans and to be advanced on Construction Certificate plans. (Condition No 98).</i>
<i>Entrance driveway location</i>	<i>Satisfactory (as far from intersection as possible)</i>
<i>Sight distances at driveway exit</i>	<i>Satisfactory</i>
<i>Entrance driveway widths</i>	<i>Satisfactory</i>
<i>Entrance driveway grades</i>	<i>Satisfactory</i>
<i>Height clearance in parking area</i>	<i>To be shown on Construction Certificate plans</i>

The imposition of suitable engineering conditions of consent will require the necessary advancements of the parking layout design (to be shown on the Construction Certificate plans) in order to achieve a layout fully in accordance with the relevant Australian Standard 2890.1 - 2004 "Off-Street car parking".

Garbage collection

*A waste storage and collection area is required internally under Council's DCP 40 for Waste Management. This has been provided in the basement parking area and there is adequate provision to be provided for Council's waste collection vehicle to enter the subject site, collect the garbage and then exit the site. A condition is to be applied that will require the applicant to remove or relocate any security grille or gate that would prevent access for this service **(Condition No 88).***

Impacts on Council infrastructure and associated works – comments

*The scale of construction work for this site has significant potential to damage the frontage road reserve. Accordingly, and for amenity of the development, the following infrastructure works will be required **(Condition No 111).***

- *Construction of a fully new concrete footpath over the full site frontage in Newhaven Place. Maximum crossfall to be 2.5% towards the gutter.*
- *New concrete driveway crossing for basement parking area from Newhaven Place.*
- *Removal of all redundant driveway laybacks and re-instatement to upright kerb and gutter.*
- *Replacement of the verge area to turfed verge between new footpath and existing kerb alignment.*

*As with all development of this scale, there is the direct risk of damage to Council infrastructure during the course of the works. A \$50,000 bond to cover restoration of such damage (or completion of incomplete works by Council) is to be applied **(Condition No 97).***

Site drainage comments

The submitted stormwater drainage services plans (refer plans C03 to C08, revisions 1-0, project 24187 by Buckton Lysenko, dated 17/11/04), have been designed in accordance with the Council requirements contained in Water Management DCP 47. A stormwater retention requirement of 3000 litres per unit applies - and this water is to be used for toilet flushing, laundry, car washing

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and irrigation (as a minimum). A total volume of 150 m³ of retained water is proposed (47 units at 3m³ per unit), with a further 120 m³ of on-site detention provided.

Accordingly, the drainage and stormwater management provisions provided under the proposal are satisfactory.

Flooding and Overland comments

The site is located towards the top of the local catchment and, as such, the site will not be affected by trunk flows of sufficient volume around the site to cause concern. The driveway level at the property boundary shall be set a minimum of 150mm above the top of the frontage kerb to prevent inundation of the basement level by flows overtopping in the gutter system.

Geotechnical / Structural Comments

The applicant has submitted a report on a geotechnical investigation carried out for the subject development, prepared by Geotechnique (refer report number 10574/1 dated 16 November 2004).

The sub-surface geotechnical investigations (3 boreholes) and subsequent report on the findings are considered appropriate for DA assessment based on the scale of development proposed. Further, the report contains relevant information and recommendations on appropriate excavation and construction techniques. Attention is paid to support of the excavation faces. It is generally expected that the majority of excavation will be in residual clays and possibly clay shale. This implies that excavation can be carried out with earth moving machinery such as excavators. This has advantages in that the need for rock breaking machinery (and hence transmission of vibrations) is expected to be minimal, if at all.

*Council Development Assessment Engineers are guided by the findings and recommendations of the expert geotechnical report submitted with the Development Application. Based on the above geotechnical report for this site, I am satisfied that the geotechnical and excavation aspects of this DA can be addressed through suitable conditions of consent. These conditions will require geotechnical monitoring, excavation, construction and further professional geotechnical input as specified in the submitted geotechnical report. Buildings and structures on adjoining property are not expected to be within the zone of influence of the subject excavations although a condition/s to be applied which requires this to be investigated by a consulting geotechnical engineer, with action as appropriate" (**Condition No 106**).*

Conclusion

Based on the formal engineering assessment, Councils Development Engineer has determined that the proposal is satisfactory for development approval based on engineering grounds, subject to engineering conditions being imposed.

*In summary the engineering aspects of the application are considered satisfactory by Development Engineers, subject to the imposition of the engineering conditions (**Condition Nos 38 - 55, 88-99 and 106-119**)."*

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Urban Design Consultant

Council's Urban Design Consultant, Russell Olsson, has commented on the proposal as follows:

Principle 1 - Context

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

The existing context of the natural environment includes substantial tree planting in the Masada College site on the opposite side of Link Road, and on properties in Newhaven Place.

The existing built form context is comprised of a 2 storey nursing home to the north of the site, houses to the south and west, and the Masada College to the east. The desired future context in terms of the planning controls for the area will allow 4.6 storey buildings in Newhaven Place, and it is this context which is to be considered in design assessment.

Principle 2 - Scale

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

The scale of the buildings is appropriate given the allowable building heights. The potential bulk of the buildings is visually reduced by the angular nature of the overall building form, and the detailed articulation of each facade.

Principle 3 - Built Form

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

The overall built forms relate to the obliquely angled geometry of the site and the two street frontages. In relating to the street frontages and the north-western boundary, the buildings are angular in plan, which is appropriate. The architectural resolution of the geometries of the internal walls and the external building envelope creates facades which are highly modulated, while relating to the street frontages.

The main issue with the siting of the buildings is the narrow front setbacks from Newhaven Place to the two buildings. However, the setback of 9m from the western boundary is necessary for Building A, due to the zone interface controls. This means that the reduced setback from Newhaven Place to Building A is necessary. It is recommended that the proposed SEPP No 1 be allowed, so that Building B is able to be set back a minimum 12m from the Newhaven Place boundary, as shown.

Principle 4 - Density

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

The density is acceptable.

Principle 5 - Resources, Energy and Water Efficiency

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

Approximately 70% of apartments are cross ventilated, which is reasonable in terms of the Residential Flat Design Code. The high degree of external facade stepping will provide some opportunity for air movement across corner cross-ventilated apartments. A high proportion of living rooms and balconies are oriented to the north, east or west. These three positive factors compensate for the otherwise excessively deep floor plans. The environmental performance of these buildings is acceptable, due mostly to their solar orientation, the external building steps and the reasonable number of cross ventilated apartments.

Principle 6 - Landscape

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

The landscape design is appropriate to the existing context. It is recommended that the landscape design is amended adjacent to the Building A entry bridge, in the proposed wider front setback from Newhaven Place. Some additional vegetation would be appropriate.

Comment: An amended landscape plan was provided by the applicant, which has addressed the above issue and provided additional planting in this area (8 x *Doryanthes Excelsa*).

Principle 7 - Amenity

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

The levels of amenity regarding plan layouts, sunlight, natural ventilation, visual privacy, storage and the like are acceptable. The proposed re-location of Building A should not reduce visual privacy between the two buildings, however, privacy screens may be used if considered necessary.

Comment: Privacy screens by way of fixed louvers are to be attached to the western side of the proposed building on levels 1, 2 and 3.

Principle 8 - Safety and Security

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

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appropriate to the location and desired activities, and clear definition between public and private spaces.

There are no apparent issues of safety or security.

Principle 9 - Social dimensions

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

The apartment sizes and mix are acceptable.

Principle 10 - Aesthetics

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

The proposed buildings have horizontal spandrel panels spanning between the 45° angled bedroom walls facing Newhaven Place and the western boundary. This idea is supported, as the spandrels align with the street frontage and the western boundary.

The colours and materials are supported, except for the front fence to Link Road. The relatively light colour is visually very prominent in relation to the vegetation above it. It is recommended that the wall is made a darker colour to relate better to the landscape. (Condition No. 100).

Recommendations

It is recommended to:

- *Approve the SEPP No 1 objection for the reduced interface setback of Building A from the western boundary.*
- *Provide a darker colour to the front fence facing Link Road (Condition No. 100).*

Following this minor amendment, the development should be approved."

Heritage

None of the four subject allotments are heritage listed, nor are they in the vicinity of heritage listed properties. The four allotments are not in a conservation area.

All existing buildings on the site are relatively modest brick houses dating from the 1960's. The houses are similar to many others, being representative of that period. There is no objection from

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the Heritage Advisor to their demolition, subject to recording before demolition (**Condition No. 34**).

CONSULTATION - EXTERNAL

NSW Rural Fire Service

NSW Rural Fire Services commented on the development application as follows:

"I refer to your letter dated 16 December 2004 seeking our general terms of approval for the above integrated development proposal in relation to the requirement for a Bush Fire Safety Authority under section 100B of the Rural Fires Act 1997.

Based upon an assessment of the plans and documentation received for the proposal, the NSW Rural Fire Service is prepared to grant a Bush Fire Safety Authority with no special conditions. This response is to be deemed the Bush Fire Safety Authority as required under Section 100B of the Rural Fires Act 1997."

Energy Australia

*Final supply arrangements cannot be assessed until a comprehensive list of the electrical loading for the development is provided. Energy Australia request Council to add advice into the development application that early notification to all service providers be required to ensure adjustment of any utility service facilities are to be maintained in a safe condition at all times and supply can be made available at a suitable location to all parties (**Condition No 42**). Developers would be requested to arrange the underground of any overhead construction near their development or at the minimum install conduits within the footway along the property line of the development to accommodate future underground facilities. (**Condition No 55**).*

Should Energy Australia require a substation on site, it should be located well outside the canopy drip line of any tree to be retained. It should be located within the landscape area so that it can be screened from view (**Condition No. 77**).

STATUTORY PROVISIONS

State Environmental Planning Policy No 65 - Design quality of residential flat development

The application includes a design verification statement by the project architect Arthur Gartrell of P.D. Mayoh Architects. Mr Gartrell has verified that he is a qualified designer and member of the NSW Architects Registration Board, and has designed the proposal in accordance with the design quality principles set out in Part 2 of SEPP65.

The application has been assessed in terms of the Design Quality Principles set out in SEPP65. The design quality principles do not generate design solutions but provide a guide to achieving good

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design and the means of evaluating the merit of the proposal. The assessment is summarised as follows:

Context:

The subject site is located at the intersection of Newhaven Place and Link Road within a residential area in close proximity to St Ives Village Centre. A number of other multi-unit redevelopments are proposed including one on the adjoining property located to the south of the subject site. It is anticipated that this area will be transformed from its current low density character to a predominantly medium density residential character.

The proposed building will incorporate a neutral palette of colours and combination of alternately hued masonry elements and rendered finishes, adding visual interest. The proposal will create building forms with articulated facades towards the bordering streets. The design has been driven by the existence of the significant trees.

The proposed development, through tree retention and replenishment, good building design and articulation and protection of neighbouring privacy and solar access, will contribute to the desired future character of the area.

Scale:

The proposal will present itself as two discrete four storey forms with a recessed fifth storey and two levels of basement parking, creating an appropriately scaled and modulated form in sympathy with the future character of medium density residential development in the area. Within the vicinity of the site, there are a variety of building types comprising varying heights and scale. This includes the institutional buildings north of the site, the proposed 2(d3) sites to the south and east of the site and the existing 2(d) townhouse development to the west of the site.

The proposal provides generous setbacks along both Newhaven Place and Link Road which will allow the retention of the existing tall canopy trees on the site whilst also accommodating additional landscaping including tall canopy trees within the front setback. This will assist in addressing the corner location of the subject site and will unite the streetscape of each of the converging streets with mature existing vegetation and proposed new planting.

The proposed building form is appropriately scaled and set back from each street front and relates to the future character and scale of the developments in the precinct as envisaged by LEP 194 and DCP 55.

Built form:

The design of the building elements, in particular the two separate buildings, the variety of materials to be used and the rich articulation results in a high architectural standard.

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The three building alignments parallel to the road and the provision of central and visible pedestrian accesses respects and defines the road and public domain and will contribute to the character of the streetscape.

Density:

The proposed density of 1.27:1 is compliant with the density control of DCP55, which specifies a maximum floor space ratio of 1.3:1.

The proposal is consistent with the desired future density of the area.

Resource, energy and water efficiency:

The proposal achieves a 4.5 star NatHERS energy rating for 90% (or 42/47) of dwelling units, with all units achieving the minimum standard of 3.5 stars.

All apartments have been provided with cross-ventilation and no single-aspect apartments are proposed. Furthermore, the recommended building depth of 10-18 metres has not been exceeded and 25% of kitchens have access to natural ventilation.

Conditions have been recommended in regard to use of energy efficient appliances and storage of rainwater for landscape watering (*Condition Nos 39, 93*).

Landscape:

The proposal provides for 52% of the site being a deep soil zone which is compliant with the minimum requirement of 50%. This zone is primarily provided within the two street frontages and to the rear of the buildings. This deep soil area is primarily common land within the development and its ability to accommodate large canopy trees will not be restricted in the future. The amount of landscaping provided is consistent with the desired future character of the area, which seeks canopy trees to soften the buildings and contribute to the streetscape.

Amenity:

The development provides for one, two and three bedroom dwellings, 90% of which attain a rating of 4.5 NatHERS stars and all attain a rating of 3.5 stars. The units are all provided with good visual privacy, having good side and rear setbacks. Balconies to the units are positioned so as to minimise overlooking to adjoining properties.

A minimum floor to ceiling height of 2.7 metres has been provided, consistent with Council's requirement. Furthermore, the units are all of generous proportions, the large units being over 120m² in floor area, with some being in excess of 150m².

The application provides large amounts of private open space to each of the units. Terraces of over 25m² are provided for the ground floor units, 10m² to 30m² are provided for the balconies in the upper levels and terraces of 30m²-50m² are provided for the penthouse units.

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The proposal provides acceptable levels of amenity to its future occupants and affords reasonable levels of amenity to surrounding properties, particularly in terms of privacy and solar access.

Safety and security:

The proposal provides for good levels of safety and security by:

- (i) maximising opportunities for surveillance of public spaces on the site;
- (ii) the provision of a number of public access ways which are clearly visible from the street;
- (iii) The provision of secure car parks which are secured from external access;
- (iv) Lift and stair access being directly from the basement car parks to apartment levels.

Social dimensions:

The application provides for one, two and three-bedroom dwellings. This is compliant with Council's requirement to provide a range of dwellings sizes. The apartments are all of a generous size and provide high quality living environments for those residents within the local area who wish to "downsize" to an apartment or do not wish to live in a SEPP (Seniors Living) development.

Aesthetics:

The external appearance and composition of building elements, textures, materials and colours satisfactorily reflects the use, internal design and structure of the development. The buildings also link with the neighbouring conservation area through the conservative use of natural colours. A condition has been included to change the colour of the Link Road fence from a light to a mid-range colour to harmonise with the landscaping (*Condition No. 101*).

State Environmental Planning Policy No. 55 - Remediation of Land

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

Residential Flat Design Code

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

Relating to the Local Context:

A site analysis was prepared by architects P.D. Mayoh Architects, with the proposal being designed to address the issues identified within this analysis. Two smaller buildings over a common basement was proposed, as opposed to a single larger building. The proposed form of the residential flat buildings on the site is in keeping with intent of the urban design principles and vision of Council as articulated in LEP 194 and DCP 55. The proposed building forms are well

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modulated with facade elements staggered in both plan and elevation. The upper storey is set back from the building line of the lower levels.

The proposal is sited over four (4) separate allotments and will require land amalgamation (*Condition 87*).

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

Site analysis:

A satisfactory site analysis was submitted which also demonstrated that the proposal is compliant in terms of building edges, landscaping, access, parking and building performance in regard to energy efficiency.

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

The orientation of the development ensures adequate solar access to habitable areas and private open space, both within the subject site and to adjoining residential development and provides an appropriate frontage to Link Road and Newhaven Place.

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

Building design:

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

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

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

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 2400m ²	4,143.5m ²	YES
Deep landscaping (min): 50%	52%	YES
Street frontage (min): 30m	87m (Newhaven Place) 60m (Link Road)	YES
Number of storeys (max): 5	Both Buildings A and B: 5 storeys each	YES
Site coverage (max): 35%	34%	YES

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Top floor area (max): 60% of level below	Building A: 60% Building B: 60%	YES YES
Storeys and ceiling height (max) (not inclusive of 5th floor): 4 storeys and 13.4m	4 storeys and <13.4metres	YES
Car parking spaces (min): Resident parking: 41 Visitor parking x resident: 11.75 Total parking 51.75	 Resident Parking 71 Visitor Parking 12 Total: 83	 YES YES YES
Manageable housing (min): 10% (4.7 units)	10.6% (5 units)	YES
Lift access: required if greater than three storeys	Provided to both buildings	YES
Zone Interface: 3 rd and 4 th storey setback 9 m from boundary	3 rd and 4 th storey set back 6m from boundary	NO

Zone interface (clause - 25L)

The development fails to meet the development standard for zone interface as prescribed by LEP 194. An assessment of the objection made under SEPP 1 follows:

1. Relevant Environmental Planning Instrument

The Environmental Planning Instrument to which this SEPP 1 Objection relates is the Ku-ring-gai Local Planning Environmental Plan 194 (LEP 194). The subject land is zoned residential 2(d3) under the provisions of LEP 194 and the development to which this SEPP 1 objection relates comprises the construction of a new, five storey, residential flat building with basement parking, which is permissible in the residential 2(d3) zone.

2. Relevant development standard

The development standard to which the objection relates is Clause 25(L) – Zone Interface and states:

25(L) Zone interface

- (1) *The objective of this clause is to provide a transition in the scale of buildings between certain zones.*
- (2) *The third and fourth storey of any building on land within zone No 2 (d3) must be set back at least 9 metres from the boundary of the site of the building with land (other than a road) that is not within Zone No 2(d3).*

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3. Variation to the standard

The proposal is for the erection of two buildings over a basement car park. Building A is located on the northern part of the site, while Building B is located to the southern part of the site. The non compliance, specifically relates to the rear (western) setback to Building B. Within this rear elevation of Building B, the proposal is set back 6 metres from the western boundary at the third and fourth levels.

4. Objective of the standard

The specific objectives of the zone interface control are prescribed at Clause 25(L)(1) of LEP 194 and states that:

- (1) *The objective of this clause is to provide a transition in the scale of buildings between certain zones.*

5. Justification for the variation of the standard

The applicant advances the following justification:

“The site is zoned 2(d3). In terms of the land to the rear (west) of building B where the non compliance occurs, this land is zoned 2(c) – Open Space. However, and importantly when considering the non compliance, this area forms an area of trees and open space. Following advice from the consultant Arborist as to the effect of the building on the solar access for the trees within this area, this building was set back 6m from this area, this being sufficient distance for the trees in the area to survive. Given that this parcel of land does not constitute residential development and there will be therefore be no residential amenity impacts on this parcel of land, the setback is considered appropriate.

It should also be noted that, as illustrated on the DA plans, Building B has also been sited further back from Newhaven Place (a maximum setback of 15 m), and therefore closer to the treed area to the rear (west) so as to preserve a number of existing mature trees located within the front (eastern) setback.

It is therefore considered that the proposed western setback of Building B represents an appropriate setback and has no privacy impact upon adjoining properties.

It should also be noted that in terms of solar access, it is considered that the non-compliance will have no adverse overshadowing impact on any adjoining residential properties to the west of the subject site.

In terms of amenity issues, it is noted that there are no significant public or private vistas evident in respect of adjoining properties or land that would be affected by the portion of the non-complying rear boundary setback.”

6 Consideration

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6.1 *Is the control to be varied a development standard?*

The numerical building setback requirement prescribed under Clause 35(L) of LEP 194 is clearly a development standard as it is contained within an Environmental Planning Instrument.

6.2 *What is the underlying objective or purpose of the development standard?*

The underlying purpose of the standard is identified at section 4.

6.3 *Is compliance with the development standard consistent with the aim of SEPP No. 1?*

The aim of SEPP No.1 is to:

Provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

In this regard the objectives of Section 5(a)(i) and (ii) of the Act are:

- (i) *The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
- (ii) *The promotion and co-ordination of the orderly and economic use and development of land;*

In this regard it is considered that the proposed departure is consistent with the aim of SEPP No.1 in that the argument advanced by the applicant supports the case to allow flexibility in the application of the standard under Clause 25(L).

Further, compliance with the standard would restrict the construction of a development in a form consistent with the surrounding context and streetscape, and in circumstances where the proposal provides for the proper management of land and orderly economic use, the objects of the Act would not be attained should the SEPP 1 objection not be allowed.

The architectural form of the development, its general height and landscaped setting creates a satisfactory relationship with the streetscape and adjoining residential properties resulting in visual amenity benefits to the public domain. The proposal presents a viable and appropriate use of the site.

6.4 *Why is compliance with the development standard unnecessary or unreasonable in the circumstances of the case?*

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The non compliance of the third and fourth levels of building B borders a boundary with an area of open space. There will be no adverse residential amenity impacts as a specific result of the non compliance. By varying the rear setback of the third and fourth levels in Building B, this has enabled the retention of a number of tall canopy trees currently located along the eastern frontage of the site.

It is considered that the proposal would not have any unreasonable impact upon the amenity of the adjacent properties. In addition, assessment of the bulk and scale impact has found the proposal to be appropriately controlled in relation to that of the proposed built forms in the streetscape, and is therefore consistent with the objectives in this regard. The proposal would therefore meet with the objectives to respective amenity, as well as the underlying objectives of the development standard.

6.5 Is the SEPP 1 Objection well founded?

The objection is well-founded. The development is consistent with the underlying objectives of the standard and the aims of SEPP 1. Strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.

Heritage /conservation areas (cl.61D – 61I):

The site is not heritage listed not is it located within an existing or potential Urban Conservation area. Recording of the dwellings to be demolished should be undertaken prior to demolition (*Condition No 34*).

