



**ORDINARY MEETING OF COUNCIL  
TO BE HELD ON TUESDAY, 11 DECEMBER 2007 AT 7.00PM  
LEVEL 3, COUNCIL CHAMBERS**

**A G E N D A**  
**\*\* \*\* \***

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

**APOLOGIES**

**DECLARATIONS OF INTEREST**

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

**ADDRESS THE COUNCIL**

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

**DOCUMENTS CIRCULATED TO COUNCILLORS**

**CONFIRMATION OF MINUTES**

**Minutes of Ordinary Meeting of Council**

File: S02131

Meeting held 4 December 2007

Minutes to be circulated separately

## MINUTES FROM THE MAYOR

### PETITIONS

### GENERAL BUSINESS

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

GB.1 **16 to 18 Boyd Street, Turramurra - Demolition of Two Dwelling Houses & Construction of a Residential Flat Building comprising 33 Units & Basement Car Parking for 60 Vehicles** 1

File: DA0821/07

Ward: Comenarra

Applicant: Staldone Corporation Pty Ltd

Owner: Staldone Corporation Pty Ltd

To determine development application No.0821/07, which seeks consent for the demolition of two (2) dwelling houses and construction of a residential flat building comprising 33 units and basement car parking for 60 vehicles.

#### **Recommendation:**

Approval.

GB.2 **26 Marian Street, Killara - Demolition of Three (3) Dwelling Houses & Construction of a Residential Flat Building comprising 32 Units & Basement Car Parking for 70 Vehicles** 96

File: DA0820/07

Ward: Gordon

Applicant: Steve Donnellan

Owner: Marian Street Pty Ltd

To determine development application 0820/07, which seeks consent for the demolition of three (3) dwelling houses and construction of a residential flat building comprising 32 units and basement car parking for 70 vehicles

#### **Recommendation:**

Approval.

**GB.3 Request for Council to Enforce Parking Restrictions on Private Land at 376 to 386 Pacific Highway, Lindfield known as Coles Car Park, Lindfield 174**

File: S06051

Ward: Roseville

To inform Council of the request before it to patrol and enforce parking restrictions on private land, known as Coles Car Park, Lindfield and seek the direction of Council as to whether it wishes to assume such role.

**Recommendation:**

That Council advise the applicant, Restifa & Partners Pty Ltd, that it is willing to enter into a formal agreement with the owners of the land, in accordance with the provisions of Section 650(6) of the Local Government Act 1993.

**GB.4 12 Woonona Avenue, Wahroonga 181**

File: DA0416/07

Ward: Wahroonga

To refer the application back to Council following the proposal's referral to the Heritage Advisory Committee.

**Recommendation:**

Approval.

**GB.5 Guidelines for Ku-ring-gai Council Office of the Internal Ombudsman 218**

File: S02850

That Guidelines for the position of Internal Ombudsman be adopted by resolution of the Council.

**Recommendation:**

That Council endorse the Ku-ring-gai Council Internal Ombudsman Guidelines.

**GB.6 Ku-ring-gai Community Workshop "The Shed" 234**

File: S05268

To update Council on progress regarding the establishment of a community workshop 'The Shed' in Ku-ring-gai.

**Recommendation:**

That Council supports the establishment of the community workshop, "The Shed", at West Lindfield Sport and Recreation Club and that Council allocate \$40,000 from the pre 1993 Section 94 Plan to undertake necessary maintenance works at this facility.

**GB.7 20 Year Financial Model 239**

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File: S04708

To present to Council the 20 Year Financial Model 2009 to 2028 incorporating financial planning, capital works funding, debt reduction and depreciation funding strategies.

**Recommendation:**

That Council adopt the principles as contained in the 20 Year Financial Model and incorporate them into the development of the 2008/2009 Budget and Management Plan.

**GB.8 Annual Tenders - Pavement Rehabilitation 260**

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File: S06189

To seek Council's approval to accept the schedule of rates tender T04/2007 for the Pavement Rehabilitation by either stabilisation or other means.

**Recommendation:**

That the tender rates submitted by Stabilised Pavement of Australia for pavement rehabilitation be accepted and tenderers be advised of Council's decision.

**GB.9 Removal of Graffiti in Town Centres 265**

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File: S04840

To advise Council of the submissions received with regard to the proposed removal of graffiti from private property around Council's main business centres.

**Recommendation:**

That due to the amount of funding required to undertake this work and the ongoing program, the matter be deferred for consideration in the 2008/09 budget.



GB.10 **Conduct Committee Findings - Breach of Confidentiality Clauses  
September/October 2007** **279**

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File: S04462

To table findings from the Conduct Committee relating to four articles issued by Cr Hall in the press throughout September / October 2007.

**Recommendation:**

That the Councillor be censured for misbehaviour, i.e. breach of confidentiality and that the Councillor be counselled.

GB.11 **Town Centres Section 94 Contributions Plan Update Report** **293**

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File: S04495

To provide Council with an update on progress on the Draft Town Centres Section 94 Contributions Plan with respect to the resolution of 30 October 2007 and in the context of recent developments at State Government level.

**Recommendation:**

That Council receive and note the progress on the Town Centres Section 94 Contributions Plan.

GB.12 **205 Mona Vale Road, St Ives - Lease Renewal** **302**

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File: P64467

For Council to consider the lease renewal of 205 Mona Vale Road, St Ives, to the current tenants for a further five [5] year term.

**Recommendation:**

That Council enter into a lease agreement for a further five [5] years with Franco and Pina Berneschi T/A the Old School Trattoria, in the terms and conditions contained within this report.

**GB.13 Heritage Advisory Committee - Minutes of Meeting held 29 October 2007 307**

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File: S03816

To report to Council the minutes from the Heritage Advisory Committee meeting held on 29 October 2007.

**Recommendation:**

That Council receive and note the minutes from the Heritage Advisory Committee meeting held on 29 October 2007.

**GB.14 North Sub-Region Draft Sub-Regional Strategy 316**

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File: S04554

To present to Council a draft submission on the Draft North Sub-Regional Strategy.

**Recommendation:**

That the draft submission on the North Sub-Regional Strategy be endorsed by Council and placed on Council's website for the information of residents and that a final submission be reported back to Council on 5 February 2008.

**GB.15 Proposed Extinguishment Of Drainage Easement & Creation of New Drainage Easement benefiting Council Land at 1192 Pacific Highway (Secret Garden) 324**

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File: P54876

To consider granting approval to extinguish a drainage easement over Lot 6 DP30236 (4 Clydesdale Place) which benefits Council land at 1192 Pacific Highway, Pymble, and to create a new drainage easement over Lot 5 DP30236 (6 Clydesdale Place, Pymble) to benefit Council land.

**Recommendation:**

That Council give approval to extinguish the existing drainage easement benefiting Council land at 1192 Pacific Highway, Pymble, and create a new drainage easement over Lot 5 DP 30236.

**GB.16 Draft Local Environmental Plan No. 212 - Consideration following Statutory Public Exhibition Process**

**333**

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File: S05882

To give consideration to public submissions and draft Local Environmental Plan No. 212 (DLEP 212) following completion of the statutory public exhibition process.

**Recommendation:**

That Council resolve not to proceed with Draft Local Environmental Plan No 212 having regard to the likely adverse impact on the Blue Gum High Forest ecological community.

**GB.17 Native Vegetation Mapping Process for the Ku-ring-gai Local Government Area**

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File: S03349

Report by Acting Director Strategy dated 3 December 2007 - circulated separately

**GB.18 Heritage Advisory Committee - Minutes of Meeting held 3 December 2007**

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File: S03816

Report by Manager Urban Planning - circulated separately

**EXTRA REPORTS CIRCULATED AT MEETING**

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

**NM.1 28 Treatts Road, Lindfield**

**390**

.  
File: P60845

**Notice of Motion from Councillor Jennifer Anderson dated 3 December 2007.**

I move that:

- "1. The General Manager contact the land owner and seeks their level of interest for the sale of 28 Treatts Road, Lindfield.

2. The General Manager source valuations.
3. Confirmation that S94 funding could be used to obtain this land and an examination of any other funding sources."

## **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 - Land Reclassification Component For Ku-ring-gai Local Environmental Plan (2006) Town Centres**     1  
*(Section 10A(2)(g) - Advice concerning litigation)*

File: S05094

Report by Senior Urban Planner, Manager Urban Planning & Corporate Lawyer dated 3 December 2007.

John McKee  
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.*

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

|   |   |
|---|---|
| <b>REPORT TITLE:</b>                          | 16 TO 18 BOYD STREET, TURRAMURRA -<br>DEMOLITION OF TWO DWELLING HOUSES<br>AND CONSTRUCTION OF A RESIDENTIAL<br>FLAT BUILDING COMPRISING 33 UNITS AND<br>BASEMENT CAR PARKING FOR 60 VEHICLES |
| <b>WARD:</b>                                  | Comenarra   |
| <b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b> | 0821/07   |
| <b>SUBJECT LAND:</b>                          | 16 to 18 Boyd Street, Turramurra  |
| <b>APPLICANT:</b>                             | Staldone Corporation Pty Ltd  |
| <b>OWNER:</b>                                 | Staldone Corporation Pty Ltd  |
| <b>DESIGNER:</b>                              | Wolski Lycenko & Brecknock  |
| <b>PRESENT USE:</b>                           | Residential   |
| <b>ZONING:</b>                                | Residential 2(d3)   |
| <b>HERITAGE:</b>                              | No  |
| <b>PERMISSIBLE UNDER:</b>                     | Ku-ring-gai Planning Scheme Ordinance   |
| <b>COUNCIL'S POLICIES APPLICABLE:</b>         | KPSO, DCP 55 - Multi-unit housing, DCP 31 -<br>Access, DCP 40 - Waste Management, DCP<br>43 - Car Parking, DCP 47 - Water<br>Management   |
| <b>COMPLIANCE WITH CODES/POLICIES:</b>        | Yes   |
| <b>GOVERNMENT POLICIES APPLICABLE:</b>        | SEPP 65, SEPP 55, SEPP (Sydney Harbour<br>Catchment) 2005, SEPP (BASIX)   |
| <b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>   | Yes   |
| <b>DATE LODGED:</b>                           | 31 August 2007  |
| <b>40 DAY PERIOD EXPIRED:</b>                 | 10 October 2007   |
| <b>PROPOSAL:</b>                              | Demolition of two dwelling houses and<br>construction of a residential flat building<br>comprising 33 units and basement car<br>parking for 60 vehicles                                       |
| <b>RECOMMENDATION:</b>                        | Approval  |

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**DEVELOPMENT APPLICATION N<sup>o</sup>** 0821/07  
**PREMISES:** 16 TO 18 BOYD STREET, TURRAMURRA  
**PROPOSAL:** DEMOLITION OF TWO DWELLING  
HOUSES AND CONSTRUCTION OF A  
RESIDENTIAL FLAT BUILDING  
COMPRISING 33 UNITS AND BASEMENT  
CAR PARKING FOR 60 VEHICLES  
**APPLICANT:** STALDONE CORPORATION PTY LTD  
**OWNER:** STALDONE CORPORATION PTY LTD  
**DESIGNER** WOLSKI LYCENKO & BRECKNOCK

**PURPOSE FOR REPORT**

To determine development application No.0821/07, which seeks consent for the demolition of two (2) dwelling houses and construction of a residential flat building comprising 33 units and basement car parking for 60 vehicles.

**EXECUTIVE SUMMARY**

**Issues:**

- development of isolated sites.
- front setback.
- zone interface.
- floor space ratio.
- development in the vicinity of a draft heritage item.

**Submissions:** One (1) submission has been received.

**Pre DA meeting:** The applicant did not seek a pre-DA meeting in relation to the current proposal, however Council has approved a previous proposal under DA 1108/05 which is currently valid for the site. Refer comments on the approved development application below.

**Land & Environment Court appeal:** No.

**Recommendation:** Approval.

**HISTORY**

The site is currently used for residential purposes and has been previously zoned for low density residential development.

**Rezoning history:**

The site was rezoned to Residential 2(d3) as part of LEP 194. The rezoning conferred upon the site a development potential for residential flat development up to a maximum of five storeys, with

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provisions for additional storey height across the building platform where the site has a slope of greater than 15%.

**Development application history:**

**DA 1108/05 - 12 to 18 Boyd Street, Turrumurra – Approved 4 April 2006**

The approved DA 1108/05 involves the construction of 2 residential flat buildings comprising a total of 47 units and basement car parking for 66 vehicles on Nos. 12 to 18 Boyd Street. The approved development incorporates three existing residential properties being Nos. 12, 16 and 18 Boyd Street.

This development consent remains valid until April 2008.

**Summary of differences between current proposal and that approved DA 1108/05.**

The current development application differs significantly from the previously approved development. The key differences are as follows:

- Removal of No. 12 Boyd Street from the development site. The site at No. 12 Boyd Street, is irregularly shaped, roughly triangular with a total area of 971.9m<sup>2</sup> and is similarly zoned Residential 2(d3).

The applicant has advised that the owners of No. 12 Boyd Street have rejected an unconditional offer to purchase the site based to commence with the originally approved development. The applicant advised that negotiations occurred after the expiry of the original option over No. 12 Boyd Street and reflected an amended price based upon current market conditions, a reduced price was offered based upon the cost of construction costs for the approved development. The current proposal incorporates considerably less cost associated with excavation for the basement construction.

- The approved development under DA 1108/05 involves the construction of two buildings including a large triangular shaped building constructed on No. 12 Boyd Street. Both buildings are part 5 storeys and part 6 storeys in height, owing to the fall of the site and are linked at the basement level by two levels of basement parking.
- The current proposal involves construction of a single residential flat building on Nos. 16 & 18 Boyd Street. The current proposal is part 5 storey and part 6 storey development based around a single central core design and comprising two levels of basement parking plus one part basement and part residential floor.

**THE SITE AND SURROUNDING AREA**

|                                  |   |
|----------------------------------|---|
| Zoning                           | Residential 2(d3)   |
| Visual character study category: | 1920-1945   |
| Lot & DP Number:                 | Lot 2 in DP 26828 (No. 16 Boyd Street) and Lot 1 in DP 26828 (No. 18 Boyd Street), Turrumurra |
| Area:                            | 2427m <sup>2</sup>  |
| Side of Street:                  | Northern  |
| Cross Fall:                      | 20%   |



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|                          |  |
|--------------------------|--|
| Stormwater drainage:     | Street   |
| Easements/rights of way: | No   |
| Heritage Affected:       | No   |
| Required Setback         | 13 to 15 metres  |
| Integrated Development:  | No   |
| Bush fire prone land:    | No   |
| Endangered species:      | Yes (Sydney Blue Gum High Forest habitat – Not affected) |
| Urban bushland:          | No   |
| Contaminated land:       | No   |

**The site:**

The site is located on the northern side of Boyd Street, to the south-east of the Turrumurra town centre and adjoining the North Shore railway corridor. The site is located at the end of Boyd Street opposite the corner of Boyd Street and Jersey Street and is approximately 180 metres from the intersection of the Boyd Street and Kissing Point Road.

The site is comprised of two allotments identified as Nos 16 & 18 Boyd Street, Turrumurra which form an irregularly shaped parcel with a total area of 2427m<sup>2</sup>.

The site is trapezoidal in shape, with an angled frontage to Boyd Street of 46.2 metres and an average width of 41.5 metres. The angled site boundaries result in a varied site depth, with the longest boundary (east) having a depth of 65.95 metres whilst the shortest boundary (west) has a depth of 45.75 metres. The average site depth is 57.2 metres.

The site is situated above the street and falls towards its south-eastern corner where the site adjoins the rail corridor and road reserve. The rear of the site is traversed by a steep ledge, resulting in a significant level change from the rear boundary to the site frontage, with the rear part of the site also being the steepest.

The total fall over the site is approximately 14.5 metres from its north-west corner to its south-east corner, at an average gradient of 20%. The site also has a fall of 4.0 metres from the front south-west corner to the south-east corner adjoining the rail corridor and the end of the Boyd Street road reserve.

The site contains two dwelling houses, one on each allotment.

The site contains a number of canopy trees along the street frontage, with a total of thirty three (33) trees identified as being located on or associated with the site. The gardens of the existing properties are largely overgrown, with one mature *Cedrus deodar* (Himalayan Cedar) located centrally on No. 16 Boyd Street. The principle tree cover is located at the front of the site, with street plantings adjoining the front boundary.

**Surrounding development:**

The surrounding area is characterised by a mix of community uses, low and medium density residential, the North Shore railway line and nearby commercial development in the Turrumurra Town Centre.

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To the immediate west of the site is No. 12 Boyd Street, an irregularly shaped site having a frontage of 42m frontage to Boyd Street and a depth of between 10.2m to 45.7m. This site has an area of 971.9m<sup>2</sup> and contains a dwelling house.

The draft heritage item to the north of the site (No. 1338 to 1340 Pacific Highway) is known as "Hillview" and forms part of a grouping of buildings used as a community health centre run by the NSW Department of Health. This land is zoned part Road Corridor and part Residential 2(d).

To the east, is a State Rail Authority (SRA) reserve. The railway line is elevated above the site and is approximately 20m from the eastern boundary of the site. The section of rail corridor immediately adjoining the site is an artificial depression in the land, most likely for drainage and is largely over-grown.

Residential lots to the south, directly across Boyd Street, are similarly zoned Residential 2(d3) and could potentially be developed for five storey residential flat buildings.

To the south-west, is an existing medium density residential development.

To the south-east are residential lots in Jersey Street zoned Residential 2(c2) which are capable of development for townhouses and villas.

Along the southern boundary of the site, Boyd Street descends downhill from west to east.

## THE PROPOSAL

The proposal involves demolition of existing structures and construction of a residential flat building comprising 33 units, basement car parking for 60 vehicles and associated drainage and landscaping works. Details of the proposed development are as follows:

- Demolition of the existing dwellings situated on each allotment.
- Construction of a residential flat building comprising 3 levels of basement parking and 5-6 residential levels constructed around a single central lift core. Basement parking is provided over two full basement levels and a part residential, part basement level (Level 1).
- The proposed unit mix consists of 3 x 1 bedroom units, 18 x 2 bedroom units and 12 x 3 bedroom units.
- The proposed basement levels contain a total of 60 parking spaces, including 51 parking spaces for residents and 9 visitor parking spaces. A total of 5 disabled spaces are included in the basement. Storage areas and plant rooms are proposed on each basement level with a single central garbage collection room located adjacent to the main basement entry.
- The proposal necessitates the removal of sixteen (16) trees on site and tree replenishment in the order of twenty five (25) tall canopy trees. In addition to the proposed canopy tree plantings, additional planting is proposed as part of the new garden areas and courtyard spaces.

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- The proposal includes construction of a 6.0 metres wide driveway and crossover adjacent to the south-east corner of the site from Boyd Street, being the lowest part of the site. The proposed driveway works and new pedestrian pathways requires new footpath works along the front of the site in accordance with Council's specifications for footpaths and works within the road reserve.

## CONSULTATION - COMMUNITY

In accordance with Council's Notifications DCP, owners of surrounding properties were given notice of the application. One (1) submission was received.

1. *Christine Manias of 9/2 Jersey Street*

The submission raised the following issue:

***Safety concerns relating to the location of the proposed driveway entry and crossover***

Council's Development Engineer, Kathy Hawken, advises that the proposed development will not present any unreasonable safety risk as a result of the location of the vehicle crossover.

The construction will require significant works within the road reserve at the end of Boyd Street and to repair the existing footpath along the site frontage. However, these works require further approval under the Roads Act 1993.

Approval for these works is subject to the recommended conditions of consent and require detailed engineering drawings to be prepared and approved to ensure the works comply with Council's specifications for grades, sight distances and materials.

## CONSULTATION - WITHIN COUNCIL

### Urban Design

Council's Urban Design Consultant, Russell Olsson, has reviewed the proposal against the provisions of SEPP 65 and provided the following comments:

***"Principle 1: Context***

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

***Comment:***

*The built form context is comprised of –*

- *"Hillview", a heritage listed homestead, which is situated directly north of the site on a hill. The site is to the south on land which slopes down from "Hillview" to Boyd Street.*

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- *Turramurra Town Centre which includes the train station and a major supermarket.*
- *Turramurra Forest (park) located west of the site and Queens Park north east of site.*
- *State Rail Authority (SRA) Reserve to the east. The railway line is approximately 20 metres from the sites eastern boundary.*
- *2 sites zoned 2(d3) on the southern side of Boyd Street are and sites to the west of Jersey Street are zoned 2(c2).*
- *North Haven retirement village on the northern side of railway line.*

*The Residential 2 (d3) zoning of this site and adjoining sites establishes the future scale of development on these sites as being 5 storeys maximum. This zoning establishes a future difference in height and bulk in relation to the existing heritage item to the north of the site.*

*The scope available for minimising the impact of the proposed 5 storey development on the heritage item is limited to the siting of the proposed buildings, the setbacks and quality of landscape within the setbacks and the architectural form and character of the buildings.*

*The relationship to the existing context is acceptable.*

**Principle 2: Scale**

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

*Comment:*

*LEP 194 Clause 25K allows for additional building height with slopes of more than 15%. Compliance with this control is to be checked by Council Planners.*

**Principle 3: Built form**

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

*Comment:*

*The LEP 194 Clause 25L requires a 9m setback from the boundary of the "Hillview" Estate for the third and fourth storey. This has been complied with by setting the whole of the building back more than 9m from the boundary.*

*The setback from the railway line is 5m and not 6m as required in the DCP 55, but as this is a boundary with a railway corridor and not another building site, this is acceptable.*

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*The steep topography would appear to prohibit a setback greater than 12m from Boyd Street whilst having 35% site cover. Therefore the proposed front setback is acceptable.*

**Principle 4: Density**

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

*Comment:*

*The controls within LEP 194 that control density are site coverage, top floor coverage and Clause 25K regarding sloping sites. Council planners are to check compliance, with reference to drawing No TC023.*

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

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

*Comment:*

*More than 70% of living rooms/balconies in apartments will receive greater than 3 hours sunlight between 9am and 3pm in mid-winter. There are 5 south facing apartments which equates to more than 10% of apartments, the maximum recommended in the Residential Flat Design Code. As the shape of the site makes it difficult to achieve, this is considered acceptable.*

*30% of kitchens are located on external walls, which is more than the 25% recommended in the Residential Flat Design Code.*

*The Residential Flat Design Code recommends that more than 60% of apartments are naturally ventilated. The proposal contains 64% of apartments with cross ventilation, and therefore satisfies SEPP 65.*

**Principle 6: Landscape**

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

*Comment:*

*The landscape design is acceptable.*

**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.*

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*Comment:*

*Amenity is acceptable.*

***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.*

*Comment:*

*There are no perceived safety and security issues.*

***Principle 9: Social dimensions***

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

*Comment:*

*The apartment mix is 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.*

*Comment:*

*The aesthetic quality of the development is acceptable.*

***2.0 Conclusion and recommendation***

*The DA is acceptable in terms of SEPP 65 compliance.*

Council's Urban Design Consultant raised no objection to the proposal.

**Landscaping**

Council's Landscape and Tree Assessment Officer, Tempe Beaven, commented on the proposal as follows:

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***Impacts on trees/trees to be removed/tree replenishment***

*A total of thirty three (33) trees have been identified as being located on or associated with the site, of which it is proposed to remove sixteen (16). The tree removal is broken down as follows:*

- *six (6) are exempt or weed species under council's TPO;*
- *six (6) are palms;*
- *two (2) are Liquidambars,*
- *one (1) Japanese Maple and*
- *one (1) Himalayan Cedar.*

*The proposed development will result in the site being cleared of existing trees and vegetation through the central core of the site to accommodate the proposed development. Existing trees located adjacent to the Boyd St frontage are to be retained.*

*The most visually significant tree to be removed is the mature Cedrus deodar (Himalayan Cedar) centrally located on site. Although the tree's removal is not desired, its location, in conjunction with the steep sloping nature of the site, will result in the necessity for its removal.*

*The tree, although seen from 'Hillview', and complementary to the landscape setting/tree plantings of 'Hillview', is not of an age to be part of the original landscape setting for 'Hillview'. Landscape Services raises no objections to the nominated tree removal, subject to adequate tree replenishment for the site being undertaken.*

*The landscape works will result in an additional twenty five (25) tall canopy trees throughout the site. These trees, in addition to trees being retained, exceed Council's minimum tree replenishment requirements as required by DCP55.*

***Deep soil***

*By the applicant's calculations, the proposed development will have a deep soil landscape area of 1 222sqm or 50.3% of the total site area, which complies with LEP194 minimum requirements. Landscape Services is in agreement with the areas included within the deep soil calculable area.*

***BASIX***

*No landscape commitments for low water use/indigenous plantings have been made within the BASIX certificate. The submitted landscape plan has proposed a majority of plantings to be from the indigenous plant community, Sydney Bluegum High Forest.*

***Landscape plan***

*The landscape plan will result in the site being massed planted with a predominant mix of native indigenous shrubs and groundcovers beneath a canopy of predominantly native tree species. The steepness of the site presents challenges, particularly at the*

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*rear, where existing slopes and terraces have been retained. Proposed screen planting adjacent to site boundaries includes tall canopy trees (Sydney Bluegum, Turpentine, and Blackbutt), understorey/small trees (Blueberry Ash, Forest Oak, and Pittosporum), shrub layer (Pittosporum, Banksia, Lillypilly and Gymeal Lily), and groundcovers, providing a layered landscape setting which will in time as it matures provide filtered views to and from the site.*

*Landscape Services supports the landscape plan.*

***Drainage plan***

*Landscape Services raises no objections to the proposed drainage works as indicated on the Basement Storm Water Management Plan submitted with the application, as the proposed works have taken into consideration existing trees and landscape features being retained.*

***DCP55***

*4.1 C-1 requires at least one area not less than 150sqm per 1000sqm of the site area of deep soil landscaping shall be provided on the site preferably towards the rear or middle of the site. As there are minimal private courtyards impeding within the deep soil landscape area, the majority of the site is in compliance with this control.*

*4.5.5 C-9 requires 30% of site to be common open space for tall tree planting. The proposed development/landscape works comply with this control."*

Council's Landscape and Tree Assessment Officer supports the proposal subject to conditions.  
***(Refer Conditions Nos 2 to 11, 61 to 64 and 98).***

**Engineering**

Council's Engineering Assessment Team Leader, Kathy Hawken, commented on the proposal as follows:

***"Water management***

*The BASIX water commitment is for a 33 cubic metres rainwater tank, with re-use for toilet flushing and irrigation.*

*This is consistent with the stormwater concept plan. On site detention is also required and is shown in the combined retention/ detention tank under the driveway. The site has gravity fall to the street and a connection to the table drain is proposed.*

*The proposed water management measures for the development are satisfactory.*

***Parking and traffic***

*The site is within 400 metres of the railway station, so 33 resident and 9 visitor parking spaces are required. The development provides 49 resident and 9 visitor spaces and easily complies.*



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*The development is expected to generate 17 to 22 vehicle trips per peak hour. This is not expected to significantly affect traffic flows in the surrounding streets.*

*The location of the proposed vehicular crossing is not finalised because details were not shown on the architectural plans and the traffic report did not consider the crossing. The location is generally over the existing crossing to No. 18 but it would require widening to the east to meet the driveway inside the property and this would necessitate the removal of at least one street tree. I am satisfied that there are no sight distance issues if the crossing is adjusted to preserve the trees, so details for the works can be provided before Construction Certificate issue. Council's approval as the Roads Authority will be required. The recommended conditions include this.*

**Waste collection**

*A generous waste storage area is provided on Basement Level 1. Access and headroom are available for the small waste collection vehicle. No doors or gates are shown which would impede access.*

**Construction management**

*Boyd Street outside the site has No Parking on the opposite side but parking is available along the site frontage. It is likely that a Works Zone will be required. Employee parking will need to be on site and later in the completed basement or employees will be competing with commuters for on street spaces. The arrangements can be detailed in the Traffic Management Plan to be submitted prior to commencement of works.*

**Geotechnical investigation**

*The geotechnical information submitted consists of a letter based on a review of existing information and the development plan.*

*Although the letter is based on an expectation of 6 metres of excavation (probably because only two basement levels are proposed) the sections indicate excavation up to 10 metres below existing ground level, and at the rear and west of the site, further retaining structures closer to the boundaries.*

*A subsurface investigation will be required before the commencement of any works on the site, with the report to address the following matters:*

- *excavation methods*
- *excavation sequence*
- *vibration trials and monitoring*
- *potential for adverse jointing*
- *dilapidation survey*
- *stability of any existing retaining structures to remain*
- *retaining structures, temporary and permanent, for support of adjoining properties*
- *frequency of inspections during excavation*
- *groundwater issues."*

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The proposal is supported by Council's Development Engineering Team Leader, subject to conditions. (Refer Conditions Nos 15 to 19, 25 to 32, 65 to 77, 83 to 92 and 99).

**Heritage**

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

*"Development Consent was issued in 2006 for a larger development that proposed two separate buildings on the amalgamated site – 12 to 18 Boyd Street. This application is an amalgamation of 2 sites; Nos. 16 & 18 Boyd Street and no longer includes the third parcel, No 12 Boyd Street.*

*The proposed development is one discrete building and proposes more articulated elevations, particularly on the northern and southern boundaries.*

*This site is visually isolated from most of the heritage items within the vicinity but adjoins the draft heritage item "Hillview". The adjoining draft heritage item is considered to have State heritage significance, mainly due to its potential to demonstrate the life style of the Upper North Shore at the turn of the century and its relative intactness. The hilltop setting and the spectacular views from it contribute to its significance.*

*An inspection of "Hillview" was as part of the application. Views to the south and west are available from rooms within the building and from the balconies at the rear of the building.*

*The proposed building is partially set into the slope of the site and for this reason the apparent height, when seen from "Hillview", is reduced. The highest part of the roof of the proposed development (about RL 180.500) is more than 7m below the ridge height of Hillview (RL 187.79).*

*It is expected that the roof of the proposed development would block some views from the adjoining property, however, the broader more distant views to the south and west would be preserved.*

*The main two storey building at "Hillview" is about 14 - 15m from the boundary of the subject site and the minimum separation from a heritage item required in DCP 55 is exceeded. Due to the physical separation and fall on the site, it is considered that the proposed development would not visually dominate the heritage item.*

*The architectural character of the proposed development is contemporary and there is no confusion with the Federation elements of the draft heritage item. There is variety in the materials and textures, the colours are relatively recessive (grey, brown and red) and the facades are articulated which would assist in reducing its visual impact. The Pacific Highway elevation of "Hillview" is not affected by the proposed development. Given the heritage guidelines in DCP 55, the application is considered satisfactory.*

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***Conclusions and recommendations***

*There is no objection to demolition of the existing buildings, however, photographic recording should be undertaken before work commences on the site.*

*The site is adjacent to a National Trust listed UCA but due to the relative isolation of this site from the UCA, the proposed development is not considered to have any substantial impacts on it.*

*There are several heritage items nearby, mainly grouped around the corner of the Pacific Highway and Kissing Point Road. There would be minimal impacts on the majority of nearby heritage items due to the topography of the area and the location of the site away from these items.*

*Impacts on the adjoining Draft Heritage item "Hillview" are minimal due to retention of existing vegetation and the location of the bulk of the proposed development significantly below the heritage item.*

*Given rezoning of the land via LEP 194 and the guidelines developed in DCP 55, the proposed development is considered to have minimal and acceptable impacts on the heritage significance of Hillview."*

The application is supported by Council's Heritage Advisor, subject to photographic recording of the existing dwellings prior to demolition. **[Refer Condition No 51].**

**CONSULTATION – OUTSIDE COUNCIL**

**Railcorp**

As the site adjoins a railway corridor, the application was referred to Rail Corp Property. RailCorp does not object to the development provided certain conditions are imposed to protect railway infrastructure. **Refer Conditions 84 to 96.**

**STATUTORY PROVISIONS**

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

SEPP 65 aims to improve the design quality of residential flat buildings across NSW and to provide an assessment framework and design code for assessing 'good design'.

A Design Verification Statement, prepared by D. Wolski on behalf of the architectural firm Wolski Lycenko & Brecknock, has been submitted with the application in accordance with the requirements of the SEPP.

Part 2 sets out design principles against which design review panels and consent authorities may evaluate the merits of a design. This section is to be considered in addition to the comments of Council's *Urban Design Consultant* above. The proposal has been assessed against the heads of consideration specified in SEPP 65, as follows:

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**Principle 1: Context:**

Development in the vicinity of the site is a mixture of commercial development, community uses, medium density residential and single detached dwellings. The Turrumurra Town Centre, North Shore railway corridor and nearby commercial development dominate the surrounding area, with existing single dwellings and medium density residential developments contributing to a varied streetscape character.

The site is zoned Residential 2(d3) and is identified as an area in which residential flat development or similar development is permitted. The area is one of transitional character that will see an increase in density in the coming years.

The development is consistent with the desired future character for the locality as encouraged within LEP 194.

**Principle 2: Scale:**

The development complies with the prescribed building envelope requirements of LEP 194, most notably building height, deep soil landscaping, site coverage and setbacks. The proposal is therefore consistent with the scale of new residential flat development as envisaged in the Residential 2(d3) zone.

**Principle 3: Built form:**

The proposed development is fully compliant with most of the development standards in LEP 194 and is satisfactory with regard to the setback and landscaping requirements contained within DCP 55. The development is well set back from site boundaries, is well articulated along the street boundary and will accommodate adequate deep soil landscaping within the site. The development is consistent with the desired local character and the future context of the locality.

**Principle 4: Density:**

The development complies with the development standards and controls relating to density. The proposal achieves a high level of residential amenity, with adequate levels of solar access and cross ventilation to a majority of units within the building. Large areas of open space areas are provided for occupants, with reasonable access for people with a disability. The density proposed is consistent with the Residential 2(d3) zoning.

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

More than 70% of living areas or balconies to the apartments will achieve in excess of 3 hours sunlight to living areas between 9am and 3pm in mid winter. More than 60% of the apartments will have natural cross ventilation as required by the Residential Flat Design Code. Communal open spaces will also receive more than 3 hours direct solar access during mid winter.

A BASIX certificate has been submitted, demonstrating that the proposed development will achieve the building sustainability aims of SEPP (BASIX) including low water use fittings, use of appropriate construction materials and insulation and low water use landscaping.

The proposal is satisfactory with regard to resource, energy and water efficiency

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**Principle 6: Landscape:**

The proposed development results in a total deep soil area of 50.3% and complies with the prescribed standard in LEP 194.

The proposed landscaping is consistent with the desired future character of the area and maintains existing large canopy trees at the site perimeters which will soften the buildings, provide privacy for occupants of the development and adjoining properties and will contribute to the streetscape.

**Principle 7: Amenity:**

The majority of the proposed units will have adequate solar access. All units have adequate visual and acoustic privacy. Terraces and balconies are functional and are easily accessible from living areas. Each individual unit has its own entry lobby and secure internal access to the basement car park by lift or stairs.

**Principle 8: Safety and security:**

The development addresses the street and provides a main pedestrian connection and reasonable passive surveillance to the entries of the building. The development is acceptable with respect to Principle 8.

**Principle 9: Social dimensions:**

The proposal will provide housing choice for a mixture of income levels, family structures and accessibility levels and is consistent with both SEPP 65 and DCP 55 in this regard.

**Principle 10: Aesthetics:**

The proposed built form is well articulated along the street elevation and is responsive to the site characteristics. The development is well set back from street and is consistent with the desired character encouraged by DCP 55.

The façade facing Boyd Street is composed of a variety of horizontal and vertical elements and is articulated along the street elevation in keeping with the angled street boundary. The design is punctuated by good landscaped areas forward of the building and through the use of complimentary materials. The top two floors are set in from the edges of the building as the building increases in height down the site and recede in form and finish.

The choice of materials includes a combination of masonry, glass and concrete, which are considered acceptable architectural compositions and mediums, creating a modern development in natural and recessive colour tones. Council's Urban Design Consultant has advised that the proposed materials and finishes are acceptable.

**Residential Flat Design Code**

**Relating to the local context:**

The building envelope, in terms of setbacks, height and articulation is considered satisfactory having regard to the desired future character of the locality.

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**Site analysis:**

An appropriate site analysis was submitted. The site analysis included an assessment of adjoining developments and the proposed future development on adjoining properties.

The development is well set back from the street boundary as well as from side and rear boundaries. Adequate design has been incorporated into the proposed building to ensure future occupants have good levels of residential amenity, consistent with that envisaged in an urban setting.

In terms of site configuration, the proposal provides acceptable locations for deep soil landscape areas, in compliance with Council's guidelines.

The siting and orientation of the development allows adequate solar access for the habitable areas and private open spaces for the development and adjoining properties.

The proposal is also acceptable in terms of stormwater management, access and privacy.

**Building design:**

The proposed development provides suitable residential amenity for future occupants in compliance with SEPP 65 and DCP 55.

All other relevant matters relating to building design are detailed elsewhere in this report.

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

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, is unlikely to contain any contamination and further investigation is not warranted in this case.

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

Matters for consideration include biodiversity, ecology and environmental protection, public access to and scenic qualities of foreshores and waterways, maintenance of views, control of boat facilities and maintenance of a working harbour. The proposal is not in close proximity to or within views of the waterway or wetland and is considered satisfactory. Water re-use measures will minimise the impact on downstream waterways.

**State Environmental Planning Policy - Building Sustainability Index (BASIX)**

A BASIX Certificate has been submitted with the development application. The proposed development is therefore deemed to comply with the requirements of SEPP (BASIX).

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## Ku-ring-gai Planning Scheme Ordinance (KPSO)

| COMPLIANCE TABLE   |   |                   |
|--|---|-------------------|
| Development standard   | Proposed  | Complies          |
| Site area (min): 2400m <sup>2</sup>  | 2427m <sup>2</sup>  | YES               |
| Deep landscaping (min): 50%  | 50.3%<br>(1222m <sup>2</sup> )  | YES               |
| Street frontage (min): 30m   | 45m   | YES               |
| Number of storeys (max):<br>5 storeys plus top storey<br>(Cl.25I(8) & Cl.25K)  | 5 storey plus top storey  | YES               |
| Site coverage (max): 35%   | 35%<br>(849.5m <sup>2</sup> )   | YES               |
| Top floor area (max): 60% of<br>level below  | 59.8%<br>(508m <sup>2</sup> )   | YES               |
| Storeys and ceiling height<br>(max): 5 and 16.4m   | 5 & 16.21m  | YES               |
| Car parking spaces (min):<br>• 9 (visitors)<br>• 45 (residents)<br>• 54 (total)  | 9<br>51<br>60   | YES<br>YES<br>YES |
| Steep slope sites (Cl.25K):<br>25% (max) of footprint as<br>additional floor (5 <sup>th</sup> floor):<br>407.6m <sup>2</sup> | 21%<br>178m <sup>2</sup>  | YES<br>YES        |
| Zone interface setback (min):<br>North & east boundaries:<br>9m (min) setback to 3 <sup>rd</sup> & 4 <sup>th</sup><br>storey | 12.0m (north elevation)<br>4.4m (east elevation)<br>Non-compliance at 3 <sup>rd</sup> and 4 <sup>th</sup> floor<br>in eastern elevation | YES<br>NO         |
| Manageable housing (min):<br>10% of total to be manageable/<br>adaptable. 4 units (min)                                      | 10% (4 units)   | YES               |
| Lift access: required if greater<br>than three storeys   | Lift access provided  | YES               |

**Storeys and ceiling height (cl.25I(8)) and steep slope sites (cl.25K):**

Clause 25I(8) permits a residential flat building located in the Residential 2(d3) zone to achieve a height of 4 storeys (excluding the top storey being 60% of the storey below). A maximum perimeter ceiling height of 13.4 metres is allowed for the 4<sup>th</sup> storey.

This Clause is subject to subclause (5) which stipulates a maximum height of 5 storeys for a development on a site of 2,400m<sup>2</sup> or more and Clause 25K which allows height concessions, where a site has a slope of 15% or more.

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The proposed development achieves a height of 5 storeys plus a top storey of less than 60% of the floor below. The proposed development relies upon the steep slope provisions provided by Clause 25K in order to achieve the proposed building height.

Clause 25K stipulates that '*consent may be granted for a building on site with a slope greater than 15% that would:*

- a) exceed the number of storeys controls in Clause 25I(8) by only one storey for up to 25% of the building footprint, or*
- b) exceed the height controls in Clause 25I(8), but only by up to 3 metres for up to 25% of the building footprint, or*
- c) take advantage of the concessions conferred by both paragraphs (a) and (b), but only for up to the same 25% of the building footprint.*

The applicant seeks to utilise the allowance provided by Clause 25K. The site achieves a fall of 17.5% across the building footprint and a fall greater than 20% across the site. The fall of the site achieves the requirements for additional floor area as permitted by Clause 25K, including the provisions for additional height where the slope of the site causes the proposed Basement to protrude above ground level by greater than 1.2 metres.

The resulting development achieves the concessions permitted by Clause 25K and would result in an additional storey for less than 25% of the total building footprint and not exceeding 3 metres above the ceiling height limit imposed by Clause 25I(8).

The proposed development has a maximum height of 5 storeys, with a top storey area that is less than 60% of the floor below. The proposal complies with the building height provisions of Clause 25I(8) and qualifies for the concessions permitted by Clause 25K.

**Zone interface (cl.25L):**

The objective of this clause is to provide a transition in the scale of buildings between certain zones. To achieve this, the clause requires that the 3rd and 4th floor of any building be set back at least 9 metres from any boundary of the site which adjoins land that is not within Zone No 2(d3).

The site adjoins the Residential 2(d) zone to the north ("Hillview") and the Special Uses B (Railways) zone to the east. The zone interface provision therefore applies to the northern and eastern elevations of the proposed development.

The proposed development complies with the zone interface along the northern elevation but does not comply with the zone interface along the eastern elevation facing the railway corridor.

The applicant has submitted a SEPP 1 objection to address the non-compliance with the zone interface control.

***SEPP 1 Objection – zone interface***

SEPP 1 provides flexibility to development standards and it enables Council to vary standards where strict compliance with a standard would be unnecessary, unreasonable or tend to hinder the objectives of the Environmental Planning & Assessment Act, 1979.



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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:

- a. is consistent with the objectives of the relevant development standard;
- b. 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
- c. is unreasonable or unnecessary in the circumstances of the case.

The proposal does not comply with the development standards prescribed in clause 25L (Zone interface) of Ku-ring-gai Planning Scheme Ordinance which requires that:

**25L 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 any boundary of the site of the building with land (other than a road) that is not within Zone No 2 (d3).*

*(3) Landscaping required to screen development from any adjoining property must be provided on the site and must not rely on landscaping on the adjoining property.*

The applicant seeks a variation to the zone interface setback standard on the following grounds:

*"The eastern boundary of the site adjoins a 25m wide nature reserve which is part of the North Shore Line Railway corridor zoned Special Uses Railway.*

*The ground level setback of 5m provides for effective landscaping and planting of canopy trees that is consistent with the desired future character of the area. Combined with the dense vegetation of the railway corridor reserve, it ensures appropriate landscaped setting for the development.*

*The proposed development is fully consistent with the aims and objectives of Ku-ring-gai LEP 194 as it:*

- *Is consistent with the desired future character of the 2(d3) zone and protects and enhances the environmental and heritage qualities of Turramurra*
- *Contributes to orderly development of land and utilisation of resources of Ku-ring-gai*
- *Contributes to environmental, economic, social and physical wellbeing of residents of Ku-ring-gai*
- *Increases housing choice*
- *Achieves high quality urban and architectural design*
- *Achieves high level of residential amenity for its occupants*

*Strict adherence to zone interface setback would unreasonably affect the development potential of the site without any commensurate urban design contextual or amenity benefits. It would be contrary to the underlying purpose for preparation of Ku-ring-gai LEP 194, which was specifically introduced to realise the development potential of areas of high accessibility and thus contribute to urban consolidation in accordance*

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*with State Environmental Planning Policy No. 53— Metropolitan Residential Development.*

*While noise attenuation from the railway line is not an explicitly stated objective of the zone interface setbacks, the accompanying acoustic report confirms that there are no discernable acoustic benefits from strict adherence to the 9m setback from the boundary with the railway corridor.*

*Council has supported a SEPP No. 1 Objection against strict compliance with the 9m setback for the approved DA 1108/05 which has identical setbacks from the eastern boundary. Support of the current objection will, therefore, be fully consistent with the tests established by the Land and Environmental Court which, among other matters, identify previous use of SEPP No. 1 as being relevant circumstances for consideration.*

*Flexible application of the zone interface setback standard is, in the circumstances, fully consistent with the underlying objectives of the Environmental Planning and Assessment Act 1979."*

The following is an assessment of the SEPP1 objection using criteria established by the Land and Environment Court.

***Whether the planning control in question is a development standard***

The 9m setback to the 3rd and 4th storey of a development as required by Clause 25L(2) is a development standard.

***The underlying objective or purpose behind the standard***

The objective of the standard is to provide a transition in the scale of buildings between certain zones.

There are no buildings in the rail corridor in the vicinity of the subject site which are affected by the development such that the purpose of the standard is not compromised in any manner.

***Whether compliance with the development standard is consistent with the aims of the policy and, in particular, whether compliance with the development standard hinders the attainment of the objectives specified in S.5 (A)(i), (ii), (iii) and (iv) of the EPA Act***

The variation sought to the side setback of the 3rd and 4th storey of the development to the rail corridor boundary would not hinder the attainment of the relevant planning objectives stated in s.5(a) of the Act or the objectives for the standard in the KPSO because:

- there is a distance of more than 20m to the actual railway line;
- there are no buildings in the rail corridor in the vicinity of the subject site which are affected by the development or to which a transition in scale, as specified in clause 25L(2), would be relevant;
- there are no discernible acoustic benefits in setting back the 3rd and 4th floors of the development a distance of 9m from the railway corridor boundary, this has been confirmed in a supplementary acoustic report supplied by the applicant;

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- there are no other amenity benefits gained by setting back the 3rd and 4th floors of the development at a distance of 9m to the railway corridor boundary

*Whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

The arguments provided with the SEPP 1 objection to the zone interface breach along the development's eastern elevation are well founded and are consistent with the intentions of Clause 25L, that is to provide an adequate transition in scale between new residential flat development and adjoining residential zones.

In the circumstances, it would be unreasonable and unnecessary for Council to insist upon strict compliance with the zone interface standard, given that the objectives specified in the EPA Act and the relevant objectives in the KPSO.

The SEPP 1 objection has demonstrated that the proposed breach to the zone interface control will not result in any detrimental impact to the adjoining zone. The arguments presented in the SEPP 1 objection are well founded and are supported.

**Residential zone objectives and impact on heritage (Cl 25D):**

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

**Development within the vicinity of a heritage item (cl.61E):**

The proposed development is within proximity to a draft heritage item, identified as "Hillview". The impacts to the draft heritage item have been addressed by Council's Heritage advisor who considers the impacts to be acceptable.

The proposed development is therefore acceptable with regard to impacts on the draft heritage item and the provisions of Clause 61E of the KPSO.

**POLICY PROVISIONS**

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

| COMPLIANCE TABLE  |          |          |
|---|----------|----------|
| Development control                                       | Proposed | Complies |
| <b>Part 3 Local context:</b>                              |          |          |
| <b>Development adjacent to a heritage item:</b>           |          |          |
| • 10m setback (1 <sup>st</sup> & 2 <sup>nd</sup> storeys) | >20m     | YES      |
| • 15m setback (3 <sup>rd</sup> & 4 <sup>th</sup> storeys) | >20m     | YES      |

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| COMPLIANCE TABLE  |   |                       |
|---|---|-----------------------|
| Development control   | Proposed  | Complies              |
| <ul style="list-style-type: none"> <li>No closer than heritage item from front boundary</li> </ul>  | Not closer  | YES                   |
| <b>Part 4.1 Landscape design:</b>   |   |                       |
| <b>Deep soil landscaping (min)</b> <ul style="list-style-type: none"> <li>150m<sup>2</sup> per 1000m<sup>2</sup> of site area = 364m<sup>2</sup></li> </ul> | 360m <sup>2</sup> to front boundary<br>400m <sup>2</sup> area along the northern (rear) boundary<br>120m <sup>2</sup> along the western (side) boundary                                   | YES                   |
| <b>No. of tall trees required (min):</b> 9 trees  | 25 trees  | YES                   |
| <b>Part 4.2 Density:</b>  |   |                       |
| <b>Building footprint (max):</b> <ul style="list-style-type: none"> <li>35% of total site area</li> </ul>   | 35%   | YES                   |
| <b>Floor space ratio (max):</b> <ul style="list-style-type: none"> <li>1.3:1</li> </ul>   | 1.39:1  | NO                    |
| <b>Part 4.3 Setbacks:</b>   |   |                       |
| <b>Street boundary setback (min):</b> <ul style="list-style-type: none"> <li>10-12 metres (&lt;40% of the zone occupied by building footprint)</li> </ul>   | 7.2m to 9.8m (lower basement under driveway)<br>10m to 12m (upper basement)<br>10m to 12m (building façade)<br><br><40% of the building footprint occupies the 10-12m front setback zone. | NO<br><br><br><br>YES |
| <b>Rear boundary setback (min):</b> <ul style="list-style-type: none"> <li>6m</li> </ul>  | 12m (min)   | YES                   |
| <b>Side boundary setback (min):</b> <ul style="list-style-type: none"> <li>6m</li> </ul>  | East: 5m<br>West: 6m  | NO<br>YES             |
| <b>Setback of ground floor courtyards to street boundary (min):</b> <ul style="list-style-type: none"> <li>8m</li> </ul>                                    | 8m  | YES                   |
| <b>% of total area of front setback occupied by private courtyards (max):</b> <ul style="list-style-type: none"> <li>15%</li> </ul>                         | <5%   | YES                   |
| <b>Part 4.4 Built form and articulation:</b>  |   |                       |
| <b>Façade articulation:</b> <ul style="list-style-type: none"> <li>Wall plane depth &gt;600mm</li> </ul>  | <600mm  | YES                   |

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| COMPLIANCE TABLE   |                   |          |
|--|-------------------|----------|
| Development control  | Proposed          | Complies |
| <ul style="list-style-type: none"> <li>Wall plane area &lt;81m<sup>2</sup></li> </ul>  | <81m <sup>2</sup> | YES      |
| <b>Built form:</b>   |                   |          |
| <ul style="list-style-type: none"> <li>Building width &lt; 36m</li> </ul>  | 33m               | YES      |
| <ul style="list-style-type: none"> <li>Balcony projection &lt; 1.2m</li> </ul>   | <1.2m             | YES      |
| <b>Part 4.5 Residential amenity</b>  |                   |          |
| <b>Solar access:</b>   |                   |          |
| <ul style="list-style-type: none"> <li>&gt;70% of units receive 3+ hours direct sunlight in winter solstice</li> </ul>   | >70%              | YES      |
| <ul style="list-style-type: none"> <li>&gt;50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice</li> </ul> | >50%              | YES      |
| <ul style="list-style-type: none"> <li>&lt;15% of the total units are single aspect with a western orientation</li> </ul>  | 0%                | YES      |
| <b>Visual privacy:</b>   |                   |          |
| Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site:  |                   |          |
| Storeys 1 to 4   |                   |          |
| <ul style="list-style-type: none"> <li>12m b/w habitable rooms</li> </ul>  | >12m              | YES      |
| <ul style="list-style-type: none"> <li>9m b/w habitable and non-habitable rooms</li> </ul>   | >9m               | YES      |
| <ul style="list-style-type: none"> <li>6m b/w non-habitable rooms</li> </ul>   | >6m               | YES      |
| 5th Storey   |                   |          |
| <ul style="list-style-type: none"> <li>18m b/w habitable rooms</li> </ul>  | >18m              | YES      |
| <ul style="list-style-type: none"> <li>13m b/w habitable and non-habitable rooms</li> </ul>  | >13m              | YES      |
| <ul style="list-style-type: none"> <li>9m b/w non-habitable rooms</li> </ul>   | >9m               | YES      |
| <b>Internal amenity:</b>   |                   |          |
| <ul style="list-style-type: none"> <li>Habitable rooms have a minimum floor to ceiling height of 2.7m</li> </ul>   | 2.8m              | YES      |
| <ul style="list-style-type: none"> <li>Non-habitable rooms have a minimum floor to ceiling height of 2.4m</li> </ul>   | >2.4m             | YES      |
| <ul style="list-style-type: none"> <li>1-2 bedroom units have a minimum plan dimension of 3m in all bedroom</li> </ul>   | >3m               | YES      |

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| COMPLIANCE TABLE   |  |   |
|--|--|---|
| Development control  | Proposed   | Complies                                    |
| <ul style="list-style-type: none"> <li>3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms</li> </ul>  | >3m  | YES   |
| <ul style="list-style-type: none"> <li>Single corridors:                             <ul style="list-style-type: none"> <li>- serve a maximum of 8 units</li> <li>- &gt;1.5m wide</li> <li>- &gt;1.8m wide at lift lobbies</li> </ul> </li> </ul>  | 7 units<br><br>>1.5m<br>1.8m   | YES<br><br>YES<br>YES                       |
| <b>Outdoor living:</b> <ul style="list-style-type: none"> <li>ground floor apartments have a terrace or private courtyard greater than 25m<sup>2</sup> in area</li> <li>Balcony sizes:                             <ul style="list-style-type: none"> <li>- 10m<sup>2</sup> – 1 bedroom unit</li> <li>- 12m<sup>2</sup> – 2 bedroom unit</li> <li>- 15m<sup>2</sup> – 3 bedroom unit</li> </ul> </li> </ul> NB. At least one space >10m <sup>2</sup> | >25m <sup>2</sup> <25m <sup>2</sup><br><br><br>10m <sup>2</sup><br>12m <sup>2</sup><br>15m <sup>2</sup><br><br>>2.4m | YES<br><br><br>YES<br>YES<br>YES<br><br>YES |
| <b>Part 4.7 Social dimensions:</b>   |  |   |
| <b>Visitable units (min):</b> <ul style="list-style-type: none"> <li>70%</li> </ul>  | 70%  | YES   |
| <b>Housing mix:</b> <ul style="list-style-type: none"> <li>Mix of sizes and types</li> </ul>   | Mix of 1, 2 & 3 bedroom units  | YES   |
| <b>Part 5 Parking and vehicular access:</b>  |  |   |
| <b>Car parking (min):</b> <ul style="list-style-type: none"> <li>45 resident spaces</li> <li>9 visitor spaces</li> <li>54 total spaces</li> </ul>  | 51 spaces<br>9 spaces<br>60 spaces   | YES<br>YES<br>YES                           |

**Part 2: Elements of good design**

- Articulation & materials

The proposal utilises high quality finishes and building materials and is well set back from the street given the fall along the street boundary, the angled nature of the front boundary and the topography of the site. The street façade includes satisfactory articulation and complimentary materials. The resulting development will be consistent with the scale and appearance of new residential flat development envisaged in the Residential 2(d3) zone.

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Satisfactory areas of deep soil landscaping are provided forward of the building which will ensure that the development is consistent with the building setback and landscape objectives as expressed in DCP 55. The articulation of the building and use of materials is consistent with the elements of good design.

- Air conditioning plant

A condition is recommended to require air conditioning units to be located within the basement so as to ensure they will not be visible from adjoining properties or public areas. **See Condition No 41.**

**Part 3 Local context:**

The proposed development is satisfactory with regard to the planning controls contained in LEP 194 and the design guidelines in DCP 55.

The development achieves the design principles of SEPP 65 and DCP 55 and is consistent with the desired local character and the future context of the locality as well as the provisions of the Draft LEP 2006 (Town Centres).

**Part 4.1 Landscape design:**

The proposal complies with the deep soil landscaping requirement of LEP 194 and is satisfactory with regard to the landscape design guidelines of DCP 55. The proposal will reinforce the landscape character of the area, allows adequate area for canopy tree planting to the front and rear of the development and incorporates satisfactory deep soil areas forward of the building to soften the appearance to the street.

The proposal is satisfactory with regard to the landscape design guidelines of DCP 55.

**Part 4.2 Density:**

The proposed development has a floor space ratio (FSR) of 1.39:1 which exceeds the maximum permitted FSR of 1.3:1. The proposal exceeds the FSR requirements of the DCP by approximately 220m<sup>2</sup>.

The additional floor area can be attributed to the additional floor area permitted by Clause 25K of LEP 194 which permits additional floor area within the building, for up to 25% of the building footprint on steeply sloping sites.

Despite the non-compliance with the floor area provisions of Part 4.2, the proposal fully complies with the requirements of Clause 25K of LEP 194 and is consistent with the form and scale of development envisaged in the zone. The additional floor space does not generate any bulk or scale impact to the street or adjoining properties that would not be expected on this site, having regard for the fall of over 20% over the site.

The departure from the floor space ratio requirement is supported in this instance.

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Part 4.3 Setbacks:

*Front setback*

The front setback requirements of DCP 55 state that residential flat development on sites having a depth of more than 45 metres and a width of more than 35 metres should be set back between 13 metres to 15 metres from the front boundary.

The subject site has an angled front boundary of 46.2 metres but an average width of only 41.5 metres across the centre of the site where the proposed building is located. Given the site dimensions and the topographical constraints of the site, it is more appropriate to apply the lesser setback requirements of 10 metres to 12 metres that would otherwise apply to the site and which reflect the setbacks applied to the development approved in the consent to the previous proposal, DA 1108/05.

The proposed building has been designed to meet the requirements of the 10 metre to 12 metres setback zone, as identified in the compliance table. The proposed development is considered to achieve the intentions of Part 4.3 of DCP 55 having regard to the following points:

- The proposed building is staggered along the street frontage, with the majority of the building located greater than 10 metres from the front boundary.
- The street façade is well articulated presentation to the street with upper levels of the building receding from the leading edge of the main façade and through the effective use of fenestration and balconies to break up the appearance of the structure.
- Substantial landscaping is provided at the street front, such that the apparent height of the structure will recede into the topography of the area and ultimately will be screened by new canopy trees.
- A total of seven (7) canopy trees are provided in the front setback including three (3) existing trees to be retained.
- Basement areas which encroach closer than 10 metres to the street are located below the driveway only and will not affect the viability of landscaping within the front setback.
- The proposed setback is commensurate to the setbacks approved under DA 1108/05.

Having regard for the above, the location and scale of the proposed development is consistent with that envisaged in the Residential 2(d3) zoning and the presentation of the development to Boyd Street will be satisfactory.

The proposal is acceptable with regard to the front setback requirements of DCP 55.

*Side setbacks*

DCP 55 requires a minimum setback of 6 metres from side boundaries. The intention of the side setback control is to encourage effective landscaping and tree planting between buildings and adjoining sites to promote privacy and encourage new development that is situated in a well landscaped setting.

The proposed building does not comply with the side setback requirement along the eastern boundary where the building is set back 5 metres from the boundary adjoining the North Shore



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Railway corridor. However, the proposed 5 metres setback is adequate to provide new deep soil landscaping in the side setback.

The resulting setback will not detract from the appearance of the development to the street owing to significant areas of deep soil landscaping provided forward of the building, the orientation of the building to the street, the fall of the site and the location of the building at the end of Boyd Street.

The resulting development is acceptable with regard to the setback requirements of DCP 55.

**Part 4.4 Built form and articulation:**

Part 4.4 contains design guidelines to prevent buildings from impacting on the public domain and dominating the streetscape and to control separation and landscaping between buildings.

The intention of Part 4.4 is for buildings not to dominate the street and to encourage a predominance of landscape features. The proposed building is well articulated, achieves largely compliant setbacks from the street and is satisfactory with regard to side boundary setbacks. The development provides adequate areas of deep soil landscaping in the front setback which are suitable for tall canopy tree plantings.

The proposed development complies with the maximum building width stipulated by DCP 55 and provides a well articulated façade to Boyd Street that would contribute to the desired future character of the area. The proposal is consistent with the form of development envisaged by the DCP controls.

**Part 4.5 Residential amenity:**

The building layout, orientation and provision of outdoor space and landscaping should ensure acceptable internal and external amenity for occupants.

The development achieves compliance with the applicable controls. The proposal provides good residential amenity for future occupants in terms of solar access, private open space, room dimensions and building separation.

**Part 4.6 Safety and security:**

Apartments adjacent to public streets are required to have at least one window or a habitable room with an outlook to that area. Entries and common open space should be visible from public areas or apartments and lighting should be provided to increase visibility.

The proposal provides windows and balcony areas that overlook the street and external access areas. Pathway areas leading to the main access are clearly visible and identifiable. These areas are visible from ground floor units and courtyard areas, providing acceptable passive surveillance. The development does not provide entrapment areas and is consistent with Part 4.6.

**Part 4.7 Social dimensions:**

The proposal provides 10% 'manageable' units in accordance with LEP 194 Clause 25N and 70% 'visitable' units, internal paths of travel and visitor and resident parking spaces in accordance with DCP55 Clause 4.7 C-3.

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The development provides a suitable variety of unit types and sizes to meet market demand for a range of medium density accommodation. The proposal is consistent with the aims of LEP 194 and will provide for greater housing choice within the locality.

**Part 5 Parking and vehicular access:**

Car parking is provided in accordance with the numerical requirements of DCP 55 and DCP 43 (Car Parking) for resident, visitor and accessible parking spaces is also compliant.

Clearly defined and separate pedestrian access routes are provided throughout the development, reducing the potential for pedestrian or vehicular conflicts.

**Part 6 Consideration of isolated sites:**

The proposed development will result in the isolation of the adjoining allotment to the west, being No. 12 Boyd Street. The adjoining site is similarly zoned Residential 2(d3) and is an irregular allotment having an area of 972m<sup>2</sup> and a frontage of 42 metres to Boyd Street. The site is isolated by virtue of its allotment size (being less than 1,200m<sup>2</sup>).

This allotment adjoins the western (side) boundary of the development site and adjoins "Hillview" to the north-west. The allotment is a triangular property having a difficult topography and an average depth of approximately 27 metres.

The allotment was included in the previously approved development (DA 1108/05).

***Consideration of isolated sites***

In considering the impact to the isolated site in accordance with the aims of LEP 194, Part 6 of DCP 55 and the Planning Principles adopted by the NSW Land & Environment Court, Council must be satisfied that the adjoining "isolated" allotment could be developed in accordance with the aims and objectives of the zone, the development standards contained within LEP 194 and the provisions of SEPP 65 and DCP 55, including but not limited to the standards and controls relating to:

- i. deep soil landscaping
- ii. site coverage
- iii. building setback
- iv. solar access, and
- v. visual privacy.

In this regard the applicant has provided conceptual details of how the adjoining allotment may be developed. The concept design has been developed based upon the following assumptions:

- Clause 25I(4) of the LEP 194 permits residential flat development on sites zoned Residential 2(d3) that are smaller than 1200m<sup>2</sup> provided that development complies with all other development standards including deep soil landscaping, site coverage, zone interface, storey height and car parking.
- The maximum attainable building height on the adjoining site would be 3 storeys with basement car parking.

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- The site is affected by a zone interface along its north-western boundary with “Hillview” requiring the 3rd floor of a building to be set back a minimum of 9 metres.
- The top floor of the building would be a maximum of 60% of the floor immediately below.
- The development must comply with the deep soil landscaping requirements of 40% and a maximum site coverage of 35%.
- A front setback zone of 10 metres to 12 metres would apply.
- Despite the zone interface control, a development of up to 3 storeys may be set back a minimum of 3 metres from side boundaries, with windows to habitable rooms being a minimum of 6 metres from the boundary.

Having regard for these parameters, the concept design submitted with the current application indicates the adjoining site could achieve a development potential of five (5) units, comprising 2 x three-bedroom units, 2 x two-bedroom units and one x 4-bedroom penthouse having a maximum FSR of 0.58:1 and basement car parking for 7 vehicles.

This concept design is included as **Attachment K**.

In considering whether the proposed conceptual design is viable and appropriate for the adjoining allotment, Council must consider the following:

**1. *Whether the isolated site could reasonably be amalgamated with the development site, having regard to negotiations between owners.***

The applicant has advised that the owners of No. 12 Boyd Street have rejected an unconditional offer to purchase the adjoining site and to develop the land based on the original development approved under DA 1108/05.

The applicant has advised that the negotiations occurred after the expiry of the original option over No. 12 Boyd Street and reflected a reduced price based upon current market conditions and the estimated construction costs for the approved development. The details of the negotiations with the adjoining owner have not been provide as they are considered to be commercially privileged information.

Whilst the previously approved development incorporates the adjoining allotment and includes a greater dwelling yield of 45 units, it is likely that the cost of construction associated with the approved development would be significantly greater than the current development owing to significantly greater costs associated with the excavation of basement areas.

Under the circumstances, it would be unreasonable to require this allotment to be amalgamated with the currently proposed development site where the owners of the adjoining property have rejected an offer to amalgamate.

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2. *Whether the site could otherwise be developed in accordance with the provisions of LEP 194.*

The concept design submitted with the development indicates that the adjoining site could be developed in accordance with the aims and objectives of LEP 194 and the Residential 2(d3) zone. The proposed concept development is assessed against the relevant development standards as follows:

| COMPLIANCE TABLE                                  |  |   |                   |
|---|--|---|-------------------|
| Development standard                              | Requirement                                | Proposed Compliance   | Complies          |
| Site area (min):                                  | 1200m <sup>2</sup>                         | 972m <sup>2</sup> *<br><br><i>* Cl. 25(4) of LEP 194 permits development of smaller sites provided the proposal complies with all other development standards</i> | NO                |
| Deep landscaping (min)                            | 40%  | 60%   | YES               |
| Street frontage (min):                            | 30m  | 42.6m   | YES               |
| Number of storeys (max):                          | 3 storeys                                  | 3 storeys   | YES               |
| Site coverage (max):                              | 35%  | 28%   | YES               |
| Top floor area (max):                             | 60% of level below                         | 60%   | YES               |
| Car parking spaces (min):                         | 1 (visitors)<br>6 (residents)<br>7 (total) | 1 (visitors)<br>6 (residents)<br>7 (total)  | YES<br>YES<br>YES |
| Zone interface setback (min): to 3rd & 4th storey | 9m (north-west bdy)                        | 9.0m (north-west elevation)   | YES               |

3. *The impacts likely to arise from development of the isolated site, having regard for the built form and amenity of future residents.*

The impacts likely to arise from the separate development of adjoining lot would be commensurate with similar residential flat development on this isolated site and the development approved under DA 1108/05.

## Conclusion

Having regard for the isolation of the adjoining site, concept design submitted with the development application and the level of negotiation between owners of the sites, the proposed development is considered to be acceptable with regard to Part 6 of DCP 55.

## 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.

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

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

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

Matters for assessment under DCP 43 have been taken into account in the assessment of this application against DCP 55.

**Development Control Plan 47 – Water Management**

Matters for assessment under DCP 47 have been taken into account in the assessment of this application against DCP 55.

**Section 94 Plan**

The development attracts a section 94 contribution of \$443,333.04, which is required to be paid by Condition No. 51.

**LIKELY IMPACTS**

The likely impacts of the development have been considered within this report and are deemed to be acceptable.

**SUITABILITY OF THE SITE**

The site is suitable for the proposed development.

**ANY SUBMISSIONS**

The issue raised in the submission has been considered.

**PUBLIC INTEREST**

The proposal is considered to be in the public interest.

**CONCLUSION**

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

**RECOMMENDATION**

- A. 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 provisions of Clause 25L (Zone Interface) 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 owing to the site adjoining

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the railway corridor and the impacts arising as a result of the non-compliance will have no discernable effect on the streetscape or adjoining properties.

- B. 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 0821/07 is consistent with the aims of the Policy, grant development consent to DA 0821/07 for demolition of two dwelling houses and construction of a residential flat building comprising 33 units and basement car parking for 60 vehicles on land at 16-18 Boys Street, Turramurra, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

**CONDITIONS THAT IDENTIFY APPROVED PLANS:**

**1. Approved architectural plans and documentation**

The development must be carried out in accordance with work shown in colour on the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

| Dwg No       | Description                        | Drawn by                   | Dated       | Lodged      |
|--------------|------------------------------------|----------------------------|-------------|-------------|
| DA-03        | Site analysis/roof plan            | Wolski Lycenko & Brecknock | 29 Aug 2007 | 31 Aug 2007 |
| DA-04        | Lower basement                     | Wolski Lycenko & Brecknock | 28 Aug 2007 | 31 Aug 2007 |
| DA-05        | Upper basement                     | Wolski Lycenko & Brecknock | 28 Aug 2007 | 31 Aug 2007 |
| DA-06        | Ground floor plan & upper basement | Wolski Lycenko & Brecknock | 28 Aug 2007 | 31 Aug 2007 |
| DA-07        | First floor plan                   | Wolski Lycenko & Brecknock | 28 Aug 2007 | 31 Aug 2007 |
| DA-08        | Second floor plan                  | Wolski Lycenko & Brecknock | 28 Aug 2007 | 31 Aug 2007 |
| DA-09        | Third floor plan                   | Wolski Lycenko & Brecknock | 28 Aug 2007 | 31 Aug 2007 |
| DA-10        | Fourth floor plan                  | Wolski Lycenko & Brecknock | 28 Aug 2007 | 31 Aug 2007 |
| DA-11        | Fifth floor plan                   | Wolski Lycenko & Brecknock | 28 Aug 2007 | 31 Aug 2007 |
| DA-12        | Elevations                         | Wolski Lycenko & Brecknock | 28 Aug 2007 | 31 Aug 2007 |
| DA-13        | Section A                          | Wolski Lycenko & Brecknock | 28 Aug 2007 | 31 Aug 2007 |
| DA-14        | Section Z                          | Wolski Lycenko & Brecknock | 28 Aug 2007 | 31 Aug 2007 |
| LP 39.07/077 | Landscape Plan                     | iScape                     | August 2007 | 31 Aug 2007 |

**Reason:** To ensure that the development is in accordance with the determination of Council.

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2. Surrender of development consent

The applicant must surrender the following development consent to Council prior to the issue of a Construction Certificate by submitting a completed copy of Form 3 of the Environmental Planning and Assessment Regulation 2000:

|                                |              |   |
|--------------------------------|--------------|---|
| <b>Development Consent No.</b> | <b>Dated</b> | <b>For:</b>   |
| DA: 1108/05                    | 4/4/06       | Demolition of 3 dwelling houses and construction of 2 residential flat buildings comprising a total of 47 units and basement car parking for 66 vehicles. |

**Reason:** To ensure that there is certainty as to the consent applying to the subject land.

**GENERAL CONDITIONS:**

3. Approved tree works

Approval is given for the following works to be undertaken to trees on the site.

**Schedule**

| Tree location   | Approved tree works |
|---|---------------------|
| #1 <i>Liquidambar styraciflua</i> (Sweet Gum)<br>Centrally located in rear garden             | Removal             |
| #2 <i>Brachychiton acerifolius</i> (Illawarra Flame Tree)<br>Centrally located in rear garden | Removal             |
| #3 <i>Cinnamomum camphora</i> (Camphor laurel)<br>Adjacent to north-east site corner          | Removal             |
| #4 <i>Cinnamomum camphora</i> (Camphor laurel)<br>Adjacent to north-east site corner          | Removal             |
| #5 <i>Cinnamomum camphora</i> (Camphor laurel)<br>Adjacent to north-east site corner          | Removal             |
| #12 <i>Dicksonia antarctica</i> (tree Fern)<br>Within building footprint                      | Removal             |
| #13 <i>Archontophoenix cunninghamiana</i> (Bangalow Palm)<br>Within building footprint        | Removal             |
| #14 <i>Archontophoenix cunninghamiana</i> (Bangalow Palm)<br>Within building footprint        | Removal             |
| #15 <i>Howea belmoreana</i> (Kentia palm)<br>Within building footprint                        | Removal             |
| #16 <i>Washingtonia filifera</i> (Fan Palm)<br>Within building footprint                      | Removal             |
| #17 <i>Chrysalidocarpus lutescens</i> (Golden Cane Palm)<br>Within building footprint         | Removal             |
| #18 <i>Acer palmatum</i> (Japanese Maple)<br>Front setback                                    | Removal             |
| #19 <i>Liquidambar styraciflua</i> (Sweet Gum)<br>Boyd St nature strip                        | Removal             |
| #30 <i>Cedrus deodar</i> (Himalayan Cedar)<br>Within building footprint                       | Removal             |

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**Schedule**

**Tree location**

#31 *Ligustrum lucidum* (Privet)  
Rear setback

**Approved tree works**

Removal

Removal or pruning of any other tree on the site is not approved.

**Reason:** To ensure that the development is in accordance with the determination of Council.

**4. Approved landscape plans**

Landscape works shall be carried out in accordance with the following landscape plan(s), listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

| <i>Plan no.</i> | <i>Drawn by</i> | <i>Dated</i> |
|-----------------|-----------------|--------------|
| LP 39.07/077    | iScape          | August 2007  |

**Reason:** To ensure that the development is in accordance with the determination of Council.

**5. Treatment of tree roots**

If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced arborist/horticulturist with a minimum qualification of horticulture certificate or tree surgery certificate

**Reason:** To protect existing trees.

**6. Hand excavation**

All excavation within the specified radius of the trunk(s) of the following tree(s) shall be hand dug:

**Schedule**

**Tree/location**

**Radius from trunk**

|   |      |
|---|------|
| #10 <i>Cedrus deodar</i> (Himalayan Cedar)                  | 5.0m |
| Adjacent to northern site boundary in neighbouring property |      |
| #11 <i>Cedrus deodar</i> (Himalayan Cedar)                  | 7.0m |
| Adjacent to northern site boundary in neighbouring property |      |
| #20 <i>Quercus robur</i> (English Oak)                      | 6.0m |
| Boyd St road reserve  |      |
| #21 <i>Eucalyptus robusta</i> (Swamp Mahogany)              | 4.0m |
| Boyd St Road reserve  |      |
| #22 <i>Cedrus deodar</i> (Himalayan Cedar)                  | 4.0m |
| Boyd St road reserve  |      |
| #23 <i>Pittosporum undulatum</i> (Native Daphne)            | 5.0m |
| Boyd St road reserve  |      |
| #24 <i>Jacaranda mimosifolia</i> (Jacaranda)                | 4.0m |
| Adjacent to south-east site corner                          |      |
| #26 <i>Liquidambar styraciflua</i> (Sweet Gum)              | 7.0m |
| Neighbouring property                                       |      |
| #27 <i>Jacaranda mimosifolia</i> (Jacaranda)                | 5.0m |
| Adjacent to southern site boundary                          |      |



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**Schedule**

| Tree/location  | Radius from trunk |
|--|-------------------|
| #27a <i>Eucalyptus saligna</i> (Bluegum)<br>Boyd St nature strip                     | 2.0m              |
| #28 <i>Michelia figo</i> (Port Wine Magnolia)<br>Adjacent to southern site boundary  | 4.0m              |
| #28a <i>Eucalyptus saligna</i> (Bluegum)<br>Boyd St nature strip                     | 2.0m              |
| #29 <i>Lagerstroemia indica</i> (Crepe Myrtle)<br>Adjacent to south-west site corner | 4.0m              |

**Reason:** To protect existing trees.

**7. Thrust boring**

Excavation for the installation of any services within the specified radius of the trunk(s) of the following tree(s) shall utilise the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground level to minimise damage to tree(s) root system

**Schedule**

| Tree/location  | Radius from trunk |
|--|-------------------|
| #20 <i>Quercus robur</i> (English Oak)<br>Boyd St road reserve                     | 6.0m              |
| #21 <i>Eucalyptus robusta</i> (Swamp Mahogany)<br>Boyd St road reserve             | 4.0m              |
| #22 <i>Cedrus deodar</i> (Himalayan Cedar)<br>Boyd St road reserve                 | 4.0m              |
| #23 <i>Pittosporum undulatum</i> (Native Daphne)<br>Boyd St road reserve           | 5.0m              |
| #24 <i>Jacaranda mimosifolia</i> (Jacaranda)<br>Adjacent to south-east site corner | 4.0m              |
| #26 <i>Liquidambar styraciflua</i> (Sweet Gum)<br>Neighbouring property            | 7.0m              |

**Reason:** To protect existing trees.

**8. Tree removal on nature strip**

Following removal of Tree #19 *Liquidambar styraciflua* (Sweet Gum) from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Landscape Assessment Officer at no cost to Council.

**Reason:** To protect the streetscape.

**9. Canopy replenishment trees to be planted**

The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species

**Reason:** To maintain the treed character of the area.

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**10. No storage of materials beneath trees**

No activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.

**Reason:** To protect existing trees.

**11. Trees on nature strip**

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.

**Schedule**

**Tree/location**

#19 *Liquidambar styraciflua* (Sweet Gum)

Boyd St nature strip

**Reason:** To ensure protection of existing trees.

**12. Removal of refuse**

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.

**Reason:** To protect the environment.

**CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:**

**13 Notice to be given prior to demolition or excavation**

Council shall be given written notice, at least 48 hours prior to the commencement of any development (including excavation, shoring or underpinning works) on the site.

**Reason:** Statutory requirement.

**14. Notice of commencement**

At least 48 hours prior to the commencement of any development or excavation works, a notice of commencement of building or subdivision work form and appointment of the principal certifying authority form shall be submitted to Council.

**Reason:** Statutory requirement.

**15. Notification of builder's details**

Prior to the commencement of any development or excavation works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

**Reason:** Statutory requirement.

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**16. Dilapidation survey and report (public infrastructure)**

Prior to the commencement of any development or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures of the following public infrastructure, has been completed and submitted to Council:

**Public infrastructure**

- Full road pavement width, including kerb and gutter, of Boyd Street over the site frontage, including the full intersection with Jersey Street.
- 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 written and photographic) existing damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition prior to the commencement of works.

**Note:** A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any excavation works.

**Reason:** To record the structural condition of public infrastructure before works commence.

**17. Dilapidation survey and report (private property)**

Prior to the commencement of any demolition or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures upon the following lands, has been completed and submitted to Council:

**Address**

12 Boyd Street, Turramurra  
"Hillview", 1334 to 1340 Pacific Highway, Turramurra

The dilapidation report must include a photographic survey of adjoining properties detailing their physical condition, both internally and externally, including such items as walls ceilings, roof and structural members. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted geotechnical report.

In the event that access for undertaking the dilapidation survey is denied by a property owner, the applicant must demonstrate in writing to the satisfaction of the Principal Certifying Authority that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

**Note:** A copy of the dilapidation report is to be provided to Council prior to any excavation works been undertaken. The dilapidation report is for record keeping purposes only and may be

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used by an applicant or affected property owner to assist in any civil action required to resolve any dispute over damage to adjoining properties arising from works.

**Reason:** To record the structural condition of likely affected properties before works commence.

**18. Geotechnical report**

Prior to the commencement of any bulk excavation works on site, the applicant shall submit to the Principal Certifying Authority, the results of the detailed geotechnical investigation comprising a minimum of three cored boreholes to at least 1 metre below the proposed basement level. The report is to address such matters as:

- appropriate excavation methods and techniques
- vibration management and monitoring
- dilapidation survey
- support and retention of excavated faces
- hydrogeological considerations

The recommendations of the report are to be implemented during the course of the works.

**Reason:** To ensure the safety and protection of property.

**19. Construction and traffic management plan**

Prior to the commencement of any works on site, the applicant must submit for review by Council's 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 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 and concrete pump and truck standing areas on and off the site
- 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
- an on-site parking area for employees, tradespersons and construction vehicles as far as possible

**2. Traffic control plan(s) for the site**

All traffic control plans must be in accordance with the RTA publication "Traffic Control Worksite Manual" and prepared by a suitably qualified person (minimum '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 stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public

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property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

**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 where alternate routes exist.

A copy of this route is to be made available to all contractors and shall be clearly depicted at a location within the site.

The plan must provide evidence of RTA concurrence where construction access is provided directly from or within 20m of an arterial road.

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

The plan must provide measures for 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 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.

As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council's Development Engineer. Written acknowledgment from Council's Engineer shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

**Reason:** To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

**20. Work zone**

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. Work 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. Work 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.

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If the work zone is approved by the Local Traffic Committee, the applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit this to the Principal Certifying Authority prior to commencement of any works on 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 site. At the expiration of the work zone approval, the applicant is required to remove the work zone signs and reinstate any previous signs at their expense.

In the event the work zone is required for a period beyond that initially approved by the Traffic Committee, the applicant shall make a payment to Council for the extended period in accordance with Council's schedule of fees and charges for work zones prior to the extended period commencing.

**Reason:** To ensure that appropriate measures have been made for the operation of the site during the construction phase.

**21. Erosion and drainage management**

Earthworks and/or demolition of any existing buildings shall not commence until an erosion and sediment control plan is submitted to and approved by the Principal Certifying Authority. The plan shall comply with the guidelines set out in the NSW Department of Housing manual "Managing Urban Stormwater: Soils and Construction" certificate. Erosion and sediment control works shall be implemented in accordance with the erosion and sediment control plan.

**Reason:** To preserve and enhance the natural environment.

**22. Sediment controls**

Prior to any work commencing on site, sediment and erosion control measures shall be installed along the contour immediately downslope of any future disturbed areas.

The form of the sediment controls to be installed on the site shall be determined by reference to the 'NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction'. The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period.

**Reason:** To preserve and enhance the natural environment.

**23. Temporary construction exit**

A temporary construction exit, together with necessary associated temporary fencing, shall be provided prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.

**Reason:** To reduce or eliminate the transport of sediment from the construction site onto public roads.

**24. Noise and vibration management plan**

Prior to the commencement of any works, a noise and vibration management plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition,

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excavation and construction of the proposed development and provided to the Principal Certifying Authority. The management plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and Ku-ring-gai Council's Code for the Control and Regulation of Noise on Building Sites. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

The management plan shall address, but not be limited to, the following matters

- identification of the specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- the construction noise objective specified in the conditions of this consent
- the construction vibration criteria specified in the conditions of this consent
- determination of appropriate noise and vibration objectives for each identified sensitive receiver
- noise and vibration monitoring, reporting and response procedures
- assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles and any traffic diversions
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- contingency plans to be implemented in the event of non-compliances and/or noise complaints
- compliance with Council's Code for the Control and Regulation of Noise on Building Sites

**Reason:** To protect the amenity afforded to surrounding residents during the construction process.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE:**

**25. Excavation for services**

Prior to the issue of the Construction Certificate, the Principal Certifying shall be satisfied that no proposed underground services (ie. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

**Reason:** To ensure the protection of trees.

**26. Lot consolidation**

Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan

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registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate.

**Reason:** To ensure continuous structures will not be placed across separate titles.

**27. Stormwater management plan**

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:

- exact location and reduced level of discharge point to the public drainage system
- Layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence)
- location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems and 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 Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments
- details of the required on-site detention tanks required by Ku-ring-gai Water Management DCP 47, including dimensions, materials, locations, orifice and discharge control pit details as required (refer Chapter 6 and Appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements)
- the required basement stormwater pump-out system is to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design)

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Council's Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - Plumbing and Drainage Code and the Building Code of Australia. The plans may be generally based on the concept plan by AFCE Environment + Building submitted with the development application, which are to be advanced as necessary for construction certificate issue purposes.

**Reason:** To protect the environment.

**28. Stormwater retention**

Prior to the issue of a Construction Certificate, the Principal Certifying Authority is to be satisfied that:

- A mandatory rainwater retention and re-use system, comprising storage tanks and ancillary plumbing is provided. The minimum total storage volume of the rainwater tank system, and the prescribed re-use of the water on site must satisfy all relevant BASIX commitments and the requirements specified in Chapter 6 of Ku-ring-gai Water Management Development Control Plan 47; and
- An on-site stormwater detention system must be provided to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be



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determined in accordance with Chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The on-site detention system must be designed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in Appendix 5 of DCP 47.

**Reason:** To protect the environment.

**29. Driveway crossing levels**

Prior to issue of the Construction Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.

This development consent is for works wholly within the property. Development 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 development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

The construction of footpaths and driveways outside the property in materials other than those approved by Council is not permitted.

**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

**30. Driveway grades – basement carparks**

Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifying Authority. These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level. The traffic engineer shall provide specific written certification on the plans that:

- vehicular access can be obtained using grades of 20% (1 in 5) maximum and
- all changes in grade (transitions) comply with Australian Standard 2890.1 – "Off-street car parking" (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.

If a new driveway crossing is proposed, the longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application.

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**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

**31. Basement car parking details**

Prior to issue of the Construction Certificate, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements must be submitted to and approved by the Certifying Authority. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 – 2004 “Off-street car parking”
- a clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement
- no doors or gates are provided in the access driveways to the basement car park which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area
- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans

**Reason:** To ensure that parking spaces are in accordance with the approved development.

**32. Design of works in public road (Roads Act approval)**

Prior to issue of the Construction Certificate, the Certifying Authority shall be satisfied that engineering plans and specifications prepared by a qualified consulting engineer have been approved by Council’s Development Engineer. The plans to be assessed must be to a detail suitable for construction issue purposes and must detail the following infrastructure works required in Dumaresq Street:

- Details of the new vehicular crossing to allow satisfactory access to the driveway inside the property while maintaining sight distance along Jersey Street and preserving the three street trees, T19, T20 and T21. The plans is to include accurate existing and proposed ground levels.

Development consent does not give approval to these works in the road reserve. The applicant must obtain a separate approval under sections 138 and 139 of The Roads Act 1993 for the works in the road reserve required as part of the development. The Construction Certificate must not be issued, and these works must not proceed until Council has issued a formal written approval under the Roads Act 1993.

The required plans and specifications 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. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. Survey must be undertaken as required. 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). Construction of the works

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must proceed only in accordance with any conditions attached to the Roads Act approval issued by Council.

A minimum of three (3) weeks will be required for Council to assess the Roads Act application. Early submission of the Roads Act application is 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.

**Reason:** To ensure that the plans are suitable for construction purposes.

**33 Energy Australia requirements**

Prior to issue of the Construction Certificate, the applicant must 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 for approval prior to issue of the Construction Certificate.

Any structures or other requirements of Energy Australia shall be indicated on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.

**Reason:** To ensure compliance with the requirements of Energy Australia.

**34. Utility provider requirements**

Prior to issue of the Construction Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained. All utility services or appropriate conduits for the same must be provided by the developer in accordance with the specifications of the utility providers.

**Reason:** To ensure compliance with the requirements of relevant utility providers.

**35. Long service levy**

In accordance with Section 109F(i) of the Environmental Planning and Assessment Act a Construction Certificate shall not be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided to Council.

**Reason:** Statutory requirement.

**36. Outdoor lighting**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that all outdoor lighting will comply with AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and

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AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

**Note:** Details demonstrating compliance with these requirements are to be submitted prior to the issue of a Construction Certificate.

**Reason:** To provide high quality external lighting for security without adverse affects on public amenity from excessive illumination levels.

**37. Air drying facilities**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that a common open space area dedicated for open air drying of clothes is provided. This area is to be located at ground level behind the building line and in a position not visible from the public domain.

In lieu of the above, written confirmation that all units will be provided with internal clothes drying facilities prior to the Occupation Certificate is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** Amenity & energy efficiency.

**38. Access for people with disabilities (residential)**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that access for people with disabilities to and from and between the public domain, residential units and all common open space areas is provided. Consideration must be given to the means of dignified and equitable access.

Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate. All details shall be prepared in consideration of the Disability Discrimination Act, and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

**Reason:** To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards.

**39. Adaptable units**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the nominated adaptable units within the development application identified as Unit 3 Unit10, Unit 17 and Unit 24, are designed as adaptable housing in accordance with the provisions of Australian Standard AS4299-1995: Adaptable Housing.

**Note:** Evidence from an appropriately qualified professional demonstrating compliance with this control is to be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** Disabled access & amenity.

**40. Garbage storage**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the

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development provides a common garbage collection/separation area sufficient in size to store all wheelie garbage bins and recycling bins provided by Council for the number of units in the development in accordance with DCP 40. The garbage collection point is to be accessible by Council's Waste Collection Services.

**Note:** The architectural plans are to be amended in accordance with this condition (if required) and provided to the Certifying Authority.

**Reason:** Environmental protection.

**41. Noise from plant in residential zone**

Where any form of mechanical ventilation equipment or other noise generating plant is proposed as part of the development, prior to the issue of the Construction Certificate the Certifying Authority, shall be satisfied that the operation of an individual piece of equipment or operation of equipment in combination will not exceed more than 5dB(A) above the background level during the day when measured at the site's boundaries and shall not exceed the background level at night (10.00pm - 6.00 am) when measured at the boundary of the site.

**Note:** A certificate from an appropriately qualified acoustic engineer is to be submitted with the Construction Certificate, certifying that all mechanical ventilation equipment or other noise generating plant in isolation or in combination with other plant will comply with the above requirements.

**Reason:** To comply with best practice standards for residential acoustic amenity.

**42. Location of plant (residential flat buildings)**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that all plant and equipment (including but not limited to air conditioning equipment) is located within the basement.

**Note:** Architectural plans identifying the location of all plant and equipment shall be provided to the Certifying Authority.

**Reason:** To minimise impact on surrounding properties, improved visual appearance and amenity for locality.

**43. Builder's indemnity insurance**

The applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the Home Building Act 1989 to the 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. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at 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).

**Reason:** Statutory requirement.

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**44. External finishes and materials (new building)**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the external finishes of the building are consistent with the character of the streetscape. The materials are to be complimentary to the approved architectural appearance of the development. Nothing in this condition is to be construed as permitting the replacement of previously submitted materials with inferior or inadequate materials or finishes.

**Note:** Details of the colour, finish and substance of all external materials, including schedules and a sample board of materials and colours, are to be submitted.

**Reason:** To protect the streetscape and the integrity of the approved development.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION**

**45. Infrastructure restorations fee**

To ensure that damage to Council Property as a result of construction activity is rectified in a timely matter:

- a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- b) The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council Property, and for the removal from Council Property of any waste bin, building materials, sediment, silt, or any other material or article.
- c) The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
- d) In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.
- e) In this condition:

**"Council Property"** includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

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**“Infrastructure Restoration Fee”** means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

**Reason:** To maintain public infrastructure.

**46. Public liability insurance – works on public land**

Any person or contractor undertaking works on public land must take out public risk insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council’s road reserve or public land, as approved in this consent.

The policy is to note and provide protection for Ku-ring-gai Council as an interested party and a copy of the policy must be submitted to Council prior to the commencement of any development (including demolition) or prior to the issue of the Construction Certificate (whichever comes first). The policy must be valid for the entire period that the works are being undertaken on public land.

**Note:** Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

**Reason:** To ensure the community is protected from the cost of any claim for damages arising from works on public land.

**47. Section 94 contribution – residential development**

A contribution for each additional dwelling is payable pursuant to section 94 of the Environmental Planning and Assessment Act as specified in Ku-ring-gai Section 94 Contributions Plan 2004-2009 for the services detailed in column A and for the amount detailed in Column B is required.

| Column A                                 | Column B  |
|--|-----------|
| community facilities                     | \$1117.76 |
| park acquisition and embellishment works | \$4723.00 |
| sportsgrounds works                      | \$1318.32 |
| aquatic / leisure centres                | \$27.82   |
| traffic and transport                    | \$150.28  |
| section 94 Plan administration           | \$100.04  |

**Total contribution payable :** **\$443,333.04**

The contribution shall be paid to Council prior to the commencement of any development (including demolition) or prior to the issue of the Construction Certificate (whichever comes first). 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. Prior to payment, you are advised to check the contribution amount required with Council.

**Reason:** To ensure 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 the development.

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**48. Underground services**

All electrical services (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point. Undergrounding of services must not disturb the root system of existing trees and shall be undertaken in accordance with the requirements of the relevant service provided. Documentary evidence that the relevant service provider has been consulted and that their requirements have been met are to be provided to the Certifying Authority prior to the issue of the Construction Certificate. All electrical and telephone services to the subject property must be placed underground and any redundant poles are to be removed at the expense of the applicant.

**Reason:** To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground.

**CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES:**

**49. Approved plans to be on site**

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

**Reason:** To ensure that the development is in accordance with the determination of Council.

**50. Prescribed conditions**

The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation. For the purposes of section 80A (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- The work must be carried out in accordance with the requirements of the Building Code of Australia,
- In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any works commence.

**Reason:** Statutory requirement.

**51. Statement of compliance with Australian Standards**

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposal contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of any works.

**Reason:** To ensure compliance with the Australian Standards.



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**52. Demolition, excavation and construction work hours**

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12.00pm Saturday, except with express written approval from Council for out of hours work. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 9.00am and 4.00pm Monday to Friday, with regular breaks of 15 minutes each hour.

**Reason:** To ensure reasonable standards of amenity to neighbouring properties.

**53. Construction noise**

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with the recommendations of the approved noise and vibration management plan.

**Reason:** To ensure reasonable standards of amenity to neighbouring properties.

**54. Site notice**

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

**Reason:** To ensure public safety and public information.

**55. Dust control**

During excavation, demolition and construction, adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

- physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but

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- should not be wet to the extent that run-off occurs
- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out daily

**Reason:** To protect the environment and amenity of surrounding properties.

**56. Use of road or footpath**

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from 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.

**Reason:** To ensure safety and amenity of the area.

**57. Guarding excavations**

All excavation, demolition and construction works shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

**Reason:** To ensure public safety.

**58. Toilet facilities**

During excavation, demolition and construction phases, toilet facilities are to be provided, on the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

**Reason:** Statutory requirement.

**59. Protection of public places**

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

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

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

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

**Reason:** To protect public places.

**60. Construction signage**

All construction signs must comply with the following requirements:

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- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m<sup>2</sup>
- are removed within 14 days of the completion of all construction works

**Reason:** To ensure compliance with Council's controls regarding signage.

**61. Erosion control**

Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be maintained in working order during construction works up to completion. 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.

**Reason:** To protect the environment from erosion and sedimentation.

**62. Tree protection fencing**

To preserve the following tree/s, no work shall commence until the area beneath their canopy is fenced off at the specified radius from the trunk/s 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.

**Schedule**

**Tree/location**

**Radius from trunk**

|   |  |
|---|--|
| #7 <i>Cedrus deodar</i> (Himalayan Cedar)<br>Adjacent to northern site boundary in neighbouring property. | Along rear site boundary               |
| #8 <i>Cedrus deodar</i> (Himalayan Cedar)<br>Adjacent to northern site boundary in neighbouring property  | Along rear site boundary               |
| #9 <i>Cedrus deodar</i> (Himalayan Cedar)<br>Adjacent to northern site boundary in neighbouring property  | Along rear site boundary               |
| #10 <i>Cedrus deodar</i> (Himalayan Cedar)<br>Adjacent to northern site boundary in neighbouring property | Along rear site boundary               |
| #11 <i>Cedrus deodar</i> (Himalayan Cedar)<br>Adjacent to northern site boundary in neighbouring property | Along rear site boundary               |
| #20 <i>Quercus robur</i> (English Oak)<br>Boyd St road reserve  | 1.5m on western side<br>6.0m elsewhere |
| #21 <i>Eucalyptus robusta</i> (Swamp Mahogany)<br>Boyd St road reserve                                    | 3.0m                                   |
| #22 <i>Cedrus deodar</i> (Himalayan Cedar)  | 4.0m                                   |

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**Schedule**

| Tree/location                                    | Radius from trunk |
|--|-------------------|
| Boyd St road reserve                             |                   |
| #23 <i>Pittosporum undulatum</i> (Native Daphne) | 4.0m              |
| Boyd St road reserve                             |                   |
| #24 <i>Jacaranda mimosifolia</i> (Jacaranda)     | 2.0m              |
| Adjacent to south-east site corner               |                   |
| #27 <i>Jacaranda mimosifolia</i> (Jacaranda)     | 5.0m              |
| Adjacent to southern site boundary               |                   |
| #27a <i>Eucalyptus saligna</i> (Bluegum)         | 2.0m              |
| Boyd St nature strip                             |                   |
| #28 <i>Michelia figo</i> (Port Wine Magnolia)    | 4.0m              |
| Adjacent to southern site boundary               |                   |
| #28a <i>Eucalyptus saligna</i> (Bluegum)         | 2.0m              |
| Boyd St nature strip                             |                   |
| #29 <i>Lagerstroemia indica</i> (Crepe Myrtle)   | 4.0m              |
| Adjacent to south-west site corner               |                   |

**Reason:** To protect existing trees during the construction phase.

**63. Tree protection signage**

Prior to works commencing, tree protection signage is to be attached to each tree protection zone, displayed in a prominent position and the sign repeated at 10 metres intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:

- tree protection zone
- this fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted
- any encroachment not previously approved within the tree protection zone shall be the subject of an arborist's report
- the arborist's report shall provide proof that no other alternative is available
- the arborist's report shall be submitted to the Principal Certifying Authority for further consultation with Council
- The name, address, and telephone number of the developer.

**Reason:** To protect existing trees during the construction phase.

**64. Tree protection – avoiding soil compaction**

To preserve the following tree/s and avoid soil compaction, no work shall commence until temporary measures to avoid soil compaction (eg rumble boards) beneath the canopy of the following tree/s is/are installed:

**Schedule**

| Tree/Location                          |
|--|
| #20 <i>Quercus robur</i> (English Oak) |
| Boyd St road reserve                   |

**Reason:** To protect existing trees during the construction phase.

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**65. Tree fencing inspection**

Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with all relevant conditions.

**Reason:** To protect existing trees during the construction phase.

**66. Engineering fees**

For the purpose of any development related inspections by Ku-ring-gai 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.

**Reason:** To protect public infrastructure.

**67. Post-construction dilapidation report**

The applicant shall engage a suitably qualified person to prepare a post construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads. The report is to be submitted to the Principal Certifying Authority. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Principal Certifying Authority must:

- compare the post-construction dilapidation report with the pre-construction dilapidation report
- have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.

A copy of this report is to be forwarded to Council at the completion of the construction works.

**Reason:** Management of records.

**68. Further geotechnical input**

The geotechnical and hydro-geological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report submitted prior to commencement of works. Over the course of the works, a qualified geotechnical/hydro-geological 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

**Reason:** To ensure the safety and protection of property.

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**69. Compliance with submitted geotechnical report**

A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee excavation.

Geotechnical aspects of the development work, namely:

- appropriate excavation method and vibration control
- support and retention of excavated faces
- hydro-geological considerations

must be undertaken in accordance with the recommendations of the geotechnical report submitted prior to commencement of works. Approval must be obtained from all affected property owners, including Ku-ring-gai Council, where rock anchors (both temporary and permanent) are proposed below adjoining property(ies).

**Reason:** To ensure the safety and protection of property.

**70. Approval for rock anchors**

Approval is to be obtained from the property owner for any anchors proposed beneath adjoining private property. If such approval cannot be obtained, then the excavated faces are to be shored or propped in accordance with the recommendations of the geotechnical and structural engineers.

**Reason:** To ensure the ongoing safety and protection of property.

**71. Maintenance period for works in the public road**

A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.

**Reason:** To protect public infrastructure.

**72. Road reserve safety**

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

**Reason:** To ensure safe public footways and roadways during construction.

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**73. Road repairs necessitated by excavation and construction works**

It is highly likely that damage will be caused to the roadway at or near the subject site as a result of the construction (or demolition or excavation) works. The applicant, owner and builder (and demolition or excavation contractor as appropriate) will be held responsible for repair of such damage, regardless of the Infrastructure Restorations Fee paid (this fee is to cover wear and tear on Council's wider road network due to heavy vehicle traffic, not actual major damage).

Section 102(1) of the Roads Act states "A person who causes damage to a public road...is liable to pay to the appropriate roads authority the cost incurred by that authority in making good the damage."

Council will notify when road repairs are needed, and if they are not carried out within 48 hours, then Council will proceed with the repairs, and will invoice the applicant, owner and relevant contractor for the balance.

**Reason:** To protect public infrastructure.

**74. Services**

Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of eth development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

**Reason:** Access to public utilities.

**75. Temporary rock anchors**

If the use of temporary rock anchors extending into the road reserve is proposed, then approval must be obtained from Council and/or the Roads and Traffic Authority in accordance with Section 138 of the Roads Act 1993. The Applicant is to submit details of all the work that is to be considered, and the works are not to commence until approval has been granted. The designs are to include details of the following:

- How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road
- That the locations of the rock anchors are registered with Dial Before You Dig
- That approval of all utility authorities likely to use the public road has been obtained. All temporary rock anchors are located outside the allocations for the various utilities as adopted by the Streets Opening Conference.
- That any remaining de-stressed rock anchors are sufficiently isolated from the structure that they cannot damage the structure if pulled during future excavations or work in the public road.
- That signs will be placed and maintained on the building stating that de-stressed rock anchors remain in the public road and include a contact number for the building manager. The signs are to be at least 600mm x 450mm with lettering on the signs is to be no less than

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75mm high. The signs are to be at not more than 60m spacing. At least one sign must be visible from all locations on the footpath outside the property. The wording on the signs is to be submitted to Council's Director Technical Services for approval before any signs are installed.

Permanent rock anchors are not to be used where any part of the anchor extends outside the development site into public areas or road reserves.

All works in the public road are to be carried out in accordance with the Conditions of Construction issued with any approval of works granted under Section 138 of the Roads Act 1993.

**Reason:** To ensure the ongoing safety and protection of property.

**76 Erosion control**

Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be maintained in working order during construction works up to completion. 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.

**Reason:** To protect the environment from erosion and sedimentation.

**77. Drainage to street**

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the street drainage system. New drainage line connections to the street drainage system shall conform and comply with the requirements of Sections 5.3 and 5.4 of Ku-ring-gai Water Management Development Control Plan No. 47.

**Reason:** To protect the environment.

**78. Grated drain at garage**

A 200mm wide grated channel/trench drain, with a heavy-duty removable galvanised grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.

**Reason:** Stormwater control.

**79. Sydney Water Section 73 Compliance Certificate**

The applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing CoOrdinator. The applicant is to refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-develop" 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 Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

**Reason:** Statutory requirement.



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**CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE:**

**80. Compliance with BASIX Certificate**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No. 146624M have been complied with.

**Reason:** Statutory requirement.

**81. Clotheslines and clothes dryers**

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that the units either have access to an external clothes line located in common open space or have a mechanical clothes dryer installed.

**Reason:** To provide access to clothes drying facilities.

**82. Mechanical ventilation**

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that all mechanical ventilation systems are installed in accordance with Part F4.5 of the Building Code of Australia and comply with Australian Standards AS1668.2 and AS3666 Microbial Control of Air Handling and Water Systems of Building.

**Reason:** To ensure adequate levels of health and amenity to the occupants of the building.

**83. Fire safety certificate**

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a Fire Safety Certificate for all the essential fire or other safety measures forming part of this consent has been completed and provided to Council.

**Note:** A copy of the Fire Safety Certificate must be submitted to Council.

**Reason:** To ensure suitable fire safety measures are in place.

**84. Retention and re-use positive covenant**

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" and to the satisfaction of Council (refer to appendices of Ku-ring-gai Water Management Development Control Plan No. 47). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

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Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

**Reason:** To protect the environment.

**85. Provision of copy of OSD designs if Council is not the PCA**

Prior to issue of the Occupation Certificate, the following must be provided to Council's Development Engineer:

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

**Reason:** For Council to maintain its database of as-constructed on-site stormwater detention systems.

**86. Certification of drainage works**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans
- the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Water Management Development Control Plan No. 47 respectively, have been achieved
- retained water is connected and available for use
- basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and Appendix 7.1.1 of Ku-ring-gai Water Management Development Control Plan No. 47
- all grates potentially accessible by children are secured
- components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2003 and the Building Code of Australia
- all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices

The rainwater certification sheet contained in Appendix 13 of the Ku-ring-gai Water Management Development Control Plan No. 47, must be completed and attached to the certification. Where an on-site detention system has been constructed, the on-site detention certification sheet contained in Appendix 4 of DCP 47 must also be completed and attached to the certification.

**Note:** Evidence from a qualified and experienced consulting civil/hydraulic engineer documenting compliance with the above is to be provided to Council prior to the issue of an Occupation Certificate.

**Reason:** To protect the environment.

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**87. WAE plans for stormwater management and disposal (dual occupancy and above)**

Prior to issue of the Occupation Certificate, a registered surveyor must provide a works as executed survey of the completed stormwater drainage and management systems. The survey must be submitted to and approved by the Principal Certifying Authority prior to issue of the Occupation Certificate. The survey must indicate:

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

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

**Reason:** To protect the environment.

**88. Basement pump-out maintenance**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a maintenance regime has been prepared for the basement stormwater pump-out system.

**Note:** A maintenance regime specifying that the system is to be regularly inspected and checked by qualified practitioners is to be prepared by a suitable qualified professional and provided to the Principal Certifying Authority.

**Reason:** To protect the environment.

**89. OSD positive covenant/restriction**

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council (refer to appendices of Ku-ring-gai Council Water Management DCP 47). For existing titles, the positive covenant and the restriction on the use of land is to be created through an

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application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the on-site detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents, showing the covenants and restrictions, must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

**Reason:** To protect the environment.

**90. Sydney Water Section 73 Compliance Certificate**

Prior to issue of an Occupation Certificate the Section 73 Sydney water Compliance Certificate must be obtained and submitted to the Principal Certifying Authority

**Reason:** Statutory requirement.

**91. Certification of as-constructed driveway/car park – RFB**

Prior to issue of an Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the as-constructed car park complies with the approved Construction Certificate plans
- the completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” in terms of minimum parking space dimensions
- finished driveway gradients and transitions will not result in the scraping of the underside of cars
- no doors, gates, grilles or other structures have been provided in the access driveways to the basement car park, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area
- the vehicular headroom requirements of:
  - Australian Standard 2890.1 – “Off-street car parking”,
  - 2.44 metres height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement car park.

**Note:** Evidence from a suitably qualified and experienced traffic/civil engineer indicating compliance with the above is to be provided to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

**Reason:** To ensure that vehicular access and accommodation areas are compliant with the consent.

**92. Reinstatement of redundant crossings and completion of infrastructure works**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that the following works in the road reserve have been completed:

- new concrete driveway crossing in accordance with levels and specifications issued by Council
- removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter

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(reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials)

- full repair and resealing of any road surface damaged during construction
- full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing

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

**Reason:** To protect the streetscape.

**93. Construction of works in public road – approved plans**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that all approved road, footpath and/or drainage works have been completed in the road reserve in accordance with the Council Roads Act approval and accompanying drawings, conditions and specifications.

The works must be supervised by the applicant's designing engineer and completed and approved to the satisfaction of Ku-ring-gai Council.

The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved stamped drawings. The works must be subject to inspections by Council at the hold points noted on the Roads Act approval. All conditions attached to the approved drawings for these works must be met prior to the Occupation Certificate being issued.

**Reason:** To ensure that works undertaken in the road reserve are to the satisfaction of Council.

**CONDITIONS TO BE SATISFIED AT ALL TIMES:**

**94. Outdoor lighting**

At all times for the life of the approved development, all outdoor lighting shall not detrimentally impact upon the amenity of other premises and adjacent dwellings and shall comply with, where relevant, AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

**Reason:** To protect the amenity of surrounding properties.

**95. Noise control – plant and machinery**

All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when

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measured at the nearest boundary.

**Reason:** To protect the amenity of surrounding residents.

**96. Car parking**

At all times, the visitor car parking spaces are to be clearly identified and are to be for the exclusive use of visitors to the site. On site permanent car parking spaces are not to be used by those other than an occupant or tenant of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee of the building.

These requirements are to be enforced through the following:

- restrictive covenant placed on title pursuant to Section 88B of the Conveyancing Act, 1919
- restriction on use under Section 68 of the Strata Schemes (Leasehold Development) Act, 1986 to all lots comprising in part or whole car parking spaces

**Reason:** To ensure adequate provision of visitor parking spaces.

**97. Mechanical ventilation**

Following completion, installation and testing of all the mechanical ventilation systems, the Principal Certifying Authority shall be satisfied of the following prior to the issue of any Occupation Certificate:

1. The installation and performance of the mechanical systems complies with:
  - the Building Code of Australia
  - Australian Standard AS1668
  - Australian Standard AS3666 where applicable
2. The mechanical ventilation system in isolation and in association with other mechanical ventilation equipment, when in operation will not be audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest adjoining boundary.

**Note:** Written confirmation from an acoustic engineer that the development achieves the above requirements is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

**Reason:** To protect the amenity of surrounding properties.

**98. Accessibility**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that:

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2
- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are

Item 1

- raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 – 1993
- the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

**Reason:** Disabled access & services.

**99. Completion of landscape works**

Prior to the release of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious and/or environmental weed species, have been undertaken in accordance with the approved plan(s) and conditions of consent.

**Reason:** To ensure that the landscape works are consistent with the development consent.

**100. No door restricting internal waste collection in basement**

At all times, the basement garbage storage and collection area is to be accessible by Council's Waste Collection Services. No doors, grilles, gates or other devices shall be provided in any location which would prevent this service. Where a gate, door or the like is to be erected, unimpeded access to the garbage collection point is to be provided by other means through written agreement with Council's Waste Collection Services.

**Reason:** To ensure unrestricted access for waste collection vehicles.

**101. Railcorp condition**

The applicant shall provide an accurate survey locating the development with respect to the rail boundary end rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of RailCorp's representative.

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.

**102. Railcorp condition**

Prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from RailCorp and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of detailed dilapidation reports may be required as a result.

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.

**103. Railcorp condition**

An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with RailCorp Interim Guidelines for Applicants in the consideration of rail noise and vibration from the adjacent rail corridor.