Residential zone objectives

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

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

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 Local context:		
Development adjacent to a heritage item:		
• 10m setback (1 st & 2 nd storeys)	Over 100m to the Headmaster's Cottage, Porters Lane	YES
• 15 m setback (3 rd and 4 th storeys)		YES
Part 4.1 Landscape design:		
Deep soil landscaping (min)		
• 150m ² per 1000m ² of site area = 621.5m ²	680m ²	YES

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No. of tall trees required (min): 14trees	20 trees are to be retained Minimum of 30 trees in excess of 13 metres to be planted	YES
Part 4.2 Density:		
Building footprint (max): • 35% of total site area	34%	YES
Floor space ratio (max): • 1.3:1 (5,386.55m ²)	1:1.27 (5,256.9m ²)	YES
Part 4.3 Setbacks:		
Street boundary setback (min): • 10-12 metres (<40% of the zone occupied by building footprint) Note: The 13m to 15m setback does not apply to sites fronting Link Road, St Ives	Building A: Setbacks of 10-12 metres to Link Road Setbacks of 6 to 12 metres to Newhaven Place Building B: Setbacks of 12 to 15 metres to Newhaven Place	NO NO
Rear boundary setback (min): • 6m	Building A: 9 metres Building B: 6 -8 metres	YES YES
Side boundary setback (min): • 6m	6m	YES
Setback of ground floor terraces/courtyards to street boundary (min): • 8m/11m	8m (from Link Road to terrace of Building A) 7-11m (from Newhaven Place to terrace of Building A) 11m (from Newhaven Place to terrace of Building B)	YES NO YES
Corner sites: Building setbacks for corner sites are to be a minimum of 12 metres on both street frontages	10m (Link Road) and 6-12 metres (Newhaven Place)	NO
% of total area of front setback occupied by private terraces (max): • 15%	6% to Link Road 4% to Newhaven Place	YES YES

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Part 4.4 Built form and articulation:		
Façade articulation: <ul style="list-style-type: none"> Wall plane depth >600mm Wall plane area <81m² 	All wall plane depths >600mm	YES
	All wall plane areas <81m ²	YES
Built form: <ul style="list-style-type: none"> Building width < 36m Balcony projection < 1.2m 	Building A: 24m at max width Building B: 25m at max width	YES YES
	<1.2m	YES
Part 4.5 Residential amenity		
Solar access: <ul style="list-style-type: none"> >70% of units receive 3+ hours direct sunlight in winter solstice >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice <15% of the total units are single aspect with a western orientation 	100%	YES
	50%	YES
	Two (4.2%) single sided apartments only, but do not have a western orientation	YES
Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 4 <ul style="list-style-type: none"> 12m b/w habitable rooms 9m b/w habitable and non-habitable rooms 6m b/w non-habitable rooms 5th Storey <ul style="list-style-type: none"> 18m b/w habitable rooms 13m b/w habitable and non-habitable rooms 9m b/w non-habitable rooms 	No direct relationship	YES
	12m b/w habitable and non-habitable rooms (Between Blocks A and B)	YES
	No direct relationship	YES
	No direct relationship	YES
	13m b/w habitable and non-habitable rooms (Between Blocks A and B)	YES
	12m b/w non-habitable rooms	YES
Internal amenity:		

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<ul style="list-style-type: none"> Habitable rooms have a minimum floor to ceiling height of 2.7m Non-habitable rooms have a minimum floor to ceiling height of 2.4m 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms Single corridors: <ul style="list-style-type: none"> - serve a maximum of 8 units - >1.5m wide - >1.8m wide at lift lobbies 	<p>2.7m</p> <p>2.7m</p> <p>At least two bedrooms >3.0m</p> <p>Maximum 6 units</p> <p>>1.5m</p> <p>>1.8m</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
<p>Outdoor living:</p> <ul style="list-style-type: none"> ground floor apartments have a terrace or private courtyard greater than 25m² in area Balcony sizes: <ul style="list-style-type: none"> - 10m² – 1 bdrm unit - 12m² – 2 bdrm unit - 15m² – 3 bdrm unit primary outdoor space has a minimum dimension of 2.4m 	<p>10m²-25m² ground floor terraces</p> <p>A number of balconies are slightly under 10m² (i.e. 1m² less)</p> <p>A number of balconies are slightly under 12m² (i.e. 2m² less)</p> <p>A number of balconies are slightly under 15m² (i.e. 3m² less)</p> <p>>2.4m</p>	<p>NO</p> <p>NO</p> <p>NO</p> <p>NO</p> <p>YES</p>
Part 4.7 Social dimensions:		
<p>Visitable units (min):</p> <ul style="list-style-type: none"> 70% 	74.5% (35 units)	YES
<p>Housing mix:</p> <ul style="list-style-type: none"> Mix of sizes and types 	<p>4 x 1 bedroom apartments</p> <p>37 x 2 bedroom apartments</p> <p>6 x 3 bedroom apartments</p>	YES
Part 4.8 Resource, energy and water efficiency:		
<p>Energy efficiency:</p> <ul style="list-style-type: none"> >65% of units are to have natural cross ventilation 	76.6% have natural cross ventilation(36 of 47)	YES

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<ul style="list-style-type: none"> single aspect units are to have a maximum depth of 10m 	There are 2 single sided units only (4.2%)– max. depth of 10m	YES
<ul style="list-style-type: none"> 25% of kitchens are to have an external wall for natural ventilation and light 	100% All kitchens within the development are part of open-plan, which connect directly to at least one external wall and therefore benefit from openings for natural ventilation and light.	YES
<ul style="list-style-type: none"> >90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating 	4.5 star rating = 90% 3.5 star rating = 100% (Confirmed by Richard Heggie Associates)	YES YES
Part 5 Parking and vehicular access:		
Car parking (min):		
<ul style="list-style-type: none"> 53 resident spaces 	71 spaces	YES
<ul style="list-style-type: none"> 12 visitor spaces 	12 spaces	YES
<ul style="list-style-type: none"> 65 total spaces 	83 spaces	YES

Part 3 Local context:

Part 3 of DCP 55 requires consideration of the existing and desired future character of the area in which the site is located, the maintenance of Ku-ring-gai's landscape and visual character and consideration of relevant conservation areas and heritage buildings.

Through the retention and replenishment of trees on site (with over 30 canopy trees provided) and the provision of appropriate front and side setbacks, it is considered that the development will maintain the existing character of this area and appropriately respond to the desired future medium density character of the area.

Part 4.1 Landscape design:

The application is compliant with all of the requirements of Section 4.1. In particular, the proposal provides for deep soil landscaping zones around the two street frontages and at the rear of the property. The application also provides for a large amount of tree retention and tree replenishment, which includes a total of over 30 canopy trees on the site.

The application provides for one central landscaped area to the rear as well as providing large pockets of landscaping between the two buildings towards Newhaven Place, which includes a number of existing Turpentine trees. There are also good sized communal areas of deep soil areas which are adequate for the amenity of residents and adequate for the retention of the treed character of the locality. For these reasons, the landscape design is satisfactory.

Part 4.3 Setbacks:

The proposed buildings provide a variety of front, side and rear setbacks in order to achieve good articulation and provide interest to the streetscape.

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The development involves a number of variations to the Link Road, Newhaven Place and rear setback control across the site. The site has an average width of 40m and by imposing a 12m front, side and rear setback to the proposal, this would preclude any viable development on the site, as it would result in a building footprint and developable area that is unfeasible, which would be contrary to LEP 194.

In terms of zone interface, the building has been set back to the rear (west) of building A by 9m with the splayed glass set further back. Although this is below the 12m control, as detailed above, Clause 25L of LEP 194 states that the third and fourth storey of any building on land within Zone 2(d3) should be set back at least 9m from any boundary of the site with land that is not within Zone 2(d3). It should be noted that the proposed building will be sited between 18m to 40m from the two storey buildings to the west 'The Coppins' of the proposal which will reduce the residential amenity impacts on this adjoining building.

In terms of land to the rear (west) of Building B, the proposal has been set back 6m from this boundary. This land is zoned 2C – Open Space and comprises an area of trees and open space. Given that this parcel of land does not constitute residential development and there will be no private residential amenity impacts thereto, the setback is considered appropriate (refer to the SEPP 1 objection in the report).

It should be noted that Building B has also been sited further back from Newhaven Place (a maximum of 15m), so as to preserve a number of existing mature trees located within the front (eastern) setback.

Part 4.4 Built form and articulation:

The general built form and articulation of the buildings are well conceived, with good wall plane depths, building width and limited balcony projections.

The proposal has been designed to incorporate two buildings, being 24m and 25m wide, respectively. The construction of the two, well articulated and complementary building forms, with varying setbacks, will create architectural interest. The proposal responds to the objectives of DCP 55. Through the selection of robust materials, clean simple finishes and neutral tones, the development will relate well to its landscaping setting and will be in sympathy with the envisaged character of the surrounding area.

Part 4.6 Safety and security:

The proposal will have high levels of safety and security due to its location at a corner with dual frontages.

All of the apartments adjoining Link Road and Newhaven Place will be provided with good opportunities for outlook to the streets. The two pedestrian pathways are clearly visible from the streets, with unimpeded sightlines, and will be provided with lighting.

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Furthermore, all of the common open space areas will be visible from the apartments, with no concealed or entrapment areas.

Part 4.7 Social dimensions:

The application provides for a housing mix, as is required by Control 5 of Part 4.7, as there are a number of 1, 2 and 3 bedroom units.

Part 4.8 Resource, energy and water efficiency:

DCP55 requires 90% of units to meet with the NatHERS rating of 4.5 stars and above. The application proposes 100% of units which meet with the 3.5 star NatHERS rating, with 90% of units which comply with the NatHERS 4.5 star rating. DCP 55 requirements have been complied with.

Development Control Plan 31 - Access

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

Development Control Plan 40 - Construction and Demolition Waste Management

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

Development Control Plan No 43 - Car Parking

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

Development Control Plan 47 - Water Management

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

Section 94 Plan

The development attracts a section 94 contribution of \$697,938.29 which is required to be paid by *Condition No.82*.

This figure is calculated on the following basis, utilising the Ku-ring-gai Section 94 Contributions Plan 2004-2009 Residential Development as of 30 June 2004:

- | | |
|---|--------------|
| ▪ 3 very large dwellings (over 150m ²) = 3 by \$32,324.00 | \$ 96,972.00 |
| ▪ 3 large dwellings (110-under 150m ²) = 4 by \$23,778.57 | \$ 71,335.71 |
| ▪ 37 medium dwellings (75-under 110m ²) = 37 by \$16,533.54 | \$611,740.98 |

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▪ 4 small dwellings (-under 75m ²) = 4 by \$11,796.40	\$ 47,185.60
Sub-total	\$827,234.29
▪ <u>Less</u> 4 existing dwellings = 4 by \$32,324.00	<u>\$129,296.00</u>
Total	\$697,938.29

STRATA SUBDIVISION

The application includes the strata subdivision of the apartments, parking area and common space after the completion of the building.

i Relationship to adjoining development

The proposed strata subdivision will not alter the sites relationship to adjoining properties. The proposal will permit the units to be independently owned but does not alter their form, capacity or the facilities available to each. The impact of the strata subdivision on the amenity of the adjoining properties is considered acceptable.

ii State Environmental Planning Policy No. 10 Low Cost Rental Accommodation

The development is not defined as being affordable housing under the provisions of State Environmental Planning Policy No. 10 (SEPP No. 10) – Low Cost Rental Accommodation as it is not included in any of the following;

- a. a boarding house
- b. a hostel
- c. a residential flat building containing a low-rental dwelling

Therefore the application is not required to be referred to the Director General of DIPNR in accordance with the requirements of Clause 7(3) of SEPP No. 10.

iii Statutory controls

The subject site is zoned residential 2(d3) under the provisions of the KPSO. Development for purposes of strata subdivision is permissible with the consent of Council. The proposed strata subdivision is considered to be consistent with the aims and objectives of the zone.

The strata subdivision plans were assessed and considered acceptable. A number of conditions in relation to strata subdivision requirements have been included (*Conditions 120 to 127*).

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

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ANY SUBMISSIONS

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

PUBLIC INTEREST

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

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other relevant matters for assessment.

CONCLUSION

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

RECOMMENDATION

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

THAT the Council, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No. 1 – Development Standards* to clause 25(L) 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.

THAT the Council, as the consent authority, grant development consent to DA 1294/04 for the demolition of existing structures on site and the construction of 6 x 3 bedroom dwellings, 37 x 2 bedroom dwellings and 4 by 1 bedroom dwellings within the building and a two level basement parking and strata subdivision on land at 1, 3, 5 and 7 Newhaven Place, St Ives, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

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

Dwg No.	Rev.	Description	Author	Dated	Lodged
03	C	Site analysis	Mayoh Architects	Nov 04	24-12-2004
75	D	Basement Level 2	Mayoh Architects	Nov 04	6.04.2005
76	C	Basement level 1	Mayoh Architects	Nov 04	3.12.2004
77	C	Ground floor Plan	Mayoh Architects	Nov 04	3-12-2004
78	C	Typical level 1-3	Mayoh Architects	Nov 04	3-12-2004
79	C	Level 4	Mayoh Architects	Nov 04	3-12-2004
80	B	Roof Plan	Mayoh Architects	Nov 04	3-12-2004

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81	A	Adaptable units	Mayoh Architects	Nov 04	3-12-2004
86	B	Elevations	Mayoh Architects	Nov 04	3-12-2004
87	B	Elevations	Mayoh Architects	Nov 04	3-12-2004
88	B	Elevations	Mayoh Architects	Nov 04	3-12-2004
90	B	Elevations	Mayoh Architects	Nov 04	3-12-2004
95	B	Sections A-A , B-B	Mayoh Architects	Nov 04	3-12-2004
96	B	Section C-C	Mayoh Architects	Nov 04	3-12-2004
700	A	Shadow diagrams	Mayoh Architects	Nov 04	6-04-2005
701	A	Shadow diagrams	Mayoh Architects	Nov 04	6-04-2005
702	A	Shadow diagrams	Mayoh Architects	Nov 04	6-04-2005
L01	A	Landscape Plan	Michael Siu	21-2-05	25-2-2005
L02	A	Landscape Plan	Michael siu	21-2-05	25-2-2005
L03	A	Landscape Plan	Michael Siu	21-2-05	25-2-2005
Strata(1-9)	-	Strata Plan-9sheets	Dunlop Thorpe	1-12-04	3-12-2004

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

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

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

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of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

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

16. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
17. Any fencing and associated footings shall be constructed entirely within the boundaries of the property.
18. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
19. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
20. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
21. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

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

22. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
23. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
 - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
 - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;

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- ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
 - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
24. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
25. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
26. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
27. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
28. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
29. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
30. Fire hoses are to be maintained on site during the course of demolition.
31. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
32. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
33. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
34. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.

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35. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- a. stating that unauthorised entry to the work site is prohibited, and
 - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
36. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
37. "Peep holes" shall be provided to the entrance doors of all units for personal security.
38. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the in-ground system in Link Road via the approved site stormwater management system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
39. A mandatory rainwater re-use tank system of minimum volume 147m³ as required in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), must be provided for the development. The drainage plans submitted with the DA will require amendment to reflect these requirements where to be advanced for Construction Certificate issue purposes. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. DCP47 is available in hard copy at Council and on the Council website. A mains top-up shall be provided for periods of low rainfall, with a void space left for runoff storage purposes.
40. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
41. A maintenance period of six (6) months shall apply to the work in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.

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42. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
43. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
44. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
45. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking".
46. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.
47. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

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48. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
49. Geotechnical aspects of the development works, particularly excavation and support, must be undertaken in accordance with the recommendations of the "Report to Mr. Cameron Nelson on Geotechnical Investigation for Proposed Residential Development at 1 to 5 Lynbarra avenue and 12 Porters Lane, St Ives NSW" (project 18895VBrpt, dated 21st October 2004) prepared by Jeffery and Katauskas Consulting Engineers.
50. The geotechnical implementation plan, testing and monitoring program for the construction works must be in accordance with the "Report on Geotechnical Investigation for Proposed Residential Development 12 Ada Ave, Wahroonga" (project 37312, dated August 2004) prepared by Douglas Partners. A qualified Geotechnical/hydrogeological Engineer must complete the following:
 - Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
 - Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
 - Written report(s) and certification(s) of the geotechnical inspection, testing and monitoring programs.
51. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
52. All construction traffic control and management measures shall be implemented generally in accordance with the *Construction Traffic Management Plan* prepared by Masson Wilson Twiney, dated October 2004, submitted with the DA. The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works, and shall pay particular attention to traffic control during school drop off and collection hours. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.
53. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, no doors or gates shall be provided in the access driveways to the basement carpark which would prevent this service. Where required, any security gate or door shown on the DA plans which would prevent this service must be deleted from the plans approved with the Construction Certificate.
54. To ensure compliance with Australian Standard 2890.1 – 2004 "Off-Street car parking", no dividing structures such as cages or partitioning walls shall be placed that divide individual car spaces. The design is approved based on an open space parking layout.

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55. All new public utility services, or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.

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

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

57. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
58. Landscape works shall be carried out in accordance with Landscape Drawing No L01/3 – R9711 (Rev A) prepared by Michael Siu Landscape Architects and dated 21 2 2005 submitted with the Development Application, except as amended by the following:

-1 *Cupressus cashmeriana* (Kashmir Cypress) – 17, noted for retention in the Tree report although not shown on the landscape plan is to be included in the landscape arrangement for the site.

-1 *Alnus jorullensis* (Evergreen Alder) – T2 is to be deleted from the proposed landscape arrangement as it is an exempt species and a poor tree due to its short-term life expectancy, previous severe pruning and prominent northerly lean.

-Several fern plantings within the front and rear gardens of No.7 Newhaven Place shall be retained within the landscape arrangement for the site.

-2 *Syncarpia glomulifera* (Turpentine) proposed close to the western side of Building A shall be relocated beyond its 3 metre exemption zone.

59. Removal/Pruning of the following tree/s from Council's nature strip to permit vehicular access shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000,000.

No/Tree/Location

73/*Ulmus glabra* 'Lutescens' (Golden Elm)

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60. All disturbed areas, which are not to be built upon or otherwise developed, shall be rehabilitated to provide permanent protection from soil erosion within fourteen (14) days of final land shaping of such areas.
61. 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.
62. Topsoil shall be stripped from areas to be developed and stock-piled within the site. Stock-piled topsoil on the site shall be located outside drainage lines and be protected from run-on water by suitably positioned diversion banks. Where the period of storage will exceed fourteen (14) days stock-piles are to be seeded or sprayed with an appropriate emulsion solution to minimise particle movement.
63. Any imported fill material shall be restricted to material from the local soil landscape on which the site is located or be derived from sandstone geology sites.
64. 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 Council with the final Certificate of Compliance.
65. 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:

No/Tree/Location	Radius From Trunk
4/ <i>Syncarpia glomulifera</i> (Turpentine) Close to the site's eastern corner.	5m
5/ <i>Syncarpia glomulifera</i> (Turpentine) Close to the site's eastern corner.	6m
76/ <i>Syncarpia glomulifera</i> (Turpentine) Forward of the southern half of Building B.	5m
77/ <i>Syncarpia glomulifera</i> (Turpentine) Forward of the southern half of Building B.	5m
88/ <i>Magnolia x soulangiana</i> (Magnolia)	2m

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Forward of the centre of Building B.

90/*Camellia sasanqua* (Chinese Camellia) 2m
Forward of the centre of Building B.

92/*Syncarpia glomulifera* (Turpentine) 7m
Forward of the northern half of Building B.

94/*Syncarpia glomulifera* (Turpentine) 4m
Forward of the northern half of Building B.

95/*Syncarpia glomulifera* (Turpentine) 4m
Forward of the northern half of Building B.

96/*Syncarpia glomulifera* (Turpentine) 6m
Forward of the northern half of Building B.

97/*Syncarpia glomulifera* (Turpentine) 6m
Forward of the northern half of Building B.

108/*Syncarpia glomulifera* (Turpentine) 6m
Forward of the southern half of Building B.

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

No/Tree/Location	Radius From Trunk
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4/ <i>Syncarpia glomulifera</i> (Turpentine) Close to the site's eastern corner.	5m
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5/ <i>Syncarpia glomulifera</i> (Turpentine) Close to the site's eastern corner.	6m
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76/ <i>Syncarpia glomulifera</i> (Turpentine) Forward of the southern half of Building B.	5m
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77/ <i>Syncarpia glomulifera</i> (Turpentine) Forward of the southern half of Building B.	6m
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88/ <i>Magnolia x soulangiana</i> (Magnolia) Forward of the centre of Building B.	2m
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92/ <i>Syncarpia glomulifera</i> (Turpentine) Forward of the northern half of Building B.	7m
94/ <i>Syncarpia glomulifera</i> (Turpentine) Forward of the northern half of Building B.	4m
95/ <i>Syncarpia glomulifera</i> (Turpentine) Forward of the northern half of Building B.	4m
96/ <i>Syncarpia glomulifera</i> (Turpentine) Forward of the northern half of Building B.	6m
97/ <i>Syncarpia glomulifera</i> (Turpentine) Forward of the northern half of Building B.	6m
108/ <i>Syncarpia glomulifera</i> (Turpentine) Forward of the southern half of Building B.	6m

67. 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.
68. The following tree species shall be planted at random spacings, at no cost to Council, in the nature strip fronting the property along Newhaven Place. The tree/s used shall be 25 litre container size specimen/s:

Tree Species

- 1 *Angophora costata* (Sydney Red Gum)
- 1 *Eucalyptus resinifera* (Red Mahogany)
- 2 *Syncarpia glomulifera* (Turpentine)

69. Following removal of the *Ulmus glabra* '*Lutescens*' (Golden Elm) – 73 from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Director Open Space at no cost to Council.
70. On completion of the landscape works, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the approved landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
71. 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:

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Plant Species

Acer negundo (Box Elder)
Bougainvillea glabra (Bougainvillea)
Cinnamomum camphora (Camphor laurel)
Hedera helix (English Ivy)
Impatiens balsamina (Impatiens)
Jasminum polyanthum (Jasminum)
Lantana camara (Lantana - Pink Flower)
Parthenocissus tricuspidata (Boston Ivy) from T4 - *Syncarpia glomulifera* (Turpentine)
Sida rhombifolia (Paddy's Lucern)
Tradescantia albiflora (Wandering Jew)
Wisteria sp. (Wisteria Vine)

72. 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.
73. 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.
74. 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.
75. Eighty-six (83) car parking spaces shall be provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:
- 73 - Residential
 - 10 - Visitors/Service Vehicles
- Such spaces are to be identified on-site by line-marking and numbering upon the completion of the works. Car-parking provided shall only be used in conjunction with the uses contained within the development and in the case of Strata subdivision, shall be individually allocated to residential units. Under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building. (*Reason: To ensure that adequate parking facilities to service the development are provided on site*)
76. At least one external visitor parking bay shall be provided with a tap, for car washing purposes, in accordance with DCP55 Part 5.
77. Should Energy Australia, or any other energy provider, require a substation to be installed for the development, it should be located well outside the canopy drip line of ANY tree to be retained. It should be located within the landscape area, so that it can be screened from view.

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

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

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

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

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- d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgment of those Certificates with Council.

82. 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 FORTY SEVEN (47) ADDITIONAL DWELLINGS IS CURRENTLY \$697,938.29. This is based on 47 dwellings less the existing 4 dwellings. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

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

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

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

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

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84. To minimise potential landscape impacts, if an electrical substation is required by the energy authority, it is not to be located beneath the canopy drip line of ANY tree to be retained. It is preferred that the substation, if required, be located adjacent to a side site boundary so that it is not dominant within the landscape setting. Documentary evidence of compliance with this condition, showing the location of the proposed substation on a site plan is to be submitted to the principal certifying authority for approval prior to the issue of the construction certificate.
85. A CASH BOND/BANK GUARANTEE of \$10 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

86. A CASH BOND/BANK GUARANTEE of \$76,000 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

No/Tree/Location

4/*Syncarpia glomulifera* (Turpentine)/Close to the site's eastern corner.

5/*Syncarpia glomulifera* (Turpentine)/Close to the site's eastern corner.