Item 1

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.

**104. Railcorp condition**

The Applicant is to procure a report on the Electrolysis Risk to the development from stray currents, and the measures that will be taken to control the risk. The Applicant is advised to consult an Electrolysis expert. The expert's report must be submitted to RailCorp for review by the Senior Electrolysis Engineer or nominated Electrolysis Section personnel.

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.

**105. Railcorp condition**

The Applicant shall provide a Geotechnical Engineering report to RailCorp for review by RailCorps Geotechnical section prior to the commencement of works. The report shall demonstrate that the development has no negative impact on the rail corridor or the integrity of the infrastructure through its loading and ground deformation and shall contain structural design details/analysis for review by RailCorp. The report shall include the potential impact of demolition and excavation, and demolition- and excavation-induced vibration in rail facilities, and loadings imposed on RailCorp Facilities by the development

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.

**106. Railcorp condition**

During all stages of the development environmental legislation and regulations will be complied with.

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.

**107. Railcorp condition**

During all stages of the development extreme care shall be taken to prevent environmental harm within railway corridor. Any form of environmental harm to areas within the railway corridor or legislative non-compliance that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.

**108. Railcorp condition**

During all stages of the development extreme care shall be taken to prevent any form of pollution entering the railway corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.



Item 1

**109. Railcorp condition**

Given the site's location next to the rail corridor, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from Rail Corp.

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.

**110. Railcorp condition**

During excavation the Applicant is to observe extreme care to prevent water from collecting on or near RailCorp infrastructure. It is possible that if water were to pond adjacent to the infrastructure, services could be interrupted. If this were the case, the applicant/contractor would be liable for the RailCorp expenditure involved with restoring or maintaining alternative services.

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.

**111. Railcorp condition**

To ensure that graffiti can be easily removed, solid fencing and/or retaining walls facing the rail corridor which could be vulnerable to graffiti are to be coated with anti-graffiti paint or other similar protective coating.

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.

**112. Railcorp condition**

The existing common boundary fence is considered adequate and must remain intact throughout the construction works and thereafter. Should enhancements be desired RailCorp must be contacted to ensure adequate safety measures are taken whilst work is carried out.

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.

**113 Railcorp condition**

The developer is required to enter into an agreement with rail defining the controls to be implemented in managing the access required and/or the potential impacts of the development on RailCorp, and the involvement of RailCorp staff in ensuring appropriate the appropriate safety and technical standards are complied with throughout the development.

**Reason:** To ensure the development is carried out in accordance with Railcorp's policies for development adjacent to a rail corridor.

Item 1

D Hoy  
**Executive Assessment Officer**

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

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

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

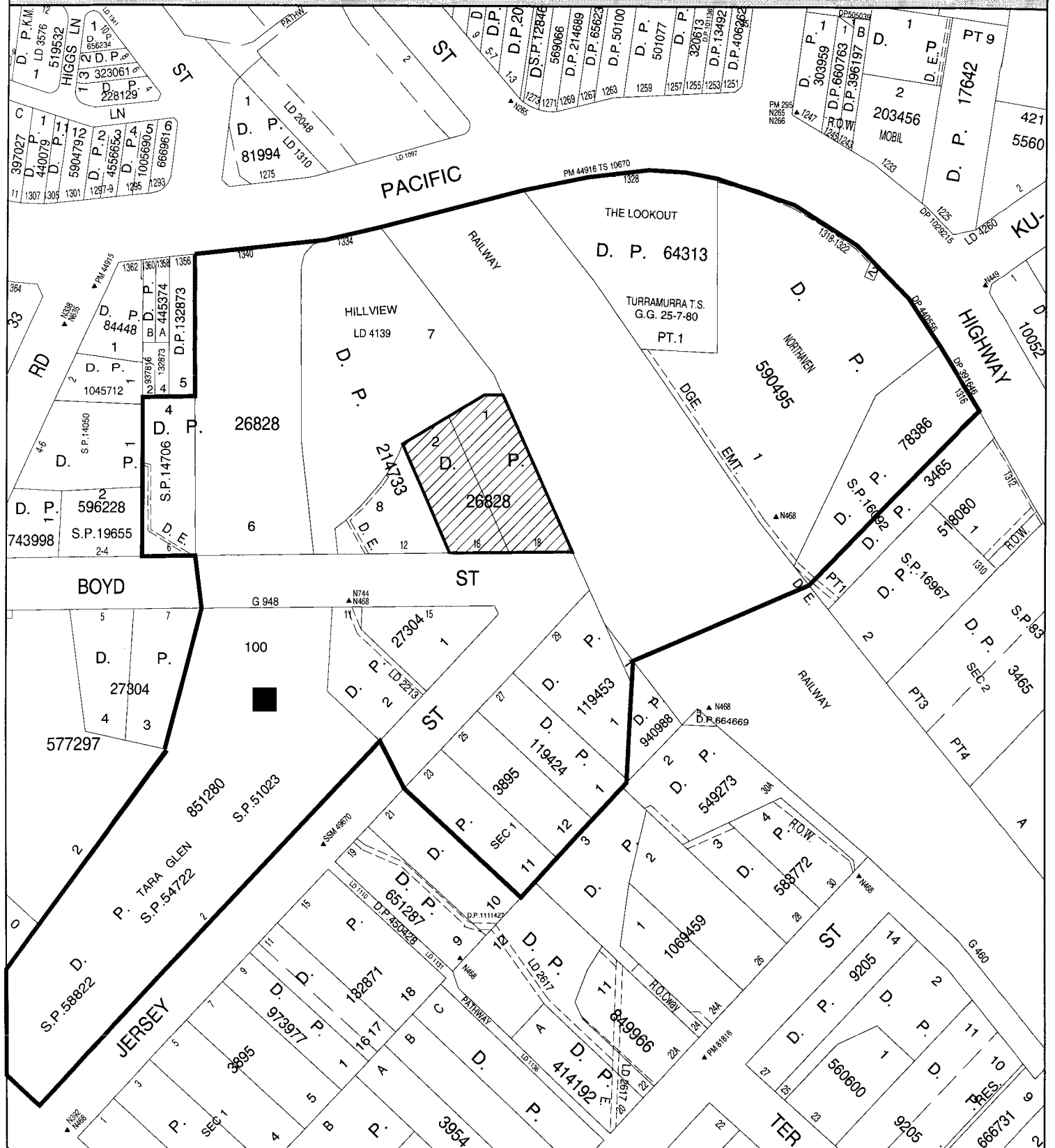
**Attachments:**

- Locality Map - 862257
- Zoning extract - 862258
- Site analysis - 862261
- Floor plans – 862284, 862285
- Basement and lower basement plans - 862282
- Elevations - 862265
- Sections - 862268
- Deep soil landscaping calculations – 862271
- Shadow Diagrams – 862275, 862277
- Landscape plan - 862274
- Development Concept for No. 12 Boyd Street - 862279

# LOCATION SKETCH

## 16 - 18 Boyd Street, TURRAMURRA

### DEVELOPMENT APPLICATION No 0821/07



Scale : 1:2000

03-12-2007



AGREEMENT

OBJECTION

SUBJECT LAND



PETITION

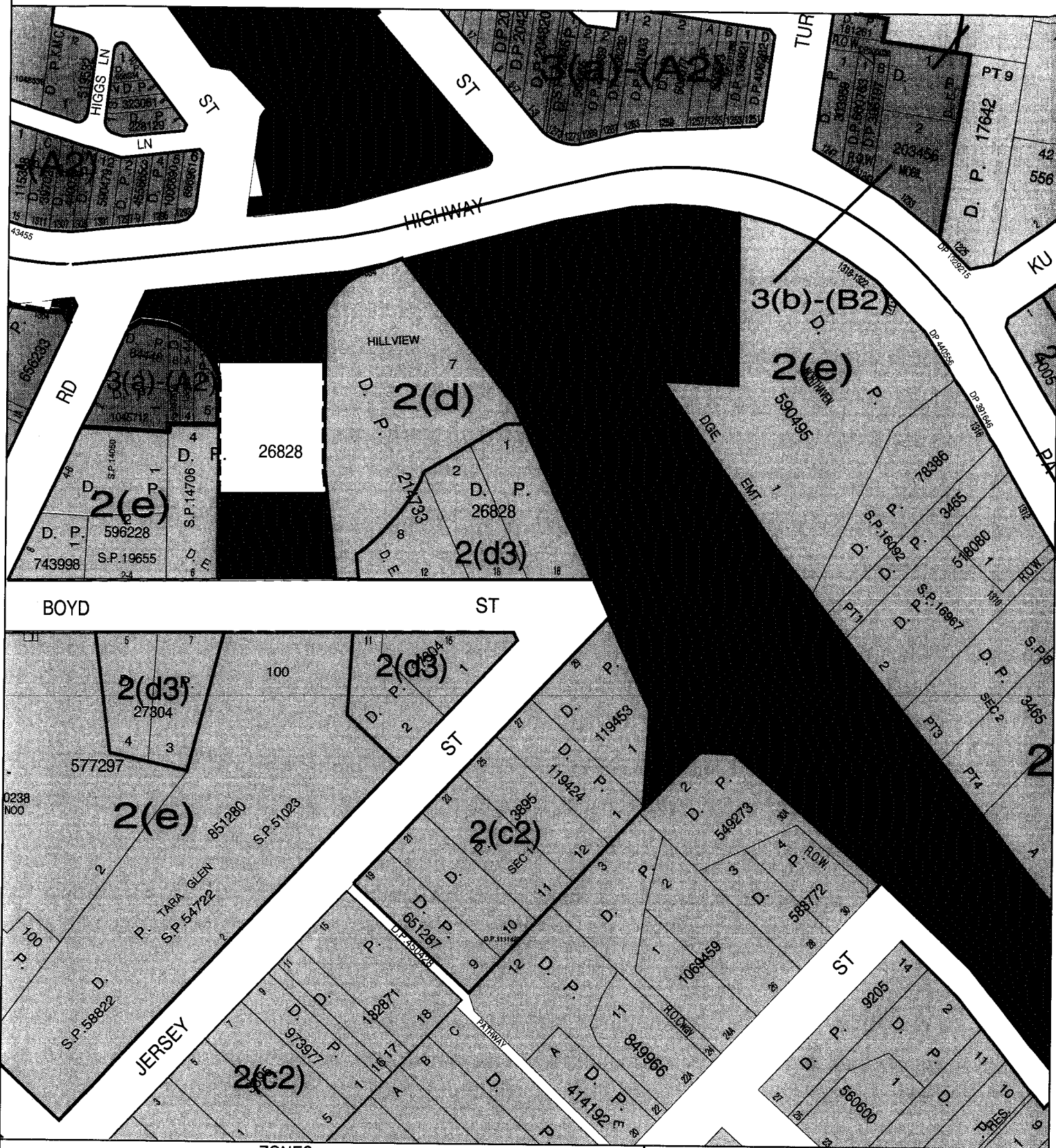
SUBMISSION

CIRCULATED AREA



# Zoning Extract

16 - 18 Boyd Street, TURRAMURRA - DA 0821/07



## ZONES

### 2. RESIDENTIAL

- (a) RESIDENTIAL A
- (b) RESIDENTIAL B
- (c) RESIDENTIAL C
- (c1) RESIDENTIAL C1
- (c2) RESIDENTIAL C2
- (d) RESIDENTIAL D
- (d3) RESIDENTIAL D3
- (e) RESIDENTIAL E
- (f) RESIDENTIAL F
- (g) RESIDENTIAL G
- (h) RESIDENTIAL H



### 3. BUSINESS

- (a) RETAIL SERVICES

#### FLOOR SPACE RATIOS

- A1 2.0:1
- A2 1.0:1
- A3 0.75:1

- (b) COMMERCIAL SERVICES

#### FLOOR SPACE RATIOS

- B1 1.0:1
- B2 1.0:1



### 5. SPECIAL USES

- (a) SPECIAL USES A (Schools etc)
- (a1) SPECIAL USES A1
- (b) SPECIAL USES (Railway)

### 6. OPEN SPACE

- (a) RECREATION EXISTING
- (b) RECREATION PRIVATE
- (c) RECREATION PROPOSED



## RESERVATIONS

### OPEN SPACE

- (a) OPEN SPACE (Public Parks & Recreation)
- (b) COUNTY OPEN SPACE

### SPECIAL USES

- SPECIAL USES (Parking etc)

### ROADS

- (a) COUNTY ROAD PROPOSED
- (b) COUNTY ROAD WIDENING
- (c) LOCAL ROAD PROPOSED
- (d) LOCAL ROAD WIDENING

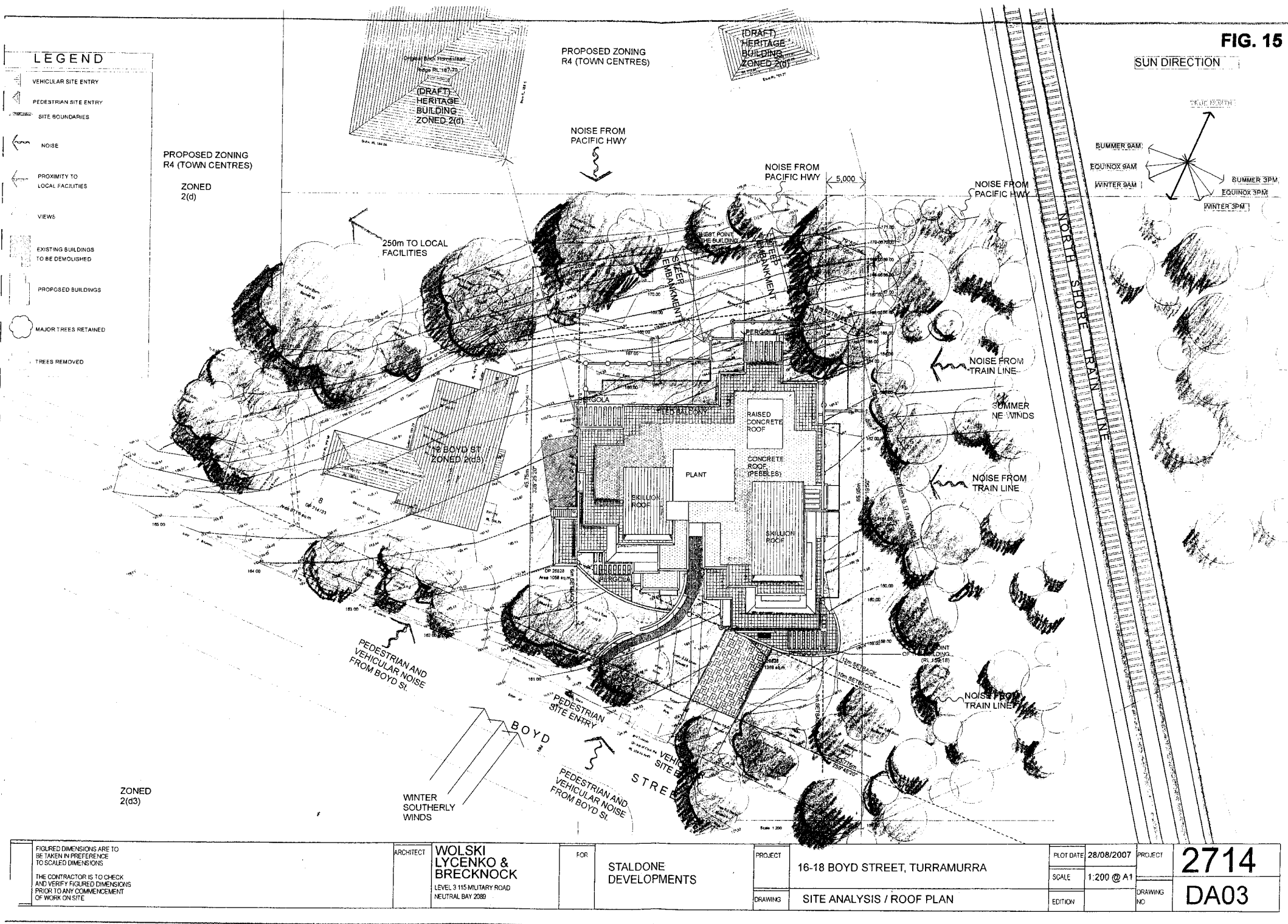
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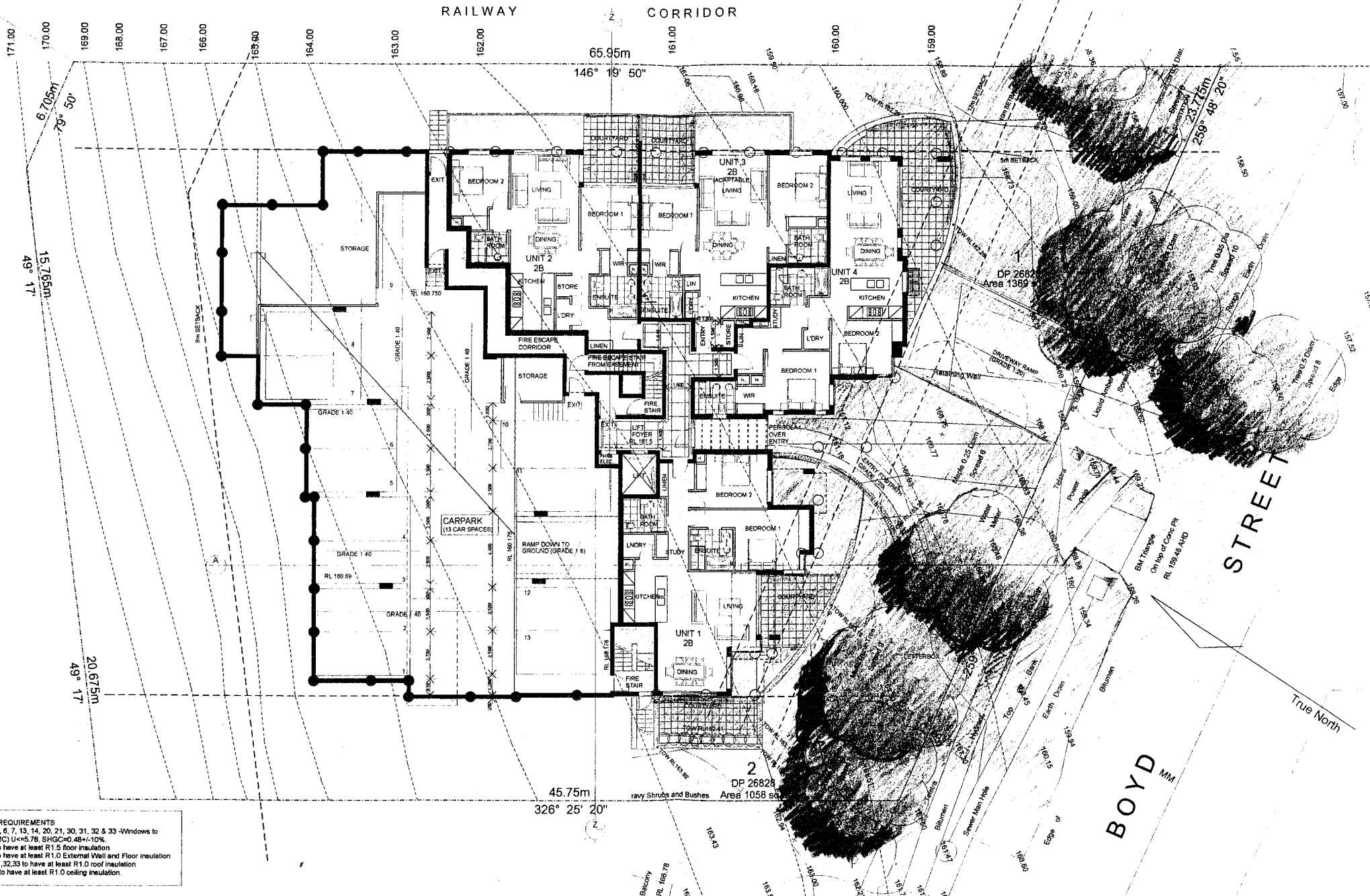
- EXISTING COUNTY ROAD
- OTHER PLANNING INSTRUMENTS



Scale:1:2000  
Date:03-12-2007

**FIG. 15**





**BASIC REQUIREMENTS**  
 Units - 1, 6, 7, 13, 14, 20, 21, 30, 31, 32 & 33 - Windows to  
 7 (NPRC) U<=5.76, SHGC<0.464<=0.0%  
 Unit 1 to have at least R1.5 floor insulation  
 Unit 4 to have at least R1.0 External Wall and Floor insulation  
 Units 31, 32, 33 to have at least R1.0 roof insulation  
 Unit 33 to have at least R1.0 ceiling insulation.

FIGURED DIMENSIONS ARE TO  
 BE TAKEN IN PREFERENCE  
 TO SCALED DIMENSIONS

THE CONTRACTOR IS TO CHECK  
 AND VERIFY FIGURED DIMENSIONS  
 PRIOR TO ANY COMMENCEMENT  
 OF WORK ON SITE

ARCHITECT **WOLSKI  
 LYCENKO &  
 BRECKNOCK**  
 LEVEL 3 115 MILITARY ROAD  
 NEUTRAL BAY 2086

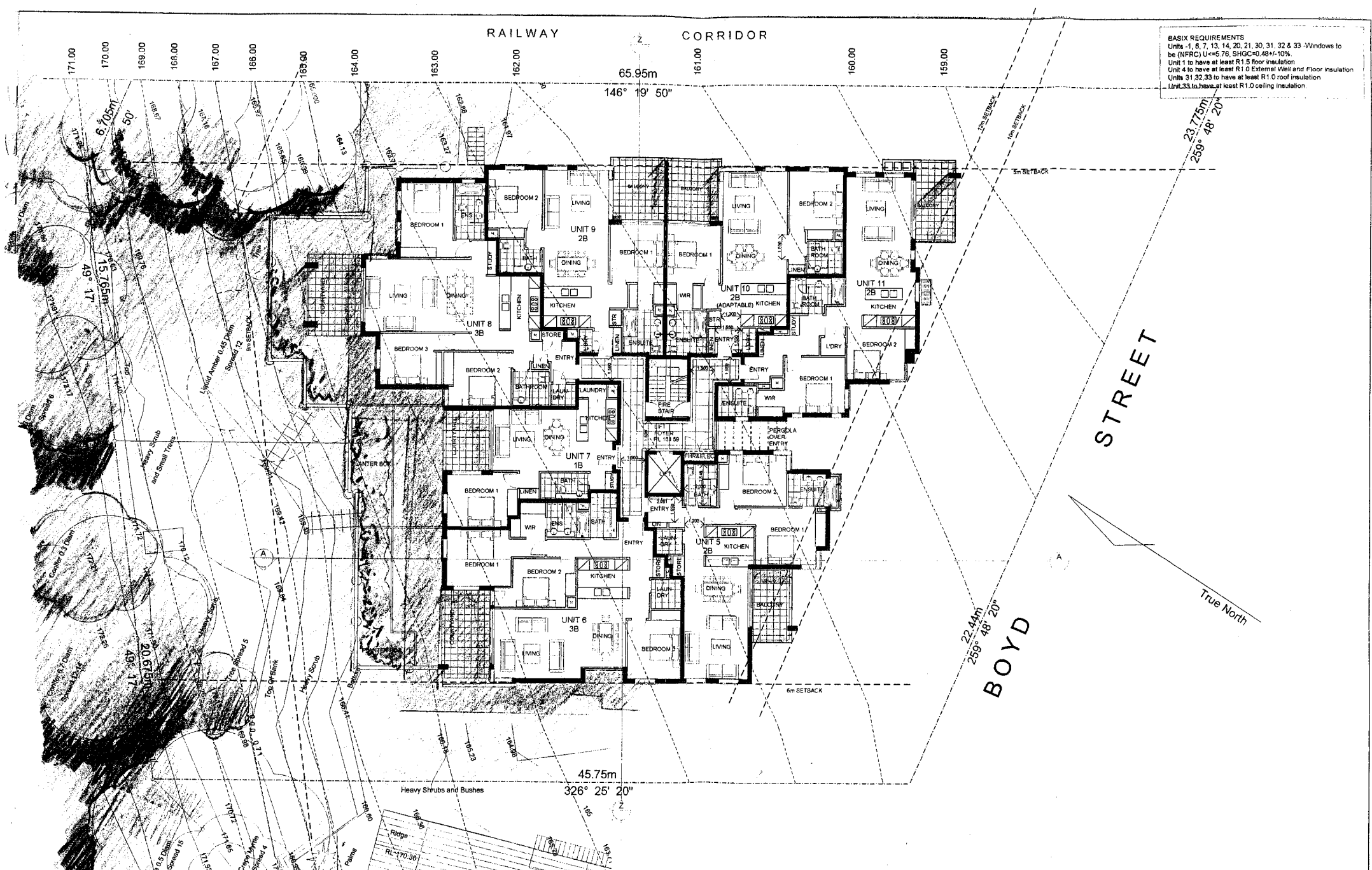
FOR **STALDONE  
 DEVELOPMENTS**

PROJECT **16-18 BOYD STREET, TURRAMURRA**  
 DRAWING **GROUND FLOOR PLAN**

PLOT DATE **28/08/2007**  
 SCALE **1:100 @ A1**  
 EDITION

PROJECT **2714**  
 DRAWING NO **DA06**





FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS  
 THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE

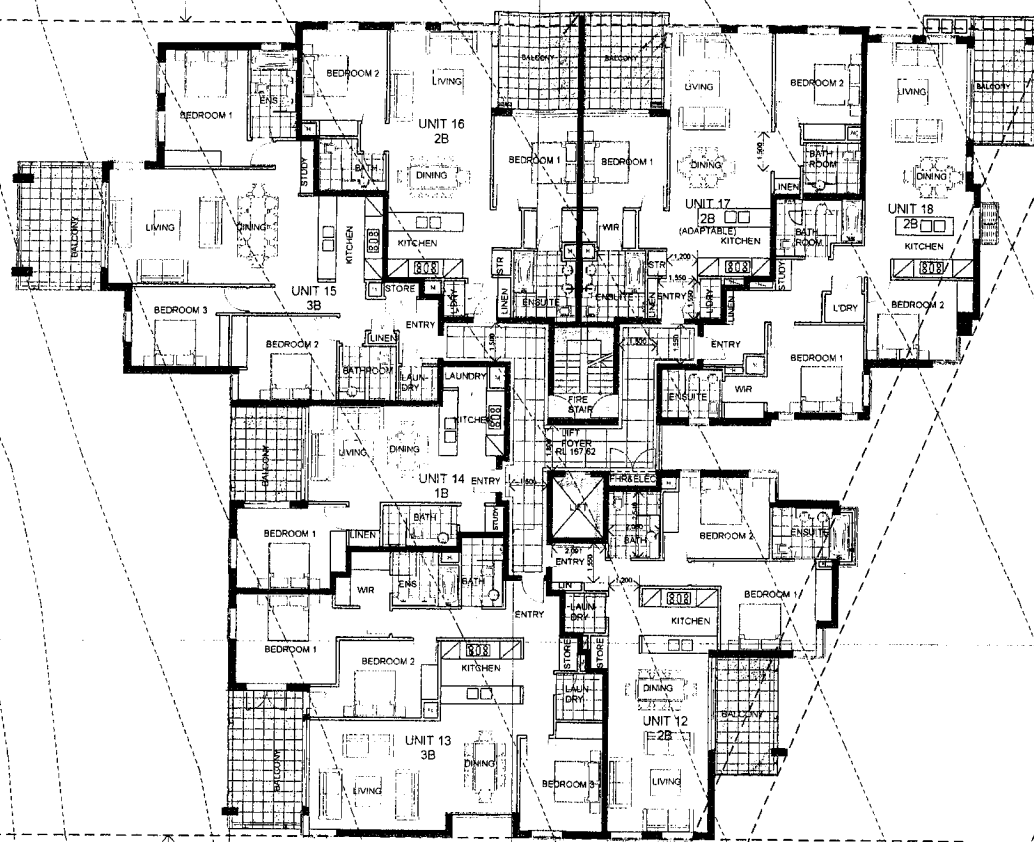
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| ARCHITECT | WOLSKI<br>LYCENKO &<br>BRECKNOCK<br>LEVEL 3 115 MILITARY ROAD<br>NEUTRAL BAY 2099 | FOR | STALDONE<br>DEVELOPMENTS | PROJECT | 16-18 BOYD STREET, TURRAMURRA |  | PLOT DATE | 28/08/2007 | PROJECT    | 2714 |
|           |   |     |                          |         | FIRST FLOOR PLAN              |  | SCALE     | 1:100 @ A1 |            |      |
| DRAWING   |   |     |                          |         |                               |  | EDITION   |            | DRAWING NO | DA07 |

**BASIX REQUIREMENTS**  
 Units -1, 6, 7, 13, 14, 20, 21, 30, 31, 32 & 33 -Windows to be (NFRCC) U<=5.76, SHGC<0.48 +/-10%  
 Unit 1 to have at least R1.5 floor insulation  
 Unit 4 to have at least R1.0 External Wall and Floor insulation  
 Units 31,32,33 to have at least R1.0 Roof insulation  
 Unit 33 to have at least R1.0 Ceiling insulation

STREET

True North

BOYD



RAILWAY CORRIDOR

FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS

THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE

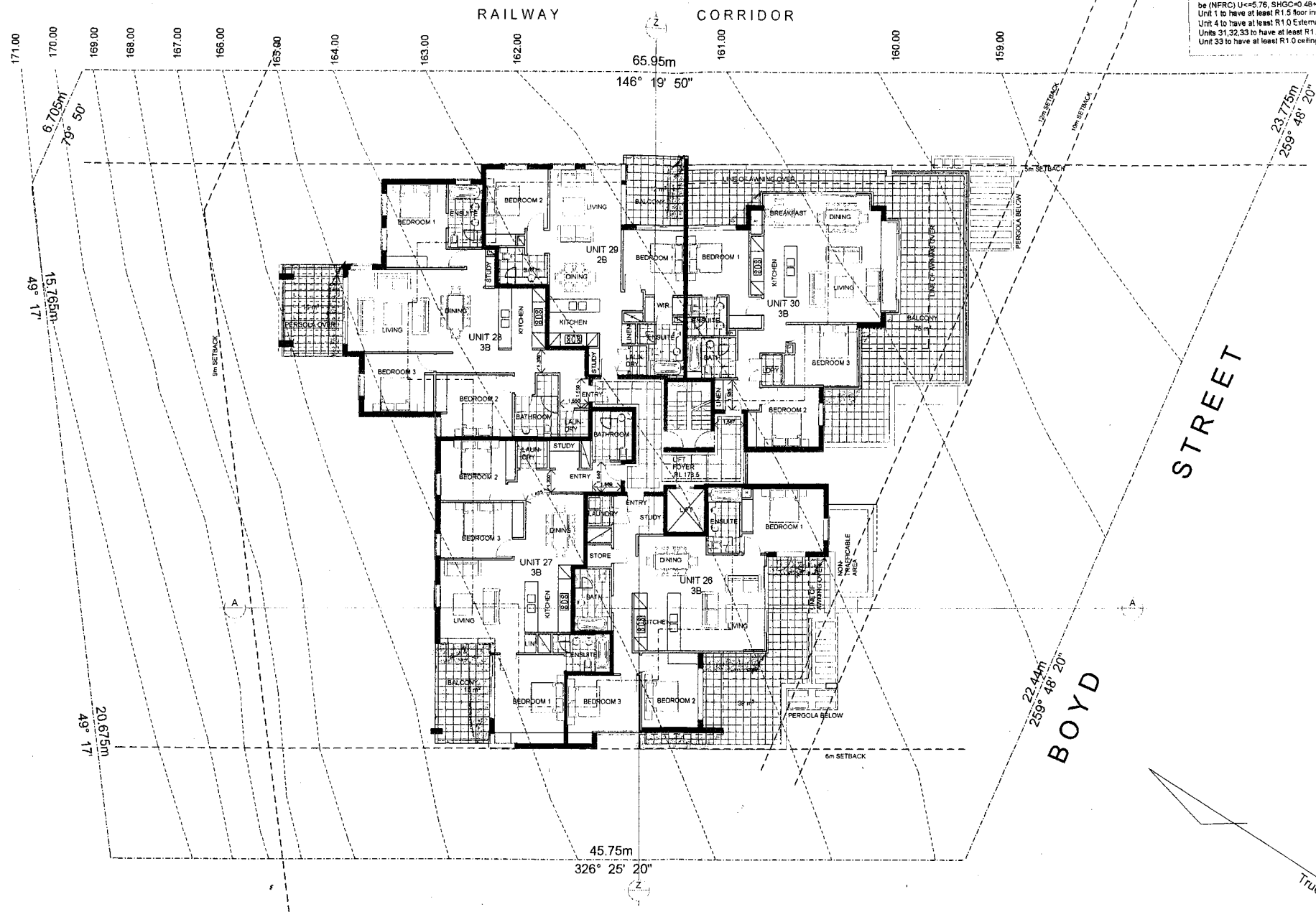
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| ARCHITECT | WOLSKI<br>LYCENKO &<br>BRECKNOCK<br>LEVEL 3 115 MILITARY ROAD<br>NEUTRAL BAY 2089 | FOR | STALDONE<br>DEVELOPMENTS | PROJECT | 16-18 BOYD STREET, TURRAMURRA |  | PLOT DATE | 28/08/2007 | PROJECT | 2714       |      |
|           |   |     |                          |         |                               |  | SCALE     | 1:100 @ A1 |         |            |      |
|           |   |     |                          |         | SECOND FLOOR PLAN             |  | EDITION   |            |         | DRAWING NO | DA08 |



[illegible]

|   |            |      |
|---|------------|------|
| 7 | PROJECT    | 2714 |
| 1 | DRAWING NO | DA09 |

**BASIC REQUIREMENTS**  
 Units -1, 6, 7, 13, 14, 20, 21, 30, 31, 32 & 33 - Windows to be (NFR) U<=5.76, SHGC<0.48 +/-10%  
 Unit 1 to have at least R1.5 floor insulation  
 Unit 4 to have at least R1.0 External Wall and Floor insulation  
 Units 31, 32, 33 to have at least R1.0 roof insulation  
 Unit 33 to have at least R1.0 ceiling insulation.



ALL DIMENSIONS ARE TO  
 1/8" PREFERENCE  
 DIMENSIONS

FOR IS TO CHECK  
 DIMENSIONS  
 DIMENSIONMENT

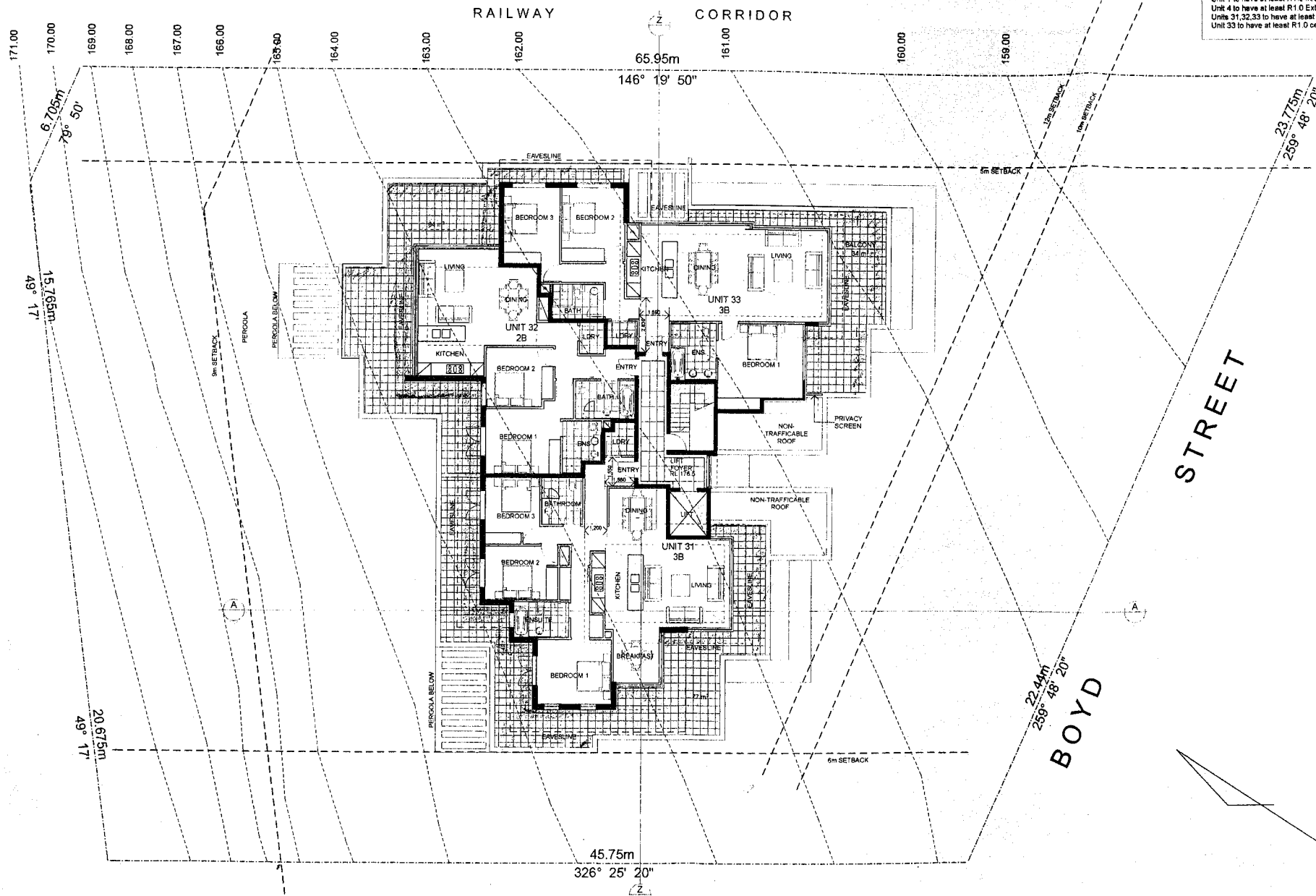
ARCHITECT  
**WOLSKI  
 LYCENKO &  
 BRECKNOCK**  
 LEVEL 3 115 MILITARY ROAD  
 NEUTRAL BAY 2088

FOR  
**STALDONE  
 DEVELOPMENTS**

PROJECT  
 16-18 BOYD STREET, TURRAMURRA  
 DRAWING  
 FOURTH FLOOR PLAN

|           |            |            |      |
|-----------|------------|------------|------|
| PLOT DATE | 28/08/2007 | PROJECT    | 2714 |
| SCALE     | 1:100 @ A1 | DRAWING NO | DA10 |
| EDITION   |            |            |      |

**BASIX REQUIREMENTS**  
 Units -1, 6, 7, 13, 14, 20, 21, 30, 31, 32 & 33 -Windows to be (NFR) U<+5.76, SHGC<0.48+/-10%  
 Unit 1 to have at least R1.5 floor insulation  
 Unit 4 to have at least R1.0 External Wall and Floor insulation  
 Units 31,32,33 to have at least R1.0 roof insulation  
 Unit 33 to have at least R1.0 ceiling insulation



FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS

THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE

ARCHITECT

**WOLSKI  
LYCENKO &  
BRECKNOCK**  
LEVEL 3 115 MILITARY ROAD  
NEUTRAL BAY 2089

FOR

**STALDONE  
DEVELOPMENTS**

PROJECT

16-18 BOYD STREET, TURRAMURRA

DRAWING

FIFTH FLOOR PLAN

PLOT DATE

28/08/2007

SCALE

1:100 @ A1

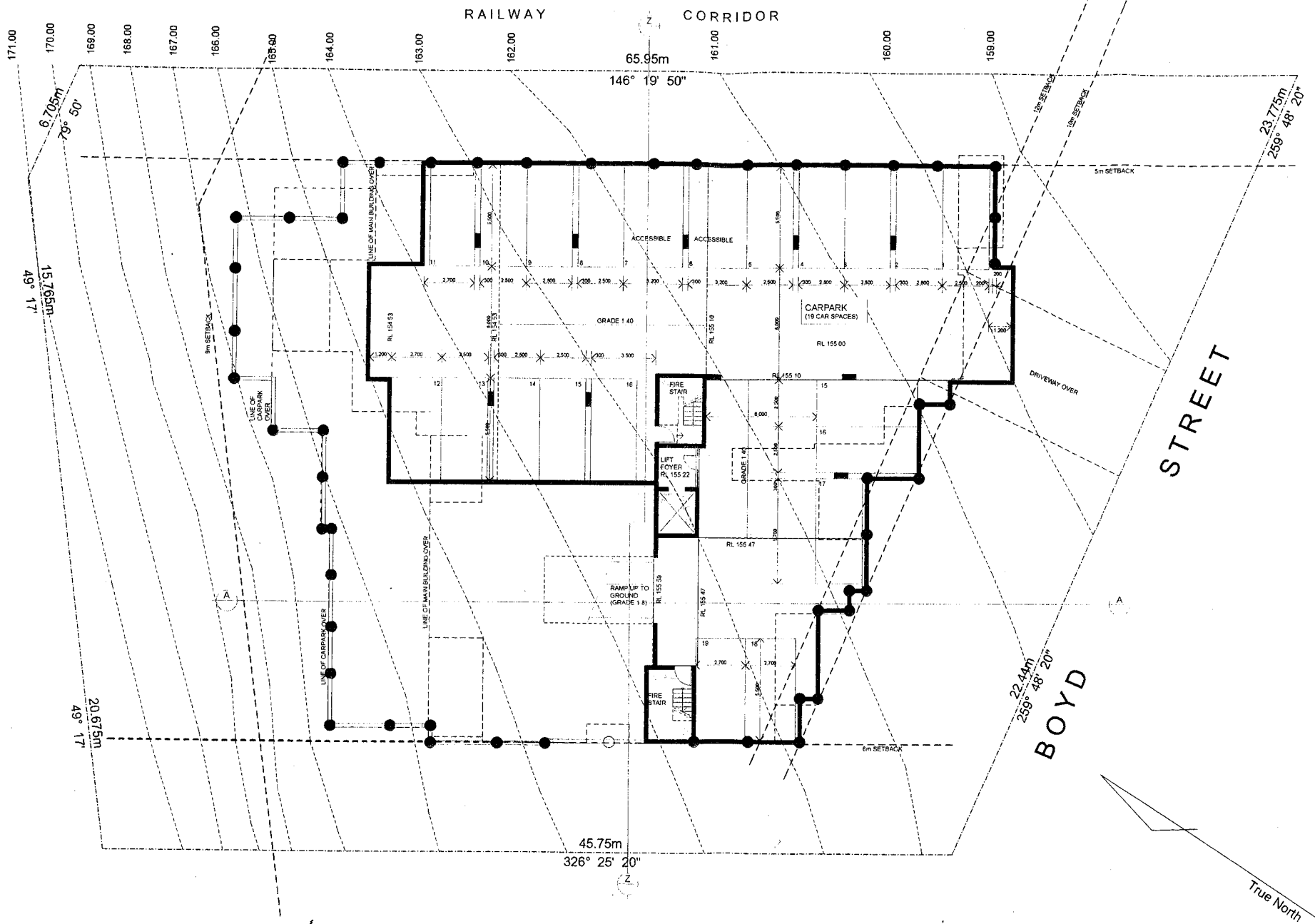
EDITION

DRAWING  
NO

**2714**

**DA11**

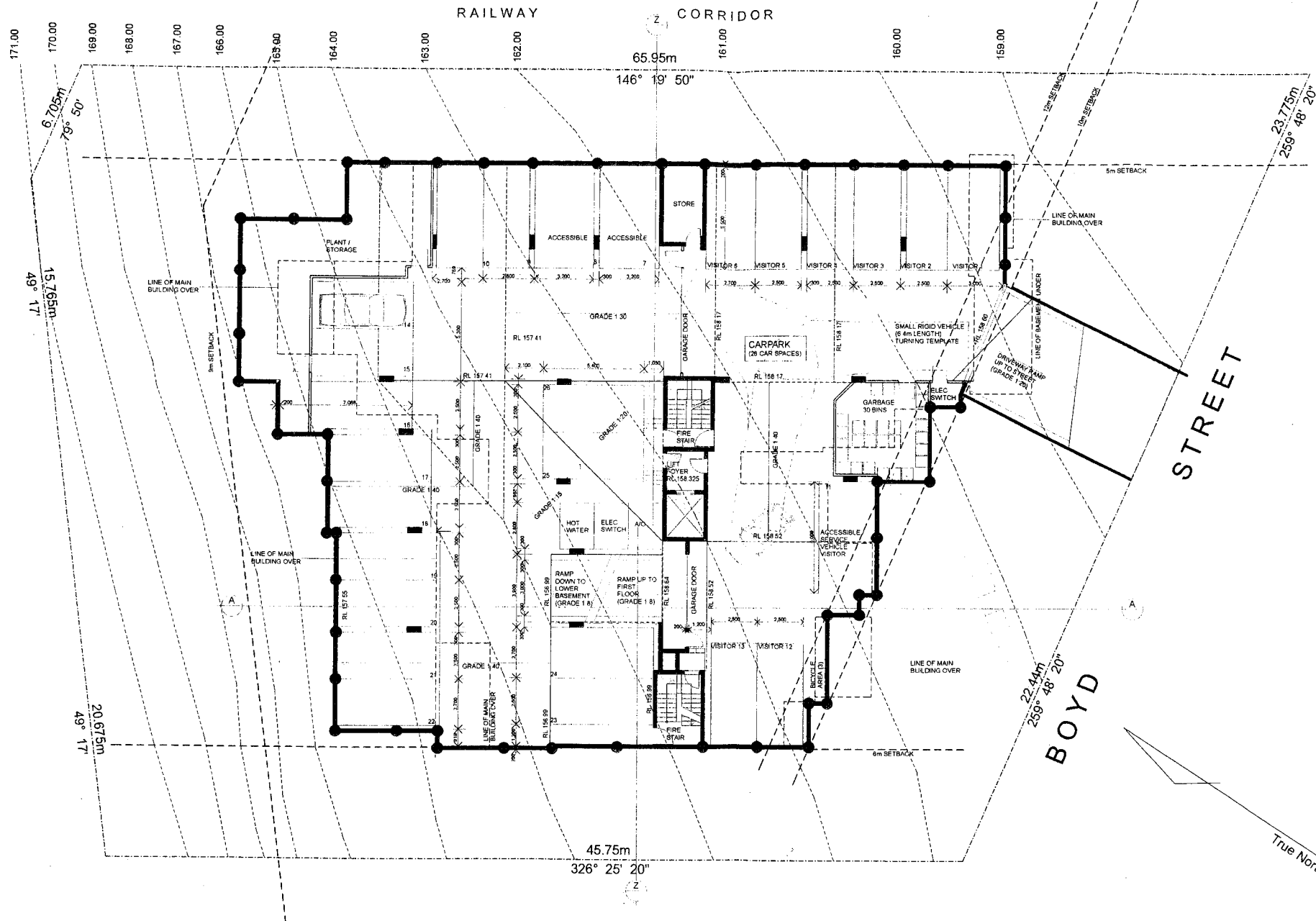
True North



FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS

THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE

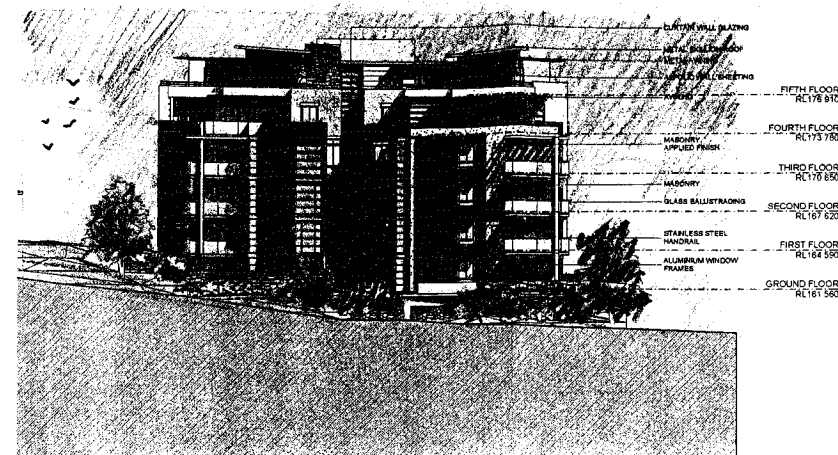
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| ARCHITECT | WOLSKI<br>LYCENKO &<br>BRECKNOCK<br><br>LEVEL 3 115 MILITARY ROAD<br>NEUTRAL BAY 2088 | FOR | STALDONE<br>DEVELOPMENTS | PROJECT | 16-18 BOYD STREET, TURRAMURRA | PLOT DATE | 28/08/2007 | PROJECT    | 2714 |
|           |   |     |                          |         |                               | SCALE     | 1:100 @ A1 |            |      |
|           |   |     |                          | DRAWING | LOWER BASEMENT                | EDITION   |            | DRAWING NO | DA04 |



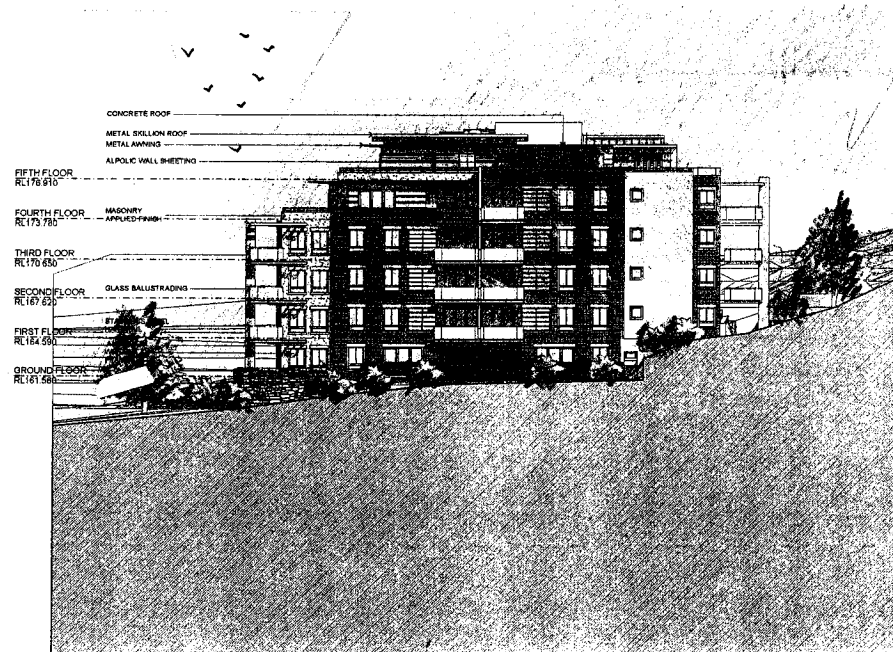
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| ARCHITECT | WOLSKI<br>LYCENKO &<br>BRECKNOCK<br>LEVEL 3 115 MILITARY ROAD<br>NEUTRAL BAY 2086 | FOR | STALDONE<br>DEVELOPMENTS | PROJECT | 16-18 BOYD STREET, TURRAMURRA | PLOT DATE | 28/08/2007 | PROJECT    | 2714 |
|           |   |     |                          | DRAWING | BASEMENT                      | SCALE     | 1:100 @ A1 | DRAWING NO | DA05 |
|           |   |     |                          | EDITION |                               |           |            |            |      |



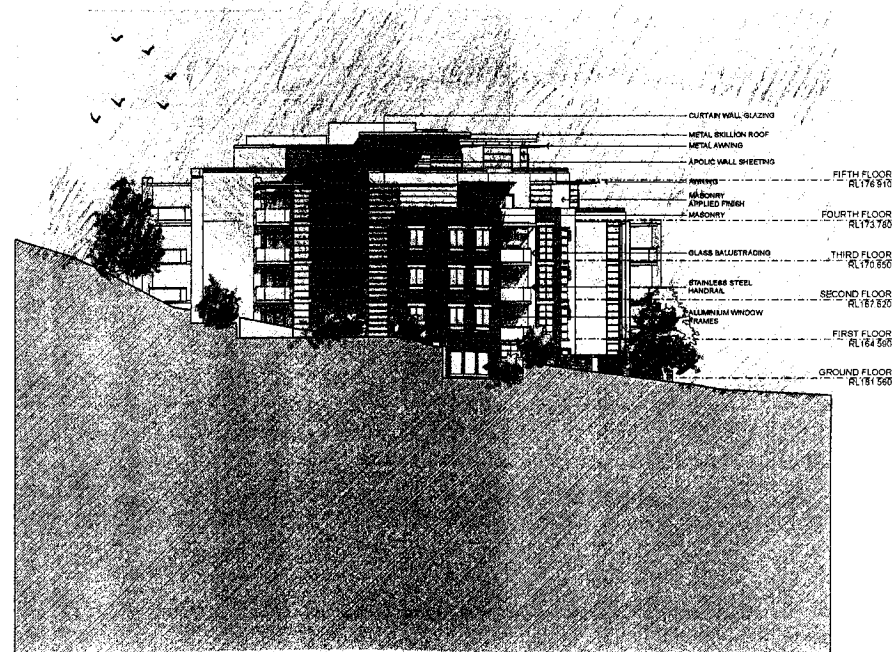
NORTH ELEVATION



SOUTH ELEVATION



EAST ELEVATION



WEST ELEVATION

FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS  
THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE

ARCHITECT

**WOLSKI  
LYCENKO &  
BRECKNOCK**  
LEVEL 3 115 MILITARY ROAD  
NEUTRAL BAY 2089

FOR

STALDONE  
DEVELOPMENTS

PROJECT  
DRAWING

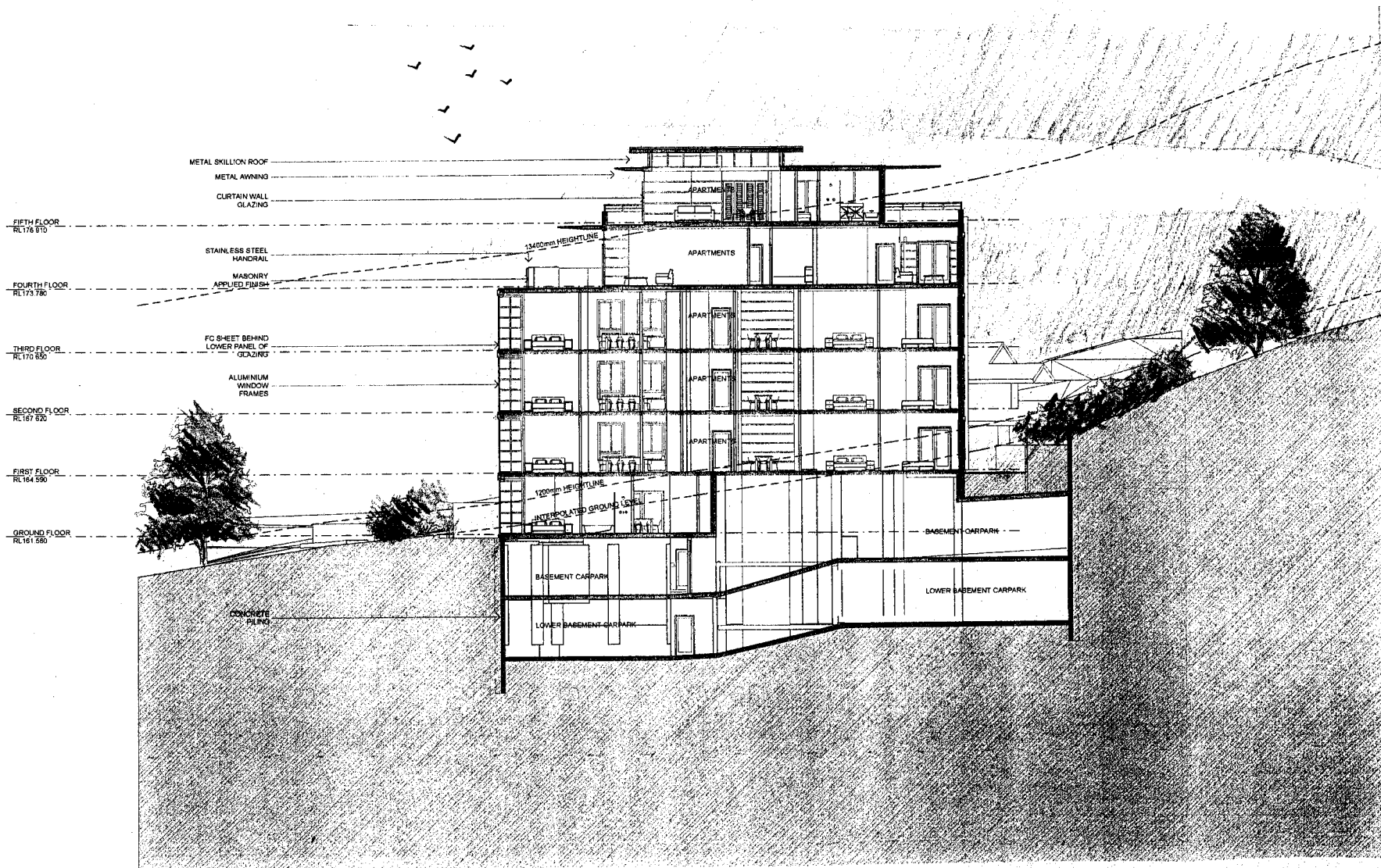
16-18 BOYD STREET, TURRAMURRA  
ELEVATIONS

PLOT DATE  
SCALE  
EDITION

28/08/2007  
1:200 @ A1

PROJECT  
DRAWING NO

**2714**  
**DA12**



FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS

THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE

ARCHITECT

**WOLSKI  
LYCENKO &  
BRECKNOCK**  
LEVEL 3 115 MILITARY ROAD  
NEUTRAL BAY 2069

FOR

**STALDONE  
DEVELOPMENTS**

PROJECT

16-18 BOYD STREET, TURRAMURRA

DRAWING

SECTION A

PLOT DATE

28/08/2007

SCALE

1:100 @ A1

EDITION

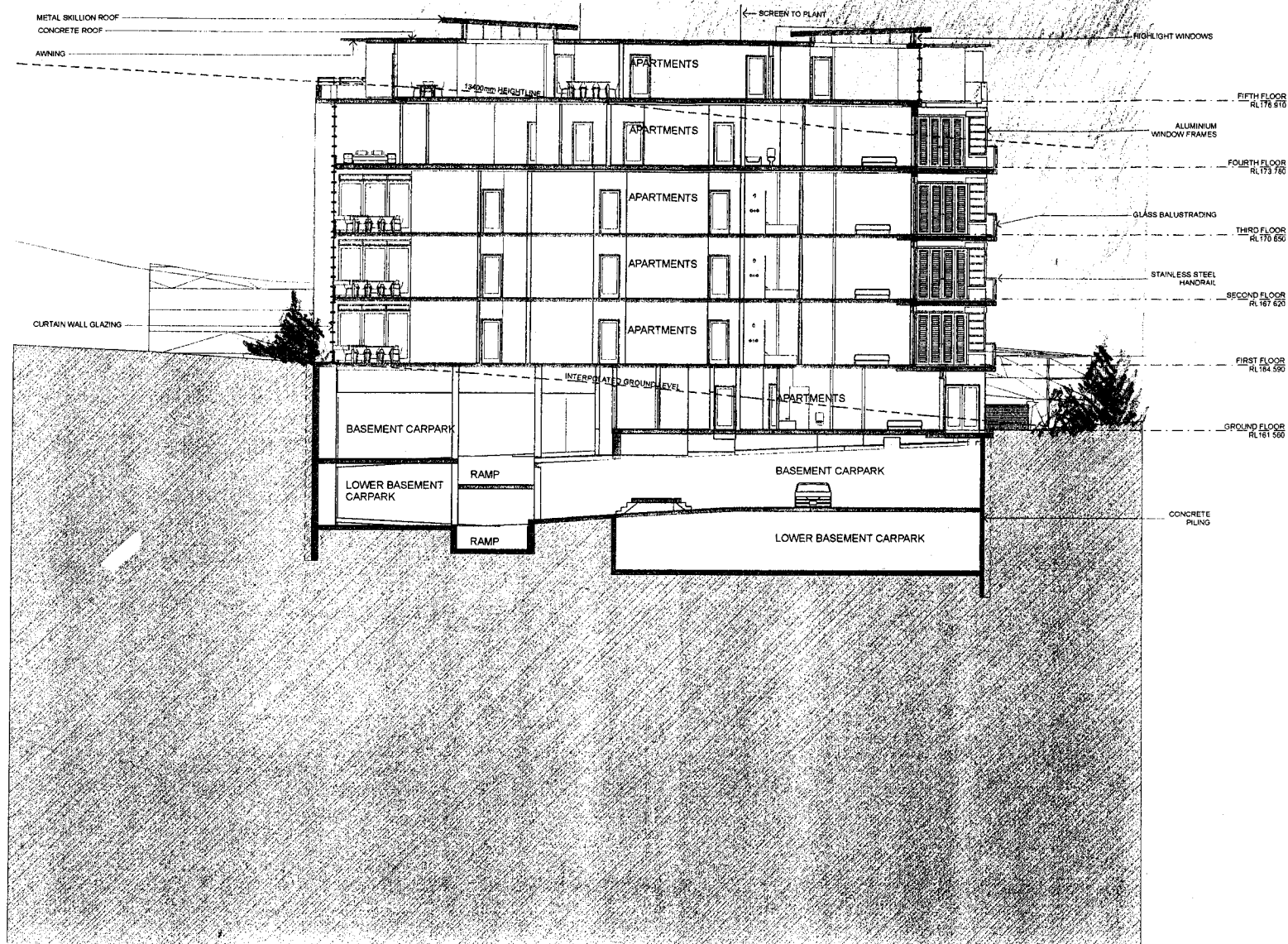
PROJECT

**2714**

DRAWING NO

**DA13**





FIGURED DIMENSIONS ARE TO  
BE TAKEN IN PREFERENCE  
TO SCALED DIMENSIONS  
THE CONTRACTOR IS TO CHECK  
AND VERIFY FIGURED DIMENSIONS  
PRIOR TO ANY COMMENCEMENT  
OF WORK ON SITE

ARCHITECT

**WOLSKI  
LYCENKO &  
BRECKNOCK**  
LEVEL 3 115 MILITARY ROAD  
NEUTRAL BAY 2089

FOR

**STALDONE  
DEVELOPMENTS**

PROJECT

16-18 BOYD STREET, TURRAMURRA

DRAWING

SECTION Z

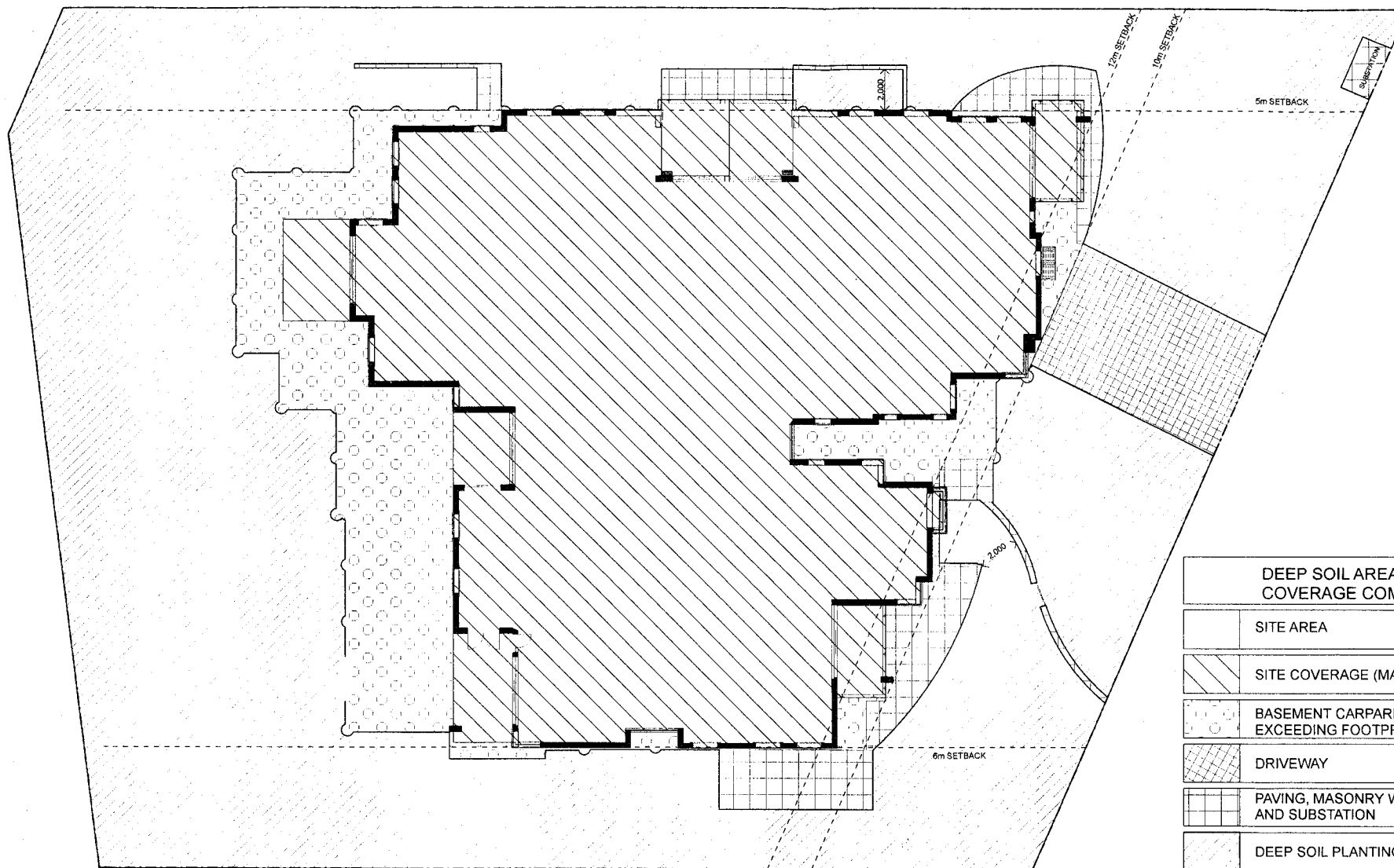
PLOT DATE 28/08/2007 PROJECT

SCALE 1:100 @ A1

EDITION DRAWING NO

**2714**  
**DA14**





| DEEP SOIL AREA AND 35% SITE COVERAGE COMPLIANCE |                                      |                             |
|---|--------------------------------------|-----------------------------|
|   | SITE AREA                            | 2427 m <sup>2</sup>         |
|   | SITE COVERAGE (MAX 35%)              | 849 m <sup>2</sup> (34.9%)  |
|   | BASEMENT CARPARK EXCEEDING FOOTPRINT | 201 m <sup>2</sup>          |
|   | DRIVEWAY                             | 64 m <sup>2</sup>           |
|   | PAVING, MASONRY WALLS AND SUBSTATION | 91 m <sup>2</sup>           |
|   | DEEP SOIL PLANTING (MIN 50%)         | 1222 m <sup>2</sup> (50.3%) |

FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS

THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE

ARCHITECT

**WOLSKI  
LYCENKO &  
BRECKNOCK**  
LEVEL 3 115 MILITARY ROAD  
NEUTRAL BAY 2089

FOR

**STALDONE  
DEVELOPMENTS**

PROJECT

16-18 BOYD STREET,  
TURRAMURRA

DATE

29/08/2007

PROJECT

**2714**

SCALE

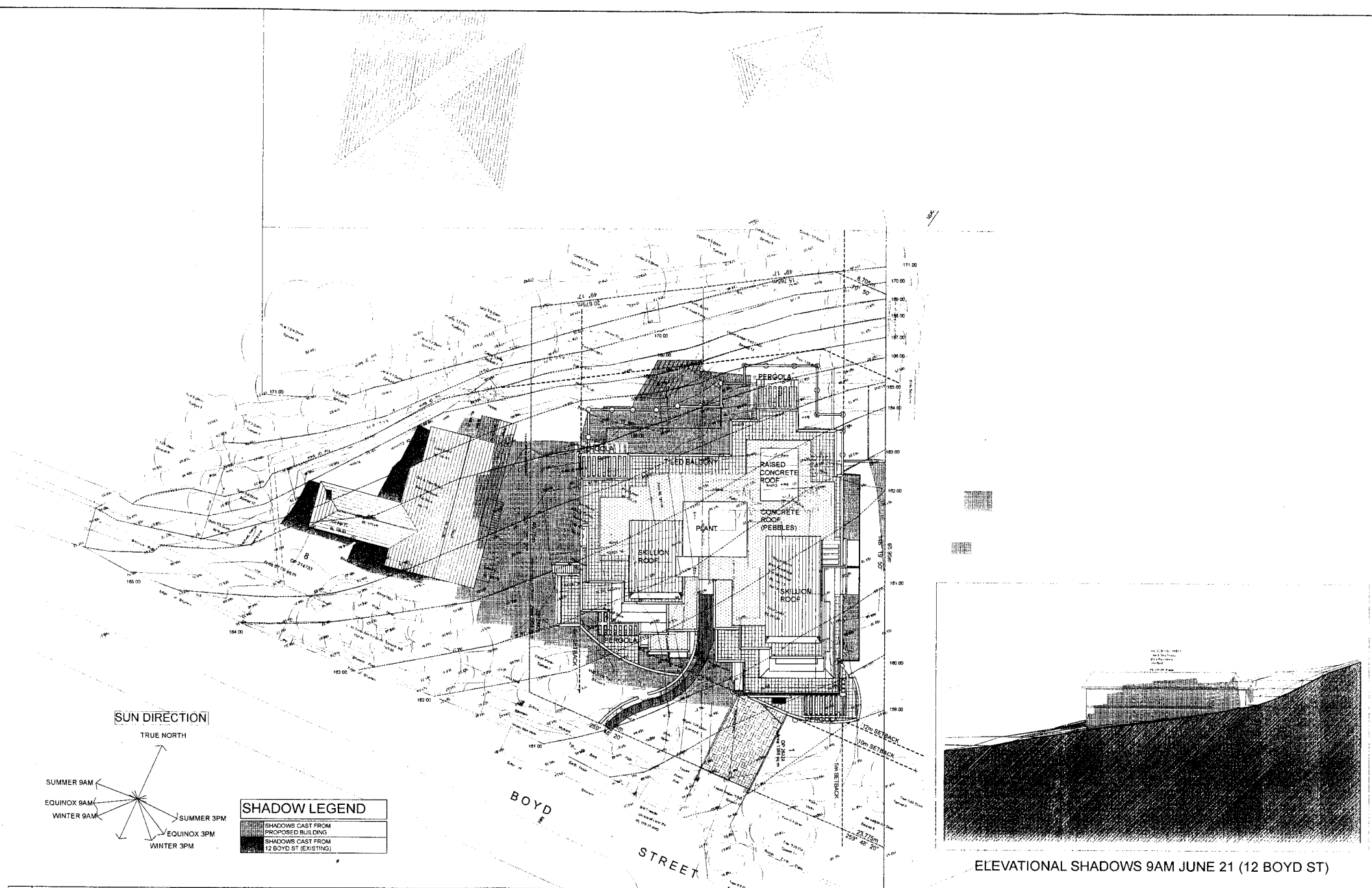
DRAWING

DEEP SOIL PLANTING & 35% SITE COVERAGE COMPLIANCE

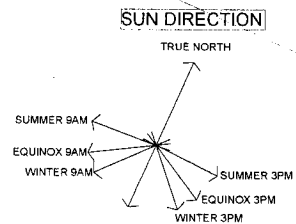
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DRAWING NO

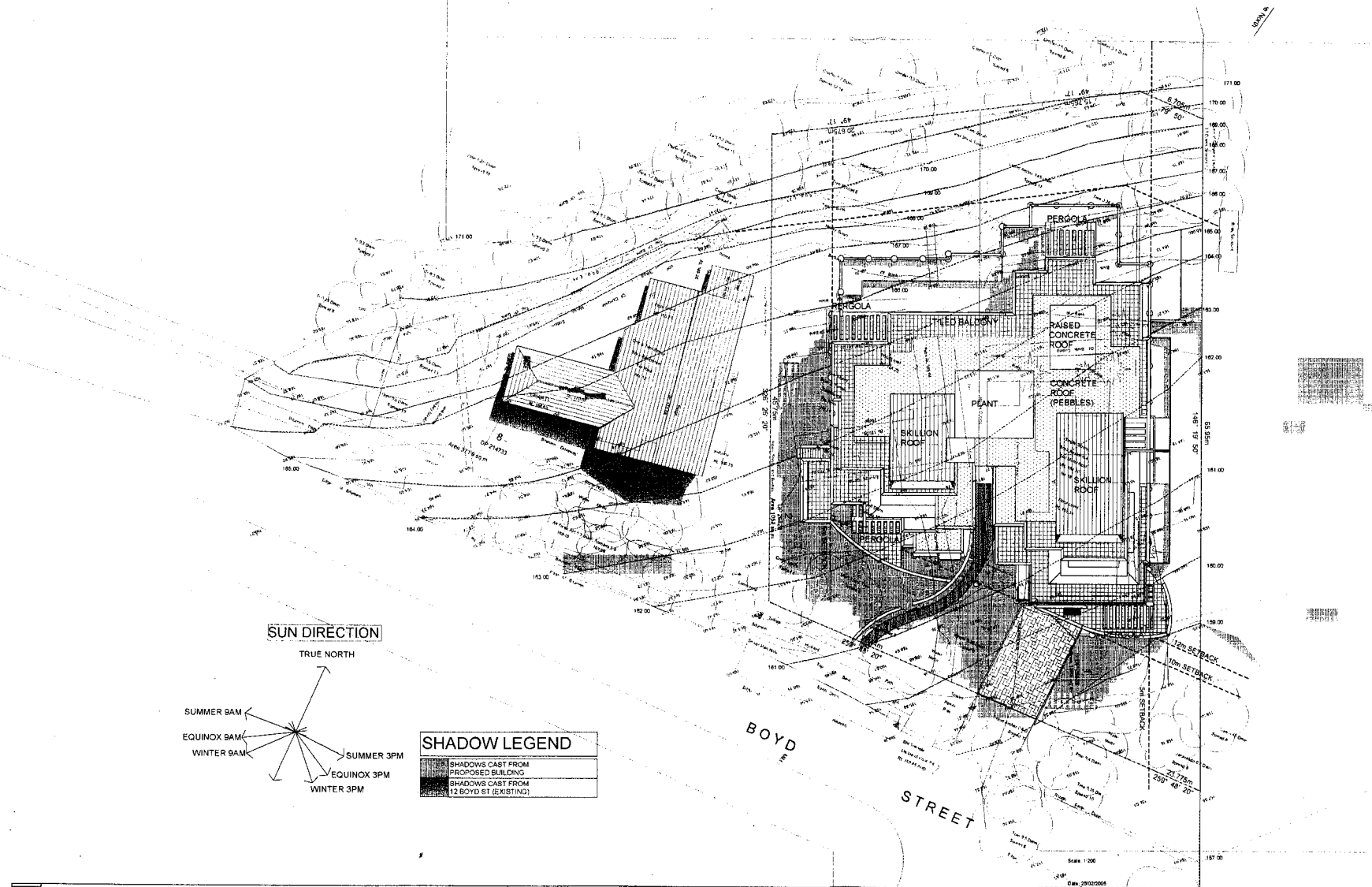
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| <div>FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS</div> <div>THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE</div> | ARCHITECT<br><b>WOLSKI<br/>LYCENKO &amp;<br/>BRECKNOCK</b><br><br>LEVEL 3 115 MILITARY ROAD<br>NEUTRAL BAY 2088 | FOR<br><br><b>STALDONE<br/>DEVELOPMENTS</b> | PROJECT | 16-18 BOYD STREET, TURRAMURRA | PLOT DATE | 28/08/2007 | PROJECT    | 2714 |
|  |   |   |         |                               | SCALE     | 1:200 @ A3 |            |      |
|  |   |   | DRAWING | SHADOW 9am MARCH 21           | EDITION   |            | DRAWING NO | SH18 |



| SHADOW LEGEND |   |
|---------------|---|
|               | SHADOWS CAST FROM PROPOSED BUILDING     |
|               | SHADOWS CAST FROM 12 BOYD ST (EXISTING) |



FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS

THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE

ARCHITECT

**WOLSKI  
LYCENKO &  
BRECKNOCK**  
LEVEL 3 115 MILITARY ROAD  
NEUTRAL BAY 2089

FOR

**STALDONE  
DEVELOPMENTS**

PROJECT

16-18 BOYD STREET, TURRAMURRA

DRAWING

SHADOW 12pm MARCH 21

PLOT DATE

28/08/2007

SCALE

1:200 @ A3

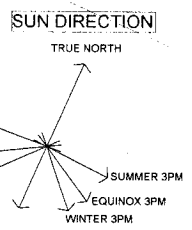
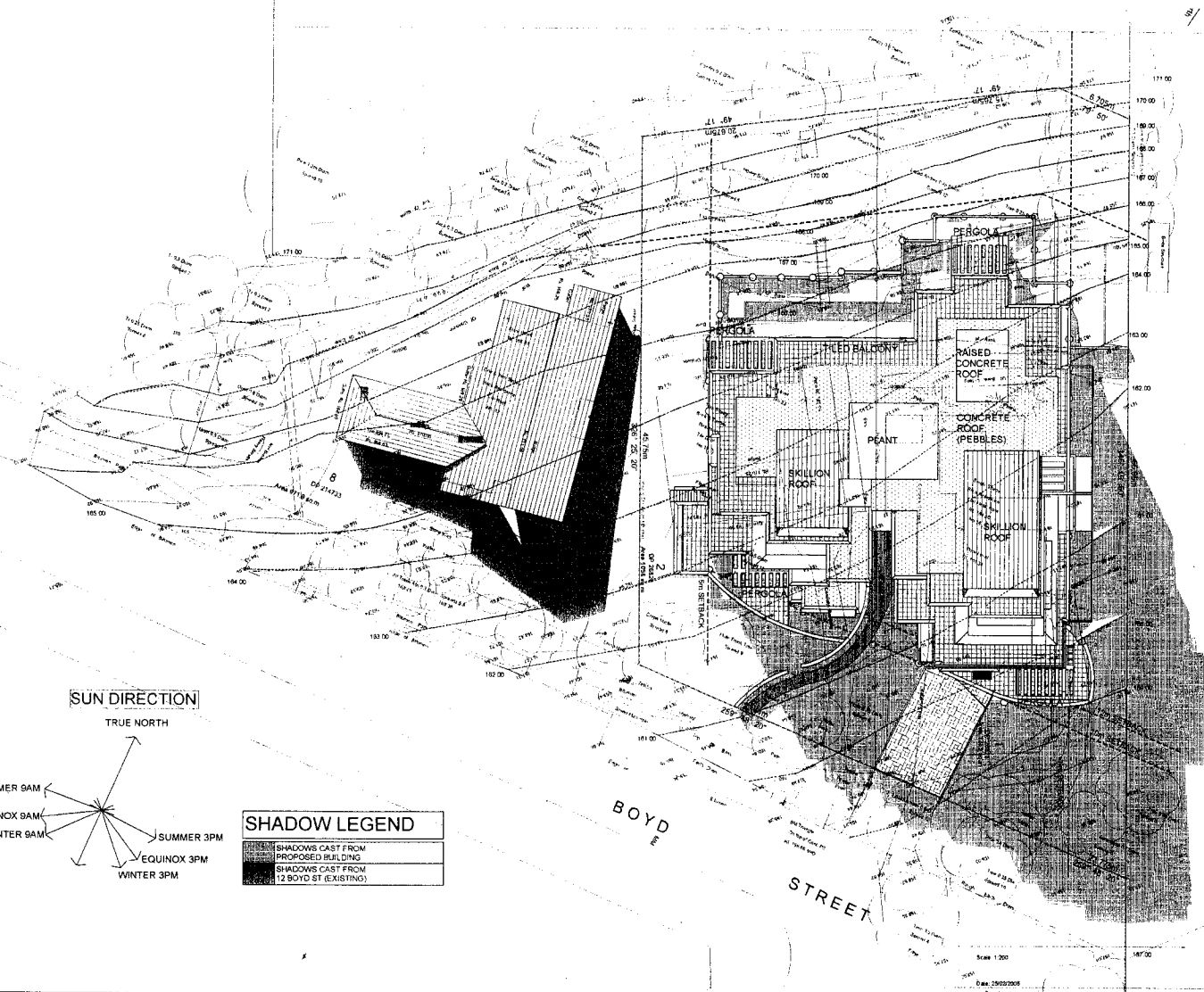
EDITION

PROJECT

**2714**

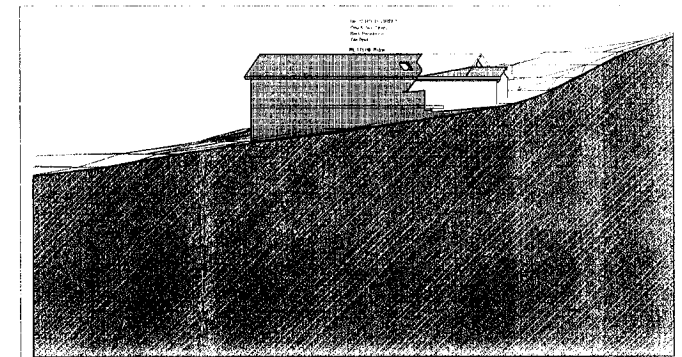
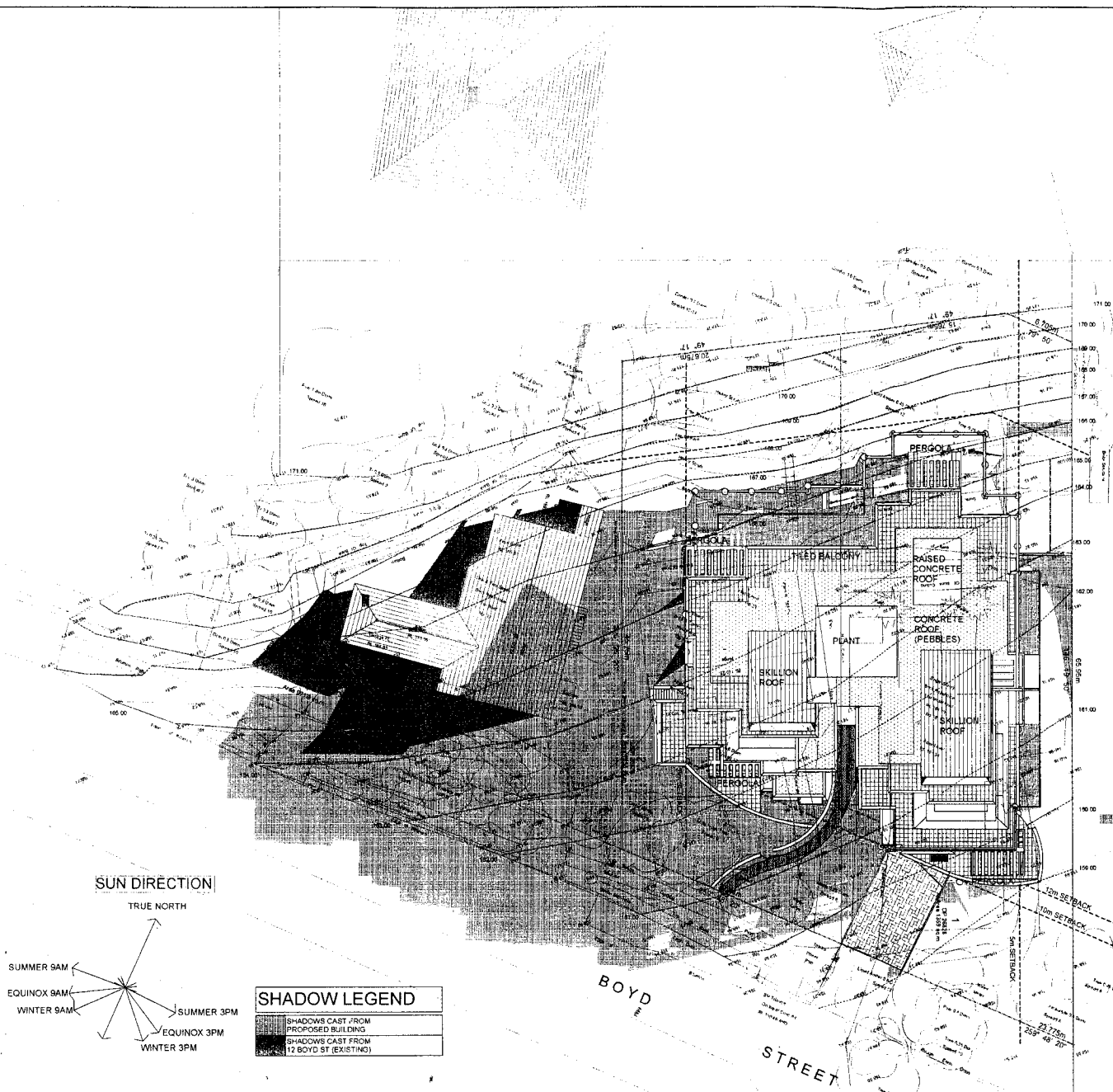
DRAWING NO

**SH19**



| SHADOW LEGEND |   |
|---------------|---|
| [Pattern]     | SHADOWS CAST FROM PROPOSED BUILDING     |
| [Pattern]     | SHADOWS CAST FROM 12 BOYD ST (EXISTING) |

|  |           |  |     |                                  |         |                               |  |           |                     |         |                                 |
|--|-----------|--|-----|----------------------------------|---------|-------------------------------|--|-----------|---------------------|---------|---------------------------------|
| <p>FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS</p> <p>THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE</p> | ARCHITECT | <b>WOLSKI<br/>LYCENKO &amp;<br/>BRECKNOCK</b><br>LEVEL 3 115 MILITARY ROAD<br>NEUTRAL BAY 2089 | FOR | <b>STALDONE<br/>DEVELOPMENTS</b> | PROJECT | 16-18 BOYD STREET, TURRAMURRA |  | PLOT DATE | 28/08/2007          | PROJECT | <div>2714</div> <div>SH20</div> |
|  |           |  |     |                                  |         |                               |  | SCALE     | 1:200 @ A3          |         |                                 |
|  |           |  |     |                                  |         |                               |  | DRAWING   | SHADOW 3pm MARCH 21 |         |                                 |
|  |           |  |     |                                  |         |                               |  | EDITION   |                     |         |                                 |



ELEVATIONAL SHADOWS 9AM JUNE 21 (12 BOYD ST)

FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS

THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE

ARCHITECT  
**WOLSKI  
LYCENKO &  
BRECKNOCK**  
LEVEL 3 115 MILITARY ROAD  
NEUTRAL BAY 2099

FOR  
**STALDONE  
DEVELOPMENTS**

PROJECT  
16-18 BOYD STREET, TURRAMURRA

DRAWING  
SHADOW 9am JUNE 21

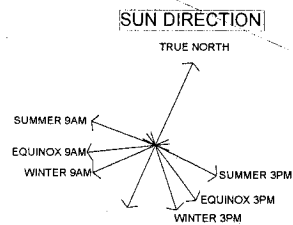
PLOT DATE  
28/08/2007

SCALE  
1:200 @ A3

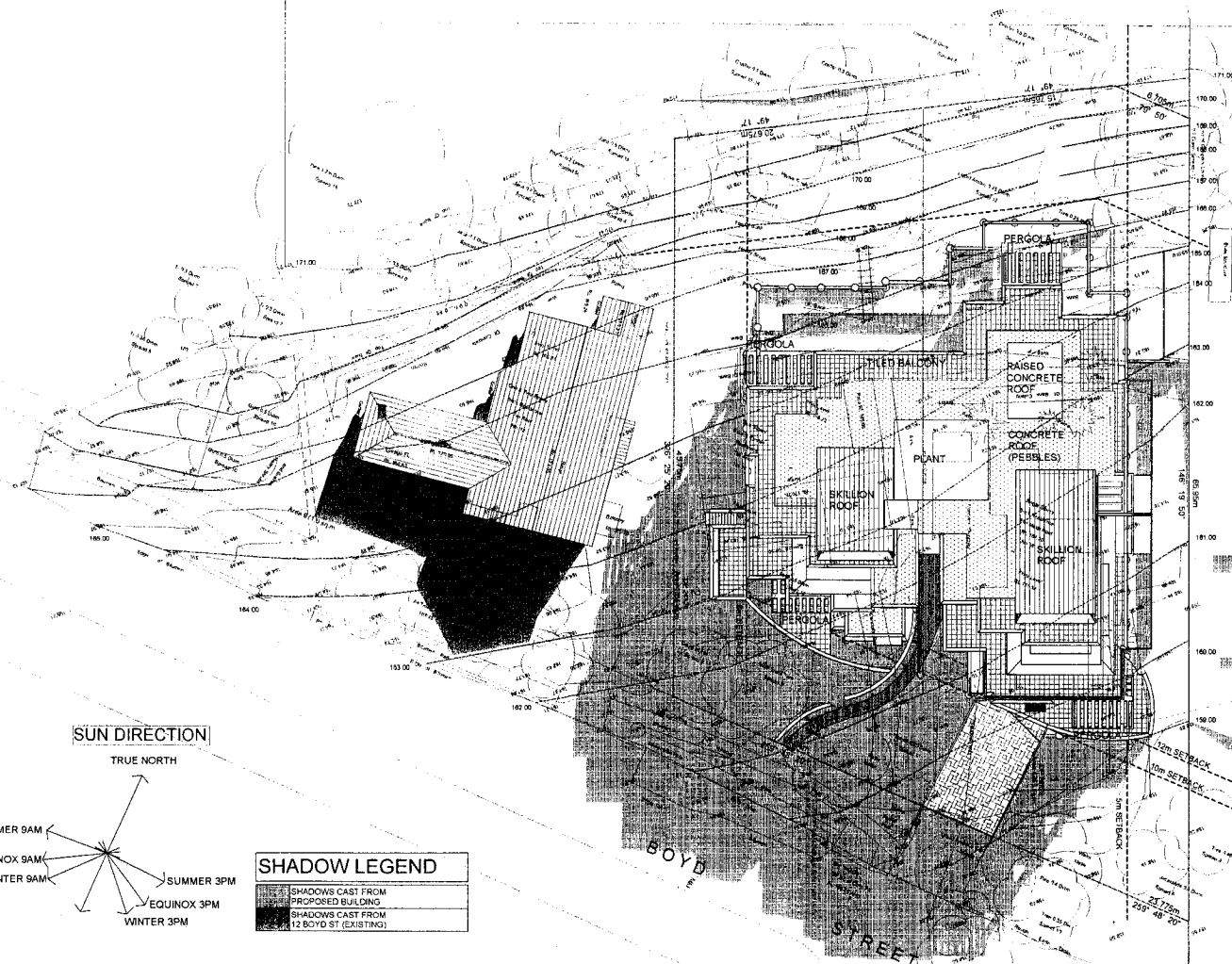
EDITION

PROJECT  
**2714**

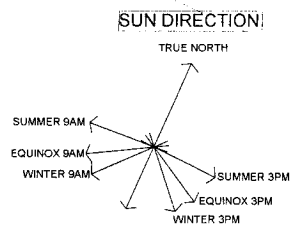
DRAWING NO  
**SH15**



| SHADOW LEGEND |   |
|---------------|---|
|               | SHADOWS CAST FROM PROPOSED BUILDING     |
|               | SHADOWS CAST FROM 12 BOYD ST (EXISTING) |



|   |           |   |     |                          |         |                               |           |            |            |      |
|---|-----------|---|-----|--------------------------|---------|-------------------------------|-----------|------------|------------|------|
| FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS<br><br>THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE | ARCHITECT | WOLSKI<br>LYCENKO &<br>BRECKNOCK<br><br>LEVEL 3 115 MILITARY ROAD<br>NEUTRAL BAY 2099 | FOR | STALDONE<br>DEVELOPMENTS | PROJECT | 16-18 BOYD STREET, TURRAMURRA | PLOT DATE | 28/08/2007 | PROJECT    | 2714 |
|   |           |   |     |                          |         |                               | SCALE     | 1:200 @ A3 |            |      |
|   |           |   |     |                          | DRAWING | SHADOW 12pm JUNE 21           | EDITION   |            | DRAWING NO | SH16 |



| SHADOW LEGEND |   |
|---------------|---|
|               | SHADOWS CAST FROM PROPOSED BUILDING     |
|               | SHADOWS CAST FROM 12 BOYD ST (EXISTING) |

ARCHITECT **WOLSKI  
LYCENKO &  
BRECKNOCK**  
LEVEL 3 115 MILITARY ROAD  
NEUTRAL BAY 2068

FOR

**STALDONE  
DEVELOPMENTS**

PROJECT

16-18 BOYD STREET, TURRAMURRA

DRAWING

SHADOW 3PM JUNE 21

PLOT DATE

28/08/2007

PROJECT

SCALE

1:200 @ A3

EDITION

DRAWING  
NO

**2714**  
**SH17**



[illegible]

| KEY | ROMANIAN NAME                  | COMMON NAME        | HEIGHT (3-11m) |
|-----|--------------------------------|--------------------|----------------|
| 1.  | <i>Liquidambar styraciflua</i> | Liquidambar        | 10-11 m        |
| 2.  | <i>Breynthia cinnamomea</i>    | Kapanga Flame Tree | 20-40 m        |
| 3.  | <i>Albizia julibrissin</i>     | Chinese Silk Tree  | 18-30 m        |
| 4.  | <i>Cinnamomum camphora</i>     | Camphor Laurel     | 20-30 m        |
| 5.  | <i>Cinnamomum camphora</i>     | Camphor Laurel     | 18-25 m        |
| 6.  | <i>Cinnamomum camphora</i>     | Camphor Laurel     | 18-25 m        |
| 7.  | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 8.  | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 9.  | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 10. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 11. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 12. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 13. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 14. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 15. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 16. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 17. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 18. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 19. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 20. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 21. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 22. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 23. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 24. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 25. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 26. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 27. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 28. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 29. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 30. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 31. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 32. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 33. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 34. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 35. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 36. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 37. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 38. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 39. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 40. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 41. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 42. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 43. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 44. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 45. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 46. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 47. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 48. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 49. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 50. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 51. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 52. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 53. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 54. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 55. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 56. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 57. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 58. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 59. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 60. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 61. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 62. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 63. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 64. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 65. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 66. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 67. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 68. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 69. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 70. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 71. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 72. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 73. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 74. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 75. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 76. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 77. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 78. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 79. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 80. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 81. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 82. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 83. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 84. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 85. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 86. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 87. | <i>Cedrus deodora</i>          | Himalayan Cedar    | 18-35 m        |
| 88. | <i>Cedrus deodora</i>          | Himalayan Cedar    |                |

This Schedule should be read in conjunction with the Pre Development Tree Assessment Report dated July 2007 prepared by Stuart Pittendrigh - Consultant Arborist.

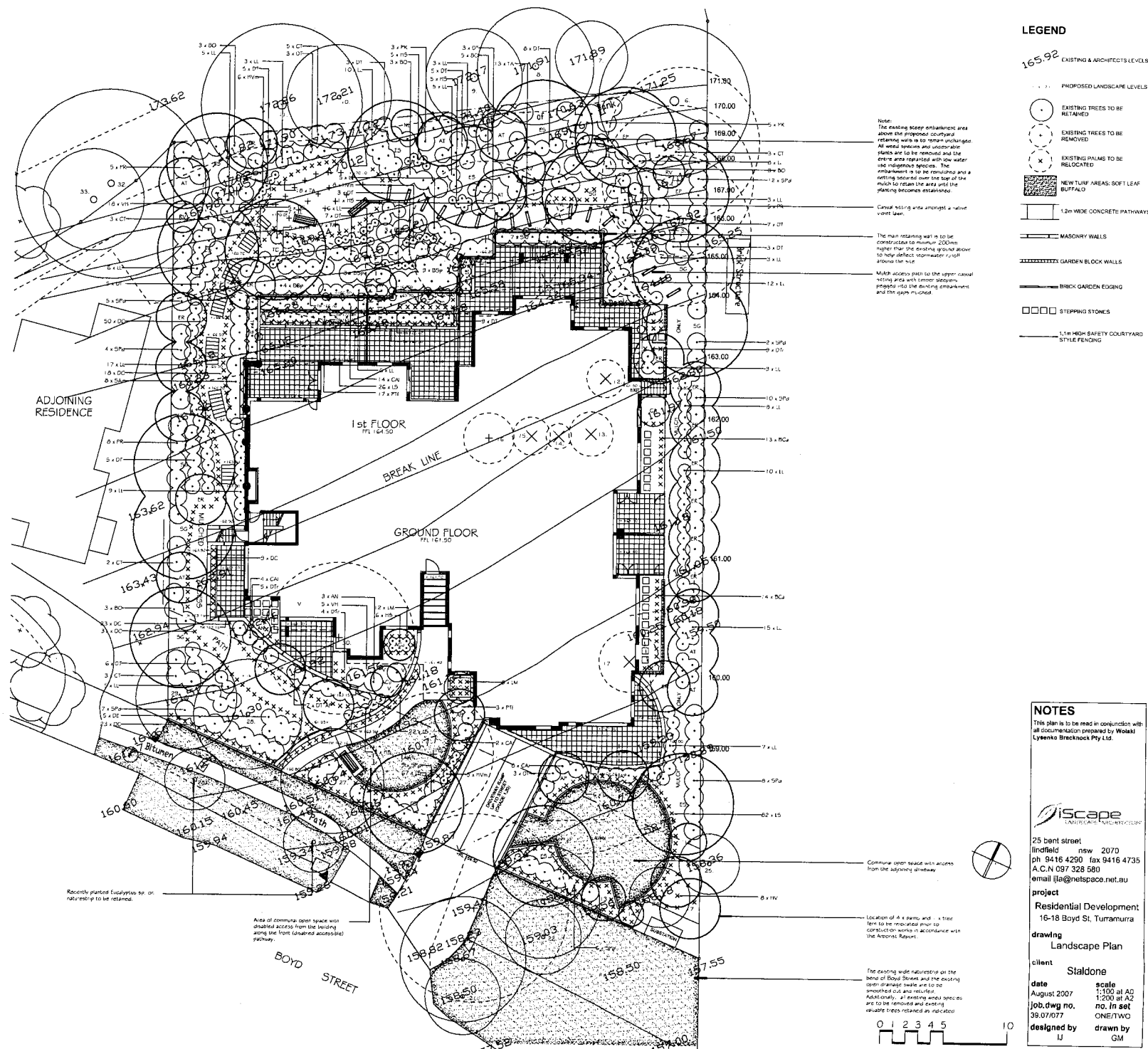
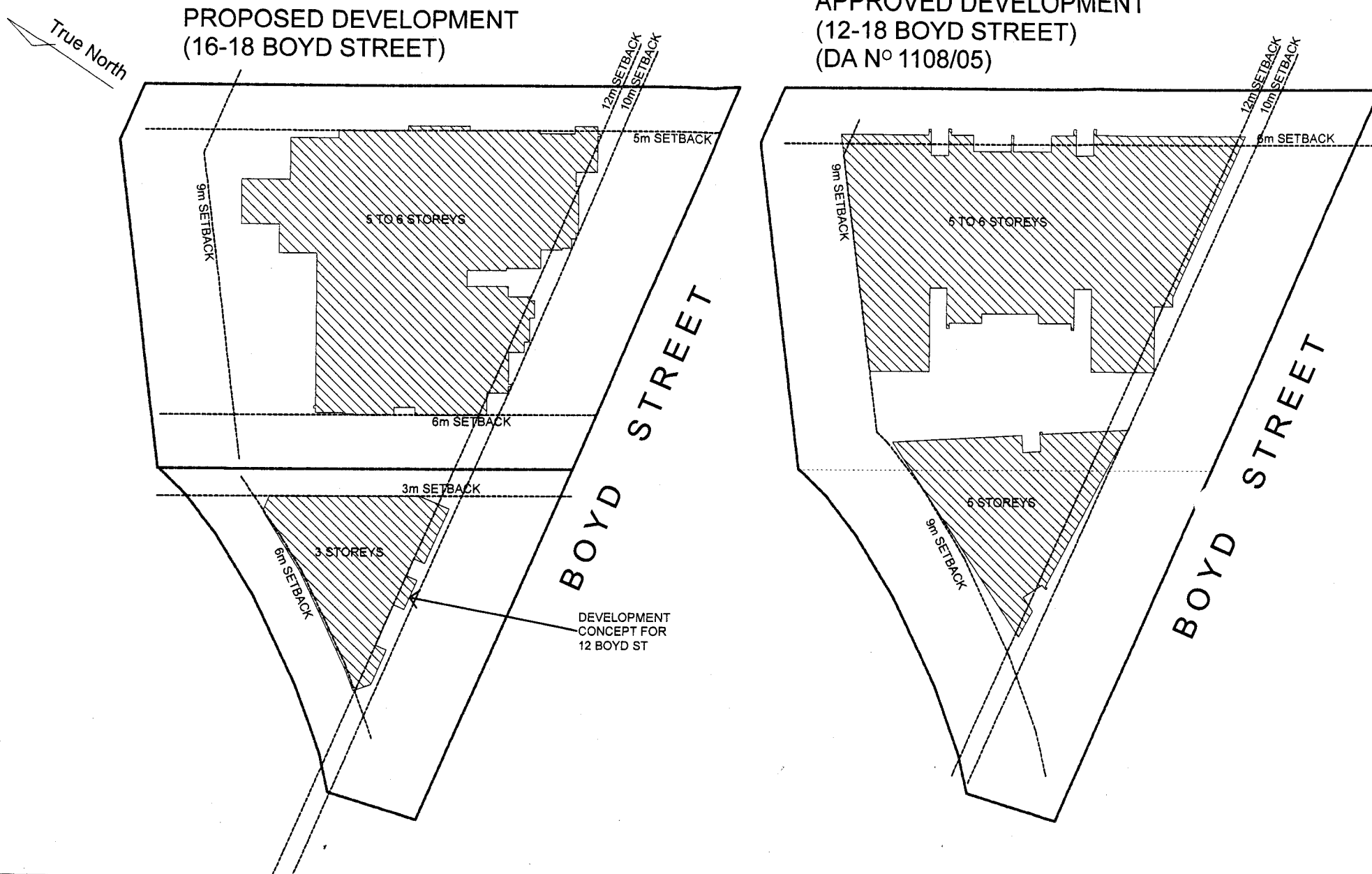




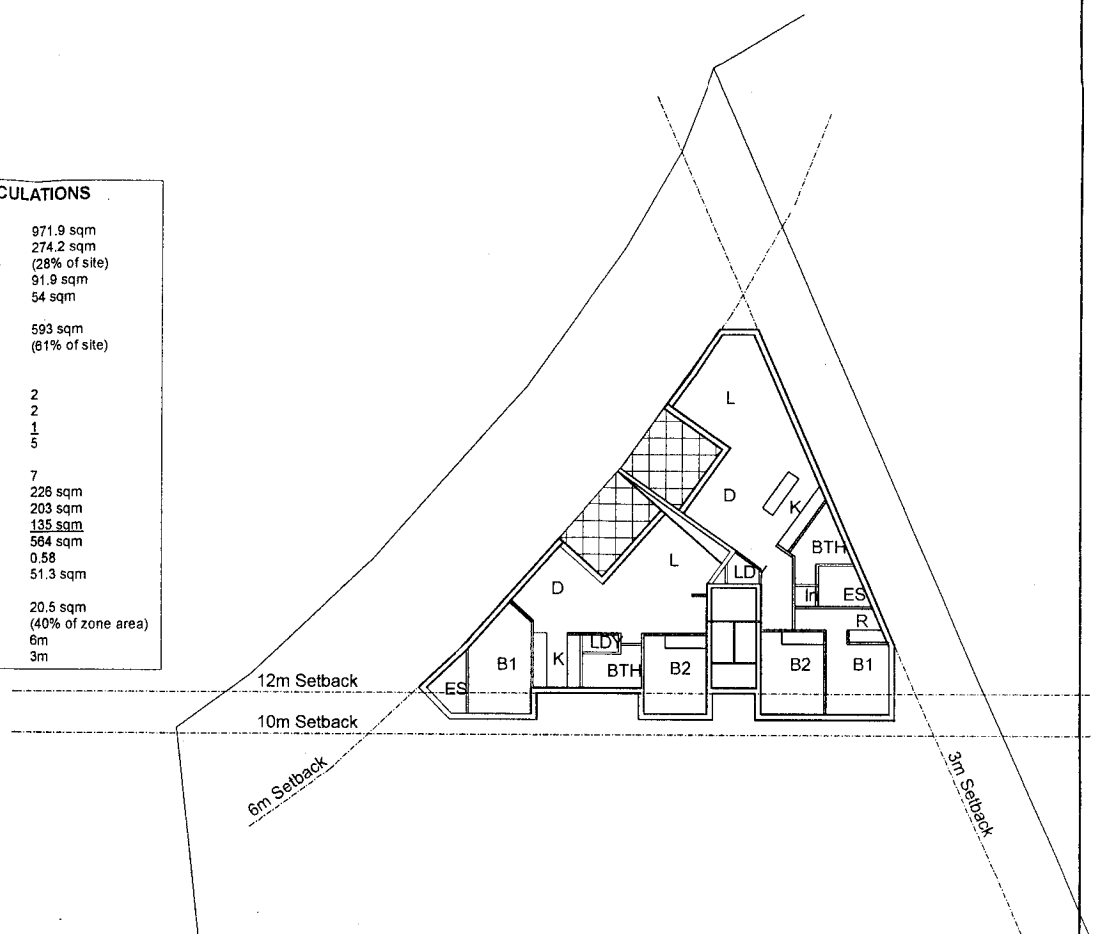
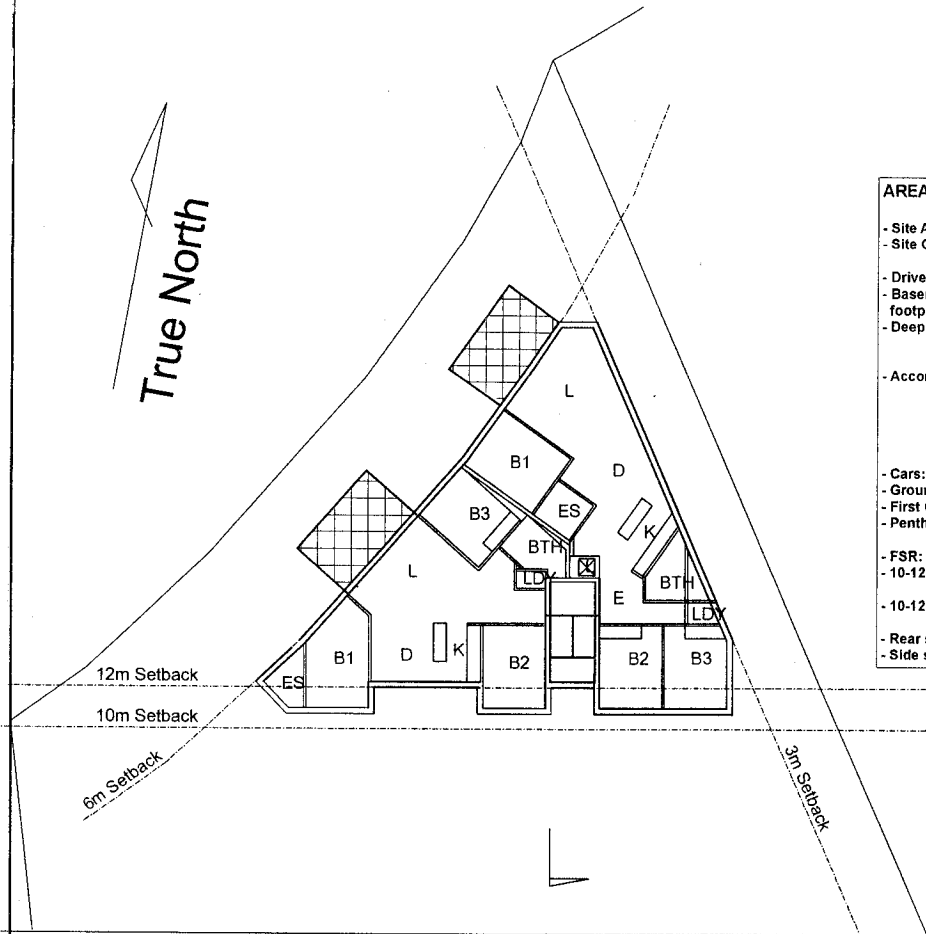
FIG. 16



|  |           |  |     |                          |         |  |         |            |               |       |
|--|-----------|--|-----|--------------------------|---------|--|---------|------------|---------------|-------|
| FIGURED DIMENSIONS ARE TO<br>BE TAKEN IN PREFERENCE<br>TO SCALED DIMENSIONS<br><br>THE CONTRACTOR IS TO CHECK<br>AND VERIFY FIGURED DIMENSIONS<br>PRIOR TO ANY COMMENCEMENT<br>OF WORK ON SITE | ARCHITECT | <b>WOLSKI<br/>LYCENKO &amp;<br/>BRECKNOCK</b><br><br>LEVEL 3 115 MILITARY ROAD<br>NEUTRAL BAY 2089 | FOR | STALDONE<br>DEVELOPMENTS | PROJECT | 16-18 BOYD STREET,<br>TURRAMURRA   | DATE    | 24/08/2007 | PROJECT       | 2714  |
|  |           |  |     |                          | DRAWING | NON-ISOLATING DEVELOPMENT DIAGRAM (12 BOYD ST)<br>(APPROVED/PROPOSED COMPARISON) | SCALE   | 1:400 @ A3 |               | TCO26 |
|  |           |  |     |                          |         |  | EDITION |            | DRAWING<br>NO |       |

True North

| AREA ANALYSIS CALCULATIONS      |                                |
|---------------------------------|--------------------------------|
| - Site Area:                    | 971.9 sqm                      |
| - Site Coverage:                | 274.2 sqm<br>(28% of site)     |
| - Driveway, paths:              | 91.9 sqm                       |
| - Basement exceeding footprint: | 54 sqm                         |
| - Deep Soil Planting:           | 593 sqm<br>(61% of site)       |
| - Accommodation:                |                                |
| 2 bed unit                      | 2                              |
| 3 bed unit                      | 2                              |
| 4 bed unit                      | 1                              |
| Total                           | 5                              |
| - Cars:                         | 7                              |
| - Ground GFA:                   | 226 sqm                        |
| - First GFA:                    | 203 sqm                        |
| - Penthouse GFA:                | 135 sqm                        |
|                                 | 564 sqm                        |
| - FSR:                          | 0.58                           |
| - 10-12 m zone area:            | 51.3 sqm                       |
| - 10-12 footprint:              | 20.5 sqm<br>(40% of zone area) |
| - Rear setback:                 | 6m                             |
| - Side setback:                 | 3m                             |



NO 12 BOYD STREET  
(Ground)

NO 12 BOYD STREET  
(First)

# DEVELOPMENT CONCEPT

|   |   |   |         |                                  |         |            |            |       |
|---|---|---|---------|----------------------------------|---------|------------|------------|-------|
| FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS<br><br>THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE | ARCHITECT<br><b>WOLSKI<br/>LYCENKO &amp;<br/>BRECKNOCK</b><br><br>LEVEL 3 115 MILITARY ROAD<br>NEUTRAL BAY 2089 | FOR<br><br><b>STALDONE<br/>DEVELOPMENTS</b> | PROJECT | 16-18 BOYD STREET,<br>TURRAMURRA | DATE    | 28/08/2007 | PROJECT    | 2714  |
|   |   |   |         |                                  | SCALE   | 1:250 @ A3 |            |       |
|   |   |   | DRAWING | DEVELOPMENT CONCEPT (12 BOYD ST) | EDITION |            | DRAWING NO | TCO27 |

True North

#### AREA ANALYSIS CALCULATIONS

|                                 |                                |
|---------------------------------|--------------------------------|
| - Site Area:                    | 971.9 sqm                      |
| - Site Coverage:                | 274.2 sqm<br>(28% of site)     |
| - Driveway, paths:              | 91.9 sqm                       |
| - Basement exceeding footprint: | 54 sqm                         |
| - Deep Soil Planting:           | 593 sqm<br>(61% of site)       |
| - Accommodation:                |                                |
| 2 bed unit                      | 2                              |
| 3 bed unit                      | 2                              |
| 4 bed unit                      | 1                              |
| Total                           | 5                              |
| - Cars:                         | 7                              |
| - Ground GFA:                   | 228 sqm                        |
| - First GFA:                    | 203 sqm                        |
| - Penthouse GFA:                | 135 sqm                        |
|                                 | 564 sqm                        |
| - FSR:                          | 0.58                           |
| - 10-12 m zone area:            | 51.3 sqm                       |
| - 10-12 footprint:              | 20.5 sqm<br>(40% of zone area) |
| - Rear setback:                 | 6m                             |
| - Side setback:                 | 3m                             |

12m Setback

10m Setback

9m Setback

3m Setback

12m Setback

10m Setback

6m Setback

3m Setback

236 m<sup>2</sup>

593 m<sup>2</sup>

NO 12 BOYD STREET  
(Penthouse)

NO 12 BOYD STREET  
(Basement)

## DEVELOPMENT CONCEPT

FIGURED DIMENSIONS ARE TO  
BE TAKEN IN PREFERENCE  
TO SCALED DIMENSIONS

THE CONTRACTOR IS TO CHECK  
AND VERIFY FIGURED DIMENSIONS  
PRIOR TO ANY COMMENCEMENT  
OF WORK ON SITE

ARCHITECT

**WOLSKI  
LYCENKO &  
BRECKNOCK**  
LEVEL 3 115 MILITARY ROAD  
NEUTRAL BAY 2089

FOR

STALDONE  
DEVELOPMENTS

PROJECT

16-18 BOYD STREET,  
TURRAMURRA

DATE

28/08/2007

PROJECT

**2714**

SCALE

1:250 @ A3

DRAWING

**TCO28**

DRAWING

DEVELOPMENT CONCEPT (12 BOYD ST)

EDITION

NO

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## DEVELOPMENT APPLICATION

---

### SUMMARY SHEET

|   |   |
|---|---|
| <b>REPORT TITLE:</b>                          | 26 MARIAN STREET, KILLARA -<br>DEMOLITION OF THREE (3) DWELLING<br>HOUSES AND CONSTRUCTION OF A<br>RESIDENTIAL FLAT BUILDING<br>COMPRISING 32 UNITS AND BASEMENT<br>CAR PARKING FOR 70 VEHICLES |
| <b>WARD:</b>                                  | Gordon  |
| <b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b> | DA820/07  |
| <b>SUBJECT LAND:</b>                          | 26 Marian Street, Killara   |
| <b>APPLICANT:</b>                             | Steve Donnellan   |
| <b>OWNER:</b>                                 | Marian Street Pty Ltd   |
| <b>DESIGNER:</b>                              | Wolski Lycenko and Brecknock<br>Architects  |
| <b>PRESENT USE:</b>                           | Residential   |
| <b>ZONING:</b>                                | Residential 2(d3)   |
| <b>HERITAGE:</b>                              | No  |
| <b>PERMISSIBLE UNDER:</b>                     | Ku-ring-gai Planning Scheme Ordinance   |
| <b>COUNCIL'S POLICIES APPLICABLE:</b>         | KPSO-LEP 194, DCP 55 - Multi-unit<br>housing, DCP 31 - Access, DCP 40 - West<br>Management, DCP 43 - Car parking, DCP<br>47 - Water management  |
| <b>COMPLIANCE WITH CODES/POLICIES:</b>        | Yes   |
| <b>GOVERNMENT POLICIES APPLICABLE:</b>        | SEPP 55, SEPP 65  |
| <b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>   | Yes   |
| <b>DATE LODGED:</b>                           | 3 September 2007  |
| <b>40 DAY PERIOD EXPIRED:</b>                 | 13 October 2007   |
| <b>PROPOSAL:</b>                              | Demolition of three (3) dwelling houses<br>and construction of a residential flat<br>building comprising 32 units and<br>basement car parking for 70 vehicles                                   |
| <b>RECOMMENDATION:</b>                        | Approval  |

Item 2

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

**DA820/07**

**PREMISES:**

**26 MARIAN STREET, KILLARA**

**PROPOSAL:**

**DEMOLITION OF THREE (3) DWELLING  
HOUSES AND CONSTRUCTION OF A  
RESIDENTIAL FLAT BUILDING  
COMPRISING 32 UNITS AND BASEMENT  
CAR PARKING FOR 70 VEHICLES**

**APPLICANT:**

**STEVE DONNELLAN**

**OWNER:**

**MARIAN STREET PTY LTD**

**DESIGNER**

**WOLSKI LYCENKO AND BRECKNOCK  
ARCHITECTS**

**PURPOSE FOR REPORT**

To determine development application 0820/07, which seeks consent for the demolition of three (3) dwelling houses and construction of a residential flat building comprising 32 units and basement car parking for 70 vehicles No Bookmark.

**EXECUTIVE SUMMARY**

**Issues:**

- FSR
- Setbacks
- Building length

**Submissions:**

One (1) submission has been received.

**Land and Environment Court appeal:**

No.

**Recommendation:**

Approval.

**HISTORY**

**Site history**

The site is currently used for residential purposes and has been previously zoned for low density residential development.

Item 2

Development application history:

**DA 1243/04** DA 1243/04 for demolition of three (3) dwellings and construction of a five (5) storey multi unit dwelling building containing 27 units, with basement parking for 61 vehicles was granted deferred commencement consent by Council on 24 May 2005.

The lapsing period of DA 1243/04 has been extended, under Section 95A of the Environmental Planning and Assessment Act 1979, until 12 August 2008.

**THE SITE AND SURROUNDING AREA**

**The site:**

|                                  |                            |
|----------------------------------|----------------------------|
| Zoning                           | Residential 2(d3)          |
| Visual Character Study Category: | 1945-1968 and post 1968    |
| Lot Number:                      | 1, 2 and 5                 |
| DP Number:                       | 378243, 378243 and 3100770 |
| Heritage Affected:               | No                         |
| Bush Fire Prone Land:            | No                         |
| Endangered Species:              | No                         |
| Urban Bushland:                  | No                         |
| Contaminated Land:               | No                         |

The subject site is located on the southern side of Marian Street and the south-eastern corner of Caithness and Marian Street, Killara. The site has a 77.8 metres frontage to Marian Street and a secondary 50.3 metres frontage to Caithness Street. The site has a total area of 3629m<sup>2</sup> and a cross-fall of 4 metres from the south-west corner to the north-east corner. The frontage to Marian Street is level and the frontage to Caithness Street has a fall of 3 metres from north to south. A 1.22 metres wide drainage easement traverses Lots 1 & 2 from north to south-east.

The site comprises three allotments as follows:

- 26 Marian Street – Lot 5, DP 310770
- 28 Marian Street – Lot 2, DP 378243
- 30 Marian Street – Lot 1, DP378243

Number 26 Marian Street, is a corner site and has a secondary frontage to Caithness Street. The site is currently occupied by a two storey dwelling built c.1950. Vehicular access to the site is via an 8 metres wide driveway off Caithness Street. The site contains several mature trees, the most significant being two 24 metres high Sydney Blue Gums located on the Marian Street boundary.

Number 28 Marian Street contains a large single storey dwelling built c.1970. A two car garage is accessible via a driveway off Marian Street. This site contains a 24 metres high Sydney Blue Gum located in the north-west corner.

Number 30 Marian Street is occupied by a single storey dwelling built c.1950. The dwelling is set back 10 metres from Marian Street. The site contains several mature trees at the rear.

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The site is bound to the south and west by allotments zoned Residential 2(d3) which allows for multi-unit development. The site is located 50 metres from Pacific Highway to the west and 500 metres from the Killara Railway Station to the east.

**Surrounding area:**

The subject site is located within the block defined by Pacific Highway, Marian Street and Caithness Street/Caithness Walk, which is zoned Residential 2(d3).

Immediately to the west of the site, at No 32 Marian Street, a four storey residential flat building containing 16 units is under construction.

No. 2 Caithness Street, located immediately to the south (rear) of the site, is occupied by a single storey cottage located 4 metres from the common boundary. Further east of the subject site, across Caithness Street, No 24 Marian Street (corner of Caithness and Marian Streets) is occupied by a large one and part two storey dwelling. Further east, the southern frontage to Marian Street is characterised by a mixture of one and two storey dwellings and a four storey residential flat building (No. 18 Marian Street).

The northern side of Marian Street is characterised by one and two storey dwellings, some of which (9, 11, 33 and 39) are listed as heritage items in the Ku-ring-gai Planning Scheme Ordinance.

**THE PROPOSAL**

The proposal involves the demolition of three (3) existing dwellings and the construction of a five (5) storey residential flat building comprising 32 units, basement car parking for 70 vehicles and associated landscaping. Details of the proposed development are as follows:

- 5 storeys
- 32 units (8 x 2 bedroom and 24 x 3 bedroom)
- 70 parking spaces over 2 basement levels
- Twin pavilion building design
- Landscaping and tree planting, as per landscape plan.
- External finishes include terracotta roof tiles, rendered and painted walls, aluminium framed windows, sandstone garden walls, stonefaced retaining walls and timber screen courtyard fencing.

A summary of differences between the approved development under DA1243/04 and the current proposal is provided below and includes the following:

| Control / Feature                              | Approved<br>(DA 1243/04)    | Proposed<br>(DA 0820/07)    | Change   |
|--|-----------------------------|-----------------------------|--|
| FSR / GFA                                      | 1.37:1 / 5069m <sup>2</sup> | 1.34:1 / 4869m <sup>2</sup> | Reduced FSR/GFA<br>(0.04:1 / 200m <sup>2</sup> ) |
| Units  | 27 units                    | 32 units                    | Additional units<br>(5 units)                    |
| Setbacks:<br>Marian Street<br>Caithness Street | 12.2m - 19.8m<br>10m - 16m  | 13m - 21m<br>10m - 17m      | Increased setbacks:<br>(0.8m - 1.2m)             |

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| Control / Feature     | Approved<br>(DA 1243/04)                                   | Proposed<br>(DA 0820/07)                           | Change   |
|-----------------------|--|--|--|
| 5 <sup>th</sup> level | Continuous 5 <sup>th</sup> level<br>between pavilion forms | Building void between<br>pavilions (part 4 storey) | Greater articulation at 5 <sup>th</sup><br>floor level |

## CONSULTATION - COMMUNITY

In accordance with Council's Notifications DCP, owners and occupants of surrounding properties were given notice of the proposed application. In response, two (2) submissions from the following property owner were received:

*Joseph Shek* - 33 Marian Street, Killara

The submissions raised the following issues:

***Marian Street elevation excessive and building height must be reduced to 4 storeys with 4<sup>th</sup> storey set back***

The proposal complies with the height controls and setback controls to Marian Street and has a greater setback to Marian Street than the approved building. The proposal is satisfactory with regard to height and setbacks to Marian Street.

***Inadequate landscaping to the Marian Street frontage***

The proposal has been assessed by Council's Landscape Officer and is satisfactory with regard to landscaping, including the Marian Street frontage.

***Privacy impact***

No. 33 Marian Street is located on the opposite side of Marian Street to the subject site. The front boundary of the property at No. 33 Marian Street is approximately 20m from the front boundary of the subject site and the front of the dwelling house at No. 33 Marian Street is approximately 43m from the front elevation of the proposed building. Further, the main private open space of the dwelling at No. 33 Marian Street is at the rear of the property (including a swimming pool and tennis court), approximately 60m from the Marian Street elevation of the proposed building.

With regard to the substantial spatial separation between the two sites, in conjunction with proposed landscaping to the Marian Street frontage, the proposal is satisfactory with regard to privacy impact.

***Noise impact from balconies***

The substantial separation between the proposed balconies and the dwelling at No. 33 Marian Street (approximately 43m) is satisfactory with regard to noise impact.

***Impact on street trees***

Council's Landscape Officer is satisfied with the proposed landscaping (subject to conditions), including any impact on street trees.



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***Basement excavation may affect water table and result in Marian Street subsidence***

A geotechnical report was submitted with the application and the report stated that the proposal is satisfactory with regard to groundwater, subject to the installation of adequate drainage systems. Council's Engineering Assessment Team Leader has reviewed the application and is satisfied with the proposal, subject to conditions of consent.

***Construction traffic impact, particularly parking on northern side of Marian Street***

Suitable conditions of consent are recommended in this regard.

**CONSULTATION - WITHIN COUNCIL**

**Urban Design**

Council's Urban Design Consultant, Russell Olson, has reviewed the amended application against the provisions of SEPP 65 and provided the following comments:

***Principle 1: Context***

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

*Comment:*

*The existing context is comprised of the natural setting and the existing built form. The natural setting includes large eucalypt trees in the street frontage of the subject property, which are to be retained in the development .*

*The heritage items in close proximity to the site are:*

- *39 Marian Street*
- *33 Marian Street*
- *11 Buckingham Road*
- *10 Buckingham Road*
- *Item in Caithness Street*

*Other buildings in the area include detached houses and 4 storey apartment buildings on the southern side of Marian Street. The general built form characteristics of these buildings include:*

- *detached houses with large setbacks from front, side and rear boundaries*
- *apartment buildings set well back from the street, with tall trees in the front setback*
- *predominantly brick or rendered brick construction*
- *predominantly brick or stone front fences or front hedges*

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*The current and future context for this site is 5 storey apartment buildings in the 2 (d3) zone. While this is a substantial change of scale from the existing houses, it is not unlike the scale of the 4 storey apartment buildings on the southern side of Marian Street.*

*The proposed development relates to the existing and future contexts as it:*

- *provides sufficiently large setbacks from the streets, which minimises the visual impact of these larger scale buildings within the streetscape.*
- *provides sufficient area with deep soil within the front setbacks for tree planting*
- *retains existing mature trees*
- *breaks down the scale of the proposed development into 2 pavilions. These will read, as far as possible within a development of this scale, as 2 pavilions within a landscaped setting, rather than a perimeter block development.*

**Principle 2: Scale**

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

*Comment:*

*The building complies with the site coverage and height controls, and reduces the perceived scale of the building mass by creating 2 "pavilions " rather than 1 continuous building. The scale is acceptable.*

**Principle 3: Built form**

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

*Comment:*

*The setbacks comply with the setbacks in DCP 55, as the front setback from Marian Street is 13m to 15m and the setback from Caithness Street is in the range of 10m to 12m, with approximately 40% of this frontage being 10m to 11m.*

**Principle 4: Density**

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

*Comment:*

*The density is acceptable.*

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

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

*Comment:*

*100% of apartments are cross ventilated. More than 70% of apartments gain more than 3 hours sunlight to the living room balconies / windows between 9am and 3pm in mid winter. More than 70% of kitchens and some bathrooms and ensuites are located on external walls.*

*Over 50% of the site is deep soil area and water detention is proposed.*

***Principle 6: Landscape***

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

*Comment:*

*The proposed landscape design is appropriate to the site.*

***Principle 7: Amenity***

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

*Comment:*

*The apartments have good amenity. The apartments are large and the room dimensions are generous. The only amenity issue is the potential for loss of privacy between bedroom 2 of Units 16, 20, 24 and 28 and bedrooms 2 and 3 of Units 15, 19, 23 and 27. The privacy problem exists between the two apartments, not between bedrooms in the one apartment. It is recommended that this be resolved by a projecting blade and a possible re-positioning of windows.*

***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.*

*Comment:*

*There are no perceived safety or security issues.*

***Principle 9: Social dimensions***

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

*Comment:*

*The apartment sizes are likely to be appropriate to the market in this area.*

***Principle 10: Aesthetics***

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

*Comment:*

*Bays and pilasters articulate the facades. Balconies have an order of columns that provide detail where it is most visible in the lower floors. These are complemented by entry porticos at the street. The aesthetics are considered acceptable.*

***2.0 Conclusion and recommendations***

*It is recommended that:*

- *the potential for loss of privacy between bedroom 2 of Units 16, 20, 24 and 28 and bedrooms 2 and 3 of Units 15, 19, 23 and 27 is resolved by a projecting blade and a possible re-positioning of windows*
- *from a SEPP 65 analysis, the DA is satisfactory with the resolution of this minor privacy issue, as it complies with other SEPP 65 principles and guidelines*

Council's Urban Design Consultant has raised no objection to the proposal, subject to minor design modifications. The proposed room and window configuration between the abovementioned units is satisfactory with regard to privacy given the relative location, proximity and orientation of the subject windows and it is considered unnecessary to require the design to be modified.

The proposal achieves the design requirements of SEPP 65 and is acceptable with regard to the desired future character of the locality and having regard to the proposed site coverage, building setbacks, landscaping, bulk and scale, amenity and appearance.

## Landscaping

Council's Landscape Officer, Geoff Bird, commented on the proposal as follows:

### ***"The site***

*The site is characterised by a mature landscape setting with established trees and shrubs within formal garden beds and lawn expanses. The site frontage is dominated by three highly significant, possibly remnant/relic Eucalyptus saligna (Bluegum). The trees are approximately 25m high, outwardly healthy and in good condition, which provide habitat for local fauna. There is an understorey planting of predominantly exotic small trees and shrubs.*

*The rear of the site is likewise characterised by a mature landscape setting with established trees and shrubs. Trees located at the rear of the site are not as significant within the broader landscape, but they do provide a valuable corridor of vegetation at the rear of numerous properties.*

### ***Impacts on trees/trees to be removed/tree replenishment***

*The proposed development will result in the removal of numerous small trees and shrubs, predominantly through the core of the site to accommodate the proposed development. The significant trees located on site are being retained with appropriate setbacks to ensure their ongoing health and viability, these being numerous Eucalyptus saligna (Bluegum) and two Cedrus deodar (Himalayan Cedar) located adjacent to the northern and southern site boundaries.*

*Trees to be removed include exempt species eg Umbrella Trees, and other less desirable species such Cocos Palms. Of the trees to be removed, the largest are two mature Jacarandas approximately 10.0m high. Both are located centrally on site within the proposed building footprint and cannot be retained as they would preclude the site from development if retained, and are too mature to transplant. Other species proposed for removal are shrub species. Landscape Services raises no objections to the proposed tree removal.*

*DCP55 requires a minimum of twelve canopy trees for the site. The landscape proposal includes an additional twelve 'canopy' trees in addition to the existing six canopy trees being retained. This exceeds DCP55's minimum requirement for tree replenishment on a site of this size. All proposed canopy trees are locally occurring species in compliance with DCP55 controls.*

### ***Landscape plan***

*No objections are raised to the proposed landscape works. Any changes can be conditioned. Planting proposed is typical of the broader Killara landscape being native endemic 'canopy' trees, with an understorey planting of exotic trees and shrubs within formal garden beds and lawn expanses. The landscape, given the extent of development proposed, will in time maintain some continuity and context to the existing landscape character.*

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*Screen planting proposed consists of existing and proposed canopy trees (Eucalypts, Himalayan Cedars, Angophora's), smaller understorey trees (Blueberry Ash, Crepe Myrtle, Water Gum, Bottlebrush), large shrubs (Murraya, Viburnum, Banksia, Lillypilly) and small shrubs and groundcovers, providing a layered landscape setting which in time when it matures will provide filtered views to and from the site.*

**BASIX**

*No commitments have been made within the BASIX certificate for low water use/indigenous planting. The landscape plan proposes numerous native indigenous plantings in compliance with DCP55 requirements.*

**Drainage plan**

*The proposed drainage/storm water plan is acceptable.*

**Deep soil areas**

*By the applicant's calculations, the proposed development will have a deep soil landscape area of 1 825sqm or 50.28% of the site area. Landscape Services does not agree with all the areas included within the deep soil calculable area. The areas in dispute include; The planting area to the north of the vehicular entry between the driveway and the retaining wall (less than 2.0m) and, the area to the west of the surface overland flow path between the pedestrian bridge and the retaining wall (less than 2.0m). With the exception of these two areas, Landscape Services agrees with the areas included within the deep soil landscape calculations.*

*It should be noted that despite the two areas in dispute, the total deep soil landscape area is still in compliance with the minimum deep soil landscape area of 50%.*

Council's Landscape Officer supports the proposal, subject to **Conditions Nos 3-8, 20, 40-49.**

**Engineering**

Council's Engineering Assessment Team Leader, Kathy Hawken, commented on the amended proposal as follows:

**Water management**

*The site is traversed by a Council stormwater pipe and easement. Council at its meeting of 19 July 2005 resolved to grant approval to the extinguishment of the easement and the installation of a new pipe in the road. A detailed design for the work has been approved. The new pipe can be installed in conjunction with the construction works, and the new easement registered prior to occupation.*

*The BASIX Certificate requires re-use of the retained water for toilet flushing and irrigation. The retention and detention volumes shown on the stormwater concept plans are as required by the BASIX Certificate and DCP 47. The site has gravity drainage to Caithness Street, and the stormwater concept plans are satisfactory.*

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***Parking and traffic***

*The site is within 400 metres of Killara Station, so 32 resident and 8 visitor parking spaces are required. The development provides 62 resident and 8 visitor spaces, which is ample.*

*The layout of the basement carpark complies with AS2890.1: 2004 Off street car parking.*

*The development is expected to generate an additional 13 to 18 vehicle trips per peak hour. This is not expected to significantly affect traffic flows in the surrounding streets.*

***Construction management***

*Caithness Street is relatively narrow and traffic flows would be obstructed by vehicles parked on both sides. A condition is recommended that a No Parking restriction be imposed on one side of Caithness Street (subject to Traffic Committee approval) for the construction period.*

***Waste collection***

*The traffic report includes a turning path analysis to demonstrate that the small waste collection vehicle can enter and leave the site in a forward direction. Driveway grades are relatively gentle, and there is at least 2.5 metres of headroom in the manoeuvring area.*

***Geotechnical investigation***

*The report was based on two boreholes drilled at accessible locations and contains recommendations for further investigation after demolition. Preliminary recommendations given in the report are sufficient for engineering assessment and selection of conditions.*

*Excavation of about 7 to 8 metres will be required to achieve basement level. The site is underlain by residual clay over extremely weathered, extremely low strength shale at 4.5 metres depth. The use of heavy duty excavation equipment may not be required, however, the report contains recommendations for vibration monitoring in the event of stronger layers being encountered.*

*A groundwater level was measured at 3.4 metres depth, so further monitoring will be required, with permanent basement dewatering likely. However, due to the impermeable nature of the subsurface materials, this is not expected to affect groundwater flow in the vicinity.*

The application is supported by Council's Development Engineering Team Leader, subject to **Conditions Nos 15-19, 26, 27, 31-33, 66-73, 78-84.**

**Heritage**

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

***Preliminary comment***

*This application is very similar to an approval issued in 2005 – DA 1243/04. The key differences are the wall surfaces are rendered and painted, as opposed to the earlier*

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*application that required the lower floor to be face brickwork or stone cladding, the roof is simplified and courtyards and courtyard walls are incorporated with the units on the ground floor. The layout, design and basic configuration of the building is very similar. There are minor alterations to the footprint with a slightly greater setback along Marian Street and a slightly reduced setback along Caithness Street.*

***Heritage status***

*The site is not a heritage item. Demolition was approved under DA1243/04, with a condition that archival recording be undertaken before demolition.*

***UCA***

*The site is within the National Trust UCA No 10 – Culworth. The UCA was reviewed in detail by Council in 2005. As a result of rezoning, it was recommended to reduce the precinct into 2 main precincts based on Marian Street and Stanhope Road, excluding the rezoned areas.*

***Nearby heritage items***

*There are several heritage items within the immediate vicinity including:*

- *33 Marian Street – Griffin design.*
- *39 Marian Street – large Federation period house.*
- *1 Caithness Street – low Georgian Revival Inter War house.*

*33 Marian Street is a Walter Burley Griffin design and one of his larger commissions in Australia. It is considered to be of State heritage significance, but not currently included on the State Heritage Register. It is listed by the National Trust and the former Australian Heritage Commission. It is considered that the curtilage of the item will not be affected by the proposed development as it does not extend to the opposite side of the road. The heritage provisions in DCP 55 are satisfied. The northern side of Marian Street has not been rezoned, so the relationship of No 33 Marian Street with its immediate neighbours will not be altered.*

*The heritage item at 39 Marian Street is a large Federation period house that has been altered. Its primary elevation is to Marian Street but its other more public elevation is to the Pacific Highway. In my opinion, the curtilage of this item will not be affected by the proposed development. The heritage requirements in DCP 55 are met.*

*The building at No 1 Caithness Street is located at the southern end of the lot and the northern part of the garden is planted with substantial trees which screen the house from Marian Street and would largely screen views to and from the proposed medium density building. Given the controls in DCP 55, adequate physical and visual separation would be achieved.*

***DCP 55 Issues – Chapter 3.4 – Development within a UCA***

*UCA 10 is a relatively small precinct focused between the Pacific Highway and the railway line including Marian Street, and Stanhope Road.*



*UCA Design Controls*

*C – 1 - New medium density housing should respect the predominant architectural character and should have reference to predominant design elements.*

*The proposed building is contemporary but has a formality about it that assist its relationship to the existing streetscape and UCA.*

*C – 2 - Facades should be well articulated and avoid long continuous facades to relate to existing lot pattern.*

*The building is well articulated with horizontal and vertical elements and the pattern of balconies and terraces breaking up the facades.*

*C – 3 - Scale and massing of new buildings should be proportioned to respect and enhance the scale and character of nearby development.*

*The scale and massing of the new development is designed to relate to the density of the rezoned site and nearby rezoned sites which established a higher density and scale to the area. This building is designed in two main blocks with a linking element setback from both front and rear elevations. It is set down almost one storey from the Marian Street level but due to the fall in Caithness Street the southern end is about 2 metres above the ground level. In this regard it respects the nearby development.*

*C – 4 - Form and outlines should respect the complexity and pattern of roof shapes and skylines in the UCA.*

*The pitched roof is a form typical of the area, but does increase the overall height of the building. Due to the large terraces and smaller floor areas, the higher roof would not be a dominant element in the street.*

*C – 5 - The new developments should respect existing setbacks and not be located forward*

*This is achieved with setbacks being in accordance with DCP 55*

*C – 6 - New buildings should not be located across the sites contrary to existing lot patterns*

*This development presents a long connected elevation to Marian Street. It is visually broken into two built elements or halves with a break the roof and set back about 6.5m deep and 9m wide in the centre of the building providing an acceptable presentation to the streetscape.*

*C – 7, C – 8 & C – 9 - New buildings should incorporate modern designs and materials sympathetic to the UCA. Combinations of modern materials are acceptable. Colours and textures should blend the massing of new development into the streetscape.*

*The building uses a combination of modern and traditional building materials. The intention of the previous condition requiring face brickwork or stone cladding to the facades was to provide historical reference to the surrounding UCA and items. However, the new application is considered satisfactory.*

*C – 10, C – 11 & C – 12 - Significant fences should be retained and new fences to be compatible with the heritage context of the UCA.*

*The existing stone fence is to be retained and is satisfactory.*

***DCP 55 Issues – Chapter 3.5 - Development within the vicinity of a heritage item –***

***Design Controls.***

*C-1 Setbacks - DCP 55 requires the side setback to be a minimum of 10m for the first and second floors and 15m for the third and fourth floors.*

*This application meets the heritage setback requirements in DCP 55.*

*C-2 - Screen planting on the boundary with the heritage item should achieve a height of 4m and be relatively continuous.*

*This site does not directly adjoin a heritage item and this control is not applicable.*

***C-3 - Respect the aesthetic character of the items***

*This development is clearly contemporary and different to the character of the nearby heritage items, which are Federation and Inter War houses. The intent of the control is to allow new development that respects the aesthetic character of the heritage items and not to dominate it.*

*The heritage report states that the design provides an appropriate and sympathetic character to the context through articulation, the use of pitched roof forms and the setbacks that allow retention of large scape landscaped areas. The use of materials and traditional forms is also complimentary to the established character of the heritage items in this context, providing a satisfactory degree of sympathetic character without being historicist in its treatment.*

*The above view is accepted.*

***C-4 - Colours and materials should be complimentary to the heritage items***

*In general the colours are appropriate and are fairly neutral – grey and beige. Conditions were included with the earlier application for a revised colour scheme with earthy recessive colours to provide more visual interest and further break the bulk and scale of the facades. It is recommended that the condition be retained.*

*The previous approval also conditioned face brick or stone cladding on the ground floor facades. The heritage report claims that the condition is not necessary and the condition is debatable in the context of other development in the area and does not necessarily achieve an acceptable 'fit' with the remaining buildings in the street or the nearby heritage items which are of a different scale and character. The reason provided is that the new design introduces courtyards with stone and timber walls which articulate the facades, provide visual variety and reduces the overall scale of the building in the streetscape. This approach is accepted.*

*C-5 - Fences should be no higher than the existing and any additional height should be transparent.*

*The application proposes retaining the existing fence, which is appropriate.*

*C-6 - Heritage report.*

*The application is accompanied by a heritage impact statement.*

***Conclusions and recommendations:***

*The houses at No 26, 28 & 30 Marian Street have some contributory value to the streetscape but have not been identified as having any specific heritage significance. Demolition is acceptable provided archival recording is undertaken before any works commence.*

*The proposed development generally complies with the requirements in DCP 55 for development within the vicinity of heritage items and within a UCA.*

*This application is very similar to a scheme approved in 2005 (DA1243/04). With regard to heritage, the key difference is this application is for painted and rendered facades whereas the approved scheme conditions the lower floor to be face brickwork or stone cladding. The application also includes courtyards at the ground floor with stone and timber screen walls and argues that the former condition is not necessary. The new application is generally satisfactory and is supported. However, it is still recommended that a colour scheme with more variety with mid earthy tones be separately approved.*

The application is supported by Council's Heritage Advisor, subject to **Conditions Nos 13, 22, 25.**

**STATUTORY PROVISIONS**

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

SEPP 65 aims to improve the design quality of residential flat buildings across NSW and to provide an assessment framework and design code for assessing 'good design'.

A Design Verification Statement prepared by David Wolski has been submitted with the application in accordance with the requirements of the SEPP.

Part 2 sets out design principles against which design review panels and consent authorities may evaluate the merits of a design. This section is to be considered in addition to the comments of Council's *Urban Design Consultant* above. The proposal has been assessed against the heads of consideration specified in SEPP 65, as follows:

**Principle 1: Context**

The proposed development is located within an area recently rezoned Residential 2(d3) for multi unit housing and will initiate the transition from existing development that comprises one to two storey development to the future context of the area characterised by five storey development.

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Whilst higher than the surrounding one to two-storey dwellings, the development acknowledges the established low density character and achieves transition of scale through large front setbacks, a high level of modelling and façade articulation, cement rendered masonry facades, and a low pitch hipped roof form. The overall scale of the building is reduced by the design of the central part of the building, creating two pavilions so that the building is not read as one continuous building.

The development includes sufficient areas of deep soil within the front setbacks for tree planting and retention of existing mature trees. In this regard, the development respects the landscaped character that currently exists and provides for future amenity to residents of the site and the surrounding area.

**Principle 2: Scale**

The development meets the prescribed building envelope requirements of LEP194, including building height and site coverage.

The mass and scale of the building are reduced by creating two pavilions rather than 1 continuous building and reduced gross floor area at the top floor.

**Principle 3: Built form**

The building exhibits significant articulation and façade modulation, with small scale detail which provides visual relief. This is also achieved through recessed and projecting balconies and the setback of the upper floor which contributes to reducing overall scale and height.

Setbacks to the street boundaries vary (e.g. 13m-21m along Marian Street), creating visual interest and at points substantially exceeding the setback requirements of DCP 55, reducing the scale and mass of the building. In particular, along the Marian Street elevation the central portion of the building will be set back 21 metres from the boundary. Along the Caithness Street elevation, the building setback extends up to 17 metres.

**Principle 4: Density**

The proposed density reflects the desired future character of the area, is appropriate for the site and can be serviced adequately by existing physical infrastructure with no adverse impact to the area. The floor area of the development is a reduction on the approved FSR.

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

The proposal satisfies the requirements of BASIX and is satisfactory with regard to resource, energy and water efficiency.

**Principle 6: Landscape**

The proposed landscaping satisfies the numerical requirements and will adequately screen and soften the building.

**Principle 7: Amenity**

The development contains 32 dwellings, comprised of 2 and 3 bedroom units. The dwelling layout, design and orientation ensure high levels of acoustic and visual privacy and internal amenity in

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terms of natural light and cross ventilation. Access to all units complies with access and mobility standards.

**Principle 8: Safety and security**

Siting, internal planning and design of the building ensures high level of surveillance of the street and the internal open space. This is achieved by the provision of large terrace and balcony areas provided for each dwelling unit and the large landscaped area between units at the rear of the building. The development provides quality common spaces, clear definition between public and private spaces and enhances the street level activity.

**Principle 9: Social dimensions**

The application provides for 8 x 2-bedroom dwellings and 24 x 3-bedroom dwellings. The apartments are generously sized and will provide high quality living environments for existing residents in the locality who wish to 'downsize' and remain in the locality. Further, the development is in an accessible location in close proximity to public transport modes.

**Principle 10: Aesthetics**

The facades are strongly articulated, with small scale details which will break down the size of flat wall areas and provide visual interest through recessed and projected balconies. The upper floor is set back from the building perimeter which reduces the apparent scale and bulk of the building.

The break up of the building to present as two pavilions is effective in reducing its perceived scale. Further softening is achieved by the retention of two large 24 metres high mature Blue Gum trees and extensive provision for deep soil landscaping and large canopy tree planting throughout site.

The development is also consistent with considerations of the Residential Flat Design Code.

**Residential Flat Design Code**

**Relating to the local context:**

The building envelope, in terms of setbacks, height and articulation is considered satisfactory having regard to the desired future character of the locality.

**Site analysis:**

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

In terms of site configuration, the proposal provides acceptable locations for deep soil landscape areas, in compliance with Council's guidelines.

The siting and orientation of the development allows adequate solar access for the habitable areas and private open spaces for the development and adjoining properties.

The merits of the application with respect to stormwater management, access and privacy are satisfactory and discussed elsewhere in this report.

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**Building design:**

As detailed in this report, the development provides suitable residential amenity for future occupants in compliance with SEPP 65 and DCP 55.

All other relevant matters relating to building design are detailed elsewhere in this report.

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

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

**State Environmental Planning Policy - Building Sustainability Index (BASIX)**

A BASIX Certificate has been submitted with the development application. The proposed development satisfies the requirements of SEPP (BASIX).

**Ku-ring-gai Planning Scheme Ordinance (KPSO)****Part A - Permissibility – Residential 2(d3) zone**

The proposed development involves the demolition of existing dwellings and construction of a residential flat building comprising a total of 32 residential units. The proposed development is permissible with consent in the Residential 2(d3) zone.

**Part B - Development Standards (LEP 194) – Multi-unit housing**

| COMPLIANCE TABLE  |  |                   |
|---|--|-------------------|
| Development standard  | Proposed                                     | Complies          |
| Site area (min): 2400m <sup>2</sup>   | 3629m <sup>2</sup>                           | YES               |
| Deep landscaping (min): 50%   | 50.28%<br>(1824.7m <sup>2</sup> )            | YES               |
| Street frontage (min): 30m  | 50m / 76m                                    | YES               |
| Number of storeys (max):<br>4 storeys plus top storey<br>(Cl.25I(8))            | 4 storeys plus top storey                    | YES               |
| Site coverage (max): 35%  | 35%<br>(1270.2m <sup>2</sup> )               | YES               |
| Top floor area (max): 60% of<br>level below                                     | 59.9%<br>(761m <sup>2</sup> )                | YES               |
| Storeys and ceiling height<br>(max): 4 and 13.4m                                | 4 & 13.2m                                    | YES               |
| Car parking spaces (min):<br>• 8 (visitors)<br>• 32 (residents)<br>• 40 (total) | 8 (visitors)<br>62 (residents)<br>70 (total) | YES<br>YES<br>YES |

## Item 2

| COMPLIANCE TABLE   |                      |          |
|--|----------------------|----------|
| Development standard                                       | Proposed             | Complies |
| <b>Manageable housing (min):</b><br>10% to be adaptable.   | 12% (4 units)        | YES      |
| <b>Lift access:</b> required if greater than three storeys | Lift access provided | YES      |

**Development within the vicinity of a heritage item (cl.61E):**

The site is located within the National Trust UCA No 10 – Culworth, but is not located within a Conservation Area under the KPSO. The site is in the immediate vicinity of three (3) heritage items, including Nos.33 & 39 Marian Street and No.1 Caithness Street. Councils' Heritage Advisor has reviewed the proposal and potential impacts of the development on the existing dwellings and those heritage properties identified within the vicinity of the site. The proposal is satisfactory with regard to impact on the surrounding heritage items, subject to conditions of consent.

**Residential zone objectives and impact on heritage:**

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  |
| <b>Part 4.1 Landscape design:</b>   |   |           |
| <b>Deep soil landscaping (min)</b><br>• 150m <sup>2</sup> per 1000m <sup>2</sup> of site area = 600m <sup>2</sup> | 1824.7m <sup>2</sup>  | YES       |
| <b>No. of tall trees required (min):</b> 12 trees   | Existing trees retained = 6<br>New canopy trees = 12<br>Total trees = 18  | YES       |
| <b>Part 4.2 Density:</b>  |   |           |
| <b>Building footprint (max):</b><br>• 35% of total site area  | 35%   | YES       |
| <b>Floor space ratio (max):</b><br>• 1.3:1  | 1.34:1  | NO        |
| <b>Part 4.3 Setbacks:</b>   |   |           |
| <b>Street boundary setback (min):</b><br>• 13-15 metres (<40% of the zone occupied by building footprint)         | 13m to 21m / <40% (Marian Street)<br>10m to 17m / <40% (Caithness Street) | YES<br>NO |
| <b>Rear boundary setback (min):</b><br>• 6m   | 6.7m  | YES       |

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| COMPLIANCE TABLE  |   |                   |
|---|---|-------------------|
| Development control   | Proposed  | Complies          |
| Side boundary setback (min):<br>• 6m  | 6.0m  | YES               |
| Setback of ground floor courtyards to street boundary (min):<br>• 11m   | 10.4m   | NO                |
| % of total area of front setback occupied by private courtyards (max):<br>• 15%   | <15%  | YES               |
| <b>Part 4.4 Built form and articulation:</b>  |   |                   |
| Façade articulation:<br>• Wall plane depth >600mm   | >600mm  | YES               |
| • Wall plane area <81m <sup>2</sup>   | <81m <sup>2</sup>   | YES               |
| Built form:<br>• Building length <36m   | 55m   | NO                |
| • Balcony projection <1.2m  | <1.2m   | YES               |
| <b>Part 4.5 Residential amenity</b>   |   |                   |
| Solar access:<br>• >70% of units receive 3+ hours direct sunlight in winter solstice  | 78%   | YES               |
| • >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  | 0%  | YES               |
| Visual privacy:<br>Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site:<br>Storeys 1 to 4<br>• 12m b/w habitable rooms | 15m-22m (RFB at No.32 Marian St)<br>12.1m (dwelling house at No.2 Caithness St) | YES<br>YES<br>YES |
| • 9m b/w habitable and non-habitable rooms  | >9m   | YES               |
| • 6m b/w non-habitable rooms  | >6m   | YES               |



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| COMPLIANCE TABLE  |  |   |
|---|--|---|
| Development control   | Proposed   | Complies                                      |
| <b>5th Storey</b> <ul style="list-style-type: none"> <li>18m b/w habitable rooms</li> <li>13m b/w habitable and non-habitable rooms</li> <li>9m b/w non-habitable rooms</li> </ul>  | 12m-14m (RFB at No.32 Marian St)<br>12.1m (dwelling house at No.2 Caithness St)<br>>13<br>>9 | NO<br>NO<br>YES<br>YES                        |
| <b>Internal amenity:</b> <ul style="list-style-type: none"> <li>Habitable rooms have a minimum floor to ceiling height of 2.7m</li> <li>Non-habitable rooms have a minimum floor to ceiling height of 2.4m</li> <li>1-2 bedroom units have a minimum plan dimension of 3m in all bedroom</li> <li>3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms</li> <li>Single corridors:               <ul style="list-style-type: none"> <li>- serve a maximum of 8 units</li> <li>- &gt;1.5m wide</li> <li>- &gt;1.8m wide at lift lobbies</li> </ul> </li> </ul> | 2.7m<br>>2.4m<br>>3m<br>>3m<br>4 units (max)<br>1.5m-2.5m<br>2.3m                            | YES<br>YES<br>YES<br>YES<br>YES<br>YES<br>YES |
| <b>Outdoor living:</b> <ul style="list-style-type: none"> <li>ground floor apartments have a terrace or private courtyard greater than 25m<sup>2</sup> in area</li> <li>Balcony sizes:               <ul style="list-style-type: none"> <li>- 10m<sup>2</sup> – 1 bedroom unit</li> <li>- 12m<sup>2</sup> – 2 bedroom unit</li> <li>- 15m<sup>2</sup> – 3 bedroom unit</li> </ul> </li> </ul> NB. At least one space >10m <sup>2</sup> <ul style="list-style-type: none"> <li>primary outdoor space has a minimum dimension of 2.4m</li> </ul>  | 62m <sup>2</sup> -163m <sup>2</sup><br>None<br>12m <sup>2</sup><br>15m <sup>2</sup><br>>2.4m | YES<br>N.A.<br>YES<br>YES<br>YES              |
| <b>Part 4.7 Social dimensions:</b>  |  |   |
| <b>Visitable units (min):</b> <ul style="list-style-type: none"> <li>70%</li> </ul>   | 100%   | YES   |
| <b>Housing mix:</b> <ul style="list-style-type: none"> <li>Mix of sizes and types</li> </ul>  | Mix of 2 & 3 bedroom units (8 x 2 bed, 24 x 3 bed)   | YES   |

## Item 2

| COMPLIANCE TABLE                            |           |          |
|---|-----------|----------|
| Development control                         | Proposed  | Complies |
| <b>Part 5 Parking and vehicular access:</b> |           |          |
| <b>Car parking (min):</b>                   |           |          |
| • 32 resident spaces                        | 62 spaces | YES      |
| • 8 visitor spaces                          | 8 spaces  | YES      |
| • 40 total spaces                           | 70 spaces | YES      |

**Part 4.2 Density:***FSR*

The proposed FSR of 1.34:1 is in excess of the maximum permissible FSR of 1.3:1 under DCP 55. The proposed FSR is a reduction on the approved FSR of 1.37:1, and the proposed building form exhibits reduced visual bulk when compared with the approved building, partly due to the reduction in gross floor area at the 5<sup>th</sup> level.

The proposal is consistent with the objectives of the FSR control, which relate to the optimum capacity of the site and the desired future character of the area. On this basis, the proposed FSR is satisfactory.

**Part 4.3 Setbacks:***Front setback*

The proposed Caithness Street setbacks do not comply with the required 13m-15m setbacks. This is satisfactory with regard to the site being in a corner location with two street frontages which unreasonably restricts the extent of development on the site, and also with regard to the approved development, which has reduced setbacks to both Caithness Street and Marian Street. The Caithness Street frontage is a secondary frontage, and the proposed 10m-17m setback is satisfactory with regard to streetscape and visual impact.

The resulting development would achieve the intention of Part 4.3 of DCP 55 in that substantial landscaping is provided along both street frontages and adequate separation is provided to adjoining properties. The scale of the proposed development is consistent with that envisaged in the Residential 2(d3) zoning and the presentation of the development to Caithness Street and Marian Street is satisfactory.

The proposal is acceptable with regard to the setback requirements of DCP 55.

*Courtyards*

The proposed ground floor courtyards have a minimum setback of 10.4m, being slightly less than the required 11m setback. This is satisfactory with regard to the minor nature of the non-compliance and the proposed landscape plantings located between the courtyards and the front boundary. Additionally, Council's Landscape Officer has assessed the proposal and is satisfied with the proposed landscaping.

#### **Part 4.4 Built form and articulation:**

Part 4.4 contains design guidelines to ensure buildings provide a positive contribution to the streetscape and the broader public domain. The intention of Part 4.4 is to encourage buildings which do not dominate the street and to encourage a predominance of landscape features.

The proposed building is well articulated, achieves adequate setbacks from the street and is satisfactory with regard to side & rear boundary setbacks. The development also achieves the deep soil landscaping requirements and maintains adequate areas for deep soil landscaping forward of the building.

##### ***Building width***

The proposed building has a maximum width of 55 metres to the street, which exceeds the building width control. The proposed building width is identical to the approved building width, however, the proposed building design exhibits significantly greater articulation at the upper level, and improved street setbacks compared to the previously approved design, and is satisfactory on this basis.

Further, the use of a mixture of horizontal and vertical building elements, the provision of adequate setbacks and substantial deep soil landscaping to both street setback areas will result in a development that is sited within a landscaped setting. The proposal is acceptable with regard to building width.

#### **Part 4.5 Residential amenity:**

##### ***Visual privacy***

The proposed 5<sup>th</sup> level is set back 15 metres to 22 metres from the adjoining 4 storey building at No.32 Marian Street. This is satisfactory with regard to privacy impact, given the spatial separation between the buildings and the relative levels of the upper storeys of the subject and adjoining buildings. Proposed landscape plantings, including large canopy trees located between the two buildings, will also enhance privacy in relation to dwellings on the 5<sup>th</sup> level.

The 5<sup>th</sup> level setback from the adjoining dwelling at No. 2 Caithness Street is 12.9 metres to 15 metres. This setback is satisfactory with regard to privacy, given both the spatial separation between the buildings and the significant difference in levels between the 5<sup>th</sup> floor and the single storey cottage. Further, the 5<sup>th</sup> floor is set back from the floor below by up to 3 metres, reducing the opportunity for direct overlooking of the adjoining property at No. 2 Caithness Street. Additionally, existing trees located on the subject site, between the proposed building and the dwelling at No. 2 Caithness Street, provide a significant degree of screening.

#### **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.

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**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**

The proposal includes car parking in excess of the required car parking provision, and 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.

**Section 94 Plan**

The development attracts a section 94 contribution of \$760,821.98 (based on 8 “medium” dwellings, 7 “large” dwellings and 17 “very large” dwellings and credit for 3 large dwellings), which is required to be paid by **Condition No. 37**.

**LIKELY IMPACTS**

The likely impacts of the development have been considered within this report and are deemed to be acceptable.

**SUITABILITY OF THE SITE**

The site is suitable for the proposed development.

**ANY SUBMISSIONS**

The submissions received have been considered.

**PUBLIC INTEREST**

The proposal is considered to be in the public interest.

**CONCLUSION**

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

**RECOMMENDATION**

THAT the Council, as the consent authority, grant development consent to DA 820/07 for demolition of three (3) dwelling houses and construction of a residential flat building comprising 32 units and basement car parking for 70 vehicles on land at 26 to 30 Marian Street, Killara, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

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**CONDITIONS THAT IDENTIFY APPROVED PLANS:**

**1. Approved architectural plans and documentation (new development)**

The development must be carried out in accordance with work shown in colour on the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

| Job No. | Dwg No. | Drawn by                     | Dated   |
|---------|---------|------------------------------|---------|
| 2718    | 01      | Wolski Lycenko and Brecknock | 29/8/07 |
| 2718    | 02      | Wolski Lycenko and Brecknock | 29/8/07 |
| 2718    | 03      | Wolski Lycenko and Brecknock | 29/8/07 |
| 2718    | 04      | Wolski Lycenko and Brecknock | 29/8/07 |
| 2718    | 05      | Wolski Lycenko and Brecknock | 29/8/07 |
| 2718    | 06      | Wolski Lycenko and Brecknock | 29/8/07 |
| 2718    | 07      | Wolski Lycenko and Brecknock | 29/8/07 |
| 2718    | 08      | Wolski Lycenko and Brecknock | 29/8/07 |
| 2718    | 09      | Wolski Lycenko and Brecknock | 29/8/07 |
| 4056    |         | TJ Gilbert and Associates    | 10/3/04 |

**Reason:** To ensure that the development is in accordance with the determination of Council.

**2. Inconsistency between documents**

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

**Reason:** To ensure that the development is in accordance with the determination of Council.

**CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:**

**3. Tree protective fencing type galvanised mesh**

The tree protection fencing shall be constructed of galvanised pipe at 2.4 metre spacing and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres in height prior to work commencing.

**Reason:** To protect existing trees during construction phase

**4. Tree protection fencing**

To preserve the following tree/s, no work shall commence until the area beneath their canopy is fenced off at the specified radius from the trunk/s 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.

Item 2

**Schedule**

| <b>Tree/location</b>   | <b>Radius in metres</b>                 |
|--|---|
| #1 Magnolia soulangeana (Soul's Magnolia)<br>Adjacent to southern site boundary                                  | 2.0m                                    |
| #2 Tibouchina lepidota (Tibouchina)<br>Adjacent to southern site boundary  | 3.0m                                    |
| #3 Melaleuca bracteata (Melaleuca)<br>Adjacent to southern site boundary   | 3.0m                                    |
| #4 Agonis flexuosa (Willow Myrtle)<br>Adjacent to southern site boundary in neighbouring property                | 3.0m                                    |
| #6 Eucalyptus saligna (Bluegum)<br>Adjacent to northern site boundary  | 7.0m                                    |
| #15 Cedrus deodar (Himalayan Cedar)<br>Adjacent to southern site boundary  | 3.0m on northern side<br>7.0m elsewhere |
| #16 Cedrus deodar (Himalayan Cedar)<br>Adjacent to southern site boundary  | 4.0m<br>2.0m to northeast               |
| #21 Cupressus macrocarpa (Cypress)<br>Adjacent to western site boundary in neighbouring property                 | 3.0m                                    |
| #22 Cupressus macrocarpa (Cypress)<br>Adjacent to western site boundary in neighbouring property                 | 3.0m                                    |
| #23 Robinia pseudoacacia 'Frisia' (Golden Robinia)<br>Adjacent to western site boundary in neighbouring property | 3.0m                                    |
| #24 Camellia sasanqua (Chinese Camellia)<br>Adjacent to northwest site corner in neighbouring property           | 3.0m                                    |
| #27 Jacaranda mimosifolia (Jacaranda)<br>Marian St nature strip  | 4.0m maintaining pedestrian access      |
| #28 Jacaranda mimosifolia (Jacaranda)<br>Marian St nature strip  | 4.0m maintaining pedestrian access      |

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**Schedule**

| Tree/location  | Radius in metres                                      |
|--|---|
| #29 Jacaranda mimosifolia (Jacaranda)<br>Marian St nature strip                        | 4.0m maintaining pedestrian access                    |
| #31 Eucalyptus saligna (Bluegum)<br>Adjacent to northern site boundary                 | 8.0m maintaining pedestrian access<br>along Marian St |
| #32 Eucalyptus saligna (Bluegum)<br>Adjacent to northern site boundary                 | 8.0m maintaining pedestrian access<br>along Marian St |
| #33 Cornus florida (Dogwood)<br>Adjacent to southeast site corner                      | 3.0m  |
| #34 Nyssa sylvatica (Tupelo)<br>Adjacent to southern site boundary                     | 2.0m to northwest<br>3.0m elsewhere                   |
| #35 Pittosporum undulatum (Sweet<br>Pittosporum)<br>Adjacent to southern site boundary | 3.0m  |

**Reason:** To protect existing trees during the construction phase.

**5. Tree protection signage**

Prior to works commencing, tree protection signage is to be attached to each tree protection zone, displayed in a prominent position and the sign repeated at 10 metres intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:

- tree protection zone
- this fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted
- any encroachment not previously approved within the tree protection zone shall be the subject of an arborist's report
- the arborist's report shall provide proof that no other alternative is available
- the arborist's report shall be submitted to the Principal Certifying Authority for further consultation with Council
- the name, address, and telephone number of the developer.

**Reason:** To protect existing trees during the construction phase.

**6. Tree protection mulching**

Prior to works commencing and throughout construction, the area of the tree protection zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood.