18/*Syncarpia glomulifera* (Turpentine)/Close to the site's western boundary and near its northwestern corner.

19/*Syncarpia glomulifera* (Turpentine)/Close to the site's western boundary and near its northwestern corner.

20/*Syncarpia glomulifera* (Turpentine)/Close to the site's western boundary and near its northwestern corner.

21/*Syncarpia glomulifera* (Turpentine)/Close to the site's northwestern corner.

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- 22/*Syncarpia glomulifera* (Turpentine)/Close to the site's northwestern corner.
- 23/*Syncarpia glomulifera* (Turpentine)/Close to the site's northwestern corner.
- 24/*Syncarpia glomulifera* (Turpentine)/Close to the site's northwestern corner.
- 25/*Syncarpia glomulifera* (Turpentine)/Close to the site's northwestern corner.
- 26/*Syncarpia glomulifera* (Turpentine)/Close to the site's northwestern corner.
- 76/*Syncarpia glomulifera* (Turpentine)/Forward of the southern half of Building B.
- 77/*Syncarpia glomulifera* (Turpentine)/Forward of the southern half of Building B.
- 92/*Syncarpia glomulifera* (Turpentine)/Forward of the northern half of Building B.
- 94/*Syncarpia glomulifera* (Turpentine)/Forward of the northern half of Building B.
- 95/*Syncarpia glomulifera* (Turpentine)/Forward of the northern half of Building B.
- 96/*Syncarpia glomulifera* (Turpentine)/Forward of the northern half of Building B.
- 97/*Syncarpia glomulifera* (Turpentine)/Forward of the northern half of Building B.
- 108/*Syncarpia glomulifera* (Turpentine)/Forward of the southern half of Building B.

- 87. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing four torrens lots. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. The condition is imposed to ensure a continuous structure will not be placed across separate titles.
- 88. Prior to issue of the Construction Certificate any security gate, grille or door shown on the DA plans which would prevent unrestricted access for Council waste collection vehicles to the basement garbage storage /collection area must be deleted from the plans approved with the Construction Certificate. Such details shall be to the satisfaction of the Principal Certifying Authority (PCA).
- 89. Prior to issue of the Construction Certificate, a plan detailing services trenches in accordance with the relevant supply authorities (including electricity, gas, telephone, water and sewerage), shall be submitted for approval by the Principal Certifying Authority (Principal Certifying Authority).
- 90. Prior to issue of the Construction Certificate the Applicants shall contact Energy Australia with regard to power supply for the subject development. A written response detailing the requirements of Energy Australia (including a possible need for substations or similar within the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to Construction Certificate issue. Any structures or requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate to the satisfaction of the PCA. The requirements shall be met in full prior to issue of the Occupation Certificate.
- 91. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA) (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of any neighbouring buildings within the 'zone of influence' defined as the horizontal distance from the edge of the excavation face to twice the excavation depth. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional. A second dilapidation report, recording structural conditions of all structures originally assessed prior to issue of the

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Construction Certificate, must be carried out at the completion of the works and be submitted to Council. Where it is the view of the consulting geotechnical engineer that no dilapidation reports are required due to adequate offset distances, then certification to this effect from the geotechnical engineer will satisfy this condition.

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

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

93. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, carwashing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use, including pumps and back up power supply, shall be shown on this design to a detail suitable for installation by the plumbing services contractor. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
94. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website). The design may be generally in accordance with the Civil Services Sediment Control Plan (refer plan C02 (1-0), by Buckton Lysenko, dated 17/11/2004) submitted with the development application, and advanced as necessary for construction issue purposes.

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95. 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 the on-site stormwater detention and retention system. The minimum storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. The design may be generally in accordance with the stormwater drainage services plans (refer plans C03 to C08, revisions 1-0, project 24187 by Buckton Lysenko, dated 17/11/04) submitted with the development application, and advanced as necessary for construction issue purposes.
96. 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 detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47. New connection points to the public drainage system must be shown accurately on the plan and shall be made in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The design of these drainage components may be generally in accordance with the stormwater drainage services plans (refer plans C03 to C08, revisions 1-0, project 24187 by Buckton Lysenko, dated 17/11/04) submitted with the development application, and advanced as necessary for construction issue purposes.
97. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$50,000 (fifty thousand dollars) public infrastructure damage bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
 - Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
 - The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
 - Works in the public road associated with the development are to an unacceptable quality.

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98. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), advanced plans for the basement and external vehicle access and accommodation arrangements. These plans shall incorporate the following details:
- Installation of traffic signals (showing height, location, manufacturer's specification) and convex mirrors (in the event of failure of the traffic signals) on the single width circulation ramps to ensure ingressing and egressing drivers are aware of each other.
 - A minimum **clear** height requirement of 2.5 metres over all areas of the basement parking area to be negotiated by the garbage collection vehicle.
99. Prior to issue of the Construction Certificate, the Applicant must submit engineering plans for the following works in the Road Reserve over the site frontage.
- Construction of a fully new concrete footpath, 1.2 metres wide, over the full site frontage in Newhaven Place.
 - Construction of a fully new double grated gully pit with lintel in Link Rd to facilitate an inground drainage line connection from the subject site. Non return valves to be provided as necessary.

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

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

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

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

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100. The colour of the front fence to Link Road is to be changed to a darker mid-range colour to better relate to the landscape. Samples of the colour are to be submitted to and approved by the Council prior to the issue of a Construction Certificate.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

101. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor license number of the owner/builder who intends to carry out the approved works.
102. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

No/Tree/Location	Radius in Metres
4/ <i>Syncarpia glomulifera</i> (Turpentine) Close to the site's eastern corner.	5m
5/ <i>Syncarpia glomulifera</i> (Turpentine) Close to the site's eastern corner.	6m
17/ <i>Cupressus cashmeriana</i> (Kashmir Cypress) Close to the site's western boundary and near its northwestern corner.	2m
18/ <i>Syncarpia glomulifera</i> (Turpentine) Close to the site's western boundary and near its northwestern corner.	4m
19/ <i>Syncarpia glomulifera</i> (Turpentine) Close to the site's western boundary and near its northwestern corner.	4m
20/ <i>Syncarpia glomulifera</i> (Turpentine) Close to the site's western boundary and near its northwestern corner.	4m
21/ <i>Syncarpia glomulifera</i> (Turpentine) Close to the site's northwestern corner.	4m
22/ <i>Syncarpia glomulifera</i> (Turpentine) Close to the site's northwestern corner.	4m
23/ <i>Syncarpia glomulifera</i> (Turpentine)	4m

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Close to the site's northwestern corner.

24/*Syncarpia glomulifera* (Turpentine) 3m
Close to the site's northwestern corner.

25/*Syncarpia glomulifera* (Turpentine) 5m
Close to the site's northwestern corner.

26/*Syncarpia glomulifera* (Turpentine) 4m
Close to the site's northwestern corner.

27/*Syncarpia glomulifera* (Turpentine) 7m
At the northeastern corner of 5 Gillott Way.

40/*Syncarpia glomulifera* (Turpentine) 4m
Near the southeastern corner of 5 Gillott Way.

45/*Syncarpia glomulifera* (Turpentine) 4m
Close to the southeastern corner of 5 Gillott Way.

46/*Pittosporum undulatum* (Sweet Pittosporum) 7m
Within the adjoining bushland Reserve close to the site's central rear boundary.

52/*Syncarpia glomulifera* (Turpentine) 6m
Within the adjoining bushland Reserve towards the site's south-western corner.

67/*Syncarpia glomulifera* (Turpentine) 5m
Within the adjoining bushland Reserve near the site's south-western corner.

76/*Syncarpia glomulifera* (Turpentine) 5m
Forward of the southern half of Building B.

77/*Syncarpia glomulifera* (Turpentine) 6m
Forward of the southern half of Building B.

92/*Syncarpia glomulifera* (Turpentine) 7m
Forward of the northern half of Building B.

94/*Syncarpia glomulifera* (Turpentine) 4m
Forward of the northern half of Building B.

95/*Syncarpia glomulifera* (Turpentine) 4m
Forward of the northern half of Building B.

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97/*Syncarpia glomulifera* (Turpentine) 6m
Forward of the northern half of Building B.

108/*Syncarpia glomulifera* (Turpentine) 6m
Forward of the southern half of Building B.

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

No/Tree/Location	Radius From Trunk
96/ <i>Syncarpia glomulifera</i> (Turpentine) Forward of the northern half of Building B.	9m

104. 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.
105. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
106. Prior to the commencement of any works on site the applicant shall submit **to Council** a full dilapidation report on the visible (**including photos**) and structural condition of the following public infrastructure:
- Full road pavement width, including kerb and gutter, of Newhaven Place between the southern most boundary alignment and Link Rd, including the north bound section of the intersection
 - All driveway crossings and laybacks opposite the subject site.

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

Council is fully informed when assessing the damage to public infrastructure caused as a result of the development, and

Council is able to refund infrastructure damage bonds, in full or parts thereof, with accuracy
The developer may be held liable to all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition

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prior to the commencement of works. In this respect, the infrastructure damage bond lodged by the subject developer may be used by Council to repair the damage regardless.

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.

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

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

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

2. Traffic Control Plan(s) for the site

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

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

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

In addition, the plan must address:

- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.

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- Minimising construction related traffic movements during school peak periods.

For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

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

108. Prior to the commencement of any works on site the applicant must submit, for review by Council Engineers, a **construction site layout plan**. This is to entail a plan view of the entire site and frontage roadways indicating scale locations for :

- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and vehicles in the frontage roadway,
- Turning areas within the site for construction vehicles, allowing a forward egress for all construction vehicles on the site,
- The locations of proposed Work Zones in the frontage roadways,
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking for employees, tradesperson and construction vehicles
- The plan shall be prepared in conjunction with the Construction Traffic Management Plan submitted with the Development Application.
- The construction site layout plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained and submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. The traffic management measures contained in the approved plan shall be implemented in accordance with the above plans prior to the commencement of any works on-site including excavation.

109. 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

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

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

110. 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.
111. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the "*Proposed Residential Unit Development 1, 3, 5 & Newhaven Place, St Ives Geotechnical Investigation*" report prepared by Geotechnique (refer report number 10574/1 dated 16th November 2004).
112. Prior to issue of the Construction Certificate, the Applicant must submit engineering plans for the following works in the Road Reserve over the site frontage.
 - Construction of a fully new concrete footpath, 1.2 metres wide, over the full site frontage in Newhaven Place.
 - Construction of a fully new double grated gully pit with lintel in Link Rd to facilitate an inground drainage line connection from the subject site. Non return valves to be provided as necessary.

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

Item 2

course of works. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998).

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

113. Prior to issue of an Occupation Certificate the approved footpath and drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.
114. 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)
115. Prior to issue of an Occupation Certificate a suitably qualified consulting civil/hydraulic engineer is to provide certification for approval by the Principal Certifying Authority (PCA). The certification is to make specific reference to each of the following:
 - a. That construction of the stormwater drainage systems has been carried out by a plumbing contractor licensed to do so.
 - b. All Sydney Water approvals have been obtained for the augmentation of reticulated water.
 - c. That the as-built detention and retention systems achieve the design storage volumes approved by the Principal Certifying Authority with the Construction Certificate (engineer must complete form in appendix 4 of DCP47 in relation to the on-site detention system).
 - d. The as-built drainage layout (including pits, pipes, spreaders and the like) is in accordance with the relevant stormwater management and drainage plans approved by the Principal Certifying Authority with the Construction Certificate,
 - e. That all enclosed floor areas, including habitable and basement levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.
 - f. The overall as built drainage and stormwater management systems will achieve the intent of the approved design plans and Councils Water Management DCP47.

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116. Prior to issue of an Occupation Certificate the applicant shall submit the following Works-as-Executed (WAE) drawing(s) to the Principal Certifying Authority in relation to the installed property stormwater drainage and managements systems:

- a. As built reduced surface and invert levels for all drainage pits and junctions.
- 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.
- d. As built location and internal dimensions of all detention and retention structures on the property (plan view) and horizontal distances to nearest adjacent boundaries and buildings on site
- e. As built locations of all access pits and grates in the detention system, including dimensions.
- f. The size of the orifice or pipe control fitted.
- g. Dimensions of the discharge control pit and access grates.
- h. The achieved capacity of the retention and detention storages and derivative calculation.
- i. The maximum depth of storage over the outlet control.
- j. Top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system.

The WAE(s) is to be prepared by a registered surveyor and shall show all critical constructed levels, materials and dimensions in comparison to those shown in the relevant designs approved by the Principal Certifying Authority with the Construction Certificate. All relevant details indicated must be marked in red on the Principal Certifying Authority stamped construction certificate stormwater drawings.

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

- a. A copy of the approved Construction Certificate stormwater drainage, detention and retention design for the site, and
- b. A copy of all the works-as-executed drawings as specified in this consent relating to drainage and stormwater management,
- c. The Engineer's certifications of the as-built drainage, retention and detention systems as specified in this consent.

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

118. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that:

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- a. Vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” and
- b. No security doors, grilles or gates are provided which would prevent access to the garbage storage area by Councils waste collection vehicle, including the truck manoeuvring area for forward egress.

119. Prior to issue of the Occupation Certificate the provision of separate underground electricity, gas, phone cable, sewer and water services shall be provided for the development. A suitably qualified and experienced engineer or surveyor is to provide certification to the Principal Certifying Authority that the development has ready underground access to the services of electricity, gas, phone cable, sewer and water.

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

120. The applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention and retention facilities (including all ancillary reticulation plumbing) on the property. The terms of the instruments are to be generally in accordance with the Council's draft terms of Section 88B instrument s for protection of on-site detention and retention facilities (DCP47 appendix 14) and to the satisfaction of Council. The location of all on-site detention and retention facilities shall be denoted on common property on the plan of subdivision.
121. An easement for waste collection is to be created under Section 88B of the Conveyancing Act 1919. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to 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.
122. 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.
123. All parking spaces and all areas of common property, including visitor car parking spaces and on-site detention an detention facilities, which are to be common property, must be included on the final plans of strata subdivision.
124. Prior to release of the Subdivision Certificate, evidence of satisfactory provision of services including electricity, gas, telephone, water and sewerage shall be provided by the relevant authorities and shall be certified as being in place by a registered surveyor.

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125. 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 written.
126. 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.
127. 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 the consent authority. The following details **must** be submitted with the plan of Subdivision and its (6) copies, where Council is to be the consent authority:
- The endorsement fee current at the time of lodgment.
 - The 88B Instruments plus six (6) copies,
 - A copy of the Occupation Certificate for the development,
 - A copy of all works-as-executed plans required under the consent,
 - All Surveyor's and/or Consulting Engineer's certification(s) required under this consent,
 - The Section 73 (Sydney Water) Compliance Certificate **for the subdivision**.

Council officers will check the consent conditions for 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.

Note 3: If the certifying authority is not Council, then a copy of all of the above must be provided to Council to update its property records.

BUILDING CONDITIONS

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

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- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
- b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
- c. Retaining walls and associated drainage.
- d. Wet area waterproofing details complying with the Building Code of Australia.
- e. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
- f. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- g. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

129. 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.

130. 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.

131. 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.

132. 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.

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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.

S Segall
Executive Assessment Officer

S Cox
Team Leader
Development Assessment - Central

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development & Regulation

Attachments:

- 1. Locality Plan**
- 2. Zoning Extract**
- 3. Architectural Plans**
- 4. Landscape Plan**
- 5. Shadow Diagrams**

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	10 TO 16 MARIAN STREET, KILLARA - DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF 5 RESIDENTIAL FLAT BUILDINGS PROVIDING 60 DWELLINGS; INCLUDING BASEMENT PARKING, LANDSCAPING AND STRATA SUBDIVISION
WARD:	Gordon
DEVELOPMENT APPLICATION N^o:	1388/04
SUBJECT LAND:	10 to 16 Marian Street, Killara
APPLICANT:	Mirvac Projects Pty Ltd
OWNER:	Mirvac Projects Pty Ltd
DESIGNER:	HPA Architects
PRESENT USE:	Residential
ZONING:	Residential 2(d3)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	DCP 40, DCP 43, DCP 47, DCP 55
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP1, SEPP5, SEPP 10, SEPP65
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	22/12/2004
40 DAY PERIOD EXPIRED:	31 January 2005
PROPOSAL:	Demolition of existing structures and construction of 5 residential flat buildings providing 60 dwellings; including basement parking, landscaping and strata subdivision
RECOMMENDATION:	Approval

DEVELOPMENT APPLICATION N^O 1388/04
PREMISES: 10 TO 16 MARIAN STREET, KILLARA
PROPOSAL: DEMOLITION OF EXISTING STRUCTURES
AND CONSTRUCTION OF 5 RESIDENTIAL
FLAT BUILDINGS PROVIDING 60
DWELLINGS; INCLUDING BASEMENT
PARKING, LANDSCAPING AND STRATA
SUBDIVISION
APPLICANT: MIRVAC PROJECTS PTY LTD
OWNER: MIRVAC PROJECTS PTY LTD
DESIGNER: HPA ARCHITECTS

PURPOSE FOR REPORT

To determine Development Application No 1388/04 which seeks consent for the demolition of existing structures and construction of 5 residential flat buildings containing a total of 60 dwellings and including basement parking and landscaping.

EXECUTIVE SUMMARY

Issues:	Side and front boundary setbacks.
Submissions:	Eleven (11) submissions received.
Pre-DA Consultation:	Yes
Land & Environment Court Appeal:	Proceedings No 10226 of 2005 A deemed refusal appeal to the application was filed on 21 March 2005. The first call over was held on 27 April 2005.
Recommendation:	Approval.

HISTORY

THE SITE

Zoning:	Residential 2(d3)
Visual Character Study Category:	1920-1945
Area:	10,600m ²
Side of Street:	Southern
Cross Fall:	West to east, 3 to 10%
Stormwater Drainage:	Drainage easement
Heritage Affected:	No

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Required Setback:	13 to 15 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	Remnant Sydney Blue Gum High Forest.
Urban Bushland:	No
Contaminated Land:	No

SITE DESCRIPTION

The Site

Visual Character Study category: 1920-45

Legal Descriptions	10 Marian Street	Lot A DP 312562
		Lot C DP 364425
	10A Marian Street	Lot 1 DP 209511
	12 Marian Street	Lot 2 DP 209511
	14 Marian Street	Lot B DP 331997
	16 Marian Street	Lot A DP 331997

Heritage affected: The property and adjoining properties are not listed on the *Register of the National Estate* nor subject to any conservation instrument under the provisions of the NSW Heritage Act 1977. The northern part (30%) of the property is located within a heritage conservation area identified by the National Trust of Australia (NSW).

Bush fire prone land:	No
Endangered species:	Remnant Sydney Blue Gum High Forest
Urban bushland:	No
Contaminated land:	No

Dimensions and topography

The site is irregular in shape and has a total area of 10,600m². The frontage to Marian Street measures 48.5 metres. The western and eastern (side) boundaries are irregular and have a total length of approximately 181 metres and 176 metres, respectively. The southern (rear) boundary measures more than 120 metres in length.

The land generally slopes to a drainage depression in the centre of the site, at a grade varying between 3 and 10%. Some modification to the natural topography has occurred through the construction of two tennis courts, two in ground pools and some terracing.

Improvements

The site comprises six lots and contains five two storey dwelling houses, with associated outbuildings.

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Vegetation

The site is characterized by an established landscape setting, with mature trees and shrubs within formal garden beds and generous lawn expanses. The central part of the site contains a dense canopy of trees.

Easements

A 3 metres wide drainage easement in Council's favour exists over part of the central portion of the allotment and generally corresponds with a natural depression in this area. The easement only affects No 14 Marian Street as the remainder of the storm water line that affects the site is not encumbered by an easement.

Zoning and surrounding land uses

The site is zoned Residential 2(d3) and boundaries are shared with properties zoned and developed as follows:

North (across Marian Street), Nos 19 to 29 Marian Street are zoned Residential 2(c2) and developed with detached dwelling houses. No 17 Marian Street is zoned Special Uses (Municipal purposes) and used as a car park. Nos 5 to 15 Marian Street are zoned Business 3(a)(A3) and used as shops. Nos 11 to 15 Marian Street are listed as heritage items of local significance in the Ku-ring-gai Planning Scheme Ordinance. Two older blocks of units are found further along Marian Street to the east fronting the Killara railway station, which is located approximately 200 metres from the site.

Adjoining the site to the east, No.'s 4 and 8 Marian Street are zoned Residential 2(d3) and developed with dwelling houses. The Marian Street Theatre and Council car park (No 2 Marian Street) are zoned Special (Municipal Purposes) and adjoin part of the site's eastern boundary. The remainder of this boundary is adjoined by No 6 and 8 Culworth Avenue which is zoned Residential 2(d3). These properties are the subject of a development application (No 1369/04) currently under assessment that provides for 54 units contained in three, five storey buildings. The development impact of this proposal on the subject site is discussed below.

Nos 4a, 6a, 10 and 14a Stanhope Road (zoned Residential 2 (c2)) adjoin the southern boundary of the site and are developed with detached dwelling houses. In addition, Nos 6a and 10 Stanhope Road are developed with tennis courts that abut the subject site.

To the west, Nos 22 and 22a Marian Street are zoned Residential 2(d3) and developed with single detached dwelling houses. No 18 Marian Street is zoned Residential 2(b) and developed with a 3/4 storey residential flat building. Approximately 8.5 metres of the building façade of No. 18 Marian Street facing the site is set back 7 metres from the boundary. The remainder (and bulk) of the building is set back more than 18 meters from its boundary with the site. Further west, No 24 Marian Street and Nos 1 and 3 Caithness Street are developed with single detached dwelling houses. No 1 Caithness Street is listed as a heritage item of municipal significance.

Surrounding development proposals

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Three applications for development of residential flat buildings are currently under consideration in the vicinity of the site (refer Locality Plan):

- a. Nos 26 - 30 Marian Street (DA 1243/04) proposes 27 units and is located approximately 100 metres to the west.
- b. No 32 Marian Street (corner Pacific Highway, DA 1415/04) proposes 16 units and is located approximately 170 metres from the site to the west.
- c. Nos 6-8 Culworth Avenue (DA 1369/04) proposes 54 units contained in three, five storey buildings. The interface with the subject site is limited to 32 metres on its south-eastern boundary. Setbacks of the basement to the boundary vary between 5 metres and 8 metres, while the building façade is set back a minimum 6 metres. Buildings on the subject site are separated more than 15 metres at ground level (floors 1 to 4) and more than 20 metres at fifth floor level from the adjoining proposal.

THE PROPOSAL

The proposal is to demolish the existing structures on site and construct five separate, five storey, buildings accommodating a total of 55 x three-bedroom dwellings, 5 x two-bedroom dwellings and 130 car spaces on two basement car parking levels.

Buildings 1 and 2 are located in the northern part of the site, closest to Marian Street, and are configured to share a basement car park. Buildings 3, 4 and 5 are located to the rear of the site, and share a similar basement configuration; these buildings are accessed via a private driveway along the eastern boundary.