**Reason:** To protect existing trees during the construction phase.

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**7. Tree protection – avoiding soil compaction**

To preserve the following tree/s and avoid soil compaction, no work shall commence until temporary measures to avoid soil compaction (eg rumble boards) beneath the canopy of the following tree/s is/are installed if mechanical or repeated pedestrian thoroughfare is required:

**Schedule**

**Tree location**

#6 Eucalyptus saligna (Bluegum)  
Adjacent to northern site boundary

#15 Cedrus deodar (Himalayan Cedar)  
Adjacent to southern site boundary

#16 Cedrus deodar (Himalayan Cedar)  
Adjacent to southern site boundary

#31 Eucalyptus saligna (Bluegum)  
Adjacent to northern site boundary

#32 Eucalyptus saligna (Bluegum)  
Adjacent to northern site boundary

#34 Nyssa sylvatica (Tupelo)  
Adjacent to southern site boundary

**Reason:** To protect existing trees during the construction phase.

**8. Tree fencing inspection**

Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with all relevant conditions.

**Reason:** To protect existing trees during the construction phase.

**9. Notice to be given prior to demolition or excavation**

Council shall be given written notice, at least 48 hours prior to the commencement of any development (including excavation, shoring or underpinning works) on the site.

**Reason:** Statutory requirement.

**10. Notice of commencement**

At least 48 hours prior to the commencement of any development or excavation works, a notice of commencement of building or subdivision work form and appointment of the principal certifying authority form shall be submitted to Council.



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**Reason:** Statutory requirement.

**11. Notification of builder's details**

Prior to the commencement of any development or excavation works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

**Reason:** Statutory requirement.

**12. Dilapidation survey and report (public infrastructure)**

Prior to the commencement of any development or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures of the following public infrastructure, has been completed and submitted to Council:

**Public infrastructure**

- Full road pavement width, including kerb and gutter, of Marian and Caithness Streets over the site frontage, including the full 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 written and photographic) existing damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition prior to the commencement of works.

**Note:** A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any excavation works.

**Reason:** To record the structural condition of public infrastructure before works commence.

**13. Surrender of development consent**

The applicant must surrender the following development consent to Council by submitting a completed copy of Form 3 of the Environmental Planning and Assessment Regulation 2000:

|                                |              |   |
|--------------------------------|--------------|---|
| <b>Development Consent No.</b> | <b>Dated</b> | <b>For:</b>   |
| DA: 1243/04                    | 24/5/04      | Demolition of three (3) dwellings and construction of a 5 storey multi unit dwelling building containing 27 units with basement parking for 61 vehicles |

**Reason:** To ensure that there is certainty as to the consent applying to the subject land.

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**14. Dilapidation survey and report (private property)**

Prior to the commencement of any demolition or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures upon the following lands, has been completed and submitted to Council:

**Address**

- 32 Marian Street
- 2 Caithness Street

The dilapidation report must include a photographic survey of adjoining properties detailing their physical condition, both internally and externally, including such items as walls ceilings, roof and structural members. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted geotechnical report.

In the event that access for undertaking the dilapidation survey is denied by a property owner, the applicant must demonstrate in writing to the satisfaction of the Principal Certifying Authority that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

**Note:** A copy of the dilapidation report is to be provided to Council prior to any excavation works been undertaken. The dilapidation report is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any civil action required to resolve any dispute over damage to adjoining properties arising from works.

**Reason:** To record the structural condition of likely affected properties before works commence.

**15. Geotechnical report**

Prior to the commencement of any bulk excavation works on site, the applicant shall submit to the Principal Certifying Authority, the results of the detailed geotechnical investigation as recommended in the report by Jeffery and Katauskas. The report is to address such matters as:

- appropriate excavation methods and techniques
- vibration management and monitoring
- dilapidation survey
- support and retention of excavates faces
- hydrogeological considerations

The recommendations of the report are to be implemented during the course of the works.

**Reason:** To ensure the safety and protection of property.

**16. Construction and traffic management plan**

Prior to the commencement of any works on site, the applicant must submit for review by Council's engineers a construction and traffic management plan. The following matters must be

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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 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 and concrete pump and truck standing areas on and off the site
  - 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
  - an on-site parking area for employees, tradespersons and construction vehicles as far as possible
- **Traffic control plan(s) for the site**

All traffic control plans must be in accordance with the RTA publication "Traffic Control Worksite Manual" and prepared by a suitably qualified person (minimum '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 stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

- **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 where alternate routes exist.

A copy of this route is to be made available to all contractors and shall be clearly depicted at a location within the site.

The plan must provide evidence of RTA concurrence where construction access is provided directly from or within 20m of an arterial road.

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

The plan must provide measures for minimising construction related traffic movements during school peak periods.

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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 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.

As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council's Development Engineer. Written acknowledgment from Council's Engineer shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

**Reason:** To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

**17. Work zone**

If a work zone is proposed, the applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the work zone. Work 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. Work 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 work zone is approved by the Local Traffic Committee, the applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit this to the Principal Certifying Authority prior to commencement of any works on 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 site. At the expiration of the work zone approval, the applicant is required to remove the work zone signs and reinstate any previous signs at their expense.

In the event the work zone is required for a period beyond that initially approved by the Traffic Committee, the applicant shall make a payment to Council for the extended period in accordance with Council's schedule of fees and charges for work zones prior to the extended period commencing.

**Reason:** To ensure that appropriate measures have been made for the operation of the site during the construction phase.

**18. Erosion and drainage management**

Earthworks and/or demolition of any existing buildings shall not commence until an erosion and sediment control plan is submitted to and approved by the Principal Certifying Authority. The plan shall comply with the guidelines set out in the NSW Department of Housing manual "Managing

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Urban Stormwater: Soils and Construction" certificate. Erosion and sediment control works shall be implemented in accordance with the erosion and sediment control plan.

**Reason:** To preserve and enhance the natural environment.

**19. Noise and vibration management plan**

Prior to the commencement of any works, a noise and vibration management plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority. The management plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and Ku-ring-gai Council's Code for the Control and Regulation of Noise on Building Sites. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

The management plan shall address, but not be limited to, the following matters

- identification of the specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- the construction noise objective specified in the conditions of this consent
- the construction vibration criteria specified in the conditions of this consent
- determination of appropriate noise and vibration objectives for each identified sensitive receiver
- noise and vibration monitoring, reporting and response procedures
- assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles and any traffic diversions
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- contingency plans to be implemented in the event of non-compliances and/or noise complaints
- compliance with Council's Code for the Control and Regulation of Noise on Building Sites

**Reason:** To protect the amenity afforded to surrounding residents during the construction process.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE:**

**20. Amendments to approved landscape plan**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved landscape plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

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|                 |                 |              |
|-----------------|-----------------|--------------|
| <i>Plan no.</i> | <i>Drawn by</i> | <i>Dated</i> |
| 45.07/086       | iScape          | August 2007  |

The above landscape plan(s) shall be amended in the following ways:

- Planting adjacent to the western site boundary is to be increased so that there is more than one layer of planting. Additional large screening shrubs are required to be planted and the mulched access path reduced in width.

**Reason:** To ensure adequate landscaping of the site

## 21. Builder's indemnity insurance

The applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the Home Building Act 1989 to the 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. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at 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).

**Reason:** Statutory requirement.

## 22. External finishes, colours and materials (heritage items and conservation areas)

Prior to the issue of a Construction Certificate, the Certifying Authority shall submit a colour scheme and or materials board to Council's Heritage Advisor for approval. A written acknowledgement from Council's Heritage Advisor must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Note:** Details of the colour, finish and substance of all external materials, including schedules and a sample board of materials and colours, are to be submitted.

**Reason:** To protect heritage items and conservation areas.

## 23. Access for people with disabilities (residential)

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that access for people with disabilities to and from and between the public domain, residential units and all common open space areas is provided. Consideration must be given to the means of dignified and equitable access.

Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate. All details shall be prepared in

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consideration of the Disability Discrimination Act, and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

**Reason:** To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards.

**24. Adaptable units**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the nominated adaptable units within the development application, [enter unit nos.], are designed as adaptable housing in accordance with the provisions of Australian Standard AS4299-1995: Adaptable Housing.

**Note:** Evidence from an appropriately qualified professional demonstrating compliance with this control is to be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** Disabled access & amenity.

**25. Archival recording of buildings**

Prior to the commencement of any development or excavation works on site, the Principal Certifying Authority shall be satisfied that an archival report has been completed and submitted to Council's Heritage Advisor for the following properties:

**Address**

- 26, 28 & 30 Marian Street, Killara

The report must be a bound A4 report, prepared by a recognised NSW Heritage Office heritage consultant and must contain the following minimum requirements:

- title page
- statement of reasons the recording was made
- outline history of the item (including title records, subdivision plans, water and sewerage plans and any archival documents such as family records, old photographs, etc)
- statement of a heritage significance (to accepted Heritage Council criteria)
- specialised reports such as heritage assessments, dilapidation report, and builders or engineers reports
- location plan showing relationship of site to nearby area
- site plan to scale (1:200 – 1:500) showing all structures and site elements
- measured drawing including site survey, floor plans, all elevations, roof plan and one cross section (1:00)
- drawings of specific interiors or details nominated by Council's Heritage Advisor
- room inventories noting materials, profile of nominated decorative elements (1:2) and nominated by Council's Heritage Advisor
- black & white archival quality photographs, contact prints, with negatives and selected prints (one copy of negatives other copies with contact sheets and selected prints)
- colour slides (one set)
- colour photographs (one copy with negatives)

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Digital images and CDs may be submitted as supplementary information.

All photographs in the report are to be mounted, labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. A photographic recording sheet must be included. Photographs of the following must form part of the archival report:

- each elevation
- each interior room
- photographs of specific details nominated by Council's Heritage Advisor
- all structures on site, such as sheds, outhouses and significant landscape features
- several photographs of house from public streets or laneways including several views showing relationship to neighbouring buildings

**Note:** Three copies of the report must be submitted to Council's Heritage Advisor, one copy with negatives. A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any excavation works on site.

**Reason:** To ensure the proper management of historical artefacts and to ensure their preservation.

## 26. Stormwater management plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:

- exact location and reduced level of discharge point to the public drainage system
- Layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence)
- location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems and 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 Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments
- details of the required on-site detention tanks required by Ku-ring-gai Water Management DCP 47, including dimensions, materials, locations, orifice and discharge control pit details as required (refer Chapter 6 and Appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements)
- the required basement stormwater pump-out system is to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design)

The above construction drawings and specifications are to be prepared by a qualified and



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experienced civil/hydraulic engineer in accordance with Council's Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - Plumbing and Drainage Code and the Building Code of Australia. The plans may be generally based on the stormwater concept plan by AFCE Environment + Building submitted with the development application, which are to be advanced as necessary for construction certificate issue purposes.

**Reason:** To protect the environment.

**27. Stormwater retention**

Prior to the issue of a Construction Certificate, the Principal Certifying Authority is to be satisfied that:

- A mandatory rainwater retention and re-use system, comprising storage tanks and ancillary plumbing is provided. The minimum total storage volume of the rainwater tank system, and the prescribed re-use of the water on site must satisfy all relevant BASIX commitments and the requirements specified in Chapter 6 of Ku-ring-gai Water Management Development Control Plan 47; and
- An on-site stormwater detention system must be provided to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with Chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The on-site detention system must be designed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in Appendix 5 of DCP 47.

**Reason:** To protect the environment.

**28. Noise from plant in residential zone**

Where any form of mechanical ventilation equipment or other noise generating plant is proposed as part of the development, prior to the issue of the Construction Certificate the Certifying Authority, shall be satisfied that the operation of an individual piece of equipment or operation of equipment in combination will not exceed more than 5dB(A) above the background level during the day when measured at the site's boundaries and shall not exceed the background level at night (10.00pm - 6.00 am) when measured at the boundary of the site.

- C1. Note:** A certificate from an appropriately qualified acoustic engineer is to be submitted with the Construction Certificate, certifying that all mechanical ventilation equipment or other noise generating plant in isolation or in combination with other plant will comply with the above requirements.

**Reason:** To comply with best practice standards for residential acoustic amenity.

**29. Location of plant (residential flat buildings)**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that all plant and equipment (including but not limited to air conditioning equipment) is located within the basement.

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**C1. Note:** Architectural plans identifying the location of all plant and equipment shall be provided to the Certifying Authority.

**Reason:** To minimise impact on surrounding properties, improved visual appearance and amenity for locality.

**30. Driveway crossing levels**

Prior to issue of the Construction Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.

This development consent is for works wholly within the property. Development 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 development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

The construction of footpaths and driveways outside the property in materials other than those approved by Council is not permitted.

**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

**31. Driveway grades – basement carparks**

Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifying Authority. These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level. The traffic engineer shall provide specific written certification on the plans that:

- vehicular access can be obtained using grades of 20% (1 in 5) maximum and
- all changes in grade (transitions) comply with Australian Standard 2890.1 – "Off-street car parking" (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.

If a new driveway crossing is proposed, the longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application.

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**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

**32. Basement car parking details**

Prior to issue of the Construction Certificate, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements must be submitted to and approved by the Certifying Authority. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 – 2004 “Off-street car parking”
- a clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement
- no doors or gates are provided in the access driveways to the basement car park which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area
- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans

**Reason:** To ensure that parking spaces are in accordance with the approved development.

**33. Design of works in public road (Roads Act approval)**

Prior to issue of the Construction Certificate, the Certifying Authority shall be satisfied that engineering plans and specifications prepared by a qualified consulting engineer have been approved by Council’s Development Engineer. The plans to be assessed must be to a detail suitable for construction issue purposes and must detail the following infrastructure works required in Caithness Street:

- construction of a 1.2 metre wide footpath from the site frontage, to Council’s standard detail.

Development consent does not give approval to these works in the road reserve. The applicant must obtain a separate approval under sections 138 and 139 of The Roads Act 1993 for the works in the road reserve required as part of the development. The Construction Certificate must not be issued, and these works must not proceed until Council has issued a formal written approval under the Roads Act 1993.

The required plans and specifications 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. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. Survey must be undertaken as required. 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). Construction of the works must proceed only in accordance with any conditions attached to the Roads Act approval issued by Council.

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A minimum of three (3) weeks will be required for Council to assess the Roads Act application. Early submission of the Roads Act application is 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.

**Reason:** To ensure that the plans are suitable for construction purposes.

**34. Energy Australia requirements**

Prior to issue of the Construction Certificate, the applicant must 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 for approval prior to issue of the Construction Certificate.

Any structures or other requirements of Energy Australia shall be indicated on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.

**Reason:** To ensure compliance with the requirements of Energy Australia.

**35. Utility provider requirements**

Prior to issue of the Construction Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained. All utility services or appropriate conduits for the same must be provided by the developer in accordance with the specifications of the utility providers.

**Reason:** To ensure compliance with the requirements of relevant utility providers.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION (WHICHEVER COMES FIRST):**

**36. Infrastructure restorations fee**

To ensure that damage to Council Property as a result of construction activity is rectified in a timely matter:

- a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- b) The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council Property, and for the removal from

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Council Property of any waste bin, building materials, sediment, silt, or any other material or article.

- c) The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
- d) In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.
- e) In this condition:

“Council Property” includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

“Infrastructure Restoration Fee” means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

**Reason:** To maintain public infrastructure

### 37. Section 94 contribution – residential development

A contribution pursuant to section 94 of the Environmental Planning and Assessment Act as specified in Ku-ring-gai Section 94 Contributions Plan 2004-2009 for the services detailed in column A and for the amount detailed in Column B is required.

| Column A                                 | Column B            |
|--|---------------------|
| community facilities                     | \$ 1,117.76         |
| park acquisition and embellishment works | \$6 384.75          |
| sportsgrounds works                      | \$1 318.32          |
| aquatic / leisure centres                | \$27.82             |
| traffic and transport                    | \$150.28            |
| section 94 Plan administration           | \$100.04            |
| <b>Total contribution is:</b>            | <b>\$760,821.98</b> |

The contribution shall be paid to Council prior to the commencement of any development (including demolition) or prior to the issue of the Construction Certificate (whichever comes first). 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

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index. Prior to payment, you are advised to check the contribution amount required with Council.

**Reason:** To ensure 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 the development.

**CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES:**

**38. No storage of materials beneath trees**

No activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.

**Reason:** To protect existing trees.

**39. Removal of refuse**

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.

**Reason:** To protect the environment.

**40. Approved tree works**

Approval is given for the following works to be undertaken to trees on the site:

| Schedule<br>Tree location  | Approved tree works |
|--|---------------------|
| #5 Schefflera arboricola (Umbrella Tree)<br>Adjacent to northern site boundary   | Removal             |
| #7 Xylosma senticosa (Xylosma)<br>Adjacent to northern site boundary             | Removal             |
| #8 Xylosma senticosa (Xylosma)<br>Adjacent to northern site boundary             | Removal             |
| #9 Chamaecyparis obtusa (Hinoki Cypress)<br>Adjacent to northern site boundary   | Removal             |
| #10 Arecastrum romanzoffianum (Cocco Palm)<br>Within front setback               | Removal             |
| #11 Arecastrum romanzoffianum (Cocco Palm)<br>Within proposed building footprint | Removal             |

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| Schedule<br>Tree location   | Approved tree works |
|---|---------------------|
| #12 Jacaranda mimosifolia<br>(Jacaranda)<br>Within proposed building footprint    | Removal             |
| #13 Persea americana (Avocado)<br>Within proposed building footprint              | Removal             |
| #17 Cupressus spp (Cypress Pine)<br>Within proposed building footprint            | Removal             |
| #18 Eucalyptus spp (Eucalypt)<br>Within proposed building footprint               | Removal             |
| #19 Citrus limon (Lemon)<br>Adjacent to southwest site corner                     | Removal             |
| #20 Schefflera arboricola<br>(Umbrella Tree)<br>Adjacent to southwest site corner | Removal             |
| #36 Schinus areira (Peppercorn)<br>Within proposed building footprint             | Removal             |
| #37 Jacaranda mimosifolia<br>(Jacaranda)<br>Within proposed building footprint    | Removal             |

Removal or pruning of any other tree on the site is not approved.

**Reason:** To ensure that the development is in accordance with the determination of Council.

#### 41. Arborist's report

The trees to be retained shall be inspected, monitored and treated by a qualified arborist during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the arborist to the Principal Certifying Authority are required at the following times or phases of work:

| Schedule<br>Tree/location  | Time of inspection  |
|--|---|
| All existing trees to be retained on site<br>and within the nature strip | Prior to demolition<br>After demolition<br>Prior to excavation<br>After excavation<br>After regrading of site<br>Every four (4) months during<br>construction |

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Completion of building works  
Completion of all works on site

**Reason:** To ensure protection of existing trees

**42. Treatment of tree roots**

If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced arborist/horticulturist with a minimum qualification of horticulture certificate or tree surgery certificate

**Reason:** To protect existing trees.

**43. Cutting of tree roots**

No tree roots of 30mm 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 works during the construction period.

**Schedule**

| <b>Tree/location</b>  | <b>Radius from trunk</b>                |
|---|---|
| #1 Magnolia soulangeana (Soul's Magnolia)<br>Adjacent to southern site boundary                   | 3.0m                                    |
| #2 Tibouchina lepidota (Tibouchina)<br>Adjacent to southern site boundary                         | 4.0m                                    |
| #3 Melaleuca bracteata (Melaleuca)<br>Adjacent to southern site boundary                          | 4.0m                                    |
| #4 Agonis flexuosa (Willow Myrtle)<br>Adjacent to southern site boundary in neighbouring property | 5.0m                                    |
| #6 Eucalyptus saligna (Bluegum)<br>Adjacent to northern site boundary                             | 8.0m                                    |
| #15 Cedrus deodar (Himalayan Cedar)<br>Adjacent to southern site boundary                         | 5.0m on northern side<br>7.0m elsewhere |
| #16 Cedrus deodar (Himalayan Cedar)<br>Adjacent to southern site boundary                         | 5.0m<br>2.0m to northeast               |
| #21 Cuppressus macrocarpa (Cypress)<br>Adjacent to western site boundary in neighbouring property | 3.0m                                    |
| #22 Cuppressus macrocarpa (Cypress)<br>Adjacent to western site boundary in                       | 3.0m                                    |



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**Schedule**

| Tree/location         | Radius from trunk |
|-----------------------|-------------------|
| neighbouring property |                   |

|  |      |
|--|------|
| #23 Robinia pseudoacacia 'Frisia'<br>(Golden Robinia)<br>Adjacent to western site boundary in<br>neighbouring property | 3.0m |
|--|------|

|  |      |
|--|------|
| #24 Camellia sasanqua (Chinese<br>Camellia)<br>Adjacent to northwest site corner in<br>neighbouring property | 3.0m |
|--|------|

|   |      |
|---|------|
| #27 Jacaranda mimosifolia (Jacaranda)<br>Marian St nature strip | 4.0m |
|---|------|

|   |      |
|---|------|
| #28 Jacaranda mimosifolia (Jacaranda)<br>Marian St nature strip | 4.0m |
|---|------|

|   |      |
|---|------|
| #29 Jacaranda mimosifolia (Jacaranda)<br>Marian St nature strip | 4.0m |
|---|------|

|  |      |
|--|------|
| #31 Eucalyptus saligna (Bluegum)<br>Adjacent to northern site boundary | 8.0m |
|--|------|

|  |      |
|--|------|
| #32 Eucalyptus saligna (Bluegum)<br>Adjacent to northern site boundary | 8.0m |
|--|------|

|   |      |
|---|------|
| #33 Cornus florida (Dogwood)<br>Adjacent to southeast site corner | 3.0m |
|---|------|

|  |      |
|--|------|
| #34 Nyssa sylvatica (Tupelo)<br>Adjacent to southern site boundary | 3.0m |
|--|------|

|  |      |
|--|------|
| #35 Pittosporum undulatum (Sweet<br>Pittosporum)<br>Adjacent to southern site boundary | 3.0m |
|--|------|

**Reason:** To protect existing trees.

**44. Hand excavation**

All excavation within the specified radius of the trunk(s) of the following tree(s) shall be hand dug:

**Schedule**

| Tree/location                                | Radius from trunk |
|--|-------------------|
| #1 Magnolia soulangeana (Soul's<br>Magnolia) | 3.0m              |

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**Schedule**

| Tree/location  | Radius from trunk                       |
|--|---|
| Adjacent to southern site boundary   |   |
| #2 Tibouchina lepidota (Tibouchina)<br>Adjacent to southern site boundary  | 4.0m                                    |
| #3 Melaleuca bracteata (Melaleuca)<br>Adjacent to southern site boundary   | 4.0m                                    |
| #4 Agonis flexuosa (Willow Myrtle)<br>Adjacent to southern site boundary in<br>neighbouring property                   | 5.0m                                    |
| #6 Eucalyptus saligna (Bluegum)<br>Adjacent to northern site boundary  | 8.0m                                    |
| #15 Cedrus deodar (Himalayan Cedar)<br>Adjacent to southern site boundary  | 5.0m on northern side<br>7.0m elsewhere |
| #16 Cedrus deodar (Himalayan Cedar)<br>Adjacent to southern site boundary  | 5.0m<br>2.0m to northeast               |
| #21 Cupressus macrocarpa (Cypress)<br>Adjacent to western site boundary in<br>neighbouring property                    | 3.0m                                    |
| #22 Cupressus macrocarpa (Cypress)<br>Adjacent to western site boundary in<br>neighbouring property                    | 3.0m                                    |
| #23 Robinia pseudoacacia 'Frisia'<br>(Golden Robinia)<br>Adjacent to western site boundary in<br>neighbouring property | 3.0m                                    |
| #24 Camellia sasanqua (Chinese<br>Camellia)<br>Adjacent to northwest site corner in<br>neighbouring property           | 3.0m                                    |
| #27 Jacaranda mimosifolia (Jacaranda)<br>Marian St nature strip  | 4.0m                                    |
| #28 Jacaranda mimosifolia (Jacaranda)<br>Marian St nature strip  | 4.0m                                    |
| #29 Jacaranda mimosifolia (Jacaranda)<br>Marian St nature strip  | 4.0m                                    |

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**Schedule**

| Tree/location  | Radius from trunk |
|--|-------------------|
| #31 Eucalyptus saligna (Bluegum)<br>Adjacent to northern site boundary                 | 8.0m              |
| #32 Eucalyptus saligna (Bluegum)<br>Adjacent to northern site boundary                 | 8.0m              |
| #33 Cornus florida (Dogwood)<br>Adjacent to southeast site corner                      | 3.0m              |
| #34 Nyssa sylvatica (Tupelo)<br>Adjacent to southern site boundary                     | 3.0m              |
| #35 Pittosporum undulatum (Sweet<br>Pittosporum)<br>Adjacent to southern site boundary | 3.0m              |

**Reason:** To protect existing trees.

**45. Thrust boring**

Excavation for the installation of any services within the specified radius of the trunk(s) of the following tree(s) shall utilise the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground level to minimise damage to tree(s) root system

**Schedule**

| Tree/location   | Radius from trunk                       |
|---|---|
| #6 Eucalyptus saligna (Bluegum)<br>Adjacent to northern site boundary     | 8.0m                                    |
| #15 Cedrus deodar (Himalayan Cedar)<br>Adjacent to southern site boundary | 5.0m on northern side<br>7.0m elsewhere |
| #16 Cedrus deodar (Himalayan Cedar)<br>Adjacent to southern site boundary | 5.0m<br>2.0m to northeast               |
| #31 Eucalyptus saligna (Bluegum)<br>Adjacent to northern site boundary    | 8.0m                                    |
| #32 Eucalyptus saligna (Bluegum)<br>Adjacent to northern site boundary    | 8.0m                                    |
| #34 Nyssa sylvatica (Tupelo)<br>Adjacent to southern site boundary        | 3.0m                                    |

**Reason:** To protect existing trees.

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**46. Tree planting on nature strip**

The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along (enter street). The tree(s) used shall be a minimum 25 litres container size specimen(s):

**Schedule**

| Tree/ species                        | Quantity | Location   |
|--------------------------------------|----------|--|
| Jacaranda mimosifolia<br>(Jacaranda) | 6        | Evenly spaced within the<br>Marian St nature strip |

**Reason:** To provide appropriate landscaping within the streetscape.

**47. Supervision of transplanting**

Transplanting of the following trees/shrubs shall be directly supervised by an experienced arborist/horticulturist with a minimum qualification of horticulture certificate or tree surgery certificate.

**Schedule**

| Species/from   | To                         |
|--|----------------------------|
| #25 Camellia japonica (Japanese<br>Camellia)<br>Adjacent to northern site boundary | As shown on landscape plan |
| #26 Camellia japonica (Japanese<br>Camellia)<br>Adjacent to northern site boundary | As shown on landscape plan |
| #30 Magnolia soulangeana (Soul's<br>Magnolia)<br>Within building footprint         | As shown on landscape plan |

**Reason:** To protect the trees during transplanting.

**48. Canopy replenishment trees to be planted**

The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species

**Reason:** To maintain the treed character of the area.

**49. Approved plans to be on site**

A copy of all approved and certified plans, specifications and documents incorporating conditions

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of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

**Reason:** To ensure that the development is in accordance with the determination of Council.

**50. Prescribed conditions**

The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation. For the purposes of section 80A (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- The work must be carried out in accordance with the requirements of the Building Code of Australia
- In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any works commence.

**Reason:** Statutory requirement.

**51. Statement of compliance with Australian Standards**

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposal contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of any works.

**Reason:** To ensure compliance with the Australian Standards.

**52. Demolition, excavation and construction work hours**

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12.00pm Saturday, except with approval in writing from Council in relation to permitted out of hours work. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 9.00am and 4.00pm Monday to Friday, with regular breaks of 15 minutes each hour.

**Reason:** To ensure reasonable standards of amenity to neighbouring properties.

**53. Construction noise**

During excavation, demolition and construction phases, noise generated from the site shall be

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controlled in accordance with the recommendations of the approved noise and vibration management plan.

**Reason:** To ensure reasonable standards of amenity to neighbouring properties.

**54. Site notice**

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

**Reason:** To ensure public safety and public information.

**55. Dust control**

During excavation, demolition and construction, adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

- physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs
- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out daily

**Reason:** To protect the environment and amenity of surrounding properties.

**56. Post-construction dilapidation report**

The applicant shall engage a suitably qualified person to prepare a post construction dilapidation report at the completion of the construction works. This report is to ascertain whether the

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construction works created any structural damage to adjoining buildings, infrastructure and roads. The report is to be submitted to the Principal Certifying Authority. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Principal Certifying Authority must:

- compare the post-construction dilapidation report with the pre-construction dilapidation report
- have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.

A copy of this report is to be forwarded to Council at the completion of the construction works.

**Reason:** Management of records.

**57. Further geotechnical input**

The geotechnical and hydro-geological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by Jeffery and Katauskas. Over the course of the works, a qualified geotechnical/hydro-geological 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

**Reason:** To ensure the safety and protection of property.

**58. Compliance with submitted geotechnical report**

A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee excavation.

Geotechnical aspects of the development work, namely:

- appropriate excavation method and vibration control
- support and retention of excavated faces
- hydro-geological considerations

must be undertaken in accordance with the recommendations of the geotechnical report prepared by Jeffery and Katauskas. Approval must be obtained from all affected property owners, including Ku-ring-gai Council, where rock anchors (both temporary and permanent) are proposed below adjoining property(ies).

**Reason:** To ensure the safety and protection of property.

**59. Use of road or footpath**

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from 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.

**Reason:** To ensure safety and amenity of the area.

**60. Guarding excavations**

All excavation, demolition and construction works shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

**Reason:** To ensure public safety.

**61. Toilet facilities**

During excavation, demolition and construction phases, toilet facilities are to be provided, on the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

**Reason:** Statutory requirement.

**62. Protection of public places**

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

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

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

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

**Reason:** To protect public places.

**63. Certification of footings & excavation adjacent to easements**

During demolition and construction, the Principal Certifying Authority shall be satisfied that:



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- footings, and any required permanent excavation or drainage easement support, are constructed in accordance with the conditions of this consent relating to footings and excavation adjacent to drainage easements and/or drainage pipes
- footings allow for complete future excavation over the full width of the easement to a depth of the invert of the pipe, without the need to support or underpin the subject structure

**Reason:** Safety.

**64. Recycling of building material (general)**

During demolition and construction, the Principal Certifying Authority shall be satisfied that building materials suitable for recycling have been forwarded to an appropriate registered business dealing in recycling of materials. Materials to be recycled must be kept in good order.

**Reason:** To facilitate recycling of materials.

**65. Construction signage**

All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m<sup>2</sup>
- are removed within 14 days of the completion of all construction works

**Reason:** To ensure compliance with Council's controls regarding signage.

**66. Approval for rock anchors**

Approval is to be obtained from the property owner for any anchors proposed beneath adjoining private property. If such approval cannot be obtained, then the excavated faces are to be shored or propped in accordance with the recommendations of the geotechnical and structural engineers.

**Reason:** To ensure the ongoing safety and protection of property.

**67. Maintenance period for works in public road**

A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - after the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the applicant receives a

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formal letter from Council stating that the works involving public infrastructure have been completed satisfactorily.

**Reason:** To protect public infrastructure.

**68. Road reserve safety**

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

**Reason:** To ensure safe public footways and roadways during construction.

**69. Road repairs necessitated by excavation and construction works**

It is highly likely that damage will be caused to the roadway at or near the subject site as a result of the construction (or demolition or excavation) works. The applicant, owner and builder (and demolition or excavation contractor as appropriate) will be held responsible for repair of such damage, regardless of the Infrastructure Restorations Fee paid (this fee is to cover wear and tear on Council's wider road network due to heavy vehicle traffic, not actual major damage).

Section 102(1) of the Roads Act states "A person who causes damage to a public road is liable to pay to the appropriate roads authority the cost incurred by that authority in making good the damage."

Council will notify when road repairs are needed, and if they are not carried out within 48 hours, then Council will proceed with the repairs, and will invoice the applicant, owner and relevant contractor for the balance.

**Reason:** To protect public infrastructure.

**70. Services**

Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services (including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

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**Reason:** Provision of utility services.

**71. Temporary rock anchors**

If the use of temporary rock anchors extending into the road reserve is proposed, then approval must be obtained from Council and/or the Roads and Traffic Authority in accordance with Section 138 of the Roads Act 1993. The Applicant is to submit details of all the work that is to be considered, and the works are not to commence until approval has been granted. The designs are to include details of the following:

- How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road
- That the locations of the rock anchors are registered with Dial Before You Dig
- That approval of all utility authorities likely to use the public road has been obtained. All temporary rock anchors are located outside the allocations for the various utilities as adopted by the Streets Opening Conference.
- That any remaining de-stressed rock anchors are sufficiently isolated from the structure that they cannot damage the structure if pulled during future excavations or work in the public road.
- That signs will be placed and maintained on the building stating that de-stressed rock anchors remain in the public road and include a contact number for the building manager. The signs are to be at least 600mm x 450mm with lettering on the signs is to be no less than 75mm high. The signs are to be at not more than 60m spacing. At least one sign must be visible from all locations on the footpath outside the property. The wording on the signs is to be submitted to Council's Director Technical Services for approval before any signs are installed.

Permanent rock anchors are not to be used where any part of the anchor extends outside the development site into public areas or road reserves.

All works in the public road are to be carried out in accordance with the Conditions of Construction issued with any approval of works granted under Section 138 of the Roads Act 1993.

**Reason:** To ensure the ongoing safety and protection of property.

**72. Drainage to street**

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the street drainage system. New drainage line connections to the street drainage system shall conform and comply with the requirements of Sections 5.3 and 5.4 of Ku-ring-gai Water Management Development Control Plan No. 47.

**Reason:** To protect the environment.

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**73. Grated drain at garage**

A 200mm wide grated channel/trench drain, with a heavy-duty removable galvanised grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.

**Reason:** Stormwater control.

**74. Sydney Water Section 73 Compliance Certificate**

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 Co-ordinator. The applicant is to refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-develop" 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 Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

**Reason:** Statutory requirement.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE:**

**75. Completion of landscape works**

Prior to the release of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious and/or environmental weed species, have been undertaken in accordance with the approved plan(s) and conditions of consent.

**Reason:** To ensure that the landscape works are consistent with the development consent.

**76. Compliance with BASIX Certificate**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in the relevant BASIX Certificate No. have been complied with.

**Reason:** Statutory requirement.

**77. Accessibility**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that:

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2
- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are

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- raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 – 1993
- the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

**Reason:** Disabled access & services.

**78. Retention and re-use positive covenant**

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" and to the satisfaction of Council (refer to appendices of Ku-ring-gai Water Management Development Control Plan No. 47). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

**Reason:** To protect the environment.

**79. Provision of copy of OSD designs if Council is not the PCA**

Prior to issue of the Occupation Certificate, the following must be provided to Council's Development Engineer:

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

**Reason:** For Council to maintain its database of as-constructed on-site stormwater detention systems.

**80. Creation of a floodway restriction**

Prior to issue of the Occupation Certificate, the applicant must create of a restriction-on-use on the title of the subject property. The restriction is to be over the 100 year ARI flood zone identified in the Overland Flow Management Concept Plan by AFCE Environment + Building and must

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prevent the placement of any structures, walls, fences, fill or other items which may impede the 100 year ARI flood, within that zone. Ku-ring-gai Council is to be named as the Authority whose consent is required to release, vary or modify the restriction.

**Reason:** To protect the environment.

**81. Certification of drainage works (dual occupancies and above)**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans, including the provision of an overland flowpath as shown on Drawing 342820/B3/2 by AFCE Environment + Building
- the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Water Management Development Control Plan No. 47 respectively, have been achieved
- retained water is connected and available for use
- basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and Appendix 7.1.1 of Ku-ring-gai Water Management Development Control Plan No. 47
- all grates potentially accessible by children are secured
- components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2003 and the Building Code of Australia
- all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices

The rainwater certification sheet contained in Appendix 13 of the Ku-ring-gai Water Management Development Control Plan No. 47, must be completed and attached to the certification. Where an on-site detention system has been constructed, the on-site detention certification sheet contained in Appendix 4 of DCP 47 must also be completed and attached to the certification.

**Note:** Evidence from a qualified and experienced consulting civil/hydraulic engineer documenting compliance with the above is to be provided to Council prior to the issue of an Occupation Certificate.

**Reason:** To protect the environment.

**82. WAE plans for stormwater management and disposal (dual occupancy and above)**

Prior to issue of the Occupation Certificate, a registered surveyor must provide a works as executed survey of the completed stormwater drainage and management systems. The survey must be submitted to and approved by the Principal Certifying Authority prior to issue of the Occupation Certificate. The survey must indicate:

- as built (reduced) surface and invert levels for all drainage pits
- gradients of drainage lines, materials and dimensions

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

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

**Reason:** To protect the environment.

**83. Basement pump-out maintenance**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a maintenance regime has been prepared for the basement stormwater pump-out system.

**Note:** A maintenance regime specifying that the system is to be regularly inspected and checked by qualified practitioners is to be prepared by a suitable qualified professional and provided to the Principal Certifying Authority.

**Reason:** To protect the environment.

**84. OSD positive covenant/restriction**

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council (refer to appendices of Ku-ring-gai Council Water Management DCP 47). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the on-site detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents, showing the covenants and restrictions, must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

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**Reason:** To protect the environment.

**85. Sydney Water Section 73 Compliance Certificate**

Prior to issue of an Occupation Certificate the Section 73 Sydney water Compliance Certificate must be obtained and submitted to the Principal Certifying Authority

**Reason:** Statutory requirement.

**86. Certification of as-constructed driveway/carpark – RFB**

Prior to issue of an Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the as-constructed car park complies with the approved Construction Certificate plans
- the completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” in terms of minimum parking space dimensions
- finished driveway gradients and transitions will not result in the scraping of the underside of cars
- no doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area
- the vehicular headroom requirements of:
  - Australian Standard 2890.1 – “Off-street car parking”,
  - 2.44 metres height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement car park.

**Note:** Evidence from a suitably qualified and experienced traffic/civil engineer indicating compliance with the above is to be provided to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

**Reason:** To ensure that vehicular access and accommodation areas are compliant with the consent.

**87. Reinstatement of redundant crossings and completion of infrastructure works**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that the following works in the road reserve have been completed:

- new concrete driveway crossing in accordance with levels and specifications issued by Council
- removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter (reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials)
- full repair and resealing of any road surface damaged during construction



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- full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing

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

**Reason:** To protect the streetscape.

**88. Construction of works in public road – approved plans**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that all approved road, footpath and/or drainage works have been completed in the road reserve in accordance with the Council Roads Act approval and accompanying drawings, conditions and specifications.

The works must be supervised by the applicant's designing engineer and completed and approved to the satisfaction of Ku-ring-gai Council.

The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved stamped drawings. The works must be subject to inspections by Council at the hold points noted on the Roads Act approval. All conditions attached to the approved drawings for these works must be met prior to the Occupation Certificate being issued.

**Reason:** To ensure that works undertaken in the road reserve are to the satisfaction of Council.

**89. Fire safety certificate**

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a Fire Safety Certificate for all the essential fire or other safety measures forming part of this consent has been completed and provided to Council.

**Note:** A copy of the Fire Safety Certificate must be submitted to Council.

**Reason:** To ensure suitable fire safety measures are in place.

**CONDITIONS TO BE SATISFIED AT ALL TIMES:**

**90. No door restricting internal waste collection in basement**

At all times, the basement garbage storage and collection area is to be accessible by Council's Waste Collection Services. No doors, grilles, gates or other devices shall be provided in any location which would prevent this service. Where a gate, door or the like is to be erected,

Item 2

unimpeded access to the garbage collection point is to be provided by other means through written agreement with Council's Waste Collection Services.

**Reason:** To facilitate access to the garbage collection point.

G Youhanna  
**Executive Assessment Officer**

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

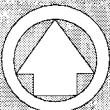
M Prendergast  
**Manager**  
**Development Assessment Services**

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

**Attachments:**

- Locality map - 861908
- Zoning extract - 861907
- Site analysis - 861930
- Floor plans - 861902
- Basement and lower basement plans - 861904
- Elevations - 861924
- Sections - 861920
- Deep soil landscaping calculations - 861916
- Landscape plan - 861912

**26 - 30 Marian Street, KILLARA**



**SCALE: 1:2000**

**DATE: 29-11-2007**



**SUBJECT LAND**



# Zoning Extract

## 26-30 MARIAN ST KILLARA

W.S.& D.

D. P.

781659

PACIFIC RD

MARIAN

CAITHNESS ST

MUN. PURP!

STANHOPE

### ZONES

#### 2. RESIDENTIAL

- (a) RESIDENTIAL A
- (b) RESIDENTIAL B
- (c) RESIDENTIAL C
- (c1) RESIDENTIAL C1
- (c2) RESIDENTIAL C2
- (d) RESIDENTIAL D
- (d3) RESIDENTIAL D3
- (e) RESIDENTIAL E
- (f) RESIDENTIAL F
- (g) RESIDENTIAL G
- (h) RESIDENTIAL H



#### 3. BUSINESS

- (a) RETAIL SERVICES

#### FLOOR SPACE RATIOS

- A1 2.0:1
- A2 1.0:1
- A3 0.75:1

- (b) COMMERCIAL SERVICES

#### FLOOR SPACE RATIOS

- B1 1.0:1
- B2 1.0:1

#### 5. SPECIAL USES

- (a) SPECIAL USES A (Schools etc)
- (a1) SPECIAL USES A1
- (b) SPECIAL USES (Railway)

#### 6. OPEN SPACE

- (a) RECREATION EXISTING
- (b) RECREATION PRIVATE
- (c) RECREATION PROPOSED

### RESERVATIONS

#### OPEN SPACE

- (a) OPEN SPACE (Public Parks & Recreation)
- (b) COUNTY OPEN SPACE

#### SPECIAL USES

- SPECIAL USES (Parking etc)

#### ROADS

- (a) COUNTY ROAD PROPOSED
- (b) COUNTY ROAD WIDENING
- (c) LOCAL ROAD PROPOSED
- (d) LOCAL ROAD WIDENING

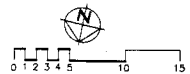
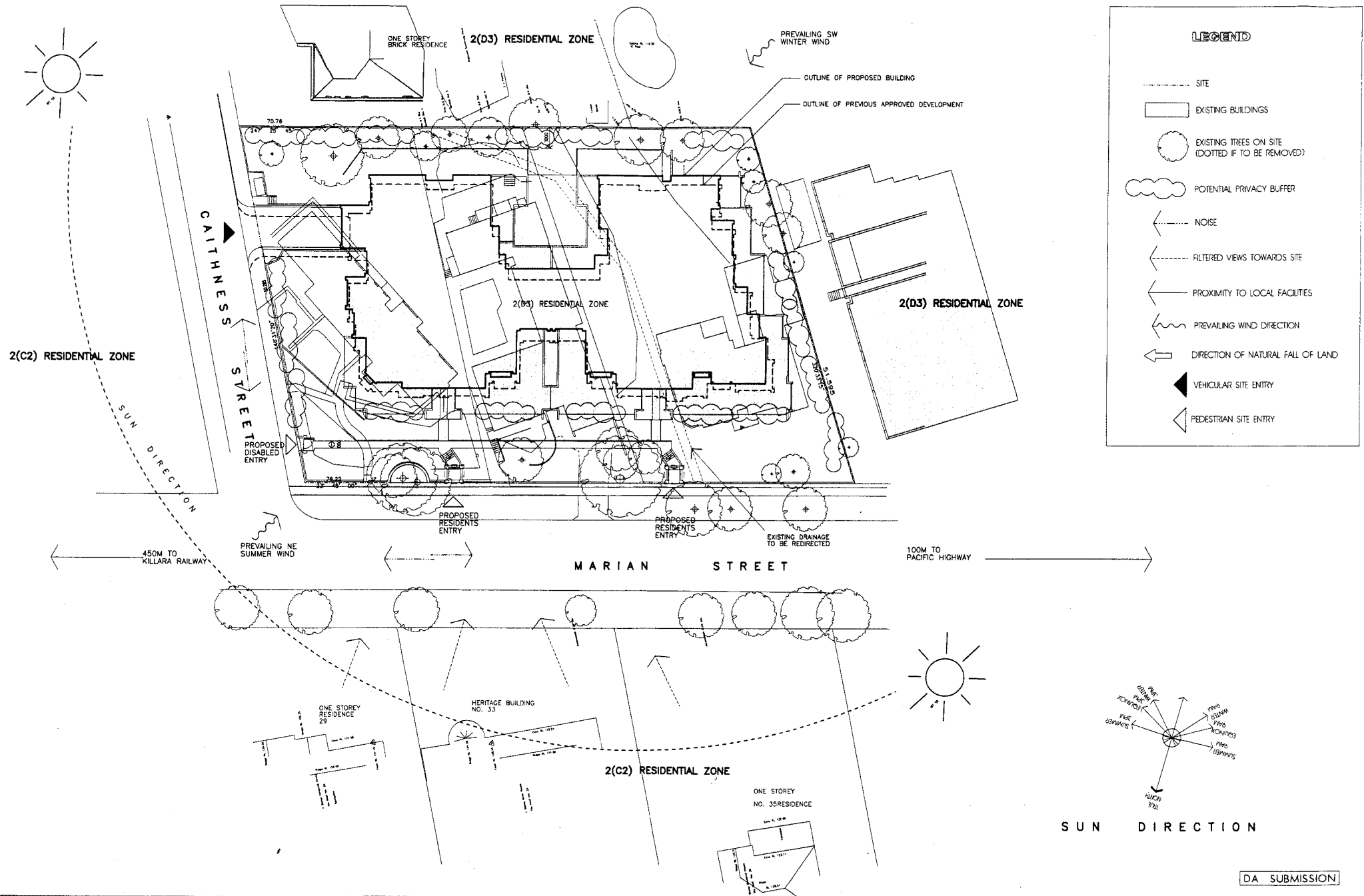
### GENERAL

- EXISTING COUNTY ROAD
- OTHER PLANNING INSTRUMENTS



Scale: 1:2000  
Date: 29-11-2007

FIG. 10



Proposed development at: 26-30 MARIAN STREET, KILLARA

For: MARIAN STREET Pty Ltd ( STALDONE DEVELOPMENTS )

## SITE ANALYSIS

WOLSKI LYCENKO AND BRECKNOCK  
architects

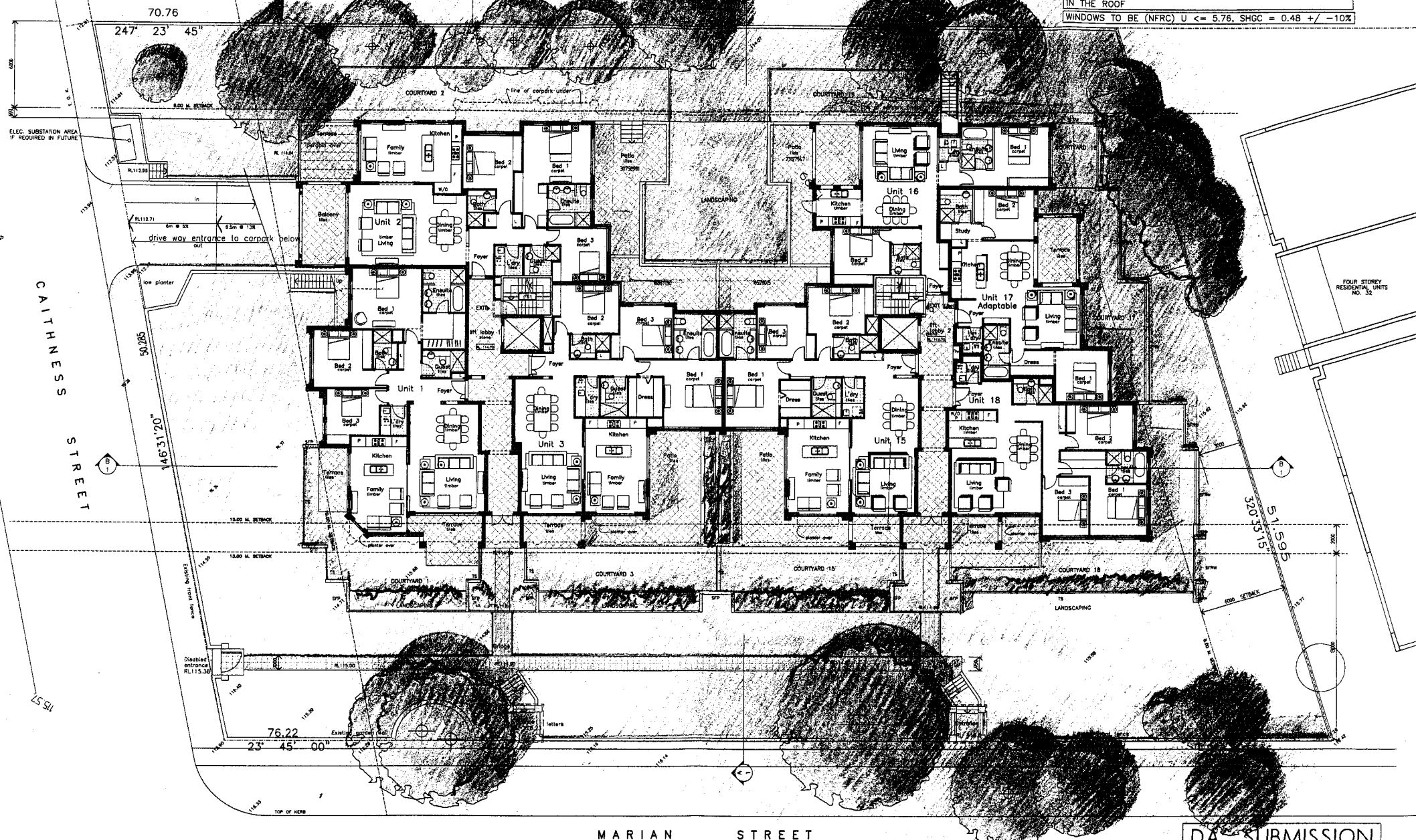
Job No.: 2718  
Scale: 1: 200  
Date: AUG2007

Dwg No.:  
drawn:NR

01  
PLOT DATE: 28AUG07

# NOTES

- SFP - STONEFACED PIER
- TS - 100 THK. TIMBER SCREEN COURTYARD FENCE
- SFRW - OPEN STEEL FENCE ON 100 MM SLEEPER RETAINING WALL
- SF - OPEN STEEL FENCE
- UNITS 1 AND 18 TO HAVE AT LEAST R1.0 EXTERNAL WALL INSULATION
- UNITS 13,14,31 AND 32 TO HAVE AT LEAST R1.50 INSULATION IN THE ROOF
- WINDOWS TO BE (NFRIC) U <= 5.76, SHGC = 0.48 +/- 10%



FOUR STOREY  
RESIDENTIAL UNITS  
NO. 32

DA SUBMISSION

Proposed development at: 26-30 MARIAN STREET, KILLARA

For: MARIAN STREET Pty Ltd ( STALDONE DEVELOPMENTS )

GROUND FLOOR

WOLSKI LYCENKO AND BRECKNOCK  
architects

Job No.: 2718  
Scale: 1:100  
Date: AUG 2007

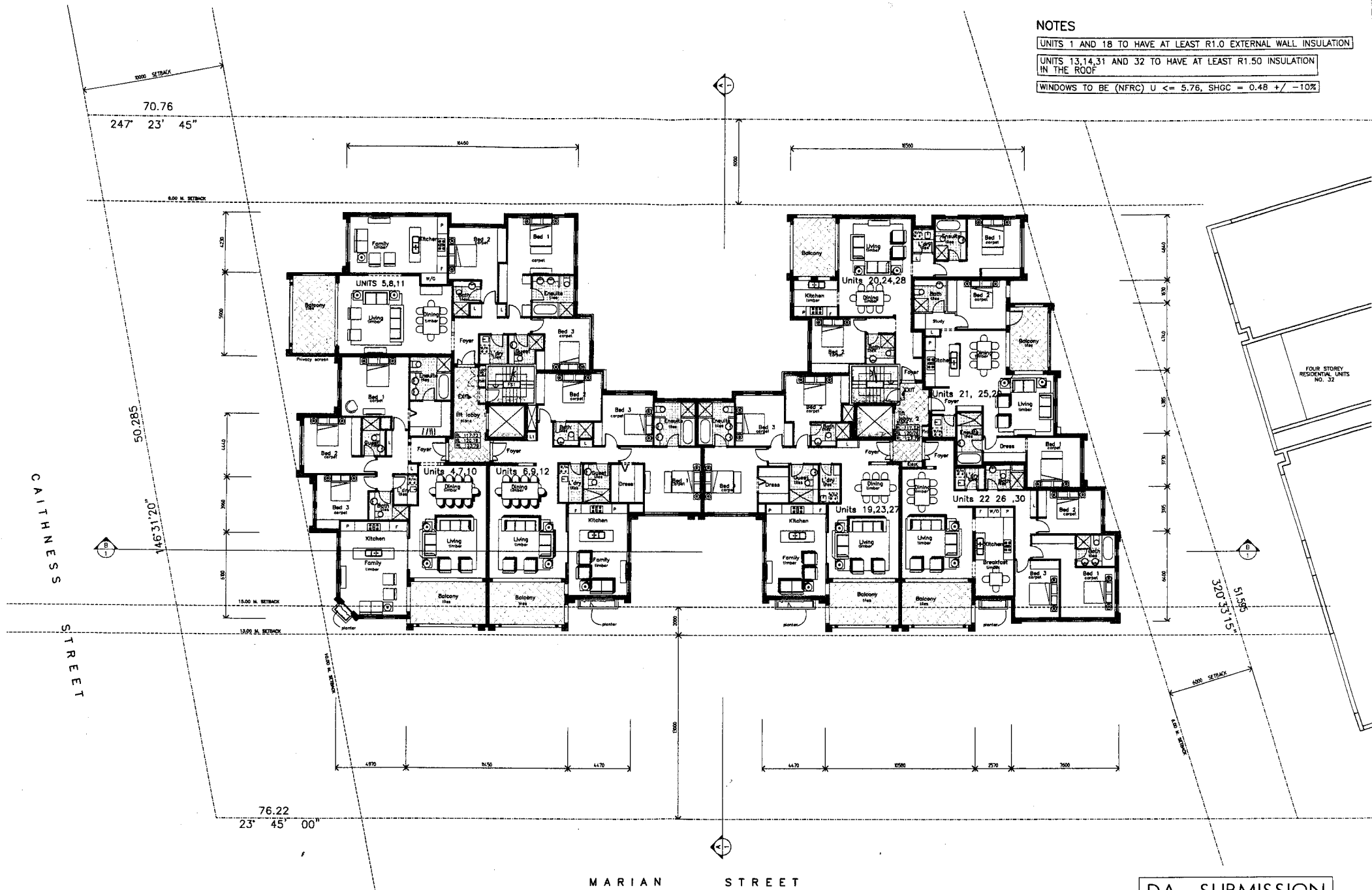
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drawn:NR

04  
PLOT DATE: 28AUG07



# NOTES

- UNITS 1 AND 18 TO HAVE AT LEAST R1.0 EXTERNAL WALL INSULATION
- UNITS 13,14,31 AND 32 TO HAVE AT LEAST R1.50 INSULATION IN THE ROOF
- WINDOWS TO BE (NFRC)  $U \leq 5.76$ , SHGC =  $0.48 \pm 10\%$



DA SUBMISSION

## TYPICAL FLOOR LEVELS 1, 2 and 3

WOLSKI LYCENKO AND BRECKNOCK  
architects  
115 Military Road,  
Neutral Bay 2089  
Ph: 95534177  
Email: wlbarch@wls.com.au

Job No.: 2718  
Scale: 1:100  
Date: AUG 2007

Dwg No.:  
drawn:NR

05  
PLOT DATE: 28AUG07

Proposed development at: 26-30 MARIAN STREET, KILLARA

For: MARIAN STREET Pty Ltd ( STALDNE DEVELOPMENTS )

# NOTES

UNITS 1 AND 18 TO HAVE AT LEAST R1.0 EXTERNAL WALL INSULATION

UNITS 13,14,31 AND 32 TO HAVE AT LEAST R1.50 INSULATION IN THE ROOF

WINDOWS TO BE (NFRC)  $U \leq 5.76$ , SHGC =  $0.48 \pm 10\%$

CAITHNESS STREET

MARIAN STREET

DA SUBMISSION



Proposed development at: 26-30 MARIAN STREET, KILLARA

For: MARIAN STREET Pty Ltd ( STALDONE DEVELOPMENTS )

LEVEL FOUR

WOLSKI LYCENKO AND BRECKNOCK  
architects

115 Military Road,  
Neutral Bay 2089  
Ph: 99538477  
Email: wiborch@wib.com.au

Job No.: 2718

Scale: 1:100

Date: AUG 2007

Dwg No.:

drawn: NR

06  
PLOT DATE: 28/08/07

70.76

247' 23' 45"

50.285

146°31'20"

15.00 M. SETBACK

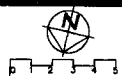
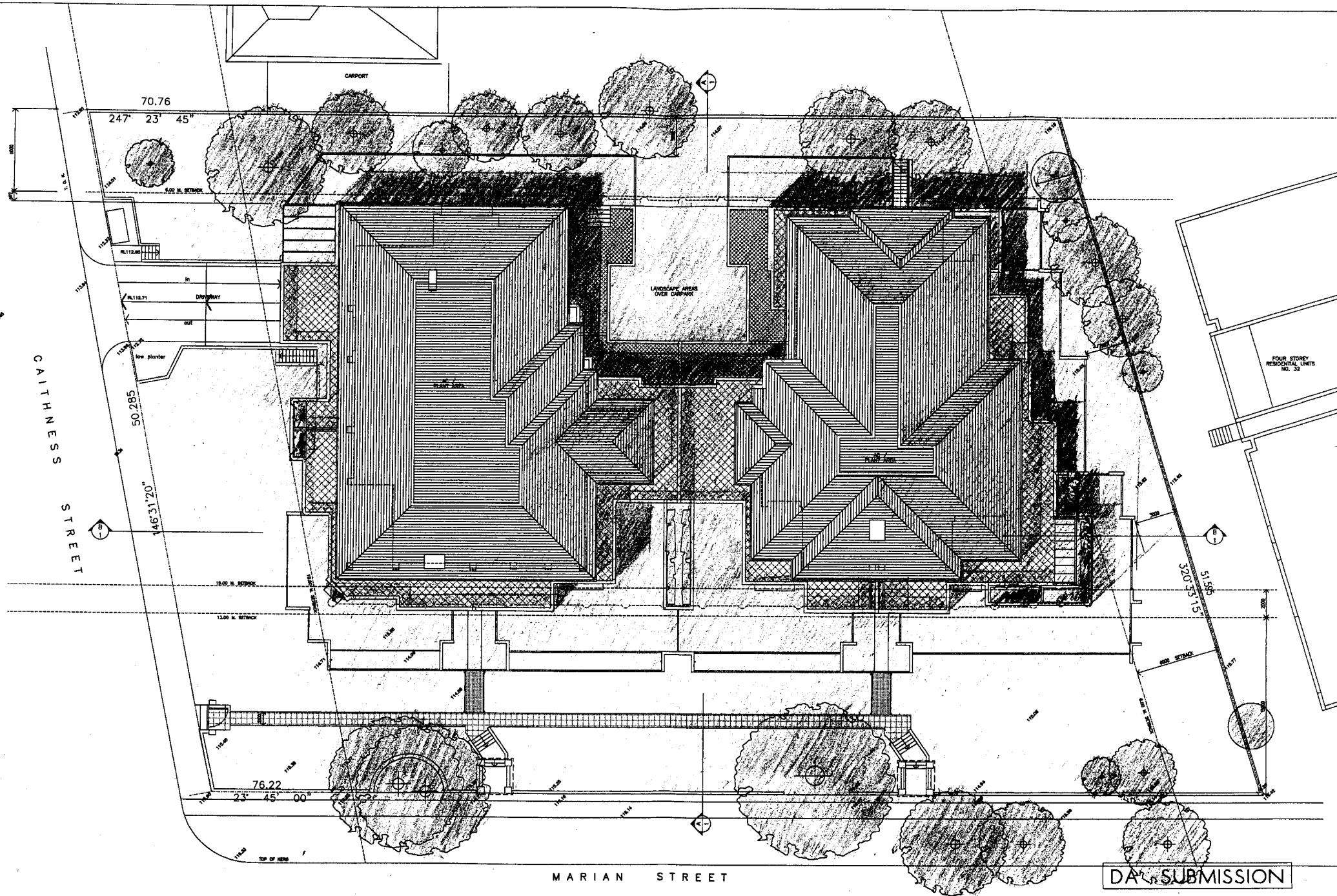
13.00 M. SETBACK

76.22

23' 45' 00"

FOUR STOREY  
RESIDENTIAL UNITS  
NO. 32





Proposed development at: 26-30 MARIAN STREET, KILLARA.