Private open space is provided to each of the units, ranging from 25m²-60m² terrace areas in the ground floor units, 24m²-30m² balconies in the upper level units and terraces in excess of 100m² for the penthouse units.

The proposed buildings will be finished in a variety of building materials, as detailed on the photomontage and the model provided with the application.

Details of the proposed development are as follows:

Buildings 1 and 2 (northern buildings)

These blocks contain a total of 18 x three bedroom and 3 x two bedroom units. The car park incorporates two levels comprising 39 resident's and 6 visitor's car spaces. An additional 3 visitor car spaces are provided at grade adjacent to Building 2. Pedestrian access is provided to the front of each building, with one vehicular access/egress to the basement car park provided.

Units in both buildings are accessed off one central lobby, providing lift access to all units. All pedestrian access and vehicular access is from Marian Street. Communal bicycle spaces are also provided adjacent to the entry from Marian Street.

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The basement car park is set back 12 metres from Marian Street but the bulk of the façade of Building 1 is set back 13 to 15 metres from the street boundary. A small part of the façade (approximately 4 metres or 13%) is set back between 12 and 13 metres.

Both buildings are set back in excess of 6 metres from the eastern and western (side) boundaries. Building 1 is separated from Building 2 by a minimum of 8 metres.

Buildings 3, 4 and 5 (southern buildings)

These buildings occupy the southern part of the site and contain a total of 37 x three bedroom and 2 x two bedroom units. All units are accessed off three central lobbies, providing lift access to all units. Pedestrian access and vehicular access to Marian Street are via a private driveway which terminates in a roundabout located between Buildings 2 and 4. Seventy-six resident car parking spaces are located in the basement car park and six parking spaces are provided adjacent to the car park driveway.

The underground car park is generally set back in excess of 6 metres from all boundaries except for:

- approximately 8m² along the eastern that is setback a minimum of 4 metres and
- approximately 30m² along the western boundary set back a minimum of 1.94 metres.

Building facades are set back a minimum of 6 to 7 metres from the eastern and western boundaries while the southern (rear) boundary set back is varied but no less than 12 metres.

Separation between Buildings 3, 4 and 5 is excess of 6 to 8 metres and more than 14 metres between Building 4 and Building 2 to the north.

CONSULTATION - COMMUNITY

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

- | | | |
|-----|---|---|
| 1. | F Scott | 1/1 Marian Street |
| 2. | MW & L Inglis | 4 and 8 Marian Street (c/o Planning Workshop Australia) |
| 3. | PM Lloyd | 4/18 Marian Street |
| 4. | R North | 7/18 Marian Street |
| 5. | H Loughman | 19 Marian Street |
| 6. | KA Mallesch | 21 Marian Street |
| 7. | A & CA Szatow | 25 Marian Street |
| 8. | Marian Street Precinct
Resident Action Group | c/o Hyparcons Pty Ltd, PO Box 826, Spit Junction NSW 2088 |
| 9. | B O'Farrell | 27 Redleaf Avenue, Wahroonga, NSW 2076 |
| 10. | P Greeley | 12 Culworth Avenue |
| 11. | A & M T Sandoval | 10 Stanhope Avenue (c/o BSA & Associates Pty Ltd) |

The submissions raised the following issues:

Validity of the objection made pursuant to SEPP 1

The objector claims that Council is “expressly prohibited from exercising any discretion in relation to non-compliance with the development standards” and that the application is therefore “fatally flawed” and cannot be approved. This statement is incorrect. With non-discretionary development standards, the consent authority (Council) is not permitted to take those standards into further consideration in determining a development application and can therefore not refuse the application on the ground that the development does not comply with the said standard. The Environmental Planning and Assessment Act expressly allows consideration of an objection in terms of SEPP 1 to allow flexibility in the application of a development standard. (EPAA s.79C(2)).

The SEPP 1 Objection has demonstrated that, notwithstanding the non-compliance with the zone interface development standard, the development is of a scale commensurate with existing and envisaged future developments in the area and that the departure is acceptable on balance.

The objection made under SEPP 1 is well founded and the development standard should be allowed to be varied in this instance.

Application has not been prepared in accordance with DCP 55

Table 4 of the Statement of Environmental Effects provides an abridged analysis against the controls of DCP 55. The statement adequately addresses the relevant development control plan and is also supported with a substantial level of compliance achieved. This is further assessment below in the relevant section of this report.

Discrepancies in the site analysis drawing

The applicant has rectified a number of minor discrepancies on the site analysis drawing. This diagrammatical representation forms a small part of the overall site analysis. The site survey plan, photographs, arborist’s report and other plans and documents are also utilised in the assessment of the application. This documentation is further augmented by site inspections and the Council’s own GIS system. The information submitted with the application is adequate for assessment purposes and complies with the provisions of Schedule 1 of the Environmental Planning and Assessment Regulation 2000.

Residential amenity within the development

The objector raises concern with the setbacks between the various buildings within the development. This is addressed by the applicant through privacy measures shown on the elevation plans that were lodged with the application. These privacy measures will ensure a more controlled environment to reduce any cross viewing between Buildings 3, 4 and 5. With regard to the amenity of Buildings 1 and 2, adjustable louvres to the windows to bedrooms in Building 1 and louvres to Building 2 balconies will ameliorate any privacy impacts. These measures satisfactorily address the privacy objective behind the setback control.

Inaccurate shadow diagrams

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Amended shadow diagrams were lodged which addressed minor variations. The amended diagrams are oriented from true north and are acceptable to determine whether the minimum solar access requirements of DCP 55 are met. Although some overshadowing is identified, the application is compliant with Clause 4.5.1 which requires that more than 70% of the apartments (42) achieve a minimum of 3 hours direct sunlight on 21 June to living room windows or adjacent balconies between 9am and 3pm. No unreasonable overshadowing will occur on adjoining properties and they will receive compliant levels of sunlight (i.e. 3 hours direct sunlight on 21 June to living room windows or adjacent balconies between 9am and 3pm).

Deep soil planting

A concern is raised that the application does not provide deep soil landscaping of 1500m² in one area. Instead the application provides for two pockets of landscaped area which measure more than 800m² each. These areas are located to the rear and front of Building 3.

While the application does not provide for one central landscaped area, it will still provide large pockets of landscaping and good sized communal areas of deep soil areas which are adequate for the amenity of residents and adequate for the retention of the treed character of the locality. For these reasons, the deep soil provision and landscape design is satisfactory.

Adverse impacts on No. 8a Marian Street due to driveway location

The driveway is located along the eastern site boundary to ensure maximum separation between No 8 Marian Street and Building 1 of the proposal. This configuration also ensures that Building 2 is set back more than 20 metres from the private open space of No 8 Marian Street and also maintains a setback of 7 metres to the apartment building at No 18 Marian Street. DCP 55 requires a side setback of 6 metres to the eastern boundary but a setback of 8.5 metres is provided, of which 2 metres satisfies deep soil requirements and can be adequately landscaped and screened. A condition is recommended requiring the construction of a 50 metres long masonry fence along this boundary to ensure that any adverse impacts are further minimised. The fence will be 1.2 metres high in the front setback area but will step up to 1.8 metres approximately 10.4 metres from the street boundary (*Refer Condition No 39*).

A further condition is recommended that relocates the driveway entry 2 metres to the west of its proposed position. This increases the side setback adjoining the Marian Street frontage to 5.15 metres providing a greater area for deep soil landscaping to enhance the streetscape (*Refer Condition No 38*).

Cumulative effects of multi-unit residential development in Marian Street and the need for a 'local development control plan' for the precinct

The rezoning of this site under LEP 194 to permit medium density development, confers a development potential pursuant to the development standards and controls set out in LEP 194 and DCP 55. In accordance with these statutory planning and policy controls, sites within the Residential 2(d3) zone have the potential to be development for the purposes of residential flat buildings to a maximum height of five to six storeys and a footprint of 35% of the site area. The

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intent of rezoning for multi-unit development is to establish medium density living in proximity to transport nodes, educational and health facilities and local business centres.

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

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

It has been suggested that the applicants of the proposal on the subject site and surrounding development proposals within the area be required to undertake *a jointly funded urban design study to ensure that the designs of the buildings are at, least, coherent with each other and the local context.*

Such a request does not fall within the ambit of the current development application and cannot be realistically entertained. The subject proposal is, however, designed with adequate consideration of the adjoining development proposal to the east at No 6 and 8 Culworth Avenue (DA 1369/04). The two sites share approximately 32 metres of common boundary but physical overlapping of the built form on the two sites is limited to a small area. Only Building 5 of the subject proposal is affected but is angled away from that site. Room configuration is adjusted to minimise adverse impacts and ensures that a satisfactory interface and separation is achieved. Moreover, S80 of the EP&A Act requires Council to assess and determine lawful development applications on their merits pursuant to the considerations under S79C of the same Act.

Five storey developments are out of character with the existing built environment, streetscape and landscape setting.

Five-storey multi-unit residential developments are permissible under the zoning and are anticipated within the area. The development largely complies with the prescribed standards of the KPSO. The maximum height, number of storeys, site coverage and provision of deep soil landscaping and canopy tree planting is consistent with the established landscaped character of the area.

Adjoining properties to the east (No.'s 6 and 8 Culworth Avenue) and west (Nos 22 and 22a Marian Street) of the development site are also zoned for multi-unit residential development or developed as such (No 18 Marian Street). This proposal responds adequately to the objectives and development standards of SEPP 65, KPSO and DCP 55 and is therefore in accordance with the stated future character of the area.

Potential reduction of parking availability along Marian Street

The development will provide a total of 130 car parking spaces within two basement parking levels. This number of parking spaces is well in excess of the requirements under the KPSO (only 75 spaces required). There is more than adequate on site parking available for residents and visitors of the development with no dependency for parking on Marian Street.

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Property values

The proposal is permissible under the zoning of the site and potential impacts on property values is not a valid planning consideration under s79C of the Environmental Planning and Assessment 1979.

Traffic implications

The applicant has submitted a Traffic Assessment Report which relies on traffic counts to establish a representation of pre-developed traffic volumes on normal working days. The Report has been carefully reviewed by Council's Engineering Assessment Team Leader, Robin Howard, in relation to traffic generation, vehicle access and parking. The report is of an acceptable standard to base an assessment of the traffic related impacts of the subject development.

Mr Howard concludes that adverse traffic issues in the surrounding road network are not anticipated as a result of this development as sufficient on-site parking is provided along with appropriate access to and from the site.

Heritage impacts on surrounding properties

Neither the subject site nor adjacent properties area are afforded any formal/statutory heritage status; either as heritage items or conservation area inclusion. The northern part of the property (30%) is located within a heritage conservation area identified by the National Trust of Australia (NSW). However, this has no statutory status.

The shops at Nos 11 -15 Marian Street are listed as items of local heritage significance and are located more than 40 metres to the north-east, diagonally opposite the site. No 1 Caithnes Street is located 35 metres to the south-west and is separated from the site by Nos 20 and 22 Marian Street.

The application satisfies the controls of Clauses 25C(2)(e) and 61E of the KPSO which requires development on land within the Residential 2(d3) zone to have due regard to impacts on any heritage items in the vicinity. Impacts on nearby heritage items are minimised through the battle axe configuration of the site, the sensitive design which concentrates the bulk of the development mid-block, the generous setbacks to Marian Street (greater than the setbacks of adjacent properties), the 'stepping down' of the buildings due to the topography and the potential for landscaping. Given the zoning of the site, the impacts are also acceptable.

Scale and bulk of the development

The development is permissible and complies with most of the prescribed requirements of the KPSO, including maximum height, site coverage, number of storeys and deep soil landscaping. The building setback to Marian Street is acceptable on merit. It is further noted that Council's Urban Design Consultant, Mr Russell Olsson, has reviewed the proposal and raises no concerns in relation to the scale or bulk of the development.

The proposal is consistent with the objectives and policies of SEPP 65, KPSO and DCP 55.

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Disruption during the construction period

A detailed construction and traffic management plan is required as a condition of consent for review and approval by Council Engineers prior to the commencement of any works on site. (***Refer Conditions Nos 55 and 112***).

CONSULTATION - WITHIN COUNCIL

Urban Design Consultant

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

This development application satisfactorily addresses all ten SEPP 65 Design Principles. It is noted that the proposed site coverage of the building footprint is 29%, rather than the maximum 35%. This allows the proposal to achieve good environmental design with 5 relatively small building footprints. It is noted that the setbacks from the southern boundary are a minimum 12m, which is greater than the setback controls, and will minimise overshadowing and overlooking of adjoining yards and tennis courts. The areas of non-compliance of Buildings 1, 2 and 3, regarding setbacks from side boundaries, are minimal and acceptable. The architectural resolution of buildings and urban character are acceptable.

Landscaping

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

The site

It is proposed to demolish the existing dwellings and associated structures and construct five residential flat buildings with basement car parking on the amalgamated site of 10 600sqm, with vehicular access proposed from Marian Street. The development site comprises five single residential properties on six lots. The site is characterised by an established landscape setting with mature trees and shrubs within formal garden beds and lawn expanses. The site adjoins an existing three storey residential flat building located adjacent to the western site boundary, single residential buildings to the south and rezoned 2(d3) development sites to the east.

Impacts on trees/Trees to be removed/Tree replenishment

The proposed development will result in the removal of the existing vegetation and trees located within the proposed building, basement car park footprints and vehicular and pedestrian access areas. Other trees on site, due to their status under Council's Tree Preservation Order and Weeds Policy will also be required to be removed as part of the development works. Tree removal has been detailed in summary within the submitted Arborists Report. No objection is raised to the removal of the nominated trees.

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As proposed the development will result in an additional eighty nine (89) tall canopy trees capable of growing greater than 13m being planted on site. These are a mix of exotic, native and endemic tree species that in time will maintain and enhance the tree canopy for the site and immediate area.

*Additional trees required to be removed, which are proposed to be retained as part of the development, include tree #'s 26-30, 32, 35-37, and 39. The trees are all *Alnus jorullensis* (Evergreen Alder) which are an exempt species under Council's Tree Preservation Order (TPO). It is noted that these trees provide valuable screening and amenity between the development site and the adjoining residential flat building, but all these trees are exempt under Council's TPO and can be removed at any time. As this is the case it is required as part of the development consent that these trees be removed and suitable super advanced endemic tree species that can be protected under Council's TPO be planted to provide sufficient ongoing screening and canopy replenishment to ensure long term amenity to the site and adjoining properties.*

Arborist's Report

A detailed Arborist's Report by Footprint Green (Melanie Howden) has been submitted with the application. The consulting Arborist has identified a total of 195 trees that are located on or associated with the site, of which it is proposed to remove 122, leaving 73 trees (not all of which are located on site). Of the 122 trees required to be removed, 5 are considered unstable and therefore are recommended for removal regardless of the development, 18 are declared noxious weeds, 20 are in poor condition with a SULE rating of less than 5 years, 12 are considered to be environmental pest species, and 11 are suitable for transplanting/relocation. The remaining 56 trees are either located within the proposed building footprint or are in close proximity to proposed development and will be significantly impacted upon, and therefore require removal if the development as proposed is to be constructed.

The Arborist has recommended specific and general tree protection measures, which can be included as consent conditions to ensure the ongoing health and vigour of existing trees to be retained. This is subject of course to these guidelines be undertaken on site during the construction period.

Landscape plan

Overall, the submitted landscape plan can be supported subject to some minor changes with regards to the location of some trees (within 3.0m of the buildings) and the required removal of exempt tree species, which can be conditioned.

Drainage Plan

Overall, the proposed drainage works can be supported by Landscape Services, although it must be noted that the location of the proposed drainage swale between the rear of Building 5 and the eastern site boundary limits the available area for dense screen planting and tree replenishment.

Deep Soil Landscaping

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The proposed development will result, by the applicant's calculations, in an area of 5 317sqm or 50.16% of the site for deep soil landscaping. Landscape Services is in agreement with the areas shown as being included as deep soil landscaping.

Setbacks

Overall, the setbacks proposed for the development can be supported by Landscape Services. It must be noted, however, that the proposed basement car park beneath Building 5 adjacent to the eastern site boundary has a 'pinch' point that will result in a setback of less than 2.0m which does not comply with Council's setback requirements within DCP55. This proposed setback does not allow for adequate tree replenishment and limits the available area for screen planting, particularly as the setback also includes an overland drainage swale which limits planting. It should be noted that the landscape plan indicates the planting of a large tree, Angophora floribunda (Rough Barked Apple) in this area, but the tree will be within 3.0m of the proposed dwelling and will be exempt under Council's TPO.

Engineering

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

Subdivision, energy requirements

The DA form indicates that strata subdivision is proposed under this DA, hence strata subdivision conditions will be applied in this referral response. So that the building is not constructed across lot boundaries, the Applicant will be required to consolidate all the Torrens lots prior to issue of the Construction Certificate. (See Condition No 91)

Development Engineers have placed a condition of consent in this referral response that the Applicant liaise with Energy Australia regarding their power supply requirements and obtain these prior to Construction Certificate issue, and comply with such prior to occupation and issue of the Occupation Certificate. (See Condition No 94)

Site drainage comments

I refer to the Drainage plans and Report (issue A) by LHO Group drawings C01 to C06 inclusive, project 0404-0110, dated November 2004. This drainage submission incorporates the following storm-water management measures and works for the development:

- *On site retention of storm water for domestic re-use within the buildings and landscape irrigation (total volume of 185m³).*
- *On site detention of storm water for controlling rate of runoff into downstream catchments (volume 175 m³).*
- *Storm water quality control devices comprising Enviropod filter bags and Gross Pollutant Trap.*

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- *Drainage relocation works and introduction of overland flow-path conveyance infrastructure (headwall and box culvert) below the access driveway.*

The section of drainage infrastructure within the site to be altered is not covered by an easement for drainage. Upon completion of the works, a new easement is to be created in Council's favour over the relocated drainage infrastructure within the site, at no cost to Council.

Traffic generation and vehicle access and accommodation arrangements

The Applicant has submitted a Traffic Assessment Report with the development application (refer "Transport Report for 10 to 16 Marian Street, Killara, by Colston Budd Hunt and Kafes, reference 5706, dated December 2004). Traffic counts were undertaken on Monday 20 (3:30 - 6:30 pm) and Tuesday 21 September (7:00 - 9:30 am) 2004 to establish a representation of pre-developed traffic volumes on normal working days.

The above report has been carefully reviewed and it is felt that the report is an acceptable standard on which to base an assessment of the traffic related impacts of the subject development.

The site is approximately 200 metres from the Killara rail station and therefore requires a minimum total of 75 spaces which includes the required 15 visitor spaces. The proposal provides 130 spaces and complies with LEP 194 in this respect.

The Traffic Generation of this Development has been estimated using the RTA "Guide to Traffic Generating Developments".

It is reasonable to assume that public rail transport will be utilised by a number of commuters residing in this development. Therefore, the figures at that lower end of the ranges provided in the RTA Guide are considered appropriate.

The net increase of 29 trips (post developed rates less pre-developed rates) during the am and pm peak hours, generated by the subject development (in and out combined), results in a post developed average of one vehicle movement over the new driveway crossing every 1.6 minutes in the peak hours. Outside peak hours, the number of movements would be reduced.

The assignment of an additional (net) 29 vehicles peak hour trips in and out combined (see table above) into the immediate road network (broken down into 80% outgoing and 20% incoming at am peak, and the reverse at pm peak) is not expected to statistically lower the operating levels of service at the nearby intersections. The intersections will remain at a "good" level of service as defined by the INTANAL traffic modeling assessment program provided in the submitted traffic report.

Accordingly, it has been determined that while the development may result in the surrounding road network becoming busier in terms of increased traffic movements, the subject development being assessed is not expected to create additional traffic problems in the surrounding road network.

Construction Management

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The applicant has submitted a Construction/Environmental Site Management Plan, Revision 1 dated December 2004. Erosion and Sediment Control plans have been submitted as part of the hydraulic concept design. These plans are satisfactory in principle for DA purposes and indicate intent to provide a well managed construction site.

Based on the scale of works and expected construction vehicle movements, a detailed and specific construction traffic management plan, showing a plan of traffic control measures must be submitted for review by Council Engineers prior to the commencement of any works on site.

The above requirement has been conditioned. (See Conditions Nos 55 and 112)

Impacts on Council Infrastructure and associated works - comments

The following public infrastructure works will be required as part of the consent:

- *Trunk drainage works within the site, to Council's specifications.*
- *New concrete driveway crossing to access the site from Marian Street.*
- *Removal of all redundant driveway laybacks and re-instatement to upright kerb and gutter.*
- *Replacement of the verge area to turfed verge between new footpath and existing kerb alignment.*

As with all development of this scale, there is the direct risk of damage to Council's infrastructure during the course of the works. A \$50,000 bond to cover restoration of such damage (or completion of unsatisfactory works by Council) is to be applied. (See Condition No 98)

Geotechnical / Structural Comments

The applicant has submitted a report on Geotechnical Investigation, 10-16 Marian Street, Killara, by Douglas Partners, report 36876, dated March 2004.

The borehole field assessment and subsequent report on the findings are considered appropriate for DA assessment based on the scale and location of excavations proposed within the site. The report contains information and recommendations on appropriate excavation and construction techniques based on subsoil and hydro-geological conditions. Attention is paid to support of the excavation faces. It is generally expected that the majority of excavation will be in residual clays and shale of weak strengths. The implication of this is that excavation can be carried out with earth moving machinery such as excavators. This has advantages in that the need for rock breaking machinery (and hence transmission of vibrations) is expected to be minimal, if at all.

Based on the preliminary geotechnical report and location of excavations on this site, Development Engineers are satisfied that the geotechnical and excavation construction aspects of this DA can be addressed through suitable conditions of consent. These conditions will require geotechnical and hydro-geological monitoring, excavation, construction and further professional geotechnical input as warranted. A condition is to be applied which will require ongoing investigation by a consulting geotechnical engineer, with action as appropriate. Dilapidation reports are to be completed on neighbouring property and infrastructure as recommended, amongst other things to prevent spurious claims. (See Condition Nos 95 and 111)

Conclusion

Based on the formal engineering assessment, Council's Engineering Assessment Team Leader has concluded that the proposal is satisfactory on engineering grounds, subject to appropriate conditions as recommended.

PROVISIONS OF RELEVANT LEGISLATION

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

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

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

Context:

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

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

The reduced perceived building height due to the sloping site, the generous setbacks, the narrow facade and the sensitive use of colours and finishes will reduce the streetscape impact on Marian Street. The low density (FSR of 0.99:1) and the fact that the bulk of the development is located mid-block further reduces adverse impacts on the surrounding properties.

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

Scale:

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

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Within the vicinity of the site, there are a variety of building types comprising varying heights and scale. Immediately adjacent to the site is a residential flat building of four storeys. A number of other development applications for residential flat buildings of similar scale are under planning assessment in the vicinity. Across the road and to the south and west are low density one and two storey dwellings.

The development, given the slope of the land to the centre of the site where the bulk of the built form is contained and the appropriate scale and setbacks provided, represents a considered response to the scale of neighbouring existing development. Further, the proposed buildings are of a scale (four and five storeys) identified as appropriate for the area.

Built form:

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

The built form is acceptable in terms of its height and setbacks. The proposed variation to the zonal interface setback standard is acceptable. The proposal will have the appearance of appropriately proportioned buildings set in landscaped open space, due to a reasonable density, acceptable building configuration, generous setbacks and the substantial landscaping proposed.

Density:

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

Acceptable. The FSR density of 0.99:1 is well below the DCP 55 maximum of 1.3:1. The unit yield of the development is less than 60 units per hectare which will result in a development of high environmental quality.

Resource, energy and water efficiency:

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

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

Landscape:

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

The proposal provides for more than 50% of the site being a deep soil zone which is compliant with the minimum requirement of 50%. The primary deep soil zone is mainly provided in two areas of more than 800m² each. These are situated to the rear and centre of the development site. This deep soil area is common open space within the development and its ability to accommodate large canopy trees will not be restricted in the future. The amount of landscaping provided is consistent with the desired future character of the area, which seeks canopy trees to soften the buildings and contribute to the streetscape. The deep soil zone will be able to accommodate sufficient canopy trees to the satisfaction of Council’s Landscape Assessment Officer.

Amenity:

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

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

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

The application provides large amounts of private open space to each of the units. Terraces are generally greater than 30m² for the ground floor and upper floor units, exceeding the requirements of DCP 55 and the Residential Flat Design Code.

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

Safety and security:

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

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

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

Social dimensions:

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

Acceptable. A reasonable mix of two and three bedroom apartments is provided to allow housing choice. The apartments are all of generous sizes, ranging from 114m² to 238m², and would provide high quality living environments for those residents within the local area who wish to “downsize” to an apartment.

Aesthetics:

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

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

It is considered that in this way the buildings will contribute to the desired future aesthetic character of the area.

Residential Flat Design Code

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

Relating to the Local Context:

The proposal, sited over six separate allotments, will require their consolidation. This amalgamation will result in a site of 10,600 m² which is capable of accommodating the proposed density of five storeys. (*see Condition No 91*).

The proposal is split into five separate buildings sharing two basement car parks. Although inter-connected below natural ground level, the development presents as five separate buildings that are of an acceptable bulk and scale above ground compared to the existing and proposed built form of the locality.

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

Site Analysis:

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

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

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

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

Building Design:

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

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

State Environmental Planning Policy No 55 - Remediation of Land

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

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

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 2400m ²	10 600m ²	YES
Deep landscaping (min): 50%	50.16%	YES
Street frontage (min): 30m	48.465M	YES
Number of storeys (max): 5	5 storeys	YES
Site coverage (max): 35%	29%	YES

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Top floor area (max): 60% of level below	Building 1: 57% Building 2: 60% Building 3: 51% Building 4: 51% Building 5: 47%	YES YES YES YES YES
Storeys and ceiling height (max) (not inclusive of 5th floor): 4 storeys and 13.4m	4 storeys and <13.4metres	YES
Car parking spaces (min): Buildings 1 and 2: 21 x resident, 5.25 x visitor Buildings 3, 4 and 5: 39 x resident, 9.75 x visitor Total over site: 60 x resident, 15 visitor	Buildings 1 and 2: 39 x resident, 6 x visitor Buildings 3, 4 and 5: 76 x resident, 9 x visitor Total: 115 resident, 15 visitor	YES YES YES
Zone Interface • 3 rd and 4 th floors setback 9m from land not zoned 2(d3)	Buildings 1, 2 and 5: 7 metres	NO
Manageable housing (min): 10% (6 units)	10% (6 units)	YES
Lift access: required if greater than three storeys	Provided to all three buildings	YES

State Environmental Planning Policy No 1 - Development Standards

A SEPP 1 Objection seeking a variation to a development standard of the Ku-ring-gai Planning Scheme Ordinance (KPSO) has been prepared and lodged with the application. SEPP 1 provides flexibility to Council's development standards and it enables Council to vary such a standard where strict compliance with that standard would be unnecessary, unreasonable or tend to hinder the objectives of the Environmental Planning & Assessment Act, 1979.

Where an applicant wishes to vary a development standard, the application must be accompanied by a well founded, written objection which demonstrates that compliance with the particular standard:

- is consistent with the objectives of the relevant development standard;
- strict compliance would hinder obtainment of the objectives of SEPP1 or the objectives specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act and
- is unreasonable or unnecessary in the circumstances of the case.

The proposal does not comply with the development standards prescribed in clause 25L(2) of Ku-ring-gai Planning Scheme Ordinance which requires that:

The third and fourth storey of any building on land within Zone No. 2 (d3) must be set back at least 9 metres from any boundary of the site of the building with land (other than a road) that is not within Zone 2(d3).

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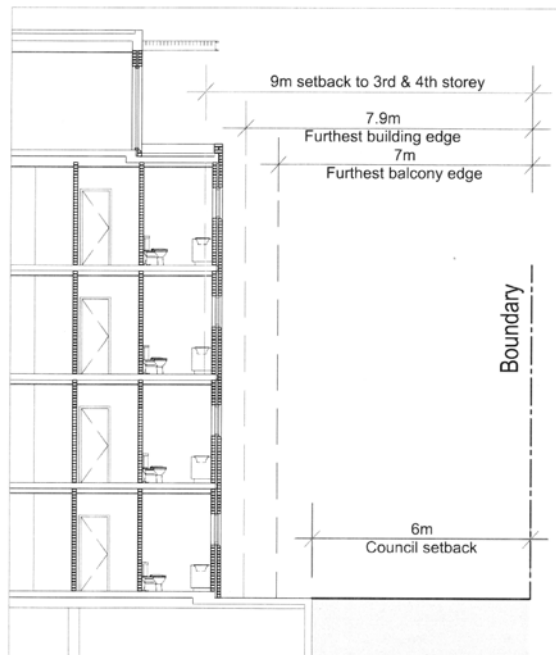


DIAGRAM 2

a. The SEPP 1 objection prepared by Robinson Urban Planning Pty Ltd maintains that notwithstanding variation, the proposal satisfies the objective of the standard:

i. *“The non-complying elements do not adjoin any low density (detached) residential zones or development. The affected adjoining uses are:*

- *An existing residential flat building at 18 Marian Street which is zoned 2(b) (Buildings 1 and 2)*
- *The Marian Street car park which is zoned Special Uses.*

The need for a transition in the scale of buildings is therefore reduced.

ii. *As pointed out earlier, the extent of the departure is minor and in addition to the reduced need, the non-compliances are more than offset by:*

- *The provision of increased setbacks at Levels 1 and 2. DCP 55 requires a setback of 6 metres whereas minimum setbacks of 7 metres to the balcony edge and 7.9 metres to the building edge are proposed.*
- *The provision of setbacks greater than 9 metres for sections of Buildings 2 and 5 (all levels).*
- *The configuration of Buildings 2 and 5 do not coincide with any building. A distance of 14 to 22 metres separates Building 1 from the adjoining flat building at 18 Marian Street. Consequently the variation does not lead to any significant loss of privacy.*

Notwithstanding the departure from the setback standard, the proposed development is consistent with the underlying objective of the standard as demonstrated above.

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- b. *The SEPP 1 objection also indicates that compliance with the development standard would not be consistent with the aims of the Policy and would tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act:*
 - i. *Alternate placement of Building 5 would jeopardise the retention and future health of significant trees.*
 - ii. *Alternate placement of Buildings 1 and 2 would reduce opportunities for landscaping as it would require the relocation of the driveway closer to No. 8 Marian Street.*
 - iii. *Amending the configuration of the buildings will reduce the residential amenity of affected apartments in terms of the quality and quantity of outdoor living space.*
- c. *Compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:*
 - i. *The non-complying elements of Buildings 1 and 2 adjoin a Residential flat building(zoned 2(b) which at 3/4 storeys is not as sensitive to the scale impacts of other residential flat buildings;*
 - ii. *The non-complying elements of Building 5 adjoin a car park (zoned Special Uses). Car parks are not sensitive to the scale impacts of residential flat buildings;*
 - iii. *The non-complying elements do not adjoin any single detached dwellings which are more sensitive to the scale impacts of residential flat buildings and*
 - iv. *The extent of the non-compliance is minor and more than offset by the provision of greater setbacks at Levels 1 and 2.”*

The SEPP 1 Objection has demonstrated that the underlying objective or purpose of the standard has been satisfied. In this instance the objective is to *provide a transition in the scale of buildings between certain zones*. The non-complying elements impact on two different land use zones. The first, the existing apartment building (zoned Residential 2(d)), is of a similar scale and bulk as that of the proposal. The zone transition requirement is therefore much reduced and the proposed setback between the two sites would satisfy this objective. The second land use zone affected is the Special Uses zone which is developed with a Council car park. The need for a transition zone is again reduced.

The SEPP 1 Objection has established that compliance with the zone interface development standard would tend to hinder the attainment of objects specified in Section 5(a)(i) and (iii) of the EP & A Act as would it detrimentally affect significant remnant trees, would impact on the amenity of the property at No. 8 Marian Street and would also adversely affect some of the units within the development.

The SEPP 1 Objection has shown that compliance with the standard is unreasonable or unnecessary in the circumstances of the case as the departure is minor and will still result in a development compatible with that of the surrounding properties. Furthermore, the proposal will not result in any undue environmental impacts on adjoining properties. Privacy will be maintained, no unreasonable overshadowing will occur and neither of the two affected properties' development potential is unduly prejudiced.

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The SEPP 1 Objection has adequately addressed the requisite aspects of the Policy, is well founded and in this instance the development standard should be allowed to be varied.

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

Neither the subject site nor adjacent properties are listed on the *Register of the National Estate*, nor are they subject to any conservation instrument under the provisions of the NSW Heritage Act 1977. The properties are not listed as a heritage items nor located in a heritage conservation area identified under the provisions of the Ku-ring-gai Planning Scheme Ordinance. The northern part of the property (30%) is located within a heritage conservation area identified by the National Trust of Australia (NSW), although such listing has no statutory provisions or requirements attached. The proposal satisfies Clauses, 61D, 61F, 61G, 61H and 61I of the KPSO as these only relate to works proposed to heritage listed items or properties situated in gazetted conservation areas.

A condition is recommended requiring that recording of the existing buildings be undertaken prior to demolition (*refer Condition No 106*)

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

The shops at Nos 11-15 Marian Street are listed as items of local heritage significance and are located more than 40 metres to the north-east, diagonally opposite the site. No 1 Caithness Street is located 35 metres to the south west and is separated from the site by Nos 20 and 22 Marian Street.

Adverse impacts on nearby heritage items are minimised due to the battle axe configuration of the site and through a sensitive design which concentrates the bulk of the development to the rear. The generous setbacks to Marian Street (greater than the setbacks of adjacent properties) and the 'stepping down' of the buildings due to the topography as well as the potential for landscaping further diminish any impacts. Given the zoning of the site, the impacts are also acceptable.

Residential zone objectives

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

Clause 25H - Strata subdivision

The subject site is zoned Residential 2(d3) and under Clause 25H subdivision is permissible with the consent of Council. The objective of Clause 25H is to permit the subdivision of multi-unit housing with consent of the Council. From a planning point of view, there is no objection to the strata subdivision as it will constitute no additional environmental impacts apart from allowing individual ownership. Council's Development Engineer has no objection to the strata subdivision element of the application subject to standard conditions. A special condition is imposed that requires the consolidation of the existing six Torrens Title lots prior to issue of the Construction Certificate. (*Refer Condition No 91*)

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The proposed subdivision is consistent with the aims and objectives of the zone and the objectives of the residential controls. The strata subdivision does not entail any additional construction works. The site will retain the same physical relationship to the street and adjoining properties.

As the buildings to be subdivided do not yet exist, the subdivision certificate will only be issued once the construction works are complete and certain conditions have been satisfied. (*Refer Conditions Nos 124 to 130*)

Car Parking and Common Property

The proposal exceeds the parking requirements of both DCP 55 and DCP 43 by providing 115 resident car spaces and 15 visitor spaces as discussed earlier in the report. The parking allocation to the dwellings is reasonable as the majority of units can be provided with two parking spaces. The Common Property and visitor's parking spaces are indicated as such on the subdivision plans.

Relationship to Adjoining Development

The proposed subdivision will not alter the site's relationship to adjoining properties. The subdivision will permit the dwellings to be independently owned, but does not alter their form, capacity or the facilities available to each. The impact of the proposed works on the amenity of the adjoining properties is acceptable.

State Environmental Planning Policy No 10 - Retention of Low Cost Rental Accommodation

The aim of the Policy is to provide a mechanism for the retention of low cost rental accommodation. The Policy does not apply to the proposed development as it does not affect any existing low cost rental accommodation.

The proposed subdivision is acceptable and will not result in any significant adverse impacts.

POLICY PROVISIONS

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

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 Local context:		
Development adjacent to a heritage item:	Structures no closer than 35 metres to any heritage item	YES
Part 4.1 Landscape design:		
Deep soil landscaping (min) 150m ² per 1000m ² of site area = 1590m ²	2 x areas of 800m ² each	NO
No. of tall trees required (min): 35 trees	More than 55 trees to be retained More than 30 trees in excess of 13 metres to be planted	YES
Part 4.2 Density:		

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Building footprint (max): 35% of total site area	29%	YES
Floor space ratio (max): 1.3:1	0.99:1 (10,469m ²)	YES
Part 4.3 Setbacks:		
Street boundary setback (min): 13 - 15 metres (<40% of the zone occupied by building footprint)	Building 1: 12 metres to basement car park 12 - 15 metres to balconies	NO
Rear boundary setback (min): 6m	Buildings 3, 4 and 5: greater than 6 metres	YES
Side boundary setback (min): 6m	Building 1: 6 metres Building 2: 8 metres Building 3: 4.485metres Building 5: 1.940 metres	YES YES NO NO
Setback of ground floor terraces/courtyards to street boundary (min): 8m/11m	11 to 14 metres	YES
% of total area of front setback occupied by private courtyards (max): 15%	15%	YES
Part 4.4 Built form and articulation:		
Façade articulation: Wall plane depth >600mm Wall plane area <81m ²	All wall plane depths >600mm Well below	YES YES
Built form: Building width < 36m Balcony projection < 1.2m	Building 1: 30m <1.2m	YES YES
Part 4.5 Residential amenity		
Solar access: >70% of units receive 3+ hours direct sunlight in winter solstice	>70%	YES

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>50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice	>50%	YES
<15% of the total units are single aspect with a western orientation	None proposed with western orientation.	YES
Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 4 12m b/w habitable rooms	9 metres (Between Building1 and 2, 3, 4 and 5) and 9.5 metres (No. 8 Marian Street)	NO
9m b/w habitable and non-habitable rooms	9.5 metres (No. 8 Marian Street)	YES
6m b/w non-habitable rooms	No direct relationship	YES
5th Storey 18m b/w habitable rooms	17 metres (Building1 and 2) 15 metres (Building 1 and No. 8 Marian Street)	NO
13m b/w habitable and non-habitable rooms	No direct relationship	YES
9m b/w non-habitable rooms	No direct relationship	YES
Internal amenity: Habitable rooms have a minimum floor to ceiling height of 2.7m	2.7m	YES
Non-habitable rooms have a minimum floor to ceiling height of 2.4m	2.4m	YES
3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms	All bedrooms >3.0m	YES
Single corridors: - serve a maximum of 8 units	Maximum 3 units	YES
- >1.5m wide	>1.8m	YES
- >1.8m wide at lift lobbies	>1.8m	YES
Outdoor living:		

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ground floor apartments have a terrace or private courtyard greater than 25m ² in area Balcony sizes: - 15m ² – 3 bedroom unit NB. At least one space >10m ² primary outdoor space has a minimum dimension of 2.4m	Greater than 30m ² terrace Greater than 30m ² >2.4m	YES YES YES
Part 4.7 Social dimensions:		
Visitable units (min): 70%	70% (42 units)	YES
Housing mix: Mix of sizes and types	2 and 3 bedroom units	YES
Part 4.8 Resource, energy and water efficiency:		
Energy efficiency: >65% of units are to have natural cross ventilation single aspect units are to have a maximum depth of 10m 25% of kitchens are to have an external wall for natural ventilation and light >90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating	73% (39 units) Less than 10 metres >25% 4.5 star rating = 25% 3.5 star rating = 100% (4 star average)	YES YES YES NO YES
Part 5 Parking and vehicular access:		
Car parking (min): 60 resident spaces 15 visitor spaces 75 total spaces	115 spaces 15 spaces 130 spaces	YES YES YES

Part 4.1 Landscape design:

The application fails to comply with Control C-1 of Part 4.1, which requires a single minimum landscaped area of 1590m² concentrated within one area, towards the rear or middle of the site. The application provides for two pockets of landscaped area which measure more than 800 m² each. These areas are located to the rear and front of Building 3.

The application is otherwise compliant with all of the requirements of section 4.1. In particular, the proposal provides for deep soil landscape zones in the street frontage and at the side and rear of the property. The application also provides for a large amount of tree retention and tree replenishment.

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While the application does not provide for one central landscaped area, it will still provide large pockets of landscaping and good sized communal areas of deep soil landscaping, which are adequate for the amenity of residents and considered for the retention of the treed character of the locality. For these reasons, the landscape design is satisfactory.

Part 4.3 Setbacks:

The proposed buildings provide a variety of front, side and rear setbacks in order to achieve good articulation and interest to the streetscape.

Building 1 fails to comply with the front setback to Marian Street as a setback of 12 metres is proposed to the basement car park. The facade of the Marian Street elevation of the building measures 30 metres in length and the building line setback is broken down as follows

53% of the elevation - 15 metres setback

33% of the elevation - 13 to 14 metres setback

14% of the elevation - 12 metres setback

Accordingly, more than 85% of the building elevation to Marian Street will be set back in excess of 14 metres.

The upper floor will be recessed from the perimeter of the building and further set back from the Marian Street frontage to between 17 and 19 metres. The ground floor of the building will be largely concealed from the street due to the fall of the site away from Marian Street and landscaping within the setback, reducing the overall height of building when viewed from Marian Street.

The location of the driveway (within the side setback) does not comply with Clause 4.1 C-3 of DCP 55 but is supported due to mitigating site circumstances. The site, although large, is constrained because of its awkward, battle axe, configuration that concentrates the bulk of the developable area (70%) to the rear. This is further exacerbated by 500 metres of site boundaries which reserves more than 33% (3300m²) of the site as side and front setback requirements. The five building configuration, although reducing building length and ensuring an appropriate scale, necessitates an extensive driveway located at grade. The driveway is located along the eastern site boundary to ensure maximum separation between No. 8 Marian Street and Building 1. This configuration also ensures that Building 2 is set back more than 20 metres from the private open space of No 8 Marian Street and also maintains a setback of 7 metres to the apartment building at No 18 Marian Street.

DCP 55 requires a side setback of 6 metres to the eastern boundary but a setback of 8.5 metres is provided, of which 2 metres satisfies deep soil requirements and can be adequately landscaped and screened. A condition is imposed requiring the construction of a 50 metres long masonry fence along this boundary to ensure that any adverse impacts are further minimised (***Refer Condition No 39***). The fence will be 1.2 metres high in the front setback area but will step up in height to 1.8 metres approximately 10.4 metres from the street boundary. A further condition is imposed that relocates the driveway entry 2 metres to the west of its proposed position. This increases the side setback adjoining the Marian Street frontage to 5.15 metres providing a greater area for deep soil landscaping to enhance the streetscape. (***Refer Condition No 38***)

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Building setbacks to the rear and side boundaries are largely compliant except for minor variations where the basement car park and part of a drainage culvert projects into the setback area. This equates to an area of 31m² on the eastern boundary (Building 5) and an area of 5m² on the western boundary (Building 3) where the car park tapers to approximately 2 metres from the boundary. Approximately 18m² of the culvert along the northern elevation of Building 5 projects into the setback area. These 'pinch points' are acceptable in the circumstances as the building façades are compliant with minimum setbacks that vary from 6 to 7 metres. Sufficient landscaping can also be established within these setbacks.

Part 4.4 Visual Privacy:

This minor numerical variation is addressed by the applicant through privacy measures shown on the elevation plans that were lodged with the application. These privacy measures will ensure a more controlled environment to reduce any cross viewing between Buildings 3, 4 and 5. With regard to the amenity of Buildings 1 and 2, adjustable louvres to the windows to bedrooms in Building 1 and louvres to Building 2 balconies will ameliorate any privacy impacts. These measures satisfactorily address the privacy objective behind the setback control.

The variation in respect of the impacts on No 8 Marian Street is addressed in Part 4.3 of this report. The conditions requiring the construction of a masonry wall along the common boundary, relocated driveway and the super advanced planting proposed for this area will reduce adverse impacts on this property.

Part 4.8 Resource, energy and water efficiency:

DCP55 requires 90% of units to meet with the NatHERS rating of 4.5 stars and above. The application proposes 100% of units which meet with the 3.5 star NatHERS rating but only 25% of units which comply with the NatHERS 4.5 star rating. On average, the development achieves a rating of 4 stars.

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

Development Control Plan 31 - Access

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

Development Control Plan 40 - Construction and Demolition Waste Management

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

Development Control Plan No 43 - Car Parking

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

Development Control Plan 47 - Water Management

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

Section 94 Plan

The development attracts a section 94 contribution of \$ 1,465,298.40 which is required to be paid. (*Refer Condition No 80*).

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 the Zone Interface standard (cl. 25L) of the Ku-ring-gai Planning Scheme Ordinance is well founded. The Council is also of the

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opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as the SEPP 1 Objection has demonstrated that the underlying objective or purpose of the standard has been satisfied.

AND

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 1388/04 is consistent with the aims of the Policy, grant development consent to DA 1388/04 for the demolition of existing structures and construction of 5 residential flat buildings comprising 60 dwellings including, basement parking, landscaping, storm water reticulation and strata subdivision on land at 10, 10a, 12, 14 and 16 Marian Street, Killara, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL

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

Architectural Plans

Dwg No.	Rev.	Description	Author	Dated	Lodged
DA 03-	Rev A	Site Plan	HPA Architects	Nov. 2004	21 Dec 05
DA 04-	Rev A	Basement Plan	HPA Architects	Nov. 2004	21 Dec 05
DA 05-	Rev A	Level 1 Plan	HPA Architects	Nov. 2004	21 Dec 05
SK DA 05-	Rev A	Part L 1 Plan	HPA Architects	April 2005	29 Apr 05
DA 06-	Rev A	Level 2& 3 Plan	HPA Architects	Nov. 2004	21 Dec 05
DA 07-	Rev A	Level 4 Plan	HPA Architects	Nov. 2004	21 Dec 05
DA 08-	Rev A	Level 5 Plan	HPA Architects	Nov. 2004	21 Dec 05
DA 09-	Rev A	Roof Plan	HPA Architects	Nov. 2004	21 Dec 05
DA 10-	Rev A	Site Sections	HPA Architects	Nov. 2004	21 Dec 05
DA 11-	Rev A	Elevations 1,2 & 3	HPA Architects	Nov. 2004	21 Dec 05

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DA 12-	Rev A	Elevations 4, 5 & 6	HPA Architects	Nov. 2004	21 Dec 05
DA 13-	Rev A	Elevations - Bldgs 1, 2 & 3	HPA Architects	Nov. 2004	21 Dec 05
DA 14	Rev A	Elevations - Bldgs 4 & 5	HPA Architects	Nov. 2004	21 Dec 05

Landscape Plans

La - 0501-	Rev b02	Landscape Plan	DEM	19 Jan 05	24 Jan 05
La - 0801-	Rev b01	Landscape Finishes Plan	DEM	19 Jan 05	24 Jan 05

Strata Subdivision Plans

030827 DSP-	-	Sheet 1- 27	Tasy Moraitis	17 Dec 04	21 Dec 04
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2. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
3. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
4. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority. *(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance).*
5. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
6. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

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

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
15. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - a. must preserve and protect the building from damage, and
 - b. if necessary, must underpin and support the building in an approved manner, and

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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.