For: MARIAN STREET Pty Ltd ( STALDONE DEVELOPMENTS )

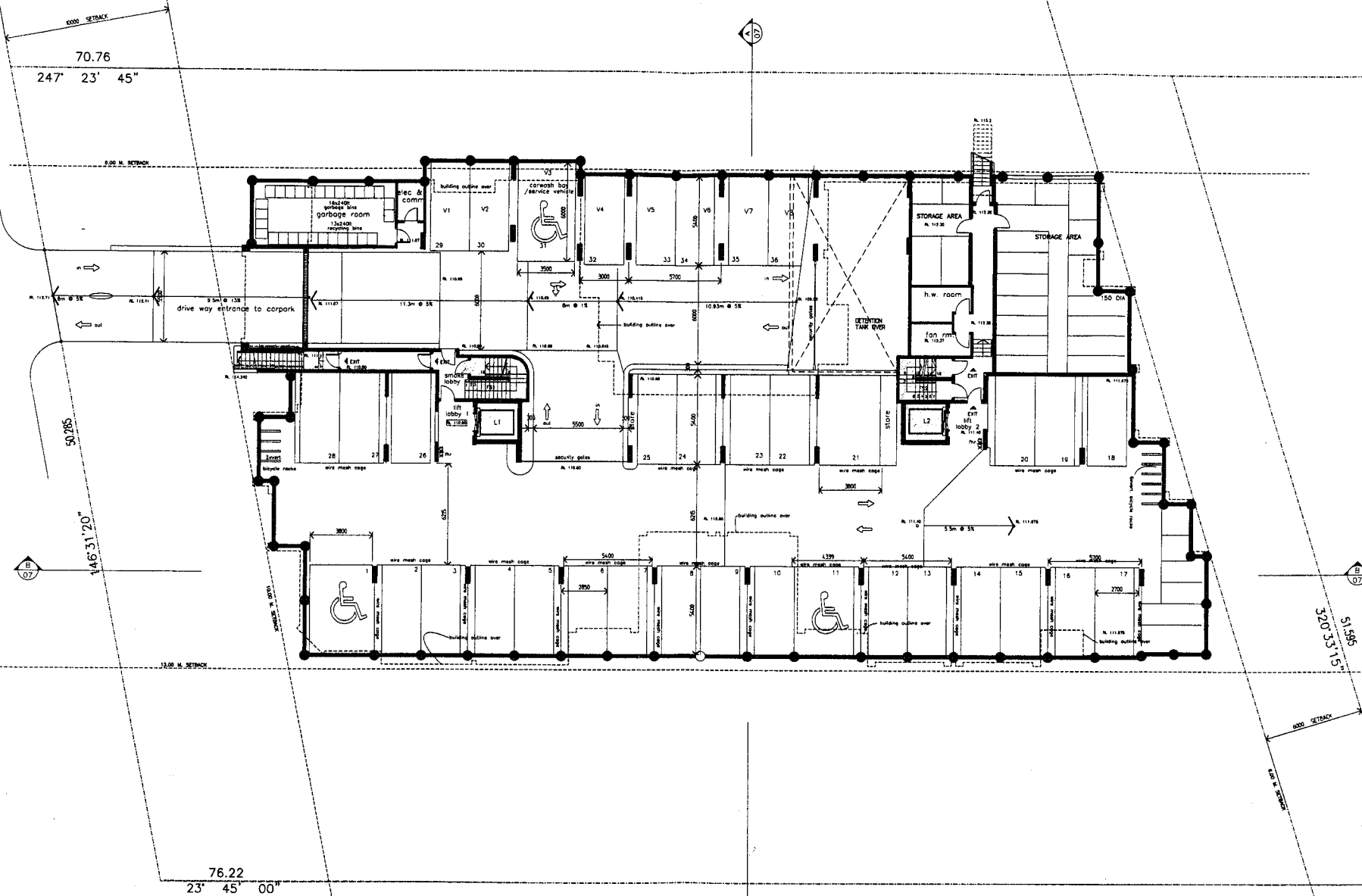
## SITE/ROOF PLAN

WOLSKI LYCENKO AND BRECKNOCK  
architects  
115 Military Road,  
Neutral Bay 2059  
Ph: 99538477  
Email: wlb@wlb.com.au

Job No.: 2718  
Scale: 1:100  
Date: AUG 2007

Dwg No.:  
drawn:NR

01  
PLOT DATE: 28/08/07



BASEMENT 1

DA SUBMISSION



Proposed development at: 26-30 MARIAN STREET, KILLARA  
For: MARIAN STREET Pty Ltd ( STALDONE DEVELOPMENTS)

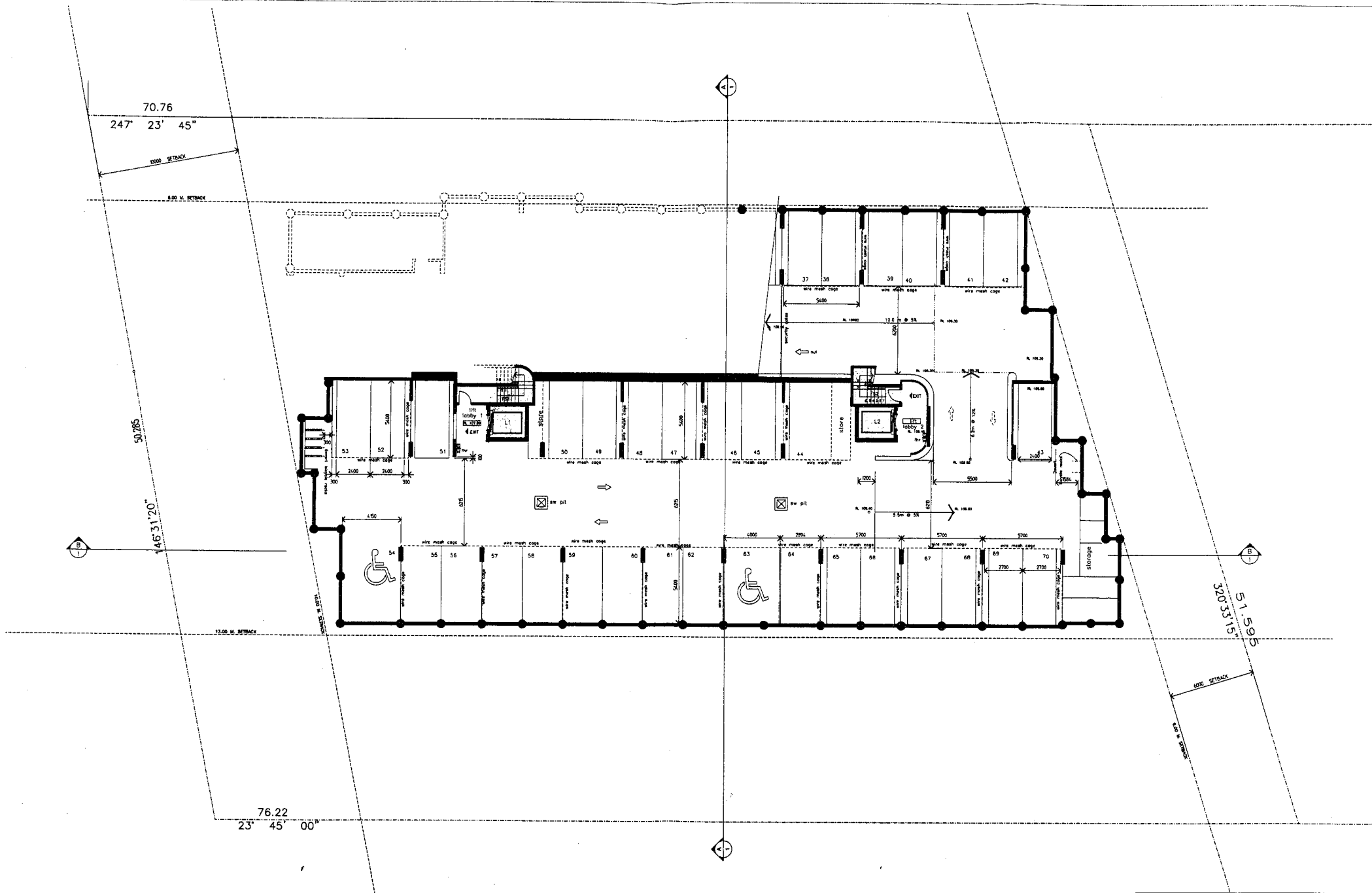
BASEMENT 1

WOLSKI LYCENKO AND BRECKNOCK  
architects  
115 Military Road,  
Neutral Bay 2059  
Ph: 99538477  
Email: wlbarch@wlb.com.au

Job No.: 2718  
Scale: 1:100  
Date: AUG 2007

Dwg No.:  
drawn:NR

02  
PLOT DATE: 28AUG07



DA SUBMISSION



Proposed development at: 26-30 MARIAN STREET, KILLARA

For: MARIAN STREET Pty Ltd ( STALDONE DEVELOPMENTS )

BASEMENT 2

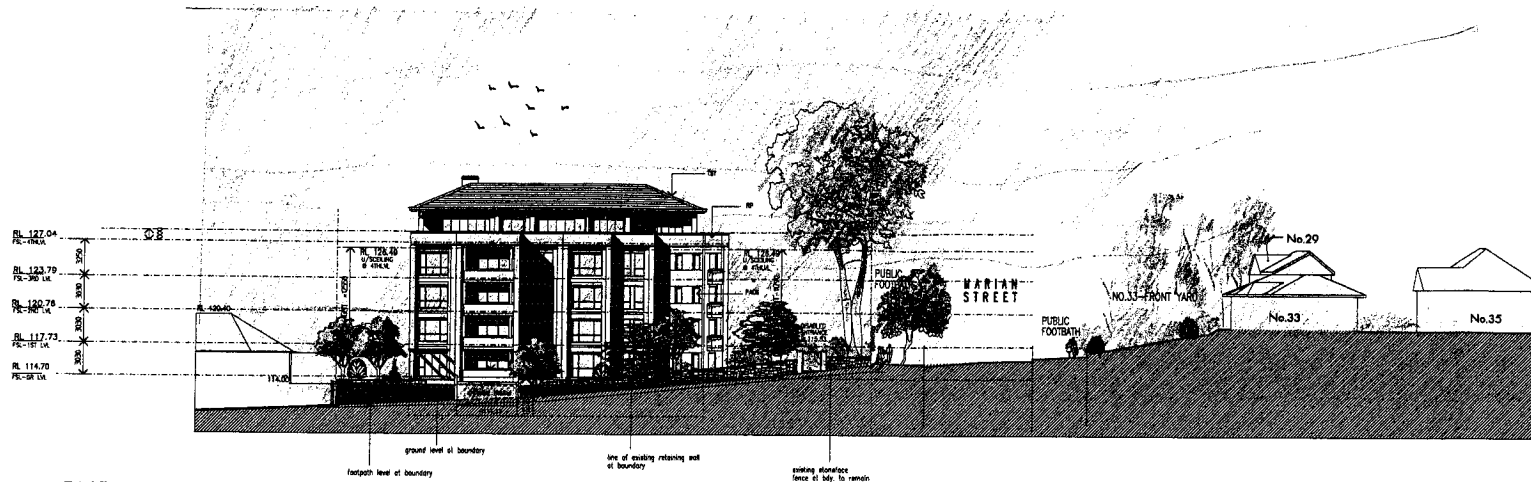
WOLSKI LYCENKO AND BRECKNOCK  
architects

115 Military Road,  
Neutral Bay 2089  
Ph: 95538477  
Email: wlb@wlb.com.au

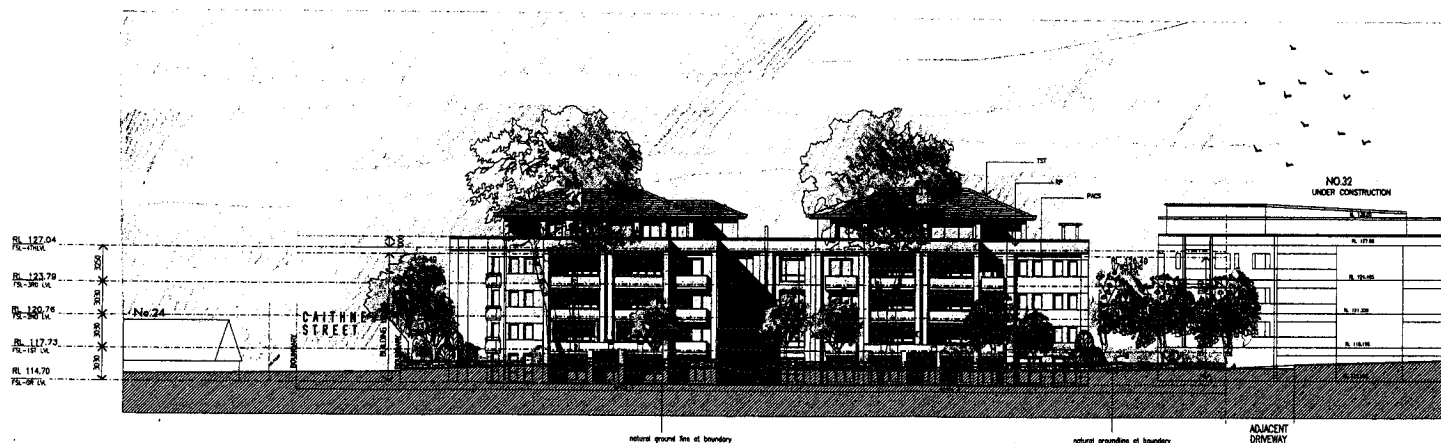
Job No.: 2718  
Scale: 1:100  
Date: AUG 2007

Dwg No.:  
drawn:NR

03  
PLOT DATE: 28AUG07



EAST ELEVATION (CAITHNESS STREET)



NORTH ELEVATION (MARIAN STREET)

#### FINISHES LEGEND

- TST - ROOFS - TERRACOTTA "SLATE" TILES
- RP - WALLS - RENDER & SELECTED PAINT
- PACS - WINDOWS & DOORS - POWDER COATED ALUM. COMMERCIAL SECTIONS
- CSE - GALVANISED STEEL EPOXY PAINTED
- S - GARDEN WALL - SANDSTONE
- RS - PAVING - RECONSTITUTED SANDSTONE
- TS - TIMBER SCREEN COURTYARD FENCE
- SFP - STONEFACED RETAINING WALL

#### NOTES

UNITS 1 AND 18 TO HAVE AT LEAST R1.0 EXTERNAL WALL INSULATION

WINDOWS TO BE (NFRG)  $U \leq 5.76$ , SHGC =  $0.48 \pm 10\%$

UNITS 13,14,31 & 32 TO HAVE AT LEAST R1.5 INSULATION IN THE ROOF

DA SUBMISSION

Proposed development at: 26-30 MARIAN STREET, KILLARA

For: MARIAN STREET Pty Ltd ( STALDONE DEVELOPMENTS )

ELEVATIONS  
NORTH AND EAST

WOLSKI LYCENKO AND BRECKNOCK  
architects

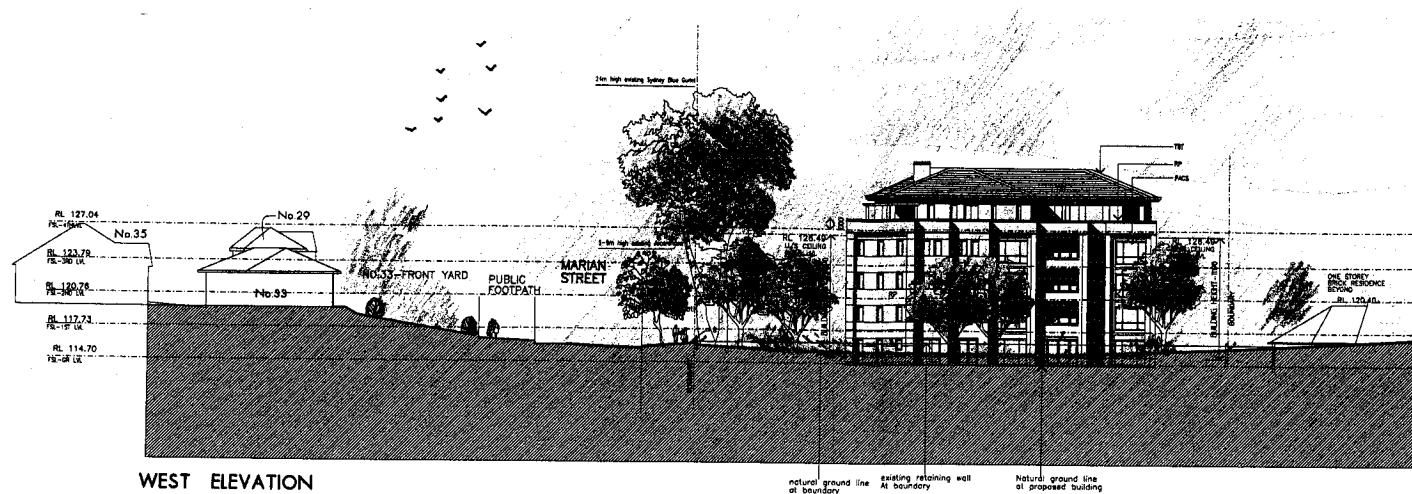
115 Military Road,  
Neutral Bay 2089  
Ph: 95538477  
Email: wlbarch@wlb.com.au

Job No.: 2718  
Scale: 1:200  
Date: June 2007

Dwg No.:  
drawn:NR

08

PLOT DATE: 28AUG07



WEST ELEVATION

#### FINISHES LEGEND

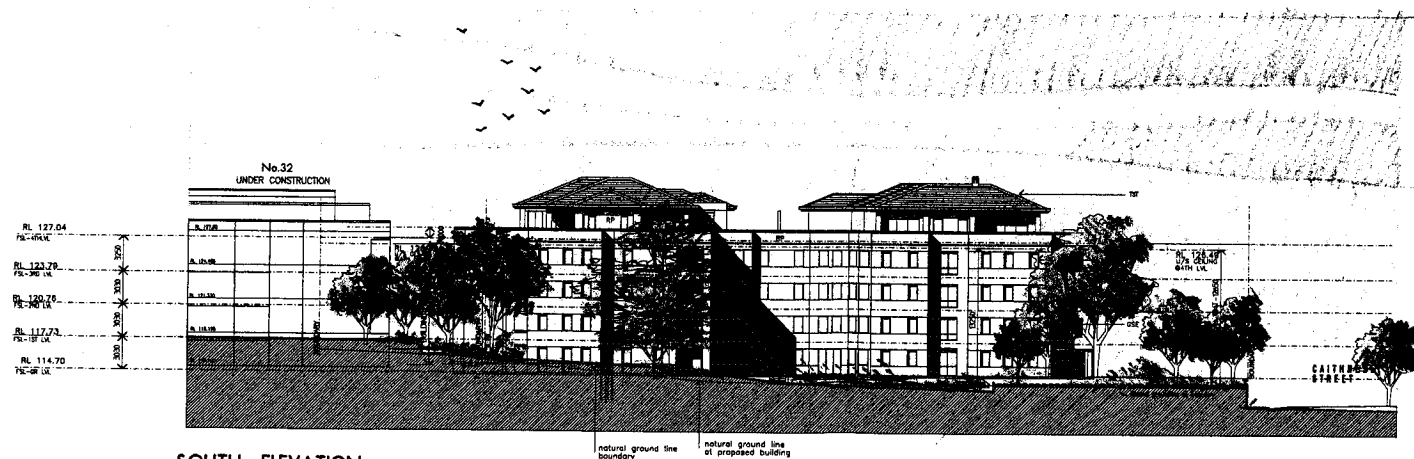
- TST - ROOFS - TERRACOTTA "SLATE" TILES
- RP - WALLS - RENDER & SELECTED PAINT
- PACS - WINDOWS & DOORS - POWDER COATED ALUM. COMMERCIAL SECTIONS
- GSE - GALVANISED STEEL EPOXY PAINTED
- S - GARDEN WALL - SANDSTONE
- RS - PAVING - RECONSTITUTED SANDSTONE
- TS - TIMBER SCREEN COURTYARD FENCE
- SFP - STONEFACED RETAINING WALL

#### NOTES

UNITS 1 AND 18 TO HAVE AT LEAST R1.0 EXTERNAL WALL INSULATION

WINDOWS TO BE (NFR)  $U \leq 5.76$ ,  $SHGC = 0.48 \pm 10\%$

UNITS 13,14,31 & 32 TO HAVE AT LEAST R1.5 INSULATION IN THE ROOF



SOUTH ELEVATION

DA SUBMISSION

Proposed development at: 26-30 MARIAN STREET, KILLARA

For: MARIAN STREET Pty Ltd ( STALDONE DEVELOPMENTS )

ELEVATIONS  
SOUTH AND WEST

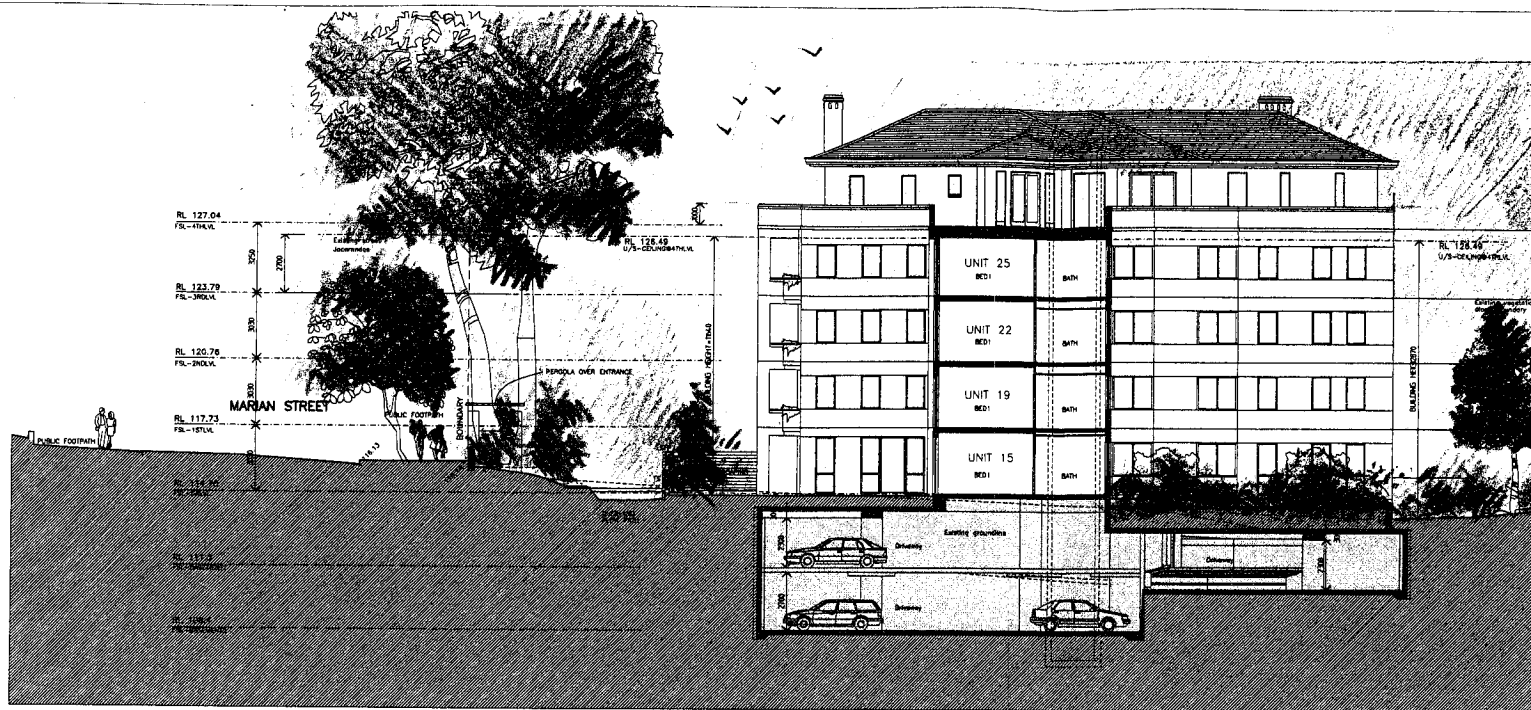
WOLSKI LYCENKO AND BRECKNOCK  
architects

115 Military Road,  
Neutral Bay 2089  
Ph: 99536477  
Email: wlsb@wlsb.com.au

Job No.: 2718  
Scale: 1:200  
Date: AUG 2007

Dwg No.:  
drawn:NR

09  
PLOT DATE: 28AUG07



SECTION A-A

# FINISHES LEGEND

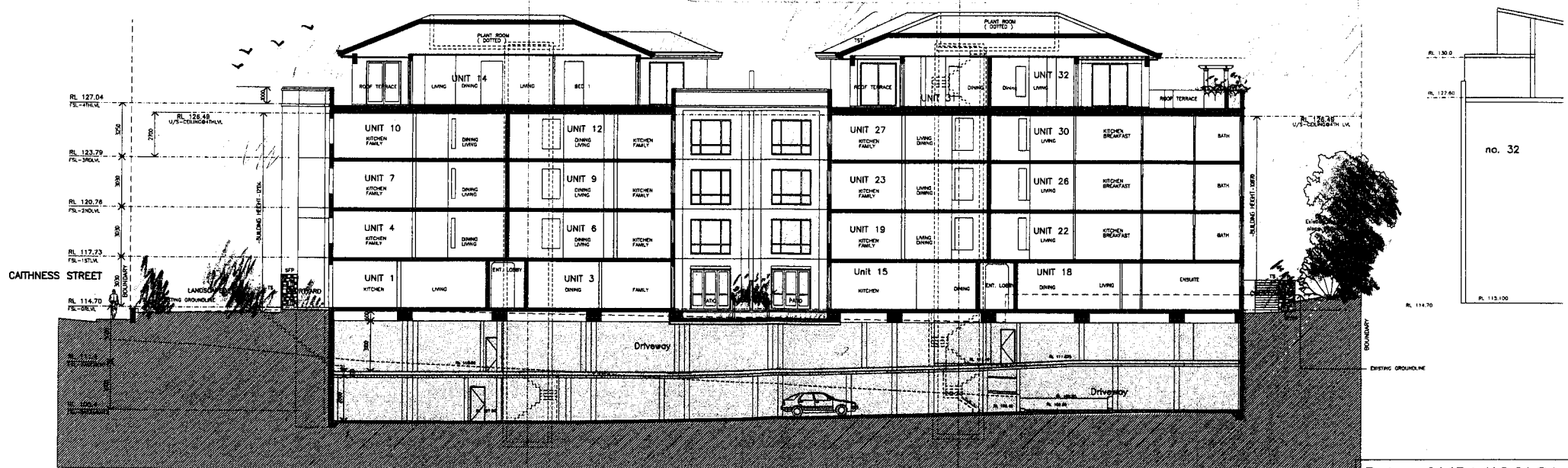
TST - ROOFS - TERRACOTTA "SLATE" TILES  
 RP - WALLS - RENDER & SELECTED PAINT  
 PACS - WINDOWS & DOORS - POWDER COATED ALUM. COMMERCIAL SECTIONS  
 GSE - GALVANISED STEEL EPOXY PAINTED  
 S - GARDEN WALL - SANDSTONE  
 RS - PAVING - RECONSTITUTED SANDSTONE  
 TS - TIMBER SCREEN COURTYARD FENCE  
 SFP - STONEFACED PIER  
 SFRW - OPEN STEEL FENCE ON 100 MM SLEEPER RET. WALL

## NOTES

WINDOWS TO BE (NFR) U <= 5.76, SHGC = 0.48 +/- 10%

UNITS 1 AND 8 TO HAVE AT LEAST R1.0 INSULATION

UNITS 13,14,31 & 32 TO HAVE AT LEAST R1.5 INSULATION IN THE ROOF



SECTION B-B

DA SUBMISSION

Proposed development at: 26-30 MARIAN STREET, KILLARA

For: MARIAN STREET Pty Ltd (STALDONE DEVELOPMENTS )

## SECTIONS

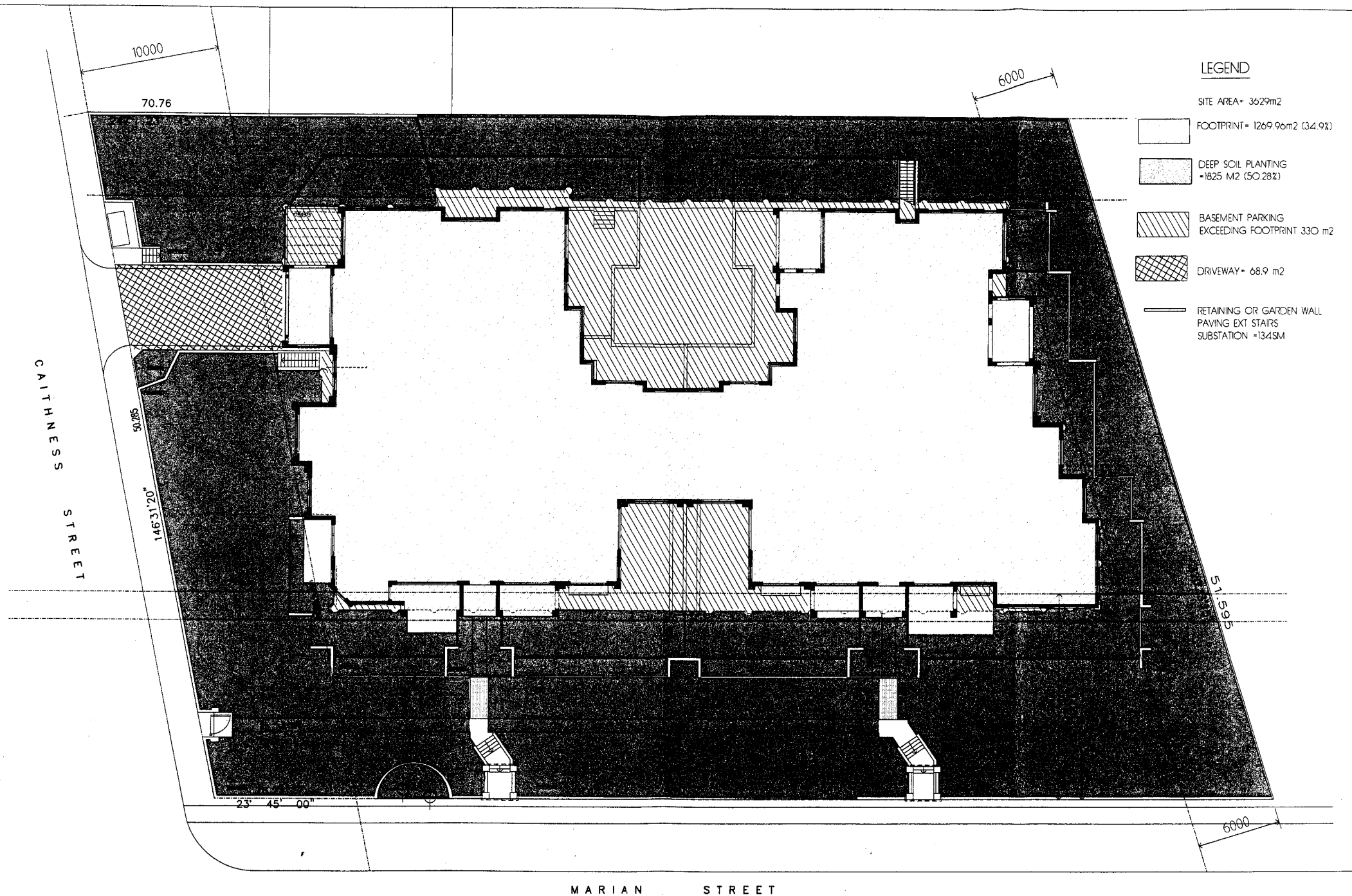
WOLSKI LYCENKO AND BRECKNOCK  
 architects

115 Military Road,  
 Neutral Bay 2089  
 Ph: 99538477  
 Email: wlbarch@wlb.com.au

Job No.: 2718  
 Scale: 1:100  
 Date: AUG 2007

Dwg No.:  
 drawn:NR

07  
 PLOT DATE: 28AUG07



MARIAN STREET

# DEEP SOIL CALCULATIONS

WOLSKI LYCENKO AND BRECKNOCK  
architects  
115 Military Road,  
Neutrol Bay 2089  
Ph: 95538477  
Email: wberch@wb.com.au

Job No.: 2718  
Scale: 1:200  
Date: AUG 2007

Dwg No.:  
drawn:NR

COMP  
01  
PLOT DATE: 28/08/07

Proposed development at: 26-30 MARIAN STREET, KILLARA

For: MARIAN STREET Pty Ltd( STALDONE DEVELOPMENTS )





| CODE | BOTANICAL NAME | COMMON NAME | QUANT |
|------|----------------|-------------|-------|
|------|----------------|-------------|-------|

The majority of the plants in this schedule have been selected from a list of indigenous Blue Gum High Forest species and also in Ku-ring-gai Council's indigenous plant list within the BASIX Specification.

|   |     |  |  |
|---|-----|--|--|
| 6 | 195 |  |  |
|---|-----|--|--|

11

3 x CT

5 x PR 9 x UL 3 x CT  
4 x LL 1 x RC 3 x RL

6 x 4 2 x 4 4 x 4


| KEY | BOTANICAL NAME | COMMON NAME | HEIGHT |
|-----|----------------|-------------|--------|
|-----|----------------|-------------|--------|

# 6 x existing trees to be retained that have or will attain a minimum mature height of 13m in accordance with Council requirements.

This Schedule should be used in conjunction with the Tree Assessment Report prepared by  
Garry Clark, Arborist, 20000 10th Avenue, Burnaby, BC

Consistent Aboonit Stuart Pittendrigh.

This plan is to be re



**Residential Development**

Landscape Plan

| date        | scale                      |
|-------------|----------------------------|
| August 2007 | 1:100 at A0<br>1:200 at A2 |

|                   |                   |
|-------------------|-------------------|
| designed by<br>IJ | drawn by<br>GM/LM |
|-------------------|-------------------|

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## **REQUEST FOR COUNCIL TO ENFORCE PARKING RESTRICTIONS ON PRIVATE LAND AT 376 TO 386 PACIFIC HIGHWAY, LINDFIELD KNOWN AS COLES CAR PARK, LINDFIELD**

---

**Ward: Roseville**

### **EXECUTIVE SUMMARY**

#### **PURPOSE OF REPORT:**

To inform Council of the request before it to patrol and enforce parking restrictions on private land, known as Coles Car Park, Lindfield and seek the direction of Council as to whether it wishes to assume such role.

#### **BACKGROUND:**

A verbal approach was made to the Manager Compliance and Regulation as to the possibility of Council carrying out patrols so as to regulate parking at the subject premises. The enquirer was advised of the restrictions applicable under Section 650 of the Local Government Act, 1993. The applicant has considered such restrictions and now formally requests Council to consider providing formal regulatory enforcement services.

#### **COMMENTS:**

Section 650(6) of the Local Government Act, 1993, provides that an owner of any private land may enter into an agreement with Council under which the land or any part of the land is set aside for use as a free parking area. In accordance with this provision, Council must follow guidelines as set by the Director General of the Department of Local Government when considering such a request.

#### **RECOMMENDATION:**

That Council advise the applicant, Restifa & Partners Pty Ltd, that it is willing to enter into a formal agreement with the owners of the land, in accordance with the provisions of Section 650(6) of the Local Government Act 1993.

Item 3

## PURPOSE OF REPORT

To inform Council of the request before it to patrol and enforce parking restrictions on private land, known as Coles Car Park, Lindfield and seek the direction of Council as to whether it wishes to assume such role.

## BACKGROUND

A verbal approach was made to Council's Manager Compliance and Regulation, Anne Seaton, as to the possibility of Council carrying out patrols so as to regulate parking at the subject premises. The enquirer was advised of the restrictions applicable under Section 650 of the Local Government Act, 1993. The restrictions as detailed in Guidelines of the Department of Local Government include:

- That enforcement functions are not matters that are open to landowner negotiation and it is at Council's complete discretion how it will perform its enforcement duties.
- That signs outlining parking restrictions will need to be erected and maintained at the expense of the land owner, as will the line marking of designated places. Council will arrange for the manufacture and installation of the signs but the cost will be borne by the car park owner.
- That, whilst Council will be mindful of the landowners preferences concerning the proposed hours of operation of the free parking area and the time limits that will apply, the Council is accountable to the public and therefore will need to make a determination that incorporates a broad assessment of both private and public interest considerations.

The enquirer has considered such restrictions and now formally requests Council to consider providing formal regulatory enforcement services.

## COMMENTS

Section 650(6) of the Local Government Act, 1993, provides that an owner of any private land may enter into an agreement with a council under which the land, or any part of the land, is set aside for use as a free parking area. In accordance with this provision, Council must follow guidelines as set by the Director General of the Department of Local Government when considering such a request. The guidelines as set down in August 1998, are referenced and referred to in this report, together within the draft terms of agreement as attached to this report.

The approach by representatives of the landowner stem from their observation that the car park is generally utilised by commuters. As the car park is located in close proximity to Lindfield station, it is reported that persons park their cars in the car park from 7.30am not returning until after 5.00pm. The alienation of the available parking spaces by day long commuters affects the ability for shoppers to find parking in close proximity to the supermarket and other shops within the confines of the Coles development.

Item 3

Formal regulation of the car park would be possible by the landowner if they were to establish a boom gate and time payment system as is common in other large scale shopping malls. However, due to the relative small size of this car park, i.e. 110 spaces, it is considered that such option would be unviable, hence the approach to Council.

The regulation of parking on private land is possible under the provisions of Section 650 of the Local Government Act. For the past 15 years Council has had an agreement with the owners of Turramurra Plaza for a similar service. This agreement being on the basis of a "peppercorn" service fee payment of \$1 by the owners of the Plaza. Turramurra Plaza provides 71 car spaces. Council provides an additional 78, making a total of 149. Parking is allocated in two hour and three hour allotments, with an additional two specialty mobility assistance parking spaces. Income from the regulation of this centre is in the order of \$10,000 per annum. All monetary fines issued are the property of Council. The landowner has no claim on the income from penalty notices.

If Council were to take on the regulation of parking at the Coles Lindfield site, it is estimated that initially a peak in income would be realised, until such time as commuters become fully aware of the new controls. Following the initial peak, it is estimated that the number of penalties and resultant income would settle and be similar to that realised at the Turramurra Plaza.

Currently Council regulates a total of 2551 off street parking spaces and 1502 on street parking spaces. This activity is carried out by four officers, whom also have specialty tasks assigned in respect of safety outside schools and surveillance at peak transport modes.

It is considered that the allocation of a further car park is within the existing staff capacity as car parking is regulated on a random basis so as to lessen the opportunity for motorists to become aware of enforcement officers' patterns and thus avoid the penalty for disregard of the local parking provisions.

## CONSULTATION

No external consultation with the general public or local businesses has been undertaken in respect of this proposal. If Council is of the mind to enter into an agreement with the property owners, it is the intention that advertising both upon the site and within the local paper would occur so that users of the shopping centre and car park were aware of the new restrictions prior to their implementation.

Legal advice in this regard has been provided by Council's lawyers, a copy of which is attached under separate confidential cover.

## FINANCIAL CONSIDERATIONS

If Council is of the mind to enter into the agreement with the property owner, it is anticipated that no costs would be incurred by Council, as it is proposed that the agreement include the need for the owner to pay all reasonable costs of Council in respect of the preparation, negotiation and execution of the deed. Further, all costs associated with the set up of the car park in regard to advertising of new restrictions, signage and line marking are to be met by the owner of the land.

Item 3

An income stream of approximately \$15,000 in the first year is expected, then settling to around \$10,000 per year thereafter.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

Council's Commercial Services Co-ordinator and Traffic Manager have both been consulted. Council's Commercial Services Co-ordinator was concerned that the guidelines as circulated by the Department of Local Government required the Council to classify the land as operational land and include in Council's land register.

However, legal advice provided by Council's lawyers (attached) concludes that Section 650 of the Local Government Act does not require the Council to take control of such land and that Council should not assume operation, management or control of the free parking area. Rather, that the agreement between Council and the owner should be on the basis that control of the car park should remain vested in the owner at all times. The draft agreement also includes the requirement of the owner to release Council and its employees, agents and contractors from all claims and liabilities resulting from any loss, accident or damage in or about the car park.

Council's Traffic Manager noted that the land had been identified within the Lindfield Town Centre Study and highlighted the possible change in use, together with the proposed realignment of Balfour Lane. This fact was also mentioned by the owner of the car park, hence their requirement for an initial one year agreement. The owner also wished to reserve the right to undertake utility site works in the lead up to a change in use. Such would be permissible on the provision that the owner secured any open trenches or the like upon the site. Clause 6 of the draft agreement acknowledges the right of the owner to access the car park and undertake activities within the car park from time to time by written notice to the Council.

Council's Traffic Engineer also suggested that, for the purpose of consistency across the local government area, the free parking time be set at two hours, rather than 1.5 hours as originally requested by the owner. It has been demonstrated that a two hour parking limit generally gives shoppers within local neighbourhood zones sufficient time to conduct their business.

## **SUMMARY**

The proposal for Council to regulate and enforce a two hour free parking facility servicing Coles supermarket and associated shops at Lindfield is considered feasible and within the capabilities of existing staff resources of Council's regulatory group.

All costs associated with the set-up of both the facility and the formal agreement between both parties are proposed to be met by the owner of the land.

Item 3

All income received as a result of the issuing of parking infringements notices are to be the property of Council.

The activity is lawful and in accordance with Section 650 of the Local Government Act.

## RECOMMENDATION

- A. That Council advise the applicant, Restifa and Partners Pty Ltd, that it is willing to enter into a formal agreement with the owners of the land, in accordance with the provisions of Section 650(6) of the Local Government Act, 1993.
- B. That Council authorise the General Manager to negotiate and enter an agreement on its behalf with the owners of the land for the administration of private land for parking control at 376-386 Pacific Highway, Lindfield.
- C. That the new time restrictions applicable to Coles car park Lindfield be advertised both on the site and within the local newspaper, for a period of fourteen (14) days prior to commencement of regulation.

A Seaton  
**Manager**  
**Regulation & Compliance**

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

**Attachments:**

- 1. Application Letter from Restifa & Partners Pty Ltd, on behalf of owners, Balfour Centre ( No 2) - 833817**
- 2. Advice from Home Wilkinson Lowry Lawyers - Confidential**
- 3. Draft Car Park Patrol Agreement - Confidential**



**RESTIFA & PARTNERS PTY LTD**

development managers - project managers

27 September 2007

Ku-ring-gai Municipal Council  
Locked Bag 1056  
PYMBLE, NSW 2073

**Attention: General Manager**

Dear Sir

**RE: 376-386 PACIFIC HIGHWAY, LINDFIELD  
COLES SUPERMARKET CUSTOMER CAR PARK**

Further to our discussion with Council's Compliance and Regulation Manager, on behalf of the owner Balfour Centre (No2) Pty Ltd, we hereby make formal application to Council to provide an enforcement role in respect of the owner's customer carpark located at the rear of the existing Coles supermarket building.

The customer carpark is private property and is being provided for the convenience and use for supermarket customers. Unfortunately, supermarket customers and Coles store trading has been impacted by substantial non customer parking ie rail commuters and other nearby retailing staff and clientele.

The customer carpark provides approximately 110 car spaces.

As part of our application, our requirements would be as follow:

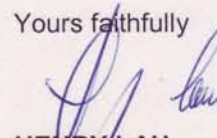
- 1) initial enforcement period of 12 months;
- 2) operation as a public carpark during Monday to Friday inclusive from 9.00am to 6.00pm for maximum 1.5 hour parking;
- 3) the owner, its agents, representatives, contractors and tenants etc reserves the right to access and carry out other activities on the land at any time upon notification;
- 4) the owner reserves the right to terminate for convenience at any time upon notification.

As assistance, we have enclosed a map of the extent of customer carpark.

We await Council's assessment of the application and look forward to receiving its Offer and commercial terms for an Agreement.

If there are any queries, please contact the writer on (02) 9957 6330 or 0413 43 112.

Yours faithfully

  
**HENRY LAU**  
Restifa & Partners Pty Limited

c.c. Anne Seaton - Manager Compliance & Regulation  
Richard Weinberg - Balfour Centre (No2) Pty Ltd

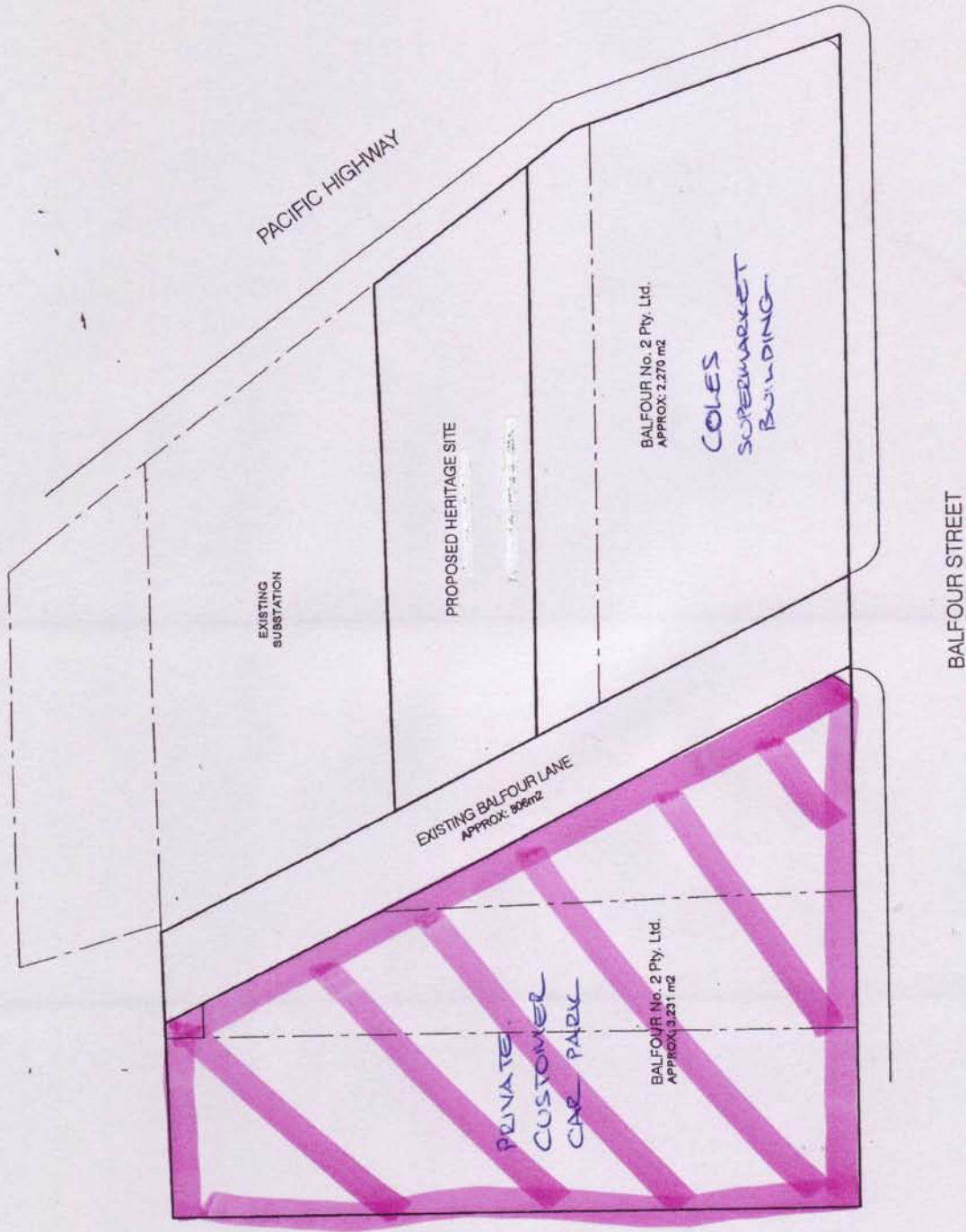
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**Commercial - In Confidence**

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1/123 WALKER ST NORTH SYDNEY NSW 2060 AUSTRALIA





| SITE AREAS   |        |
|--------------|--------|
| ZONE         | AREA   |
| BALFOUR No 2 | 5,501. |
| LANE         | 806.   |
| HERITAGE     | 1,057. |
|              | 7,364. |

EXISTING LAND HOLDINGS

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## 12 WOONONA AVENUE, WAHROONGA

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Ward: Wahroonga

### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To refer the application back to Council following the proposal's referral to the Heritage Advisory Committee.

**BACKGROUND:**

- Application lodged 18 May 2007.
- Council considered a report at its meeting on 25 September 2007.
- Consideration pending site inspection which took place on 20 October 2007.
- Application referred to Heritage Advisory Committee on 3 December 2007.

**COMMENTS:**

Application was referred to Heritage Advisory Committee for consideration.