- 16. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- 17. Any fencing and associated footings shall be constructed entirely within the boundaries of the property.
- 18. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
- 19. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
- 20. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
- 21. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

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

- 22. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
- 23. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
 - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:

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- i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
 - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
24. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
 25. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
 26. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
 27. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
 28. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
 29. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
 30. Fire hoses are to be maintained on site during the course of demolition.
 31. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
 32. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
 33. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
 34. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.

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35. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- a. stating that unauthorised entry to the work site is prohibited, and
 - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
36. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
37. "Peep holes" shall be provided to the entrance doors of all units for personal security.
38. The driveway shall be relocated in accordance with approved plan SK DA 05 dated April 2005 and lodged with Council on 29 April 2005.
39. To ensure the amenity of No. 8 Marian Street is maintained a masonry fence shall be constructed in accordance with plan SK DA 05 dated April 2005 and lodged with Council on 29 April 2005.

Engineering

40. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the trunk drainage system in the site, via the approved site stormwater management system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
41. A mandatory rainwater re-use tank system comprising stormwater tanks and rainwater tanks of minimum total volume 185m^3 , must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. A mains top-up shall be provided for periods of low rainfall, with a void space left for runoff storage purposes.
42. A mandatory on-site detention system comprising stormwater detention tanks of (minimum) total volume 175m^3 must be provided for the development.

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43. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
44. 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.
45. 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.
46. 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.**
47. 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.
48. 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".
49. For the purpose of any further plan assessment and works inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final sign-off from Council.

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50. 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.
51. 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).
52. Geotechnical aspects of the development works, particularly excavation, support, retention and hydrogeological considerations must be undertaken in accordance with the recommendations of the Report on Geotechnical Investigation, 10-16 Marian Street, Killara, by Douglas Partners, report 36876, dated March 2004, and the subsequent geotechnical investigations carried out for construction purposes.
53. The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the construction works must be in accordance with the Report on Geotechnical Investigation, 10-16 Marian Street, Killara, by Douglas Partners, report 36876, dated March 2004. Over the course of the works a qualified Geotechnical/hydrogeological Engineer must complete the following:
- Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
 - Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
 - Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.
54. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
55. All construction traffic control and management measures shall be implemented in accordance with an approved *Construction Traffic Management Plan* to be submitted and approved by Council prior to the commencement of works. The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works, and shall pay particular attention to traffic control during school drop off and collection hours. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.

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56. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, no doors or gates shall be provided in the access driveways to the basement carpark which would prevent this service.
57. All new public utility services, or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.
58. Staging of trunk drainage diversion works within the site must take place in the following sequence:
 1. Applicant prepares construction detail drainage plans for the proposed trunk and overland flow conveyance structures through the site, which will become Council drainage assets. Plans to be to Council specifications and amended to reflect relevant Conditions of Consent.
 2. Plans for the new trunk drainage infrastructure are reviewed, approved and stamped by Council Technical Services department (as future drainage asset managers), prior to commencement of **any** works within the site and prior to issue of the Construction Certificate by the Principal Certifying Authority. Plan assessment and inspection fees paid to Council.
 3. The Council approved drainage works in the road reserve are completed by the Applicant in accordance with terms of Council approval and prior to commencement any works within the site excluding demolition. The existing 750mm Council drainage line through the site is maintained until the new trunk system is operational.
 4. The redundant sections of the Council drainage line traversing the site are decommissioned and new drainage line sections are made operative.
 5. Applicant commences other works in site subject to Principal Certifying Authority approval.

Landscaping

59. 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.

60. Landscape works shall be carried out in accordance with Landscape Drawing No la 0501 rev b02, la 0801 rev b01 prepared by DEM and dated 19/01/05 submitted with the Development Application, except as amended by the following:

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The proposed planting of an *Angophora floribunda* (Rough barked apple) adjacent to the eastern site boundary and Building 5 is to be deleted and relocated to a location where it has a minimum setback from a proposed or existing dwelling of 5.0m

- The proposed planting of a *Eucalyptus punctata* (Grey Gum) adjacent to the south east corner of Building 5 is to be relocated so that it has a minimum setback of 5.0m from any dwelling.
- The proposed planting of *Betula pendula* (Silver Birch) is to be deleted from the landscape works and replaced with a similar deciduous species as it is a cool climate tree species that does not grow well in Sydney due to humidity.
- Tree numbers 26-30, 32, 35-37, and 39, *Alnus jorullensis* (Evergreen Alder) are to be removed and replaced with ten (10) super advanced (min 45 Litre pot size) native endemic tree species that are consistent with Sydney Bluegum High Forest tree species.

61. All disturbed areas, which are not to be built upon or otherwise developed, shall be rehabilitated to provide permanent protection from soil erosion within fourteen (14) days of final land shaping of such areas.
62. On disturbed areas which will otherwise remain exposed for more than fourteen (14) days before permanent stabilisation works are undertaken, a temporary cover of mulch shall be applied or a dense cover crop shall be established utilising sterile/non seed-setting species eg Rye Corn or Japanese Millet applied at a rate of at least 20kg/ha with Grower 11 fertiliser at 250kg/ha or as directed by the principal certifying authority.
63. 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.
64. 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 (Tree #'s refer to Landscape Plan and Arborists Report)	Radius From Trunk
#11 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary/Building 3	5.0m
#14 <i>Juniperous sp.</i> Adjacent to western site boundary/Building 3	4.0m
#15 <i>Michelia sp.</i> Adjacent to western site boundary/Building 3	3.0m
#16 <i>Michelia sp.</i> Adjacent to western site boundary/Building 3	3.0m
#17 <i>Michelia sp.</i>	3.0m

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Adjacent to western site boundary/building 3

#19 *Juniperous sp.* 5.0m

Adjacent to western site boundary/Northwest
corner of Building 3

#53 *Eucalyptus microcorys* (Tallowood) 5.0m

Adjacent to northern site boundary/Marian St frontage

#55 *Tristanopsis laurina* (Water Gum) 3.0m

Adjacent to northern site boundary/Marian St frontage

#56.1 *Hymenosporum flavum* (Native frangipani) 4.0m

Adjacent to southern site boundary/Building 4

#71 *Eucalyptus pilularis* (Blackbutt) 5.0m

Centrally located between Buildings 4 and 5

#72 *Eucalyptus pilularis* (Blackbutt) 5.0m

Centrally located between Buildings 4 and 5

#75 *Angophora floribunda* (Rough barked apple) 5.0m

Centrally located between Buildings 4 and 5

#76 *Angophora floribunda* (Rough barked apple) 5.0m

Centrally located between Buildings 4 and 5

#77 *Eucalyptus pilularis* (Blackbutt) 5.0m

Centrally located between Buildings 4 and 5

#90 *Stenocarpus sinuatus* (Q'ld Firewheel tree) 4.0m

Adjacent to northern site boundary/Building 5

#91 *Fraxinus oxycarpa* 'Raywood' 5.0m

Adjacent to northern site boundary/Building 5

#96 *Jacaranda mimosifolia* (Jacaranda) 4.0m

Adjacent to eastern site boundary on neighbouring property

#96.1 *Cupressus torulosa* (Bhutan Cypress) 3.0m

Adjacent to eastern site boundary

#96.2 *Trachycarpus fortunei* 3.0m

Adjacent to eastern site boundary

#97 *Liquidambar styraciflua* (Sweet Gum) 4.0m

Adjacent to eastern site boundary on neighbouring property

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#100 <i>Magnolia soulangeana</i> (Soul's magnolia) Adjacent to eastern site boundary	3.0m
#110 <i>Syzigium paniculatum</i> (Brush Cherry) Adjacent to the western site boundary/Marian Street frontage in the neighbouring property	5.0m
#111 <i>Taxodium distichum</i> (Swamp Mahogany) Adjacent to northern site boundary/Marian St boundary	5.0m
#149 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to eastern site boundary/Entry driveway	4.0m
#162 <i>Eucalyptus saligna</i> (Bluegum) Centrally located between Building 5 and proposed driveway	7.0m
#171 <i>Metasequoia glyptostroboides</i> (Redwood) Centrally located between eastern site boundary and Building 2	4.0m
#181 <i>Corymbia maculata</i> (Spotted Gum) Adjacent to eastern site boundary/proposed driveway	6.0m

65. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the principal certifying authority shall be required at three monthly intervals. Documentary evidence of compliance with this condition shall be submitted to the principal certifying authority with the Occupation Certificate.
66. 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
#3 <i>Phoenix canariensis</i> (Canary Island Date Palm) Centrally located on site	4.0m
#111 <i>Taxodium distichum</i> (Swamp Mahogany) Adjacent to northern site boundary/Marian Street boundary	5.0m
#55 <i>Tristaniaopsis laurina</i> (Water Gum) Adjacent to northern site boundary/Marian Street frontage	3.0m

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#11 *Jacaranda mimosifolia* (Jacaranda) 5.0m
Adjacent to southern site boundary/Building 3

67. No mechanical excavation of the proposed development works 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
#111 <i>Taxodium distichum</i> (Swamp Mahogany)	5.0m
Adjacent to northern site boundary/Marian Street boundary	

#171 *Metasequoia glyptostroboides* (Redwood) 4.0m
Centrally located between eastern site boundary and Building 2

68. No mechanical excavation of the proposed development works 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
#11 <i>Jacaranda mimosifolia</i> (Jacaranda)	7.0m
Adjacent to southern site boundary/Building 3	

#71 *Eucalyptus pilularis* (Blackbutt) 10.0m
Centrally located between Buildings 4 and 5

#72 *Eucalyptus pilularis* (Blackbutt) 11.0m
Centrally located between Buildings 4 and 5

#75 *Angophora floribunda* (Rough barked apple) 10.0m
Centrally located between Buildings 4 and 5

69. All excavation carried out within the specified radius of the trunk/s of the following tree/s shall be hand dug, unless otherwise stated:

Tree/Location	Radius From Trunk
#110 <i>Syzigium paniculatum</i> (Brush Cherry)	5.0m
Adjacent to the western site boundary/Marian Street frontage in the neighbouring property	

#55 *Tristaniaopsis laurina* (Water Gum) 3.0m
Adjacent to northern site boundary/Marian Street frontage

#162 *Eucalyptus saligna* (Bluegum) 7.0m
Centrally located between Building 5 and proposed driveway

#111 *Taxodium distichum* (Swamp Mahogany) 5.0m

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Adjacent to northern site boundary/Marian St boundary

#171 *Metasequoia glyptostroboides* (Redwood) 4.0m

Centrally located between eastern site boundary and Building 2

#149 *Jacaranda mimosifolia* (Jacaranda) 4.0m

Adjacent to eastern site boundary/Entry driveway

#181 *Corymbia maculata* (Spotted Gum) 6.0m

Adjacent to eastern site boundary/proposed driveway

70. 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.

71. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Marian St. the trees are to be planted as a formal avenue planting at 10m intervals across the site frontage. The tree/s used shall be 25 litre container size specimen/s:

Tree Species

Jacaranda mimosifolia (Jacaranda) x 5

72. 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.

73. 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.

74. One hundred and thirty (130) car parking spaces shall be provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:

- 115 - Residential
- 15 - Visitors/Service Vehicles

Such spaces are to be identified on-site by line-marking and numbering upon the completion of the works. Car-parking provided shall only be used in conjunction with the uses contained within the development and in the case of Strata subdivision, shall be individually allocated to residential units. Under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building. (*Reason: To ensure that adequate parking facilities to service the development are provided on site*)

75. At least one external visitor parking bay shall be provided with a tap, for car washing purposes, in accordance with DCP55 Part 5.

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

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76. 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.

77. 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).
78. 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.
79. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.

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- d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.

80. 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 FIFTY-FIVE (55) ADDITIONAL DWELLINGS IS CURRENTLY \$1,465,298.40. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

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

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

81. 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.

82. A CASH BOND/BANK GUARANTEE of \$10 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure

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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.

Landscaping

83. A CASH BOND/BANK GUARANTEE of \$35 000.00 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

#3 *Phoenix canariensis* (Canaray Is Date Palm) (\$1,000.00)
Centrally located on site

#53 *Eucalyptus microcorys* (Tallowood) (\$2,000.00)
Adjacent to northern site boundary/Marian St frontage

#71 *Eucalyptus pilularis* (Blackbutt) \$4,000.00)
Centrally located between Buildings 4 and 5

#72 *Eucalyptus pilularis* (Blackbutt) (\$4,000.00)
Centrally located between Buildings 4 and 5

#75 *Angophora floribunda* (Rough barked apple) (\$4,000.00)
Centrally located between Buildings 4 and 5

#76 *Angophora floribunda* (Rough barked apple) (\$4,000.00)
Centrally located between Buildings 4 and 5

#77 *Eucalyptus pilularis* (Blackbutt) (\$4,000.00)

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Centrally located between Buildings 4 and 5

#149 *Jacaranda mimosifolia* (Jacaranda) (\$2,000.00)

Adjacent to eastern site boundary/Entry driveway

#162 *Eucalyptus saligna* (Bluegum) (\$4,000.00)

Centrally located between Building 5 and proposed driveway

#171 *Metasequoia glyptostroboides* (Redwood) (\$2,000.00)

Centrally located between eastern site boundary and Building 2

#181 *Corymbia maculata* (Spotted Gum) (\$4,000.00)

Adjacent to eastern site boundary/proposed driveway

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

The location and details of the footings shall be submitted to the principal certifying authority for approval prior to release of the Construction Certificate.

Tree/Location	Radius in Metres
#111 <i>Taxodium distichum</i> (Swamp Mahogany) Adjacent to northern site boundary/Marian St boundary	5.0m
#148 <i>Cupressus torulosa</i> (Bhutan Cypress) Adjacent to north east site corner/Marian St vehicular entry	5.0m
#149 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to eastern site boundary/Entry driveway	4.0m
#171 <i>Metasequoia glyptostroboides</i> (Redwood) Centrally located between eastern site boundary and Building 2	4.0m
#181 <i>Corymbia maculata</i> (Spotted Gum) Adjacent to eastern site boundary/proposed driveway	6.0m

85. To preserve the ongoing health and vigour of Tree#111 *Taxodium distichum* (Swamp Mahogany) located adjacent to the Marian St site frontage, existing ground levels are to be maintained/unchanged within a 3.0m radius of the tree to the north east and south of the tree. Minor leveling can occur to the west of the tree in the area of the existing driveway provided that tree roots greater than 30mm are not exposed or severed.
86. To preserve the ongoing health and vigour of tree #110 *Syzigium paniculatum* (Brush Cherry) located adjacent to the western site boundary in the neighbouring property, the removal of the

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existing paved driveway is to be undertaken using hand tools and tree roots greater than 30mm are not to be severed. Minor leveling is permitted subject to no tree roots greater than 30mm being severed.

87. To preserve the ongoing health and vigour of tree #'s 71, 72, and 77 as identified on the Landscape Plan and within the Arborists Report that are located centrally between Buildings 4 and 5, within 10.0m of the trees, the perimeter of the proposed excavation is to be dug using hand tools to a depth of 500mm. Should tree roots greater than 30mm be encountered, they shall not be severed and shall be left intact until they are cleanly pruned and treated with a root hormone compound by an experienced qualified arborist.

Engineering

88. Prior to issue of the Construction Certificate and prior to commencement of any works influencing the existing trunk drainage system traversing the site, the Applicant must have engineering plans and specifications prepared (to a detail satisfactory for construction) and **approved by** Council engineers, which detail the following drainage infrastructure works required within the site:

- a) Removal of sections of the existing 750mm Council pipe in location of the proposed basement structures.
- b) Introduction of a new trunk drainage infrastructure comprising headwalls, scour protection, culverts, channels and reinforced concrete piping.

Plans shall be generally in accordance with the Drainage plans and report (issue A) by LHO Group drawings C0 3 and C04, project 0404-0110, dated November 2004 which shall be revised and advanced as follows:

- Pit "A1" shall be deleted and a straight run 1350 diameter RCP shall be established between pit "A2" and the downstream pit in the Council carpark where reconnection is proposed.
- Plans shall show an upgrade of the pit within the Council carpark downstream.

Development Consent under the EP&A Act does NOT imply approval to these works involving Council drainage assets. **THE APPLICANT MUST OBTAIN A SEPARATE APPROVAL** for the works involving Council drainage assets, required by this consent. The Construction Certificate must not be issued, and these works must not proceed, until Council has issued a formal written consent and stamped the construction drawings. Construction of the works must proceed in accordance with any conditions attached to the consent. All works are to be designed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004 and Council Water Management DCP 47, chapter 9. The drawings must detail existing services and trees affected by the works, erosion control requirements during the course of works.

A minimum of three (3) weeks will be required for assessment of plans. Early submission is highly recommended to avoid delays in obtaining a Construction Certificate. An engineering assessment and inspection 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.

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89. Prior to issue of the Construction Certificate and prior to commencement of any works affecting the existing 750mm piped trunk drainage system traversing the site, the approved trunk drainage works in the site must be completed in accordance with the Council approved 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. A works as executed plan is required as specified. 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. At the completion of these works the existing Council drainage line traversing the subject site must be decommissioned. A letter from Ku-ring-gai Council stating that the works have been completed in full and this condition has been satisfied must be submitted to the Principal Certifying Authority prior to issue of any Construction Certificate. This condition is imposed to ensure that there will be a dedicated trunk drainage system through the site at all times during construction.
90. Prior to issue of the Construction Certificate the Applicant shall submit, for approval by the Principal Certifying Authority (PCA), a scale dimensioned layout plan for all aspects of the vehicle access and accommodation arrangements. A qualified civil/traffic engineer must provide specific written certification with these parking layout plans that:
All parking space dimensions, driveway and aisle widths, grades, transitions, circulation ramps, blind aisle situations and trafficked areas comply with Australian Standard 2890.1 – 2004 "Off-street car parking".
A clear height clearance of 2.5 metres headroom is provided for waste collection trucks over the designated garbage collection truck manoeuvring areas.
No doors or gates are provided in the access driveways to the basement carpark which would prevent full and unrestricted access for internal garbage collection from the basement garbage storage area.
This condition is required to ensure safe and efficient vehicular access and accommodation arrangements for residents and service providers within the site.
91. Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will comprise the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.
92. Prior to issue of the Construction Certificate any security gate, grille or door shown on the DA plans, which would prevent unrestricted access for Council waste collection vehicles to the basement garbage storage /collection area, must be deleted from the plans to be approved with the Construction Certificate. Such details shall be to the satisfaction of the Principal Certifying Authority (PCA).
93. Prior to issue of the Construction Certificate, a plan detailing services trenches in accordance with the relevant supply authorities (including electricity, gas, telephone, water and

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sewerage), shall be submitted for approval by the Principal Certifying Authority (PCA). The notice of requirements for Sydney Water must be obtained prior to issue of the Construction Certificate.

94. Prior to issue of the Construction Certificate the Applicant shall contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to Construction Certificate issue. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia shall be met in full prior to issue of the Occupation Certificate.
95. Prior to issue of any Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of all neighbouring buildings within the 'zone of influence' of the excavation. As a general rule, this is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal, the subsoil conditions and the recommendations of the submitted Report on Geotechnical Investigation, 10-16 Marian Street, Killara, by Douglas Partners, report 36876, dated March 2004. A second dilapidation report, recording structural conditions of all structures originally assessed prior to issue of the Construction Certificate, must be carried out at the completion of the works and be submitted to Council. The report shall have regard to protecting the Applicant from spurious claims for structural damage and shall be verified by all stakeholders as far as practicable.
96. Prior to issue of the Construction Certificate, footpath and driveway levels for the required driveway crossing between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

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

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proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

97. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website). The design may be generally in accordance with drawing C02 by LHO Group, project 0404-0110, dated November 2004, and the Construction/Environmental Site Management Plan by Mirvac, Revision 1 dated December 2004 submitted with the development application, with both advanced as necessary for construction issue purposes.

98. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), scale construction drawings and specifications in relation to stormwater management and disposal for the development. The plans must include the following detail as a minimum:

- Full layout of the property drainage system components, including but not limited to gutters, downpipes, spreaders, pits, swales, kerb cut-off and intercepting structures, subsoil drainage, flushing facilities and all ancillary plumbing – to be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).
- Location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems (minimum volume 185m³). Where proprietary products are to be used, manufacturer specifications or equivalent shall be provided.
- Specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47.
- Details of the required on-site detention tanks required (minimum volume 175m³) including dimensions, materials, locations, discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 for volume, PSD and design requirements).
- The required basement stormwater pump-out systems to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design specifications and capacity).

The above construction drawings and specifications are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The design may be in accordance with Drainage plans and Report (issue A) by LHO Group drawings C03 to C06 inclusive, project 0404-0110, dated November 2004 submitted with the development application, and advanced as necessary for construction issue purposes.

99. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$50,000 (fifty thousand dollar) public infrastructure damage bond with Council. This bond is applied under Section 97 of the Local Government Act to cover the cost of:

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- Making good any damage that may be caused to any council property as a consequence of doing or not doing any thing to which this approval relates,
- Completing any works that are required in connection with this approval.

The bond shall be lodged in the form of a deposit or bank guarantee and will be refundable following completion of all works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

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

100. All overhead electricity and other lines (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point, in accordance with the requirements of Energy Australia. Details to be shown on plans submitted with the Construction Certificate. (Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground).
101. Any exhaust ventilation from the car parks is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1. Details demonstrating compliance are to be provided with the Construction Certificate (Reason: To preserve community health and ensure compliance with acceptable standards).
102. Six (6) of the proposed apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps; such features to be designed generally in accordance with Australian Standards 1428.1 and 4299. Details demonstrating compliance are to be submitted with the Construction Certificate. (Reason: To ensure equity of access and availability of accommodation in the future for an ageing population).
103. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or other areas of the building and is not to be located on the roof. Details demonstrating compliance are to be submitted with the Construction Certificate application. (Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality).
104. The following are required details and must be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

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- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
- b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
- c. Retaining walls and associated drainage.
- d. Wet area waterproofing details complying with the Building Code of Australia.
- e. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Air-conditioning.
- f. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- g. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

105. 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.
106. A simple photographic record of the five dwellings to be demolished shall be submitted to Council prior to the commencement of work. Recording shall be undertaken in accordance with the *Guidelines for Photographic Recording of Heritage Sites, Building and Structures* prepared by the New South Wales Heritage Office.

Information shall be bound in an A4 report format. It shall include copies of black and white photographs, referenced to plans of the affected property. Two (2) copies (one (1) copy to include negatives of photographs) shall be submitted to Council's Department of Environmental and Regulatory Services, to be held in the Local Studies Collection of Kuring-gai Library.

Landscaping

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

Tree/Location

#148 *Cupressus torulosa* (Bhutan Cypress)

Adjacent to north east site corner/Marian Street vehicular entry

#149 *Jacaranda mimosifolia* (Jacaranda)

Adjacent to eastern site boundary/Entry driveway

#171 *Metasequoia glyptostroboides* (Redwood)

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Centrally located between eastern site boundary and Building 2

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

Tree/Location	Radius in Metres
#3 <i>Phoenix canariensis</i> (Canaray Is Date Palm) Centrally located on site	3.0m
#11 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary/Building 3	3.0m
#14 <i>Juniperous sp.</i> Adjacent to western site boundary/Building 3	2.0m
#15 <i>Michelia sp.</i> Adjacent to western site boundary/Building 3	3.0m
#16 <i>Michelia sp.</i> Adjacent to western site boundary/Building 3	3.0m
#17 <i>Michelia sp.</i> Adjacent to western site boundary/building 3	3.0m
#19 <i>Juniperous sp.</i> Adjacent to western site boundary/Northwest corner of Building 3	5.0m
#20 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to western site boundary	4.0m
#21 <i>Quercus robur</i> (English Oak) Adjacent to western site boundary	7.0m
#53 <i>Eucalyptus microcorys</i> (Tallowood) Adjacent to northern site boundary/Marian Street frontage	4.0m
#55 <i>Tristanopsis laurina</i> (Water Gum) Adjacent to northern site boundary/Marian Street frontage	3.0m
#56.1 <i>Hymenosporum flavum</i> (Native frangipani) Adjacent to southern site boundary/Building 4	3.0m
#56.2 <i>Acer palmatum</i> (Japanese Maple) Adjacent to southern site boundary	3.0m

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#67 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to southern site boundary	5.0m
#71 <i>Eucalyptus pilularis</i> (Blackbutt) Centrally located between Buildings 4 and 5	4.5m
#72 <i>Eucalyptus pilularis</i> (Blackbutt) Centrally located between Buildings 4 and 5	5.0m
#75 <i>Angophora floribunda</i> (Rough barked apple) Centrally located between Buildings 4 and 5	3.5m
#76 <i>Angophora floribunda</i> (Rough barked apple) Centrally located between Buildings 4 and 5	5.0m
#77 <i>Eucalyptus pilularis</i> (Blackbutt) Centrally located between Buildings 4 and 5	5.0m
#90 <i>Stenocarpus sinuatus</i> (Q'ld Firewheel tree) Adjacent to northern site boundary/Building 5	2.5m
#91 <i>Fraxinus oxycarpa</i> 'Raywood' Adjacent to northern site boundary/Building 5	3.0m
#96.1 <i>Cupressus torulosa</i> (Bhutan Cypress) Adjacent to eastern site boundary	3.0m
#96.2 <i>Trachycarpus fortunei</i> Adjacent to eastern site boundary	2.0m
#97 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to eastern site boundary on neighbouring property	4.0m
#100 <i>Magnolia soulangeana</i> (Soul's magnolia) Adjacent to eastern site boundary	2.0m
#107 <i>Magnifera indica</i> Adjacent to southern site boundary	4.0m
#110 <i>Syzigium paniculatum</i> (Brush Cherry) Adjacent to the western site boundary/Marian Street frontage in the neighbouring property	5.0m
#111 <i>Taxodium distichum</i> (Swamp Mahogany) Adjacent to northern site boundary/Marian Street boundary	5.0m

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#114 - 120 Various tree species	3.0m
Adjacent to eastern site boundary on site and adjoining property	
#149 <i>Jacaranda mimosifolia</i> (Jacaranda)	2.0m
Adjacent to eastern site boundary/Entry driveway	
#162 <i>Eucalyptus saligna</i> (Bluegum)	8.0m
Centrally located between Building 5 and proposed driveway	
#181 <i>Corymbia maculata</i> (Spotted Gum)	2.6m
Adjacent to eastern site boundary/proposed driveway	

109. 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.
110. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

Engineering

111. Prior to the commencement of any works on site the applicant shall submit to Council a full dilapidation report on the visible (including photos) and structural condition of the following public infrastructure:
 - a) Full road pavement width, including kerb and gutter, of Marian Street over the site frontage, including twenty metres either side of the site frontage.
 - b) All driveway crossings and laybacks opposite the subject site.

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

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

The developer may be held liable to all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works. In this respect, the infrastructure damage bond lodged by the subject developer may be used by Council to repair the damage regardless.
112. Prior to the commencement of *any* works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:
 1. **A plan view of the entire site and frontage roadways indicating :**

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

2. Traffic Control Plan(s) for the site

- All traffic control devices installed in the road reserve must be in accordance with the RTA publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each. The name and certificate number of the traffic control designer must be shown on the Traffic Control Plan.

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

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

In addition, the plan must address:

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

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

113. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. The application must be made at least 15 days prior to the commencement of any works on site approved under this consent.

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Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

114. 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.

Engineering

115. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the Report on Geotechnical Investigation, 10-16 Marian Street, Killara, by Douglas Partners, report 36876, dated March 2004, and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
116. Prior to issue of an Occupation Certificate, the Principal Certifying Authority (where not Council) shall provide Ku-ring-gai Council with a signed declaration that the following works have been completed in full:
- Completion of the new concrete driveway crossing in accordance with levels and specifications issued by Council.
 - Completion of all drainage works within the site in accordance with the Council approved plans.
 - Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to footpath, turfed verge and upright kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - Full repair and resealing of any road surface damaged during construction.
 - Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. Any damaged public infrastructure caused as a result of construction works on the subject site

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(including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles, crane use) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.

117. 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).
118. Prior to issue of an Occupation Certificate a suit ably qualified consulting civil/hydraulic engineer is to provide engineering certification for approval by the Principal Certifying Authority (PCA). The certification is to make **specific reference to each** of the following aspects of the installed stormwater disposal and management measures:
 - a) That the works as executed plan in relation to the installed stormwater management and disposal systems has been sighted and reviewed,
 - b) That all critical components of the as-built stormwater management and disposal system are in accordance with the stormwater management and drainage plans approved by the Principal Certifying Authority with the Construction Certificate,
 - c) That construction of the stormwater drainage and management systems has been carried out by a contractor licensed to do so and in accordance with the relevant plumbing codes and specifications.
 - d) That all necessary Sydney Water approvals have been obtained for the domestic use of reticulated water.
 - e) That the as-built on-site detention and rainwater retention systems achieve the minimum total design storage volumes of 175m³ and 185m³ respectively.
119. Prior to issue of an Occupation Certificate the applicant shall submit a Works-as-Executed (WAE) drawing(s) to the Principal Certifying Authority in relation to the installed stormwater drainage disposal and management systems. The plans shall show:
 - Dimensions, surface levels and invert levels of all pits and grates,
 - Materials, grades and dimensions of all installed drainage lines,
 - The internal dimensions of all retention and detention storage tanks,
 - Top water levels of storage areas and indicative levels through the escape flow path in the event of blockage of system,
 - Indicative levels of overland flow conveyance structures indicating fall,
 - Size of all orifice control devices as specified
 - As built level(s) at the approved point of discharge to the public drainage system.The WAE(s) is to be prepared by a **registered surveyor** and shall show all critical constructed levels, materials and dimensions in comparison to those shown in the relevant drainage designs approved by the Principal Certifying Authority with the Construction Certificate. All as-built details indicated must be denoted **in red** on the Principal Certifying Authority stamped construction certificate stormwater drawings. The plan shall not be prepared until all final surfaces (such as landscaping) are laid.
120. Prior to issue of an Occupation Certificate the following must be provided to Ku-ring-gai Council (attention Development Engineers):
 - A copy of the approved Construction Certificate stormwater drainage plans which show the retention and on-site detention systems.

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- A copy of all the works-as-executed drawings as specified in this consent relating to drainage and stormwater management,
- All Engineer's certifications specified in this consent.

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

121. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include full dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that:
- a) Vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 "Off-Street car parking", and
 - b) No security doors, grilles or gates are provided which would prevent access to the garbage storage area by Councils waste collection vehicle, including the truck manoeuvring area for forward egress.
122. Prior to issue of the Occupation Certificate the provision of separate underground electricity, gas, phone cable, sewer and water services shall be provided for the development in accordance with those utility providers. A suitably qualified and experienced engineer or surveyor is to provide certification to the Principal Certifying Authority that the development has ready underground access to the services of electricity, gas, phone cable, sewer and water. Alternatively, a final compliance letter from the respective supply authorities may be supplied for approval by the Principal Certifying Authority .

Landscaping

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

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

Engineering

124. All parking spaces and on-site detention and retention facilities, which are to be on common property, must be shown on the final plans of strata subdivision.
125. Prior to issue of the Subdivision Certificate an easement for waste collection must be created under section 88B of the Conveyancing Act. 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.

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126. Prior to issue of the Subdivision Certificate an easement for drainage must be created under section 88B of the Conveyancing Act. This is to be created over the trunk drainage system through the site, in favour of Ku-ring-gai Council. Wording shall follow Part 3, schedule 8 of the Conveyancing Act "Easement to drain water" unless otherwise specified.
127. Prior to issue of the Subdivision Certificate a Positive Covenant and Restriction on the Use of Land must be created under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the trunk overland flow path infrastructure provisions on the site (including headwalls, box culverts, scour protection, channels, fencing, geotextiles). The restriction on use shall be worded to prevent any future interference with the overland flow infrastructure provisions – with terms to the satisfaction of Ku-ring-gai Council.
128. Prior to issue of a 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 retention and 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 instruments for protection of retention facilities - to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to issue of an Occupation Certificate. It is assumed that the legal instruments will transfer to any future subdivision plan at the time of registration.
129. Prior to, or with, the application for Subdivision Certificate, the Applicant must have an original instrument under Section 88B of the Conveyancing Act endorsed by Ku-ring-gai Council. This is to create all required easements, rights-of-carriageway, positive covenants, restrictions-on-use or other burdens/benefits as may be required. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the same.
130. For endorsement of the linen plan/issue of the subdivision certificate by Ku-ring-gai Council, the Applicant shall submit an original plan of subdivision plus six (6) copies, suitable for endorsement by the consent authority. The following details **must** be submitted with the plan of Subdivision and its (6) copies, where Council is to be the consent authority:
 - a. The endorsement fee current at the time of lodgment.
 - b. The 88B Instruments plus six (6) copies,
 - c. A copy of the **final** Occupation Certificate for the subject development,
 - d. The Section 73 (Sydney Water) Compliance Certificate.Council officers will check the relevant consent conditions. Failure to submit the required information will delay endorsement of the linen plan, and may require payment of rechecking fees. Plans of subdivision and copies must not be folded. Council will not accept bonds in lieu of completing subdivision works. If the certifying authority is not Council, then one copy of all of the above must be provided to Council for its records.

BUILDING CONDITIONS

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131. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
132. 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.
133. 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.

134. 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.

135. 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 & Air-conditioning.
 - c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.

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

C Swanepoel
Executive Assessment Officer

R Kinninmont
Team Leader
Development Assessment - South

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development and Regulation

Attachments:

- Site location map**
- Site Analysis**
- Site Plan**
- Section Plans**
- Elevation Plans**
- Basement & Levels 1 to 5**
- Roof Plan**
- Landscape Plan**
- Landscape Finishes Plan**
- Tree Retention Plan**
- Shadow Diagrams**
- Zoning Extract**

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	51 BENAROON AVENUE, ST IVES - DEMOLITION OF DWELLING AND SUBDIVISION OF ONE LOT INTO TWO LOTS
WARD:	St Ives
DEVELOPMENT APPLICATION N^o:	3/05
SUBJECT LAND:	51 Benaroon Avenue, St Ives
APPLICANT:	Mr G Ford & Mrs L Ford
OWNER:	Mr G Ford & Mrs L Ford
DESIGNER:	Mr Graham Kenneth Wilson, Surveyor
PRESENT USE:	Residential
ZONING:	Residential 2(c)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Ku-ring-gai Planning Scheme Ordinance
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP 55
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	5 January 2005
40 DAY PERIOD EXPIRED:	14 February 2005
PROPOSAL:	Demolition of dwelling and subdivision of one lot into two lots
RECOMMENDATION:	Approval

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DEVELOPMENT APPLICATION N^o	3/05
PREMISES:	51 BENAROON AVENUE, ST IVES
PROPOSAL:	DEMOLITION OF DWELLING AND SUBDIVISION OF ONE LOT INTO TWO LOTS
APPLICANT:	MR G FORD & MRS L FORD
OWNER:	MR G FORD & MRS L FORD
DESIGNER	GRAHAM KENNETH WILSON, SURVEYOR

PURPOSE FOR REPORT

To consider development application 3/05 for the demolition of an existing dwelling and the subdivision of one lot into two Torrens title lots.

EXECUTIVE SUMMARY

Issues:	The development is fully compliant with all relevant controls.
Submissions:	None
Land and Environment Court Appeal:	N/A
Recommendation:	Approval.

HISTORY

THE SITE AND SURROUNDING AREA

The site

Zoning:	Residential 2(c)
Visual Character Study Category:	1945-1968
Lot Number:	C
DP Number:	362015
Area:	2047.5m ²
Side of Street:	Eastern
Cross Fall:	To street
Stormwater Drainage:	To street
Heritage Affected:	No
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

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The site is located off Benaroon Avenue to the south of its intersection with Mudies Road. The site is accessed directly from Benaroon Avenue via an existing 3.8m wide drive way which provides both vehicular and pedestrian access to the site. The site is a rectangular allotment with a frontage of 39.63m to Benaroon Avenue and a depth of 51.69m along both the southern and northern side boundaries. The site has a total area of 2047.5m².

The site contains a single storey brick and tile residence, a double timber clad garage with attached carport and a large circular driveway of asphalt construction with direct access from Benaroon Avenue. The front boundary of the site is dominated by high shrubbery, with two significant trees located just inside the site in front of the dwelling and one significant tree on the rear boundary. Otherwise, the side and rear boundaries of the site are well landscaped and provide for an attractive and established landscape setting for the existing dwelling.

Surrounding development:

The site is generally surrounded by low scale brick and tile dwellings circa 1950's and older. Lots are generally smaller than the subject site, however, most lots are generous in size and allow substantial areas for landscaping. To the south, the adjoining detached dwelling is single storey and set well back from the common boundary. To the north, there is an access handle for a battle-axe allotment (No. 53 Benaroon Avenue) and a single storey dwelling (No. 55 Benaroon Avenue). To the east, the site is adjoined by two battle-axe allotments, with dwellings on these lots being set well inside the site and tennis courts situated between the dwellings and the common boundary with the subject site. The street is dominated by formal landscaping and large lawn areas. Low height fencing and hedges are common in the locality.

THE PROPOSAL

The proposal is for the demolition of the existing dwelling and outbuildings and the subdivision of the existing single lot into two Torrens Title lots as follows:

Lot A: Area = 1024.6m²
 Rectangular lot with a frontage of 19.81m to Benaroon Avenue. Vehicle access not shown.
 Length = 51.72 metres

Lot B: Area = 1024.8m²
 Rectangular lot with a frontage of 19.815m to Benaroon Avenue. Vehicle access is also not shown, however, the existing crossover would remain.
 Length = 51.72 metres

The proposed subdivision does not require the removal of any trees, however, a future application for a new dwellings on either lot may require removal of parts of the existing landscape verge to allow a new or modified access to the street.

CONSULTATION - COMMUNITY

In accordance with Council's Notification Policy, adjoining owners were given notice of the application on 28 January 2005. Council did not receive any submissions in response to this notification.

CONSULTATION - WITHIN COUNCIL

Landscaping

Council's Landscape Officer has reviewed the application and has not raised any concerns with the proposed subdivision. In the event that an application is lodged for a new dwelling on either allotment, further landscaping assessment will be required.

Conditions have been recommended to require appropriate methods to be undertaken to ensure the protection of existing trees and landscaping on the site during demolition of the dwelling. (*refer Conditions No 23, 24 and 27*).

Engineering

Council's Development Engineer has not raised any concern with the proposed subdivision as the site drains to the street and is not subject to any drainage easement. Standard engineering conditions are recommended to ensure the correct procedure is followed for the lodgement of subdivision plans. (*refer Conditions No 29, 30, 31, 32 and 33*)

STATUTORY PROVISIONS

State Environmental Planning Policy No 55

SEPP 55 aims to set an approach for the remediation of contaminated land. Clause 7 of the SEPP requires Council to consider whether the land is likely to be contaminated.

The site is currently used for residential purposes. There is no evidence that indicates the site is contaminated nor would this be likely given the long established residential use of the site.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

Subdivision within the Residential 2(c) zone is permissible under Clause 23 of the KPSO. Clause 58A of the KPSO requires that a person shall not subdivide land to which the Ordinance applies except with the consent of Council.

Clause 58B sets out the subdivision requirements for dwelling house lots and provides the following minimum requirements for Residential 2(c) subdivisions:

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COMPLIANCE TABLE		
Development Standard	Proposals Numeric Compliance	Complies
Site Area: 2047.5m ²		
Subdivision for dwelling houses		
<ul style="list-style-type: none"> Site area: 929m² (min) 	Lot 1: 1024.6m ² Lot 2: 1024.8m ²	YES YES
<ul style="list-style-type: none"> Site width: 18.0m (min) at a distance of 12.2m from the street alignment 	Lot 1: 19.18m Lot 2: 19.815m	YES YES

POLICY PROVISIONS

Subdivision Code

The proposal has been assessed against the objectives and design criteria contained in Council's Subdivision Code and the following matters are identified as being the pertinent issues:

a. Frontages and dimensions

Council's Subdivision Code requires that for regular shaped allotments, the minimum area of each allotment must be 929m² and the minimum width must be 18.29m. Both allotments achieve these requirements.

b. Drainage

Council's Subdivision Code requires drainage details to be provided for drainage within hatchet shaped allotments. The proposed subdivision relates to two rectangular lots, both with frontages to Benaroon Avenue and access to Council's stormwater system. Consequently, special consideration of drainage within the subdivision is not required.

Section 94 Contributions

The proposed subdivision is subject to a contribution as required by Council's adopted Section 94 Contributions Plan for Killara. The proposed development will create an additional lot, thereby requiring a s94 contribution of \$32,324 (*refer Conditions No 28*).

Likely Impacts

The site can be adequately landscaped and conditions relating to tree protection and demolition practices are recommended. (*refer Conditions No 23, 24 and 27*). There is unlikely to be any significant impact on the existing or likely future amenity of the neighbourhood. The proposed lots will be consistent with the existing subdivision pattern of the locality and would not be undersized. All other likely impacts of the proposed subdivision have been addressed elsewhere in this report.

Suitability of The Site

The likely impacts of the development have been addressed. It is concluded that the proposed development will have a minimal impact on the surrounding natural and built environment. The new lots will not have a detrimental impact on the locality and shall maintain a suitable curtilage for future dwellings. Consequently, the site is considered suitable for the proposed subdivision.

Any Submissions

The application was notified in accordance with Council's Notifications Policy and there were no submissions received.

Public Interest

The proposed subdivision is acceptable against the relevant considerations under s79C and would be in the public interest. The one additional allotment allows for additional housing to be provided. The new allotments are also consistent with the characteristic subdivision pattern within the locality.

CONCLUSION

The proposed subdivision is consistent with the existing subdivision pattern of the locality and will provide a suitable curtilage for future dwellings. The proposed subdivision causes no adverse impacts on neighbouring dwellings. Furthermore, any future separate vehicular access to Lot 1 will not cause any significant traffic impact to the surrounding street network. The proposed development is acceptable against the relevant considerations under s79C and is recommended for approval.

RECOMMENDATION

THAT Development Application No. 3/05 for the demolition of an existing dwelling and the subdivision of one lot into two lots at 51 Benaroon Avenue, St Ives, be approved for a period of two (2) years from the dated of the Notice of Determination, subject to the following conditions:

GENERAL

1. The development to be in accordance with Development Application No 3/05 and Development Application plans prepared by Graham Kenneth Wilson, Surveyor, reference Subdivision of Lot C, Sheet 1 of 1, dated 30 November 2004 and lodged on 5 January 2005.
2. 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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- 3 The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
- 4 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.
- 5 The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
- 6 Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
- 7 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.
- 8 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.
- 9 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.

- 10 Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
- 11 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.
- 12. 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.
- 13. 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.
- 14. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
- 15. 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.
- 16. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
- 17. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
- 18. 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.
- 19. 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.
- 20. 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

Item 4

- 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.
- 21. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
- 22. 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.
- 23. 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. In addition all existing screen planting along the subdivision line shall be retained and protected at all times.
- 24. Appropriate measures shall be taken to ensure the protection of all existing trees on the site during demolition of the existing dwelling. Condition No. 27 of this consent provides details of physical tree protection barriers which must be installed prior to work commencing.
- 25. 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.
- 26. Any future fencing along the common boundary of Lot 1 and Lot 2 shall be of a height no higher than 1800mm from natural ground level and shall be picket or palisade in style. Landscaping should dominate any fencing in order to ensure and appropriate curtilage for future dwellings.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

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

Tree/Location

1 x Sydney Blue Gum	Front of dwelling, adjacent to existing driveway.
1 x Sydney Blue Gum	Front of site, adjoining existing landscape verge.
1x Sydney Blue Gum	Rear of dwelling, situated near the eastern site boundary

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

28. 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) X NEW LOT IS CURRENTLY \$32,324.00. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

1. Community Facilities \$1 117.76 (*If Seniors Living \$412.07*)
2. Park Acquisition and Embellishment Works
(*Insert figure for relevant Suburb*)
- *St Ives* \$6 574.28
3. Sportsgrounds Works \$1 318.32
4. Aquatic / Leisure Centres \$27.82
5. Traffic and Transport \$150.28
6. Section 94 Plan Administration \$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

29. 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. Council's Subdivision Lodgement Form (completed), available from Council's Customer Services.
 - b. The endorsement fee current at the time of lodgment,
 - c. The 88B Instruments plus six (6) copies,
 - d. A copy of all works-as-executed plans required under the consent,

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- e. All Surveyor's and/or Consulting Engineer's certification(s) required under this consent,
- f. 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.

Plans of subdivision and copies must not be folded. Council will not accept bonds in lieu of completing subdivision works.

- 30. 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.
- 31. 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.
- 32. 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).
- 33. Prior to release of the linen plan/issue of the subdivision certificate, the existing dwelling shall be demolished. Certification that no structures exist across the (proposed) common boundary shall be provided by a registered surveyor at the time of endorsement by Council and submission of necessary documentation.

D Hoy
Development Assessment Officer

S Cox
Team Leader
Development Assessment - Central

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development and Regulation

CODE OF MEETING PRACTICE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To report to Council following exhibition of an amended Code of Meeting Practice.
BACKGROUND:	Council resolved on 8 March 2005 to exhibit an amended Code of Meeting Practice.
COMMENTS:	One submission has been received.
RECOMMENDATION:	That the amended Code of Meeting Practice be adopted.

PURPOSE OF REPORT

To report to Council following exhibition of an amended Code of Meeting Practice.

BACKGROUND

Council resolved on 8 March 2005, Minute No 67, as follows:

- A. That the amended Code of Meeting Practice be placed on public exhibition for a period of 28 days with the following amendments:

- **2.2 Agenda & Business Papers for Council Meetings (Page 10)**

Item B(1) to (4) should be policy not regulation.

- **9.1 Voting at Council Meetings (Page 21)**

The following wording "**Councillors names to be recorded**" is to be included under Council's Associated Policy & Notes, for example:

- Where a matter is not CARRIED UNANIMOUSLY, the Chairperson announce the names of Councillors who voted against a motion/amendment and the **Councillors names to be recorded as per Clause 24(4) of the Local Government (Meetings) Regulation 1999**.

- B. That a further report be submitted following exhibition of the Code.

COMMENTS

One submission has been received from a resident which reads:

Part 2.7B:

Amendment - delete "Monday".

Reason - Inappropriate unless all meetings held on Tuesdays.

Comment - All Ordinary Meetings of Council are held on Tuesdays - No change required.

Part 5.1:

Amendment - delete "Monday".

Reason - Inappropriate unless all meetings held on Tuesdays.

Comment - All Ordinary Meetings of Council are held on Tuesdays - No change required.

Part 2.4:

Amendment - Late reports circulated at the meeting referring to items included in the agenda will be made available to relevant speakers upon registration. Sufficient time will be given to enable speakers to read the documents prior to addressing council.

Item 5

S02211
19 April 2005

Reason - To ensure speeches are relevant to the item and speakers permitted access to relevant information on a timely basis.

Comment - Late reports are dealt with later in the Meeting, in accordance with the order of business under "Extra Reports circulated at Meeting" and copies of these reports are available at the counter in the Chamber foyer for the public whether registering the speaker or not - No change required.

Part 2.1:

Amendment - Re-sequence of order of business.

Reason - Where there is significant public interest in a particular item (based on number of speakers), that item will be heard before General Business. This will ensure speakers aren't forced to await an item only to find they are not permitted to speak due to limitations on the number of speakers.

Comment: The order of business may be altered by Council as often occurs to accommodate major items where there are a number of speakers. Provision to resolve to do this is already in this part of the Code - No change required.

Part 13.1B:

Amendment - For public perusal (insert) 'on Council's web site' and during normal opening.....

Reason - This is current procedure and therefore should be formalised in the code.

Comment - As this is current practise, the additional wording regarding Council's website can be inserted.

Final paragraph of Submission:

In addition council should create an opportunity for public question time. Questions should be pre-registered to enable a considered response. Question time should be limited to say 30 minutes.

Comment:

The opportunity currently exists for members of the public to put their point of view to the Councillors during 'Address the Council' at every Council meeting. Members of the public may also contact Councillors to discuss matters of interest - No change required.

CONSULTATION

The amended Code has been on public exhibition for 28 days with a further 14 days for written submissions to be received.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

That the amended Code of Meeting Practice be adopted, as **attached** with Part 13.1B being amended as follows in accordance with the resident submission:

Full copies of the Council Business Papers and reports (excluding any Confidential Business Paper) will be made available for public perusal on Council's website and during normal opening hours at the Council Chambers and Council Libraries.

Geoff O'Rourke
Senior Governance Officer

Brian Bell
General Manager

Attachments: **Amended Code of Meeting Practice**

2005 FUTURE OF LOCAL GOVERNMENT SUMMIT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council of the inaugural "Future of Local Government" Summit.
BACKGROUND:	The Summit is to be held on 7 and 8 June 2005 at the Melbourne Convention Centre.
COMMENTS:	The Program for the 2005 Summit is attached .
RECOMMENDATION:	That any interested Councillors advise the General Manager by 20 May 2005 if they wish to attend the 2005 "Future of Local Government" Summit.

PURPOSE OF REPORT

To advise Council of the inaugural "Future of Local Government" Summit.

BACKGROUND

The Summit is to be held on 7 and 8 June 2005 at the Melbourne Convention Centre.

COMMENTS

The Municipal Association of Victoria is hosting the Summit for Councillors and senior management team members. The speakers will cover key local government trends and outcomes globally and then identify the preferred directions for local government.

The Program for the 2005 Summit is **attached**.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

The cost of attending the Summit is \$539.00 per first person and \$495.00 for all other attendees.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

That any interested Councillors advise the General Manager by 20 May 2005 if they wish to attend the 2005 "Future of Local Government" Summit.

Geoff O'Rourke
Senior Governance Officer

Brian Bell
General Manager

Attachment: Program for the 2005 Summit

PUBLIC PLACE AND SCHOOLS RECYCLING

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council of services provided to schools for recycling and to consider public place recycling services.
BACKGROUND:	Notices of Motion dated 14 September 2004 and 15 February 2005 resolved that reports should be presented to Council for consideration.
COMMENTS:	Thirty six schools have registered with Council to use the services of recovering paper, glass, plastics, steel and aluminium.
RECOMMENDATION:	That the advice on the Schools Waste Education Package be received and noted and that Council continues with the development of Public Event recycling services, with appropriate conditions included in the Waste Management Plan.

PURPOSE OF REPORT

To advise Council of services provided to schools for recycling and to consider public place recycling services.

BACKGROUND

Notices of Motion dated 14 September 2004 and 15 February 2005 concerning the Schools recycling and public place recycling have been resolved requesting Council's consideration.

1. *"That a report be brought to Council suggesting ways Council can encourage local schools to recycle their paper, plastic, aluminium cans and other recyclables."*
2. *"That a report be brought to Council on the implementing of a public place recycling scheme"*

COMMENTS

School Recycling Services

For many years now, Council has been operating a commercial waste and recycling service. This service is offered to schools at the rates determined in the fees and charges included in Council's Management Plan. The charges are structured on a cost recovery basis having regard for contractor and administration costs to Council. As schools are considered a business, the service is optional and they are free to source other contractors.

The recycling collection services are not subsidised due to the trading conditions relating to competitive neutrality legislation, which aims at securing a level playing field for businesses which compete against services offered by government jurisdictions.

Services offered by Council include the recovery of paper, glass, plastics, steel and aluminium can with 36 schools registered with Council as using the service at various degrees of utilisation.

Schools Waste Education

To further assist schools with waste recovery and education, Council's waste services staff are currently in the process of completing a Schools Waste Education Package. This package will assist in meeting the educational outcomes included the Department of Education and Training (DET) Environmental Education Policy for Schools (2001) and in their development of School Environmental Management Plans (SEMPs).

The package will fulfil the Schools obligations in three areas:

- a) Management of resources
- b) Management of schools grounds

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S02294
27 April 2005

c) Curriculum integration

In doing so the package will:

- Be tailored to integrate with the requirements of the NSW Department of Education and Training Policy for Schools (2001)
- Provide specific activities and a frame work for implementation into the NSW schools curriculum
- Provide for both primary and secondary school integration
- Be marketed to individual needs of each school
- Include case studies showcasing successful activities by schools

The funding for this project has been made available through the negotiated Contract recently secured with WSN Environmental Solutions (formerly Waste Service NSW) for the sale of Council's recycling materials.

The package will be distributed and Council's waste services staff will visit the schools to explain the details and provide advice on Council's services. It is not possible for Council to subsidise the collection service as it is basically a cost recovery process for Council and to do so will impact on other budget areas because it is separate from the domestic waste and recycling service.

The completed package is scheduled for release on World Environment Day 5 June 2005.

Public Place Recycling

Two distinct services are considered in this report.

Public Event services are considered different to the provision of Public Place services as Public Events are generally organised events within defined locations where the opportunity to manage materials streams through regulating the sale of goods or requiring conditions for the running of the event allows for greater opportunity to recovery materials.

Public Place recycling however is generally associated with services provided to unsupervised areas such as parks, shopping centres or other locations, such as transport stations. Research indicates these services have not been as successful as desired due to the high degree of contamination and the high degree of other material being dumped near the recycling stations. The results of this means that the additional cost in providing dedicated bins and vehicles collections for a divided materials stream is generally inefficient and not as productive as intended.

Public Event recycling however has been provided over the last 15 years to events such as the St Ives Show, Community Fair and the Wahroonga Chamber of Commerce Fair. Various bin configurations, signage and displays have been used including those which met the Department of Conservation's (former EPA) "Better Practice for Public Recycling" guide dated October 2003.

Consultation relating to these services is provided on a case by case basis with event organisers. Due to the variation in circumstances of each event the services and logistics are determined within the limitations of the event.

By Council providing these services it creates a positive reaction with the public as they perceive these materials are being recycled.

Various degrees of success have been achieved with these services, however, contamination with food waste and other waste material is still an issue that requires further education and development. By Council approving events with the hire of facilities or in approving road closures, the opportunity exists to condition approvals to require events to be managed which allow for greater recovery of recycling materials.

From Council's most recent exercise in this area, Council provided a public events recycling service for the Wahroonga Chamber of Commerce Fair held in December last year.

Bins for paper, food and beverage containers were provided with prominent signage, located in convenient locations. The event organisers were briefed on the services and endeavoured to accommodate the necessary arrangements to assist in recovering as much recycling materials as possible.

Council's Waste/Education Officer was also present during the course of day to observe public behaviour and usage of the bins.

A report evaluating the outcomes of the service is **attached**.

FINANCIAL CONSIDERATIONS

Funding for Public Events is provided at cost recovery basis from the event organisers.

No current funding exists for Public Place recycling services and Council's Collection Contract with Collex Pty Ltd does not currently cover these services.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Both Community Services and Open Space Departments were consulted regarding this report.

SUMMARY

Schools Waste Education

The majority of schools in the Council area currently utilise recycling collection services. To service the educational needs of schools with regard to waste and recycling education, Council is currently developing a Schools Waste Education Package that will fulfil the educational and curriculum requirements as determined by the Department of Education and Training in their development of the Schools Environmental Management Plans.

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27 April 2005

The package is scheduled for release on World Environment Day in June this year.

Public Place / Event Recycling

Public Event recycling services are currently provided by Council on request from event organisers. These services can be improved with Council regulating the events through the events approval process requiring events to have better waste management planning to allow greater recovery of recycling materials.

Public Place services however, are not considered suitable due to past experience with high levels of contamination in areas such as parks, shopping centre and transport stations. This was evident in a trial at Wahroonga Park several years ago. These services are not funded or provided for under the current collection contract with Collex Pty Ltd.

RECOMMENDATION

- A. That the advice on the Schools Waste Education Package be received and noted.
- B. That Council continues with the development of Public Event recycling services and that appropriate conditions of approval be developed and included in the Waste Management Plans to demonstrate recovery of recycling materials consumed at the event.

Colin Wright
Manager Waste Management

Greg Piconi
Director Technical Services

Attachments: Report on the outcomes of the Wahroonga Fair

MINUTES OF HERITAGE ADVISORY COMMITTEE MEETING

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	That Council receive and note the Minutes of the Heritage Advisory Committee meetings.
BACKGROUND:	The Heritage Advisory Committee meetings were held on 22 November 2004 & 28 February 2005. A range of heritage issues were discussed and several recommendations made.
COMMENTS:	The next meeting will be held on 27 June 2005.
RECOMMENDATION:	That Council receive and note the Minutes of the Heritage Advisory Committee.

PURPOSE OF REPORT

That Council receive and note the Minutes of the Heritage Advisory Committee meetings.

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 Heritage Advisory Committee were confirmed with amendments at the meetings held on 28 February and 27 April respectively (**Minutes attached**). The next meeting will be held on 27 June 2005.

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

Heritage Advisory Committee meetings were held on 22 November 2004 & 28 February 2005. 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 Committees held on 22 November 2004 and 28 February 2005.

Antony Fabbro
Manager Strategic Planning

Leta Webb
Director Planning & Environment

Attachments: Minutes of Heritage Advisory Committee Meetings held 22 November 2004 and 28 February 2005.

PREPARATION OF AN LOCAL ENVIRONMENTAL PLAN FOR MINOR AMENDMENTS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider the need to resolve to prepare a new Local Environmental Plan to make minor amendments to the Ku-ring-gai Planning Scheme Ordinance, as amended.

BACKGROUND:

Local Environmental Plan No 194 (LEP 194) contains some definitions and a clause that need to be slightly amended to avoid confusion or to be consistent with building practice to meet the needs of people with disabilities, these being the definitions of “building footprint”, “deep soil landscaping” and the clause 25I(7) Limit on floor area of the top storey.

The report on “Legal Advice on Depot Site” makes a recommendation for amendment to clause 68(3) of Ku-ring-gai Planning Scheme Ordinance.

COMMENTS:

The recommendations in this report address areas of confusion or implement the recommendations of a legal opinion.

RECOMMENDATION:

That Council resolve to prepare and exhibit a draft Local Environmental Plan to amend the Ku-ring-gai Planning Scheme Ordinance, as amended, as detailed in this report.

PURPOSE OF REPORT

For Council to consider the need to resolve to prepare a new Local Environmental Plan to make minor amendments to the Ku-ring-gai Planning Scheme Ordinance, as amended.

BACKGROUND

LEP 194 contains some definitions and a clause that need to be slightly amended to improve clarity, avoid confusion or to be consistent with building practice to meet the needs of people with disabilities, these being the definitions of “building footprint”, “deep soil landscaping” and the clause 25I (7) Limit on floor area of the top storey.

The report on “Legal Advice on Depot Site” makes recommendations for an amendment to clause 68(3) of Ku-ring-gai Planning Scheme Ordinance.

COMMENTS

The recommendations in this report address matters requiring clarity to avoid confusion or to implement the recommendations of a legal opinion.

LEP 194 introduced the following definition of “building footprint” into KPSO:

***Building footprint** means the maximum extent of the two dimensional area of the plan view of a building including all levels, but excluding any part of the building below ground and minor ancillary structure such as barbeques, letter boxes and pergolas.*

The definition was intended to apply to that part of the building which is wholly above ground ie habitable storeys and not to apply to levels that are generally wholly or substantially below ground ie parking / storage level. However, as written, it could apply to parking levels that are partially above and partially below ground, thereby unduly limiting the amount of development or encouraging developers to place car parking levels wholly below. Building car park levels wholly below ground will increase the amount of mechanical ventilation and lighting needed and may compromise building design. It is therefore recommended that the definition be amended to make it clear that it applies to levels that are wholly above ground and not to parking levels which are partially above ground.

The “deep soil landscaping” definition introduced by LEP 194 permits any area which has a footpath of up to a metre wide to be included in the calculation. Many developers, to meet requirement of people with disabilities, prefer to provide paths of 1.2 metres wide. Permitting the extra width would still be consistent with the intention of the control ie to define areas as deep soil landscaping if they are suitable for planting of tall trees as a 1.2 metre path would still allow tree roots to grow beneath the path.

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LEP 194 introduced clause 25I into KPSO. Subclause 25I(7) sets a limit on the floor area of the top storey at 60% of the “total floor area” of the storey immediately below it. “Total floor area” is not defined. It is recommended that the clause be amended to replace “total” with “gross”. “Gross floor area” is defined in the LEP 194 amendments. Applicants are generally calculating the top floor area in this way. The amendment would assist clarity and remove any doubt as to how the top floor is to be calculated.

Clause 68 of KPSO suspends provisions of Acts, covenants in residential areas where these are inconsistent with KPSO or any development consent granted under KPSO.

Clause 68(3) should be amended in line with the recommendation of the report on “Legal Opinion on the Depot Site” included in this agenda paper. This should be amended by replacing the term “statutory authority” which is not defined with the term “public authority” which is defined in the EP&A Act.

The proposed amendments are not considered to be controversial.

CONSULTATION

The proposed amendments will be placed on public exhibition to permit submissions.

FINANCIAL CONSIDERATIONS

The direct costs will be the placement of an advertisement in the local papers and some postage. Other indirect costs relate to staff time and use of Council’s resources. Clarifying the terms and requirements could avoid litigation costs in the future.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The proposed changes have been discussed with the Director Development and Regulatory Services and the Director Technical Services.

SUMMARY

The changes proposed are minor and provide certainty and clarity.

RECOMMENDATION

1. That Council resolve to prepare and exhibit a draft Local Environmental Plan to:
 - Amend the definition of “building envelope” to make it clear that it does not apply to a car park level which is partially above ground;

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- Amend the definition of “deep soil landscaping” to permit paths of 1.2 metres in width to count as deep soil planting;
 - Amend clause 25I(7) to make it clear that the floor area of the top storey of a building is to be calculated in reference to the gross floor area; and
 - Amend subclause 68(3) to replace the term “statutory authority” with the term “public authority”.
2. That Council consult with relevant building authorities and notify the Department of Infrastructure Planning and Natural Resources in accordance with the requirements of the Environmental Planning and Assessment Act.
 3. That a report be brought back to Council following completion of the exhibition period together with any submissions received.

Leta Webb
Director
Planning and Environment

6TH INTERNATIONAL CITIES, TOWN CENTRES AND COMMUNITIES CONFERENCE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council of the 6th International Cities, Town Centres and Communities Conference - The Way Ahead.
BACKGROUND:	The Conference is to be held from 1-3 June 2005.
COMMENTS:	The Program for the Conference is attached.
RECOMMENDATION:	That any interested Councillors advise the General Manager by 13 May 2005 if they wish to attend the 6th International Cities, Town Centres and Communities Conference.

PURPOSE OF REPORT

To advise Council of the 6th International Cities, Town Centres and Communities Conference - The Way Ahead.

BACKGROUND

The Conference is to be held from 1-3 June 2005 at The Convention Centre, Rydges Capricorn at Yeppoon in Queensland.

COMMENTS

The Conference will feature a number of Global Industry Specialist speakers. The aims of the Conference are:

- * To discuss the latest developments in urban design, planning, development and project management on a national and international basis.
- * Mix with professionals from varying backgrounds in a true cross disciplinary event.
- * Provide access to and hands on experience with regional and international specialists.
- * Provide case studies from around the world.

The Conference Program is **attached**.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

The cost of attending the Conference is \$845 (Non-member) and \$795 (Member).

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

That any interested Councillors advise the General Manager by 13 May 2005 if they wish to attend the 6th International Cities, Town Centres and Communities Conference.

Geoff O'Rourke
Senior Governance Officer

Brian Bell
General Manager

Attachments: **Program of the 2005 International Cities, Town Centres and Communities Conference**

RE - ADOPTION OF AMENDMENT TO DCP55 - CARLOTTA AVENUE DEPOT MASTERPLAN

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To re-confirm the Council resolution to amend Development Control Plan No 55 to incorporate Carlotta Avenue Depot Masterplan into Part 7.

BACKGROUND:

On 5 April 2005 Council resolved to adopt an amendment to DCP55 to incorporate the provisions of the Carlotta Avenue Depot Masterplan into Part 7 of the DCP.

COMMENTS:

The Environmental Planning and Assessment Regulations 2000, requires that a notice to be placed in a local newspaper within 28 days of the Council resolution for a DCP amendment to take effect. The 28 day period has expired without a notice being placed in the newspaper. Council needs to re-confirm their resolution to allow the necessary notice to be issued within the statutory requirements.

RECOMMENDATION:

That the adopted Carlotta Avenue Depot Masterplan be incorporated as Section 7.4 of Ku-ring-gai Multi-Unit Housing Development Control Plan No 55 - Pacific Highway / Railway Corridor and St Ives Centre.

PURPOSE OF REPORT

To re-confirm the Council resolution to amend Development Control Plan No 55 to incorporate Carlotta Avenue Depot Masterplan into Part 7.

BACKGROUND

On 5 April 2005, Council resolved to adopted the Carlotta Avenue Depot Masterplan. A copy of the report to Council and Council's resolution on the matter is included as **Attachment A**. Part of Council's resolution included the following:

- B. That the adopted Masterplan be incorporated as Section 7.4 of Ku-ring-gai Multi-Unit Housing Development Control Plan No 55 – Pacific Highway / Railway Corridor and St Ives Centre.*

In regard to the make the required amendment to DCP 55 effective, clause 21(2) of the Environmental Planning and Assessment Regulations 2000 requires that:

“The council must give public notice of its decision in a local newspaper within 28 days after the decision is made”.

A the amended development control plan would then come into effect on the date that the public notice of its approval is given in the local newspaper.

COMMENTS

As the result of an administrative error, the required public notice of Council's decision to amend DCP 55 to incorporate the Carlotta Avenue Depot Masterplan was not placed within the North Shore Times within the 28 day statutory timeframe.

Therefore in order for Council to ensure that the resolved amendment to DCP 55 is effective it needs to re-make part B of its previous resolution. This will allow the necessary public notice to be issued to satisfy the statutory requirements for the making of DCP amendments.

CONSULTATION

Nil.

FINANCIAL CONSIDERATIONS

Nil.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Nil.

SUMMARY

The Environmental Planning and Assessment Regulations 2000, requires that a notice to be placed in a local newspaper within 28 days of the Council resolution for a DCP amendment to take effect. The 28 day period has expired without a notice being placed in the newspaper. Council needs to re make its resolution to allow the necessary public notice to be issued to satisfy the statutory requirements for the making of DCP amendments.

RECOMMENDATION

That the adopted Carlotta Avenue Depot Masterplan be incorporated as Section 7.4 of Ku-ring-gai Multi-Unit Housing Development Control Plan No 55 – Pacific Highway / Railway Corridor and St Ives Centre.

Craige Wyse
Senior Urban Planner

Leta Webb
**Director Planning &
Environment**

Brian Bell
General Manager

Attachments: A. Council report and Resolution from Council meeting 5 April 2005.

NOTICE OF MOTION

AMENDMENT TO DCP 55

Notice of Motion from Councillor L Bennett dated 2 May 2005.

I move that:

- A. DCP 55 be amended to delete 4.4 C-4 ("On sites where a building length greater than 36 metres has been justified by an applicant, that portion of a building in excess of 36m shall be sufficiently recessed and/or articulated so as to present to the street as a separate building").
- B. That the draft amendment be publicly exhibited in accordance with clause 18 of the Environmental Planning and Assessment Regulations 2000.

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Laura Bennett
Councillor for St Ives Ward

NOTICE OF MOTION

TIMING OF SITE INSPECTIONS

Notice of Motion from Councillor E Malicki dated 2 May 2005.

I move:

That all Councillors should have the opportunity to formally vote on the most appropriate time for site inspections to be held.

I further move that this time be Saturday mornings.

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Elaine Malicki
Councillor for Comenarra Ward