**RECOMMENDATION:**

Approval



## PURPOSE OF REPORT

To refer the application back to Council following the consideration of the application by the Heritage Advisory Committee on 3 December 2007.

## BACKGROUND

- Application lodged 18 May 2007.
- Council considered a report at its meeting on 25 September 2007.
- Consideration pending site inspection which took place on 20 October 2007.
- Council considered application post site inspection and resolved the following:
  - “A. *That this matter be deferred and referred to the Heritage Advisory Committee and such a meeting be held as a matter of urgency, so that the Minutes of that meeting can be considered at the Council meeting of 11 December 2007 and, in accord with Clause 61E of the KPSO.*
  - B. *That the Heritage Advisory Committee give advice upon Council seeking a second opinion from an independent Heritage Consultant with advice from the Heritage Office of NSW.”*
- Heritage Advisory Committee considered the application at its meeting on 3 December 2007.

## COMMENTS

No further comments are necessary.

## RECOMMENDATION

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

### 1. APPROVAL – SEPP 1 REQUIRED

THAT Council, as the consent authority, is of the opinion that the objection under State Environmental Planning Policy No. 1 – Development Standards to minimum site area requirement under CL.25E 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 as the development meets the underlying objectives of the control and strict compliance with the development standard would tend to hinder the achievement of the Objects of Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979.

AND

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THAT 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 416/07 is consistent with the aims of the Policy, grant development consent for a residential flat building on land at 12 Woonona Avenue, Wahroonga, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

**CONDITIONS THAT IDENTIFY APPROVED PLANS:**

**1. Approved architectural plans and documentation (new development)**

The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

| <b>Plan No.</b>  | <b>Drawn by</b>                        | <b>Dated</b> |
|--|--|--------------|
| DA01a, DA02a, DA03,<br>DA04a, DA05a, DA06a   | Wolski Lycenko Brecknock<br>Architects | May 2007     |
| Survey Plan 060106CP<br>Sheet 1 of 2 & 2 of 2  | V W Cochrane &<br>Associates Pty Ltd   | 17/01/2006   |
| Hydraulic Details S-07-20094   |  |              |
| Civil & Structural Engineering   | Design Services Pty Ltd                | 08/08/2007   |
| EF01 External Finishes   | Wolski Lycenko Brecknock<br>Architects | May 2007     |
| <b>Document(s)</b>   | <b>Dated</b>                           |              |
| Statement of Environmental Effects by Metroplan  | May 2007                               |              |
| SEPP 1 Objection by Metroplan  | August 2007                            |              |
| Assessment of Traffic and Parking Implications by<br>Transport and Traffic Planning Associates | August 2007                            |              |
| Preliminary Geotechnical Report by Jack Hodgson Consultants                                    | 18 April 2006                          |              |
| Tree Management Report by Naturally Trees<br>Arboricultural Consulting                         | 11 May 2007                            |              |
| Landscape specification by iScape Landscape Architecture                                       | May 2007                               |              |
| BASIX Certificate 146816M  | 4 July 2007                            |              |

**Reason:** To ensure that the development is in accordance with the determination of Council.

**2. Inconsistency between documents**

In the event of any inconsistency between conditions of this consent and the

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drawings/documents referred to above, the conditions of this consent prevail.

**Reason:** To ensure that the development is in accordance with the determination of Council.

**3. Approved landscape plans**

Landscape works shall be carried out in accordance with the following landscape plan(s), listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

| Plan no.                     | Drawn by | Dated    |
|------------------------------|----------|----------|
| 30.07/050, Rev A & 30.07/051 | iScape   | May 2007 |

**Reason:** To ensure that the development is in accordance with the determination of Council.

**CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:**

**4. Notice of commencement**

At least 48 hours prior to the commencement of any development or excavation works, a notice of commencement of building or subdivision work form and appointment of the principal certifying authority form shall be submitted to Council.

**Reason:** Statutory requirement.

**5. Notification of builder's details**

Prior to the commencement of any development or excavation works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

**Reason:** Statutory requirement.

**6. Dilapidation survey and report (public infrastructure)**

Prior to the commencement of any development or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures of the following public infrastructure, has been completed and submitted to Council:

**Public infrastructure**

- Full road pavement width, including kerb and gutter, of Woonona Avenue

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- over the site frontage.
- All driveway crossings and laybacks opposite the subject site.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both written and photographic) existing damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition prior to the commencement of works.

**Note:** A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any excavation works.

**Reason:** To record the structural condition of public infrastructure before works commence.

## 7. Construction and traffic management plan

Prior to the commencement of any works on site, the applicant must submit for review by Council's engineers a construction and traffic management plan. The following matters must be specifically addressed in the plan:

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

- dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways
- turning areas within the site for construction 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 and concrete pump and truck standing areas on and off the site
- 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
- an on-site parking area for employees, tradespersons and construction vehicles as far as possible

### B. Traffic control plan(s) for the site

All traffic control plans must be in accordance with the RTA publication

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"Traffic Control Worksite Manual" and prepared by a suitably qualified person (minimum '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 stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

**C. 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 where alternate routes exist.

A copy of this route is to be made available to all contractors and shall be clearly depicted at a location within the site.

The plan must provide evidence of RTA concurrence where construction access is provided directly from or within 20m of an arterial road.

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

The plan must provide measures for 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 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.

As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council's Development Engineer. Written acknowledgment from Council's Engineer shall be obtained (attesting to

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this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

**Reason:** To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

**8. Work zone**

If a work zone is proposed, the applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the work zone. Work 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. Work 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 work zone is approved by the Local Traffic Committee, the applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit this to the Principal Certifying Authority prior to commencement of any works on 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 site. At the expiration of the work zone approval, the applicant is required to remove the work zone signs and reinstate any previous signs at their expense.

In the event the work zone is required for a period beyond that initially approved by the Traffic Committee, the applicant shall make a payment to Council for the extended period in accordance with Council's schedule of fees and charges for work zones prior to the extended period commencing.

**Reason:** To ensure that appropriate measures have been made for the operation of the site during the construction phase.

**9. Erosion and drainage management**

Earthworks and/or demolition of any existing buildings shall not commence until an erosion and sediment control plan is submitted to and approved by the Principal Certifying Authority. The plan shall comply with the guidelines set out in the NSW Department of Housing manual "Managing Urban Stormwater: Soils and Construction" certificate. Erosion and sediment control works shall be implemented in accordance with the erosion and sediment control plan.

**Reason:** To preserve and enhance the natural environment.

**10. Tree protection fencing**

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To preserve the following tree/s, no work shall commence until the area beneath their canopy is fenced off at the specified radius from the trunk/s 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.

**Schedule**

| Tree/location  | Radius in Metres |
|--|------------------|
| Tree 7 <i>Syncarpia glomulifera</i> (Turpentine)       | 5 metres         |
| Tree 12 <i>Cupressus macrocarpa</i> (Monterey Cypress) | 5 metres         |
| Tree 14 <i>Jacaranda mimosifolia</i> (Jacaranda)       | 5 metres         |

**Reason:** To protect existing trees during the construction phase.

**11. Tree protection signage**

Prior to works commencing, tree protection signage is to be attached to each tree protection zone, displayed in a prominent position and the sign repeated at 10 metres intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:

- tree protection zone
- this fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted
- any encroachment not previously approved within the tree protection zone shall be the subject of an arborist's report
- the arborist's report shall provide proof that no other alternative is available
- the arborist's report shall be submitted to the Principal Certifying Authority for further consultation with Council
- The name, address, and telephone number of the developer.

**Reason:** To protect existing trees during the construction phase.

**12. Tree protection mulching**

Prior to works commencing and throughout construction, the area of the tree protection zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood.

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**Reason:** To protect existing trees during the construction phase.

**13. Tree fencing inspection**

Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with all relevant conditions.

**Reason:** To protect existing trees during the construction phase.

**14. Construction waste management plan**

Prior to the commencement of any works, the Principal Certifying Authority shall be satisfied that a waste management plan, prepared by a suitably qualified person, has been prepared in accordance with Council's DCP 40 – Construction and Demolition Waste Management.

The plan shall address all issues identified in DCP 40, including but not limited to: the estimated volume of waste and method for disposal for the construction and operation phases of the development.

**Note:** The plan shall be provided to the Certifying Authority.

**Reason:** To ensure appropriate management of construction waste.

**15. Archival recording of buildings**

Prior to the commencement of any development or excavation works on site, the Principal Certifying Authority shall be satisfied that an archival report has been submitted to Council's Heritage Advisor.

The report must consist of an archival standard photographic record of the building (internally and externally), its garden and views of it from the street illustrating its relationship to neighbouring properties and the streetscape. Recording shall be undertaken in accordance with the guidelines for "Photographic Recording of Heritage Items Using Film or digital Capture (2006)" prepared by the New South Wales Heritage Office.

Information shall be bound in an A4 report format. It shall include copies of photographs, referenced to plans of the site. Two (2) copies, one (1) copy to include negatives or CD of images shall be submitted to Council's Heritage Advisor. The recording document will be held in the local studies collection of Ku-ring-gai Library, the local historical society and Council's files.

**Note:** A written acknowledgement from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the



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commencement of any works.

**Reason:** To ensure the proper management of historical artefacts and to ensure their preservation.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE:**

**16. Amendments to approved landscape plan**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved architectural plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

| <b>Plan No.</b> | <b>Drawn by</b>                     | <b>Dated</b> |
|-----------------|-------------------------------------|--------------|
| Da02            | Wolski Lycenko Brecknock Architects | May 2007     |

The above architectural plan(s) shall be amended in the following ways:

- i) To minimise impacts on Tree 7 Syncarpia glomulifera (Turpentine) the proposed steps adjacent to the eastern side of the family room of unit 1 shall be deleted and replaced with a low retaining wall. The retaining wall shall be constructed as a dry stone wall or similar that doesn't require a footing.
- ii) All existing trees shall be numbered to correspond with the approved landscape plan.
- iii) To effectively screen the development from the adjoining heritage property to the west. The garden bed adjacent to the lawn area along the western (rear) boundary shall be widened to 3 metres excluding the clothes drying area. The planting along the rear boundary shall include layered screen planting ranging in height from 6 to 4 metres.

**Reason:** To protect existing trees.

**17. Long service levy**

In accordance with Section 109F(i) of the Environmental Planning and Assessment Act a Construction Certificate shall not be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided to Council.

**Reason:** Statutory requirement.

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**18. Builder's indemnity insurance**

The applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the Home Building Act 1989 to the 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. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at 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).

**Reason:** Statutory requirement.

**19. Design changes**

The following design changes shall be implemented:

- a) The verandas on the northern elevation at the ground and first floor levels shall be reduced in width from 3.7 metres to a maximum 3.0 metres. The second floor veranda shall also be proportionally reduced in width. The hipped roof form is to be retained;
- b) The pergola on the second floor is to be constructed of timber instead of steel;
- c) A continuous length planter box is to be constructed above the top of the slab at the ground floor level over the driveway/ entry ramp to account for the shortfall of veranda width;
- d) All existing trees shall be numbered on the architectural plans to correspond with the approved landscape plan; and
- e) The piers of the front fence are to be reduced in height to a maximum 1.6 metres and the metal palisade in fill is to be reduced to have a maximum height of 1.2 metres. The dwarf wall to the front fence is to be reduced in height relative to the reduction of the piers and metal in-fill palisade. The heights are to be measured from the finished footpath level.
- f) An 8ft or 2.44 metres high timber lapped and capped fence is to be constructed along the western property boundary to 14 Woonona Avenue, Wahroonga. The height is to be measured from the finished ground level.

Details of the above are to be provided prior to the issue of the Construction Certificate.

**Reason:** To ensure minimal impacts to the adjoining heritage item and existing trees located on and adjoining the subject site

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**20. Engineering construction details**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the engineering construction details for the basement car park, complies with the following requirements:

The engineering construction plans shall note the following details:

- i) To preserve the following trees the basement car park shall be excavated with near vertical angles. The side surfaces of the excavated basement shall be covered with water proof covers whenever work is not being carried out. All up slope run-off shall be diverted away from the cut surfaces.
- ii) The construction details shall indicate the following trees on the plans.
- iii) the construction details shall indicate that the following trees are to be protected with no over excavation of the basement to take place.

**Schedule**

**Tree/location**

**Tree works**

|  |                             |
|--|-----------------------------|
| Tree 7 <i>Syncarpia glomulifera</i> (Turpentine)       | Front yard on site          |
| Tree 12 <i>Cupressus macrocarpa</i> (Monterey cypress) | Adjoining property to rear. |
| Tree 13 <i>Liquidambar styraciflua</i> (Liquidambar)   | Adjoining property to rear. |
| Tree 14 <i>Jacaranda mimosifolia</i> (Jacaranda)       | Adjoining property to rear. |

**Reason:** To protect existing trees.

**21. Air drying facilities**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that a common open space area dedicated for open air drying of clothes is provided. This area is to be located at ground level behind the building line and in a position not visible from the public domain.

In lieu of the above, written confirmation that all units will be provided with internal clothes drying facilities prior to the Occupation Certificate is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** Amenity & energy efficiency.

**22. Access for people with disabilities (residential)**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that access for people with disabilities to and from and between the public domain, residential units and all common open space areas is provided. Consideration must be given to the means of dignified and equitable access.

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Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate. All details shall be prepared in consideration of the Disability Discrimination Act, and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

**Reason:** To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards.

**23. Adaptable units**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that all the nominated adaptable units within the development application [Units 1, 2, 3], are designed as adaptable housing in accordance with the provisions of Australian Standard AS4299-1995: Adaptable Housing.

**Note:** Evidence from an appropriately qualified professional demonstrating compliance with this control is to be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** Disabled access & amenity.

**24. Stormwater management plan**

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:

- exact location and reduced level of discharge point to the public drainage system
- Layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence)
- location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems and where proprietary products are to be used, manufacturer specifications or equivalent shall be provided
- specifications for reticulated pumping facilities (including pump type and

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manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments

- details of the required on-site detention tanks required by Ku-ring-gai Water Management DCP 47, including dimensions, materials, locations, orifice and discharge control pit details as required (refer Chapter 6 and Appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements)
- the required basement stormwater pump-out system is to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design)

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Council's Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - Plumbing and Drainage Code and the Building Code of Australia. The plans may be generally based on the hydraulic details submitted with the development application, which are to be advanced as necessary for construction certificate issue purposes.

**Reason:** To protect the environment.

**25. Stormwater retention**

Prior to the issue of a Construction Certificate, the Principal Certifying Authority is to be satisfied that:

1. A mandatory rainwater retention and re-use system, comprising storage tanks and ancillary plumbing is provided. The minimum total storage volume of the rainwater tank system, and the prescribed re-use of the water on site must satisfy all relevant BASIX commitments and the requirements specified in Chapter 6 of Ku-ring-gai Water Management Development Control Plan 47; and
2. An on-site stormwater detention system must be provided to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with Chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The on-site detention system must be designed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in Appendix 5 of DCP 47.

**Reason:** To protect the environment.

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**26. Excavation for services**

Prior to the issue of the Construction Certificate, the Principal Certifying shall be satisfied that no proposed underground services (ie. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

**Note:** A plan detailing the routes of these services and trees protected under the Tree Preservation Order, shall be submitted to the Principal Certifying Authority.

**Reason:** To ensure the protection of trees.

**27. Landscape plan**

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that a landscape plan has been completed in accordance with Council's DA Guide, relevant development control plans and the conditions of consent by a landscape architect or qualified landscape designer.

**Note:** The landscape plan must be submitted to the Principal Certifying Authority.

**Reason:** To ensure adequate landscaping of the site.

**28. Noise from plant in residential zone**

Where any form of mechanical ventilation equipment or other noise generating plant is proposed as part of the development, prior to the issue of the Construction Certificate the Certifying Authority, shall be satisfied that the operation of an individual piece of equipment or operation of equipment in combination will not exceed more than 5dB(A) above the background level during the day when measured at the site's boundaries and shall not exceed the background level at night (10.00pm –6.00 am) when measured at the boundary of the site.

**Note:** A certificate from an appropriately qualified acoustic engineer is to be submitted with the Construction Certificate, certifying that all mechanical ventilation equipment or other noise generating plant in isolation or in combination with other plant will comply with the above requirements.

**Reason:** To comply with best practice standards for residential acoustic amenity.

## 29. Location of plant (residential flat buildings)

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that all plant and equipment (including but not limited to air conditioning equipment) is located within the basement.

**Note:** Architectural plans identifying the location of all plant and equipment shall be provided to the Certifying Authority.

**Reason:** To minimise impact on surrounding properties, improved visual appearance and amenity for locality.

## 30. Driveway crossing levels

Prior to issue of the Construction Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.

This development consent is for works wholly within the property. Development 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 development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

The construction of footpaths and driveways outside the property in materials other than those approved by Council is not permitted.

**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

## 31. Driveway grades – basement car-parks

Prior to the issue of the Construction Certificate, longitudinal driveway sections

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are to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifying Authority. These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level. The traffic engineer shall provide specific written certification on the plans that:

- vehicular access can be obtained using grades of 25% (1 in 4) maximum and
- all changes in grade (transitions) comply with Australian Standard 2890.1 – “Off-street car parking” (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.

If a new driveway crossing is proposed, the longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application.

**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

### 32. Basement car parking details

Prior to issue of the Construction Certificate, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements must be submitted to and approved by the Certifying Authority. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 – 2004 “Off-street car parking”
- a clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement
- no doors or gates are provided in the access driveways to the basement car park which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area
- the dimensions of all parking spaces, including lengths and widths, comply with the State Environmental Planning Policy for Senior Living relating to height clearances and space dimensions (delete clause if not seniors living)
- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans



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**Reason:** To ensure that parking spaces are in accordance with the approved development.

**33. Car parking allocation**

Car parking within the development shall be allocated in the following way:

|                            |          |
|----------------------------|----------|
| <b>Resident car spaces</b> | <b>5</b> |
| <b>Visitor spaces</b>      | <b>1</b> |
| <b>Total spaces</b>        | <b>6</b> |

Each adaptable dwelling must be provided with car parking complying with the dimensional and location requirements of AS2890.1 – parking spaces for people with disabilities.

At least one visitor space shall also comply with the dimensional and location requirements of AS2890.1 – parking spaces for people with disabilities.

Consideration must be given to the means of access from disabled car parking spaces to other areas within the building and to footpath and roads and shall be clearly shown on the plans submitted with the Construction Certificate.

**Reason:** To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with federal legislation.

**34. Number of bicycle spaces**

The basement car park shall be adapted to provide 2 bicycle spaces in accordance with DCP 55. The bicycle parking spaces shall be designed in accordance with AS2890.3. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

**Reason:** To provide alternative modes of transport to and from the site.

**35. Energy Australia requirements**

Prior to issue of the Construction Certificate, the applicant must 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 for approval prior to issue of the Construction Certificate.

Any structures or other requirements of Energy Australia shall be indicated on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy

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Australia must be met in full prior to issue of the Occupation Certificate.

**Reason:** To ensure compliance with the requirements of Energy Australia.

**36. Utility provider requirements**

Prior to issue of the Construction Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained. All utility services or appropriate conduits for the same must be provided by the developer in accordance with the specifications of the utility providers.

**Reason:** To ensure compliance with the requirements of relevant utility providers.

**37. Underground services**

All electrical services (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point. Undergrounding of services must not disturb the root system of existing trees and shall be undertaken in accordance with the requirements of the relevant service provided. Documentary evidence that the relevant service provider has been consulted and that their requirements have been met are to be provided to the Certifying Authority prior to the issue of the Construction Certificate. All electrical and telephone services to the subject property must be placed underground and any redundant poles are to be removed at the expense of the applicant.

**Reason:** To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION (WHICHEVER COMES FIRST):**

**38. Public liability insurance – works on public land**

Any person or contractor undertaking works on public land must take out public risk insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent.

The policy is to note and provide protection for Ku-ring-gai Council as an interested party and a copy of the policy must be submitted to Council prior to the commencement of any development (including demolition) or prior to the

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issue of the Construction Certificate (whichever comes first). The policy must be valid for the entire period that the works are being undertaken on public land.

**Note:** Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

**Reason:** To ensure the community is protected from the cost of any claim for damages arising from works on public land

**39. Infrastructure restorations fee**

To ensure that damage to Council Property as a result of construction activity is rectified in a timely matter:

- a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- b) The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council Property, and for the removal from Council Property of any waste bin, building materials, sediment, silt, or any other material or article.
- c) The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
- d) In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.
- e) In this condition:

**“Council Property”** includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

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**“Infrastructure Restoration Fee”** means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

**Reason:** To maintain public infrastructure

**40. Section 94 Contribution – residential development**

A contribution pursuant to section 94 of the Environmental Planning and Assessment Act as specified in Ku-ring-gai Section 94 Contributions Plan 2004-2009 for the services detailed in column A and for the amount detailed in Column B is required.

| Column A   | Column B           |
|--|--------------------|
| community facilities                               | \$9,199.16         |
| park acquisition and embellishment works           | \$54,104.38        |
| sportsgrounds works                                | \$10,849.77        |
| aquatic / leisure centres                          | \$228.95           |
| traffic and transport                              | \$1,236.80         |
| section 94 Plan administration                     | \$823.33           |
| Sub Total: Credit for existing very large dwelling | <u>\$76442.39</u>  |
|  | \$32,324.00        |
| <b>Total contribution is:</b>                      | <b>\$44,120.00</b> |

The contribution shall be paid to Council prior to the commencement of any development (including demolition) or prior to the issue of the Construction Certificate (whichever comes first). 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. Prior to payment, you are advised to check the contribution amount required with Council.

**Reason:** To ensure 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 the development.

**CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES:**

**41. Approved plans to be on site**

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the

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demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

**Reason:** To ensure that the development is in accordance with the determination of Council.

**42. Prescribed conditions**

The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation. For the purposes of section 80A (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- The work must be carried out in accordance with the requirements of the Building Code of Australia
- In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any works commence.

**Reason:** Statutory requirement.

**43. Statement of compliance with Australian Standards**

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposal contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of any works.

**Reason:** To ensure compliance with the Australian Standards.

**44. Demolition, excavation and construction work hours**

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12.00pm Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 9.00am and 4.00pm Monday to Friday, with regular breaks of 15 minutes each hour.

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**Reason:** To ensure reasonable standards of amenity to neighbouring properties.

**45. Construction noise**

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with the recommendations of the approved noise and vibration management plan.

**Reason:** To ensure reasonable standards of amenity to neighbouring properties.

**46. Site notice**

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

**Reason:** To ensure public safety and public information.

**47. Dust control**

During excavation, demolition and construction, adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

- physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs

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- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out daily

**Reason:** To protect the environment and amenity of surrounding properties.

**48. Post-construction dilapidation report**

The applicant shall engage a suitably qualified person to prepare a post construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads. The report is to be submitted to the Principal Certifying Authority. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Principal Certifying Authority must:

- compare the post-construction dilapidation report with the pre-construction dilapidation report
- have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.

A copy of this report is to be forwarded to Council at the completion of the construction works.

**Reason:** Management of records.

**49. Use of road or footpath**

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from 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.

**Reason:** To ensure safety and amenity of the area.

**50. Guarding excavations**

All excavation, demolition and construction works shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

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**Reason:** To ensure public safety.

**51. Toilet facilities**

During excavation, demolition and construction phases, toilet facilities are to be provided, on the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

**Reason:** Statutory requirement.

**52. Recycling of building material (general)**

During demolition and construction, the Principal Certifying Authority shall be satisfied that building materials suitable for recycling have been forwarded to an appropriate registered business dealing in recycling of materials. Materials to be recycled must be kept in good order.

**Reason:** To facilitate recycling of materials.

**53. Construction signage**

All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m<sup>2</sup>
- are removed within 14 days of the completion of all construction works

**Reason:** To ensure compliance with Council's controls regarding signage.

**54. Road reserve safety**

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". If pedestrian



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

**Reason:** To ensure safe public footways and roadways during construction

**55. Road repairs necessitated by excavation and construction works**

It is highly likely that damage will be caused to the roadway at or near the subject site as a result of the construction (or demolition or excavation) works. The applicant, owner and builder (and demolition or excavation contractor as appropriate) will be held responsible for repair of such damage, regardless of the Infrastructure Restorations Fee paid (this fee is to cover wear and tear on Council's wider road network due to heavy vehicle traffic, not actual major damage).

Section 102(1) of the Roads Act states "A person who causes damage to a public road is liable to pay to the appropriate roads authority the cost incurred by that authority in making good the damage."

Council will notify when road repairs are needed, and if they are not carried out within 48 hours, then Council will proceed with the repairs, and will invoice the applicant, owner and relevant contractor for the balance.

**Reason:** To protect public infrastructure.

**56. Services**

Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicants' full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services (including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

**Reason:** Provision of utility services.

**57. Erosion control**

Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm and/or as directed by the Principal Certifying Authority and Council officers.

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**Reason:** To protect the environment from erosion and sedimentation.

**58. Drainage to street**

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the street drainage system. New drainage line connections to the street drainage system shall conform and comply with the requirements of Sections 5.3 and 5.4 of Ku-ring-gai Water Management Development Control Plan No. 47.

**Reason:** To protect the environment.

**59. Grated drain at garage**

A 200mm wide grated channel/trench drain, with a heavy-duty removable galvanised grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.

**Reason:** Stormwater control.

**60. Sydney Water Section 73 Compliance Certificate**

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 Co-ordinator. The applicant is to refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-develop" 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 Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

**Reason:** Statutory requirement.

**61. Arborist's report**

The trees to be retained shall be inspected, monitored and treated by a qualified arborist during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the arborist to the Principal Certifying Authority are required at the following times or phases of work:

**Schedule**

**Tree/location**

Tree7 *Syncarpia glomulifera* (Turpentine)

**Time of inspection**

During excavation and construction of the basement car park.

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|   |  |
|---|--|
| Tree 12 <i>Cupressus macrocarpa</i><br>(Monterey cypress) | During excavation and construction of the basement car park. |
|---|--|

|  |  |
|--|--|
| Tree 13 <i>Liquidambar styraciflua</i> (Liquidambar) | During excavation and construction of the basement car park. |
|--|--|

**Reason:** To ensure protection of existing trees.

**62. Completion of landscape works**

Prior to the release of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious and/or environmental weed species, have been undertaken in accordance with the approved plan(s) and conditions of consent.

**Reason:** To ensure that the landscape works are consistent with the development consent.

**63. Canopy/root pruning**

Canopy and/or root pruning of the following tree(s) which is necessary to accommodate the approved building works shall be undertaken by an experienced arborist/horticulturist, with a minimum qualification of the horticulture certificate or tree surgery certificate:

**Schedule**

| <b>Tree/location</b>                                   | <b>Tree works</b>        |
|--|--------------------------|
| Tree 7 <i>Syncarpia glomulifera</i> (Turpentine)       | Canopy and root pruning. |
| Tree 12 <i>Cupressus macrocarpa</i> (Monterey cypress) | Root pruning.            |
| Tree 13 <i>Liquidambar styraciflua</i> (Liquidambar)   | Root pruning.            |
| Tree 14 <i>Jacaranda mimosifolia</i> (Jacaranda)       | Root pruning.            |

**Reason:** To protect the environment.

**64. Approved tree works**

Approval is given for the following works to be undertaken to trees on the site:

**Schedule**

| <b>Tree location</b>                               | <b>Approved tree works</b> |
|--|----------------------------|
| Tree1 <i>Camellia sasanqua</i> (Chinese Camellia)  | Removal                    |
| Tree2 <i>Camellia japonica</i> (Japanese Camellia) | Removal                    |
| Tree 3 <i>Acer palmatum</i> (Japanese Maple)       | Removal                    |

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|   |   |
|---|---|
| Tree 4 <i>Chamaecyparis sp.</i> (Cypress)         | Removal   |
| Tree 5 <i>Cotoneaster sp.</i> (Cotoneaster)       | Removal   |
| Tree 6 <i>Acer negundo</i> (Box Elder)            | Removal   |
| Tree 7 <i>Syncarpia glomulifera</i> (Turpentine)  | Minor pruning of branches on outside edge of canopy to clear the approved building. |
| Tree 8 <i>Jacaranda mimosifolia</i> (Jacaranda)   | Removal   |
| Tree A <i>Camellia sasaqua</i> (Chinese Camellia) | Removal   |
| Tree B <i>Camellia sasaqua</i> (Chinese Camellia) | Removal   |
| Tree D <i>Camellia sasaqua</i> (Chinese Camellia) | Removal   |

Removal or pruning of any other tree on the site is not approved.

**Reason:** To ensure that the development is in accordance with the determination of Council.

**65. Excavation near trees**

No mechanical excavation 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:

**Schedule**

| Tree/location                                    | Radius from trunk |
|--|-------------------|
| Tree 7 <i>Syncarpia glomulifera</i> (Turpentine) | 8 metres          |

**Reason:** To protect existing trees.

**66. No storage of materials beneath trees**

No activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.

**Reason:** To protect existing trees.

**67. Removal of refuse**

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.

**Reason:** To protect the environment.

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**68. Canopy replenishment trees to be planted**

The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species

**Reason:** To maintain the treed character of the area.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE:**

**69. Compliance with BASIX Certificate**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No. 146816M have been complied with.

**Reason:** Statutory requirement.

**70. Clotheslines and clothes dryers**

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that the units either have access to an external clothes line located in common open space or have a mechanical clothes dryer installed.

**Reason:** To provide access to clothes drying facilities.

**71. Mechanical ventilation**

Following completion, installation and testing of all the mechanical ventilation systems, the Principal Certifying Authority shall be satisfied of the following prior to the issue of any Occupation Certificate:

1. The installation and performance of the mechanical systems complies with:
  - The Building Code of Australia
  - Australian Standard AS1668
  - Australian Standard AS3666 where applicable
2. The mechanical ventilation system in isolation and in association with other mechanical ventilation equipment, when in operation will not be audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside

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these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest adjoining boundary.

**Note:** Written confirmation from an acoustic engineer that the development achieves the above requirements is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

**Reason:** To protect the amenity of surrounding properties.

**72. Accessibility**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that:

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2
- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 – 1993
- the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

**Reason:** Disabled access & services.

**73. Retention and re-use positive covenant**

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" and to the satisfaction of Council (refer to appendices of Ku-ring-gai Water Management Development Control Plan No. 47). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifying Authority prior to issue of

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an Occupation Certificate.

**Reason:** To protect the environment.

**74. Provision of copy of OSD designs if Council is not the PCA**

Prior to issue of the Occupation Certificate, the following must be provided to Council's Development Engineer:

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

**Reason:** For Council to maintain its database of as-constructed on-site stormwater detention systems.

**75. Certification of drainage works (dual occupancies and above)**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans
- the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Water Management Development Control Plan No. 47 respectively, have been achieved
- retained water is connected and available for use
- basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and Appendix 7.1.1 of Ku-ring-gai Water Management Development Control Plan No. 47
- all grates potentially accessible by children are secured
- components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2003 and the Building Code of Australia
- 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

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The rainwater certification sheet contained in Appendix 13 of the Ku-ring-gai Water Management Development Control Plan No 47, must be completed and attached to the certification. Where an on-site detention system has been constructed, the on-site detention certification sheet contained in Appendix 4 of DCP 47 must also be completed and attached to the certification.

**Note:** Evidence from a qualified and experienced consulting civil/hydraulic engineer documenting compliance with the above is to be provided to Council prior to the issue of an Occupation Certificate.

**Reason:** To protect the environment.

**76. WAE plans for stormwater management and disposal (dual occupancy and above)**

Prior to issue of the Occupation Certificate, a registered surveyor must provide a works as executed survey of the completed stormwater drainage and management systems. The survey must be submitted to and approved by the Principal Certifying Authority prior to issue of the Occupation Certificate. The survey must indicate:

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

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

**Reason:** To protect the environment.



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**77. Basement pump-out maintenance**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a maintenance regime has been prepared for the basement stormwater pump-out system.

**Note:** A maintenance regime specifying that the system is to be regularly inspected and checked by qualified practitioners is to be prepared by a suitable qualified professional and provided to the Principal Certifying Authority.

**Reason:** To protect the environment.

**78. OSD positive covenant/restriction**

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council (refer to appendices of Kuring-gai Council Water Management DCP 47). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the on-site detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents, showing the covenants and restrictions, must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

**Reason:** To protect the environment.

**79. Sydney Water Section 73 Compliance Certificate**

Prior to issue of an Occupation Certificate the Section 73 Sydney water Compliance Certificate must be obtained and submitted to the Principal Certifying Authority

**Reason:** Statutory requirement.

**80. Certification of as-constructed driveway/car park – RFB**

Prior to issue of an Occupation Certificate, the Principal Certifying Authority is

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to be satisfied that:

- the as-constructed car park complies with the approved Construction Certificate plans
- the completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” in terms of minimum parking space dimensions
- finished driveway gradients and transitions will not result in the scraping of the underside of cars
- the vehicular headroom requirements of Australian Standard 2890.1 – “Off-street car parking”,

**Note:** Evidence from a suitably qualified and experienced traffic/civil engineer indicating compliance with the above is to be provided to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

**Reason:** To ensure that vehicular access and accommodation areas are compliant with the consent.

**81. Reinstatement of redundant crossings and completion of infrastructure works**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that the following works in the road reserve have been completed:

- new concrete driveway crossing in accordance with levels and specifications issued by Council
- removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter (reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials)
- full repair and resealing of any road surface damaged during construction
- full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing

All works must be completed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully

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repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

**Reason:** To protect the streetscape.

**82. Infrastructure repair**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that any damaged public infrastructure caused as a result of construction works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council Development Engineer and at no cost to Council.

**Reason:** To protect public infrastructure.

**83. Mechanical ventilation**

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that all mechanical ventilation systems are installed in accordance with Part F4.5 of the Building Code of Australia and comply with Australian Standards AS1668.2 and AS3666 Microbial Control of Air Handling and Water Systems of Building.

**Reason:** To ensure adequate levels of health and amenity to the occupants of the building.

**CONDITIONS TO BE SATISFIED AT ALL TIMES:**

**84. Car parking**

At all times, the visitor car parking spaces are to be clearly identified and are to be for the exclusive use of visitors to the site. On site permanent car parking spaces are not to be used by those other than an occupant or tenant of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee of the building.

These requirements are to be enforced through the following:

- restrictive covenant placed on title pursuant to Section 88B of the Conveyancing Act, 1919
- restriction on use under Section 68 of the Strata Schemes (Leasehold Development) Act, 1986 to all lots comprising in part or whole car parking spaces

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**Reason:** To ensure adequate provision of visitor parking spaces

Shaun Garland  
**Executive Assessment Officer**

Selwyn Segall  
**Team Leader**  
**Development Assessment**

Matthew Prendergast  
**Manager**  
**Development Assessment Services**

Michael Miocic  
**Director**  
**Development and Regulation**

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## GUIDELINES FOR KU-RING-GAI COUNCIL OFFICE OF THE INTERNAL OMBUDSMAN

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

That Guidelines for the position of Internal Ombudsman be adopted by resolution of the Council.

**BACKGROUND:**

The Internal Ombudsman Guidelines set out the role and functions to be carried out by the Internal Ombudsman.

**COMMENTS:**

The Guidelines are required to give effect to the position of Internal Ombudsman. This report provides information regarding refinements that have been made to some sections following external legal consultation. It is desirable that the Guidelines be endorsed by Council to assist community understanding of the nature of the role.

**RECOMMENDATION:**

That Council endorse the Ku-ring-gai Council Internal Ombudsman Guidelines.

## **PURPOSE OF REPORT**

That Guidelines for the position of Internal Ombudsman be adopted by resolution of the Council.

## **BACKGROUND**

As part of the need to promote the principles of accessibility, fairness, accountability and effectiveness for the position of Internal Ombudsman, it is important to establish Guidelines for the position. The Guidelines set out the role and functions to be carried out by the Internal Ombudsman.

The Guidelines are required to give effect to the position of Internal Ombudsman. It is intended that they be made available to any person dealing with the Office of the Internal Ombudsman and posted on Council's website.

## **COMMENTS**

The Guidelines have been reviewed by Mr Chris Drury of DLA Phillips Fox Lawyers who has suggested amendments to clarify and enhance the operation of the Guidelines. The suggested amendments are incorporated in the Guidelines attached to this report. Corresponding amendments should be considered for Council's Code of Conduct in due course, to maximise consistency between the two documents.

## **CONSULTATION**

The General Manager has reviewed the Guidelines and discussed their content with the Internal Ombudsman. The General Manager is satisfied with the content of the Guidelines and the amendments made further to the advice received from DLA Phillips Fox Lawyers.

## **FINANCIAL CONSIDERATIONS**

Not applicable.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

Not applicable.

## **SUMMARY**

The establishment of Guidelines for the Internal Ombudsman will ensure that any person dealing with the Office of the Internal Ombudsman is aware of the role and functions to be carried out by that Office.

## RECOMMENDATION

That Council endorse Guidelines for the Office of the Internal Ombudsman.

John McKee  
**General Manager**

**Attachments:**

- 1. Ku-ring-gai Council Internal Ombudsman Guidelines - 693213**
- 2. Letter from DLA Phillips Fox dated 2 August 2007 - Confidential**

## KU-RING-GAI COUNCIL INTERNAL OMBUDSMAN GUIDELINES

### GENERAL STATEMENTS OF PRINCIPLE

- These Guidelines have been adopted by resolution of the Ku-ring-gai Council as part of Council's policy making function to assist in the good governance of the Council and to further compliance by Council with the Council's charter as contained in section 8 of the *Local Government Act 1993* (the Act).
- All Councillors and employees of the Council are to cooperate fully with the Internal Ombudsman in any investigation to be carried out pursuant to these Guidelines. In particular all Councillors and employees must comply with any lawful direction given by the Internal Ombudsman in connection with any investigation undertaken or any recommendation made by the Internal Ombudsman pursuant to these Guidelines.
- Any power to be exercised and any function to be performed by the Internal Ombudsman pursuant to these Guidelines shall be exercised and performed subject to the rules of procedural fairness.
- These Guidelines, despite anything to the contrary contained herein, do not affect any right in law of any person to seek redress from any court or tribunal of competent jurisdiction in respect of any investigation undertaken or recommendation made by the Internal Ombudsman.
- In the event of any inconsistency between any function to be exercised or obligation to be performed under these Guidelines, and any function to be exercised and any obligation to be performed under the Council's Code of Conduct, the provisions of the Code of Conduct shall prevail to the extent of any such inconsistency.



## 1 DEFINITIONS

In these Guidelines, except in so far as the context or subject matter otherwise indicates or requires –

**Conduct Committee** means the Conduct Committee established by Ku-ring-gai Council in accordance with the Council's Code of Conduct and Conduct Committee Guidelines.

**Confidentiality** means the characteristic of data and information being disclosed only to authorised people, entities and processes in an authorised manner. This term has been defined by the International Standards Organisation (ISO) as *'ensuring that information is accessible only to those authorised to have access'*.

**Contrary to law** includes decisions or actions against the law, where the decision-maker had no power to make the decision or take certain action; breaches of procedural fairness, unauthorised releases of confidential information.

**Council** means the Ku-ring-gai Council.

**Councillor/s** means the Councillor/s of Ku-ring-gai Council.

**Expert** means any person appropriately qualified in a particular area and available to provide advice to the Internal Ombudsman as required.

**General Manager** means the General Manager of Ku-ring-gai Council.

**Internal Ombudsman** means the Office of the Internal Ombudsman and includes any personnel conducting activities associated with, or on behalf of, the Internal Ombudsman.

**Maladministration** has the meaning as defined in the *Protected Disclosures Act 1994* and conduct of a kind that amounts to maladministration if it involves an action or inaction of a serious nature that is:

- a contrary to law, or
- b unreasonable, unjust, oppressive or improperly discriminatory, or
- c based wholly or partly on improper motives.

**Mayor** means the Mayor of Ku-ring-gai Council.

**Oppressive** means unconscionable decisions or actions, or an abuse of power, intimidation or harassment.

**Procedural Fairness** requires the maintenance of fair procedures in the decision making process; the decision maker must not have the appearance of bias and must not have an interest in the outcome of the decision; the decision maker must give to a person who's interest may be affected by the decision the opportunity to present his or her case; and the decision must be based on logical probative evidence.

**Unjust** means decisions or actions not justified by any evidence or that are unreasonable, unfair or inequitable.

**Unreasonableness** means decisions or actions so unreasonable that no reasonable person exercising the same function of the decision maker would so decide or act. This term includes arbitrary, unfair or inequitable decisions or actions; the application of a policy inflexibly without regard to the merits of the individual case; serious delays in making a decision or taking action.

## **2 APPOINTMENT OF INTERNAL OMBUDSMAN**

### **2.1 Appointment of Internal Ombudsman**

Council shall establish the position of Internal Ombudsman and appoint a suitably qualified person to perform the duties required of the position.

### **2.2 Reporting**

The Internal Ombudsman shall report directly to the General Manager relating to a matter of administration within the Council or conduct of Council staff. It is the General Manager's responsibility to address the recommendations made by the Internal Ombudsman and ensure their implementation within the Council.

Where the Internal Ombudsman has investigated a complaint on behalf of the Conduct Committee, the Internal Ombudsman shall report directly to the Conduct Committee. The Conduct Committee shall deal with any

findings in accordance with Council's Code of Conduct and Conduct Committee Guidelines.

### **3 ORGANISATION OF THE OFFICE**

#### **3.1 Organisation of the Office**

The Internal Ombudsman can only appoint staff under delegation from the General Manager.

#### **3.2 Confidentiality**

The Internal Ombudsman and every person carrying out duties in connection with investigations conducted by the Internal Ombudsman and any person who becomes aware of an investigation being carried out by the Office of the Internal Ombudsman, shall ensure that confidentiality is maintained unless it is unreasonable or impossible to do so.

#### **3.3 Independence**

The Internal Ombudsman shall perform the duties of the Office with complete independence and impartiality, subject to these Guidelines and compliance with the rules of procedural fairness.

#### **3.4 Process**

The Internal Ombudsman shall develop and document processes associated with the investigation and reporting of all matters.

### **4 JURISDICTION**

#### **4.1 Jurisdiction**

The Internal Ombudsman may, on receiving a complaint, or on the Internal Ombudsman's own initiative, investigate –

- a a decision or recommendation,
- b an act done or omitted, or
- c a procedure,

relating to a matter of administration or conduct of Council staff, whereby a person is, or may be aggrieved.

Those council staff investigated shall be bound by the Internal Ombudsman's recommendations, once the General Manager has addressed them. The complainant cannot be bound. Where the Internal Ombudsman has carried out an investigation on behalf of the Conduct Committee into the conduct of a Councillor or the General Manager, any findings made by the Internal Ombudsman shall be referred to the Conduct Committee.

While it may be usual practice that a complainant should at first exhaust the internal complaint procedures in place within Ku-ring-gai Council, the Internal Ombudsman shall have the right to waive this requirement on a case by case basis. The Internal Ombudsman shall have the right to investigate any complaint or initiate any investigation without the need for any prior consent of any person or body against whom the complaint is made.

#### **4.2 Limit on jurisdiction**

Nothing in this part authorises the Internal Ombudsman to investigate a decision or recommendation, an act done or omitted, or a procedure used by Council, a committee of Council or a community committee, or a matter where an adequate remedy or right of appeal exists, whether or not the complainant uses it. Notwithstanding, matters of maladministration or misconduct that have not, or are not likely to be addressed through the remedy or right of appeal may be investigated by the Internal Ombudsman.

#### **4.3 Questions as to jurisdiction**

Where a question arises as to the jurisdiction of the Internal Ombudsman to investigate a matter, the Internal Ombudsman may discuss the matter with the General Manager and/or any expert as required, to determine the question.

## **5 RIGHT TO COMPLAIN**

### **5.1 Right to complain**

Subject to this paragraph 5.1 and paragraph 7.1 any person may complain to the Internal Ombudsman about the conduct of Council staff. Where the Internal Ombudsman receives a complaint about the conduct of a Councillor or the General Manager, the Internal Ombudsman shall report the matter to the General Manager or the Mayor, respectively, who will deal with the matter in accordance with Council's Code of Conduct and Conduct Committee Guidelines.

### **5.2 Complaint in writing**

A complaint made under paragraph 5.1 must be in writing. The Internal Ombudsman may accept a complaint that is not in writing if the Internal Ombudsman considers it appropriate to do so. In any such instance, the Internal Ombudsman shall commit the complaint to writing as soon as practicable.

## **6 CONCILIATION**

### **6.1 Dealing with complaint by conciliation**

The Internal Ombudsman may at any time attempt to deal with a complaint by conciliation. The Internal Ombudsman shall determine the appropriateness of conciliation at any time.

### **6.2 Procedure for conciliation**

The Internal Ombudsman shall be the conciliator in any conciliation. However, the Internal Ombudsman may with the agreement of the parties arrange for a mediator to assist with the conciliation.

### **6.3 Conciliation is unsuccessful**

Where an attempt to deal with a complaint by conciliation is unsuccessful, the Internal Ombudsman may proceed to investigate the matter further or may recommend that the complaint be referred to another authority for investigation.

## **7 REFUSAL TO INVESTIGATE**

### **7.1 Refusal to investigate, conciliate or continue investigation**

The Internal Ombudsman will refuse to investigate, deal with the complaint by conciliation or cease to investigate a matter where –

- a The complaint relates to a decision of the elected Council,
- b The complaint relates to actions or conduct of the Mayor, Councillors or the General Manager, other than a complaint referred to the Internal Ombudsman by the Conduct Committee,
- c The complaint relates to decisions of a standing committee or a sub-committee of Council,
- d The complaint relates to matters under investigation by the –
  - i NSW Department of Local Government,
  - ii Independent Commission Against Corruption,
  - iii NSW Ombudsman,
  - iv A Minister or Government Department, or
  - v NSW Police.
- e The complaint relates to a matter awaiting determination by the elected Council (except that conduct of staff in dealing with the matter prior to the determination by the Council shall not be excluded from the jurisdiction of the Internal Ombudsman),

The Internal Ombudsman may refuse to investigate, deal with the complaint by conciliation or cease to investigate a matter where –

- f An adequate remedy or right of appeal already exists, whether or not the complainant uses the remedy or right of appeal,
- g The complaint is in the opinion of the Internal Ombudsman frivolous, vexatious or not made in good faith, or concerns a trivial matter,
- h The complaint relates to a decision, recommendation, act or omission which is more than one year old,

- i The complaint pertains to conduct relating to a matter before a court, coroner or tribunal,
- j The complaint relates to the appointment or dismissal of an employee or any industrial or disciplinary issue, including complaints involving the grievance and dispute procedures under clause 30 of the *Local Government (State) Award 2004*,
- k A complaint relates to the actions or conduct of private individuals, unless such persons were council staff or Councillors at the time such conduct was alleged to have occurred.
- l Senior Council staff have not had adequate opportunity to address the complaint. Where this provision is in conflict with paragraph 4.1, this paragraph 7.1 shall prevail.
- m Resources are not available or the matter is of a low priority,
- n There is insufficient information available,
- o The complainant declines or refuses to provide further information and/or there are threats made against the Internal Ombudsman or Council.

## **7.2 Report of decision not to investigate**

Where the Internal Ombudsman decides not to investigate or to cease to investigate a complaint, the Internal Ombudsman shall, in writing, inform the complainant and any other interested person of the decision and shall state the reason for the decision.

## **8 ACCESS TO INFORMATION**

### **8.1 Access to information**

The Internal Ombudsman may receive and obtain information, documentation and other materials from any person and in a manner that the Internal Ombudsman considers appropriate.

## **8.2 Further access**

Without restricting the generality of paragraph 8.1, the Internal Ombudsman may –

- a At a reasonable time enter, remain on and inspect premises occupied by Council, conduct private discussions with any person on the premises and otherwise investigate matters within the jurisdiction of the Internal Ombudsman,
- b Require a person to provide information or produce a document or thing in the person's possession or control that relates to an investigation, at a time and place specified by the Internal Ombudsman,
- c Make copies of a document produced under this section.

## **8.3 Investigations to be private**

An investigation by the Internal Ombudsman shall be conducted in private.

## **8.4 Meetings and right to be heard**

The Internal Ombudsman may hold meetings, obtain information from any person and make such inquiries as the Internal Ombudsman considers necessary.

## **8.5 Adverse findings**

Councillors and staff have a right to remain silent during investigations being conducted by the Internal Ombudsman. Where a person being interviewed chooses to remain silent, the Internal Ombudsman must inform the person that the Internal Ombudsman may be entitled to draw adverse inferences from this silence. Notwithstanding, staff are expected to assist with investigations and if given a lawful and reasonable direction to answer a question, they should do so.



## **9 REPORT ON INVESTIGATION**

### **9.1 Report on investigation**

Where, after completing an investigation, the Internal Ombudsman is of the opinion that a decision, recommendation, act, omission or procedure of an employee or employees of Council –

- a Is contrary to law,
- b Is unjust, oppressive or improperly discriminatory,
- c Is based on a rule of law or practice that is unjust, oppressive or improperly discriminatory,
- d Is based in whole or in part on a mistake of law or fact or on an irrelevant ground or consideration,
- e Is related to the application of arbitrary, unreasonable or unfair procedure,
- f Was made without providing adequate reasons,
- g Involves maladministration or misconduct of any kind, or
- h Is clearly at odds with the intention of a Council resolution, policy or procedure,

the Internal Ombudsman shall provide a confidential written report of the opinion, with reasons, to the General Manager.

### **9.2 Nature of recommendations**

In making a report under paragraph 9.1, the Internal Ombudsman may recommend that –

- a A matter be referred to the General Manager for further consideration,
- b An omission or delay be rectified,

- c A decision or recommendation by an employee or employees of Council may be revoked or varied, where permitted by law,
- d Reasons be given by an employee or employees of Council for a decision,
- e A practice or procedure be altered,
- f Council pay compensation to a complainant,
- g Council provide a particular service,
- h Council amend, or not impose a charge or condition in relation to a particular service, application or consent,
- i Council supply a good or service or undertake any necessary corrective or other work to resolve a complaint,
- j Council make an appropriate correction, deletion or addition to a record, or
- k Such other steps be taken as the Internal Ombudsman considers proper and reasonable, in the circumstances.

### **9.3 Notice of proposed steps**

Where a recommendation is made under paragraph 9.2, the Internal Ombudsman may request the General Manager to notify the Internal Ombudsman within a specified time of steps taken, or that are proposed, to give effect to the recommendations.

### **9.4 Report to complainant**

Where an investigation is made of a complaint, the Internal Ombudsman shall report the result of the investigation to the complainant, in such manner and at such time as the Internal Ombudsman considers proper.

### **9.5 Opportunity to make representation**

Where it appears to the Internal Ombudsman that there may be sufficient grounds for making a report under paragraph 9.1 that may adversely affect the Council or the reputation of a person, the Internal

Ombudsman may request that representations be made by the General Manager or any other person before the report is completed. The request for this representation is at the discretion of the Internal Ombudsman.

## **9.6 Reporting process**

Before the Internal Ombudsman makes a report that may damage the reputation of any person, the following steps shall be undertaken:

- i The draft or proposed report be provided to the person or persons who are the subject of the Internal Ombudsman's report,
- ii The person or persons shall be invited to confirm the accuracy of relevant facts or matters, or to indicate where, and in what respects, they regard any material as erroneous,
- iii The person or persons shall be given the opportunity to provide a written response to the Internal Ombudsman's report and that response shall be included with the report.
- iv The Internal Ombudsman must take into account any written submission made in response to the draft report.

## **10 REVIEW OF INTERNAL OMBUDSMAN'S DECISION**

### **10.1 Review of Internal Ombudsman's decision**

Matters investigated and reported by the Internal Ombudsman may only be reviewed by a body external to Ku-ring-gai Council.

### **10.2 No proceedings against Internal Ombudsman**

No proceedings lie against the Internal Ombudsman or against an employee of the Internal Ombudsman for anything done in the course of the exercise or performance, or intended exercise or performance, of functions and duties under these guidelines, if done in accordance with section 731 of the *Local Government Act 1993*.

### **10.3 The Internal Ombudsman may issue media statements and make public comment on any matters relating to the Office of the Internal Ombudsman. As required, the Media Relations Manager is responsible**

for providing media support. All media inquiries regarding the Office of the Internal Ombudsman are to be referred to the Internal Ombudsman for comment.

## **11 BREACH & PENALTY**

Any person who wilfully and without justification –

- a obstructs, hinders or resists the Internal Ombudsman or any other person in the performance of the functions and duties of the Internal Ombudsman under these guidelines,
- b fails to comply with a request of the Internal Ombudsman, or
- c makes a false statement to, or misleads or attempts to mislead the Internal Ombudsman or any other person in the exercise of performance of the functions and duties of the Internal Ombudsman under these guidelines,

will be guilty of a breach of these guidelines and may be liable to disciplinary action.

Any such breach by a Councillor or the General Manager, may be reported to the General Manager or the Mayor, respectively, who will deal with the matter in accordance with the Council's Code of Conduct and the Conduct Committee Guidelines.

## **12 IMPLEMENTATION**

The implementation of this policy is the responsibility of the Internal Ombudsman.

## **13 REVIEW OF GUIDELINES**

The Internal Ombudsman shall review these Guidelines every two years to ensure currency.

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## KU-RING-GAI COMMUNITY WORKSHOP "THE SHED"

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To update Council on progress regarding the establishment of a community workshop 'The Shed' in Ku-ring-gai.

**BACKGROUND:**

On 8 August 2007 a report was presented to Council requesting support for the establishment of a community workshop "The Shed" in Ku-ring-gai. It was resolved that a cross departmental project team be established to examine possible options for the location of a community workshop in Ku-ring-gai.

**COMMENTS:**

A number of locations were identified and assessed against set criteria. A preferred location has been proposed at the West Lindfield Sports and Recreation Club in Highfield Road, West Lindfield.

**RECOMMENDATION:**

That Council supports the establishment of the community workshop, "The Shed", at West Lindfield Sport and Recreation Club and that Council allocate \$40,000 from the pre 1993 Section 94 Plan to undertake necessary maintenance works at this facility.

## PURPOSE OF REPORT

To update Council on progress regarding the establishment of a community workshop 'The Shed' in Ku-ring-gai.

## BACKGROUND

At the Ordinary Meeting of Council held on 28 August 2007, Council resolved to confirm its commitment for the establishment of a community workshop, 'shed' in Ku-ring-gai and to establish a cross departmental project team to examine possible options for a site for a 'shed' in Ku-ring-gai:

- A. That Council confirm its commitment to the Ku-ring-gai Community Workshop Inc. in the establishment of a Community 'Shed' Workshop.*
- B. That a cross departmental project team be established to examine possible options for a site to establish a Community Workshop in Ku-ring-gai.*

Council was initially approached by the Ku-ring-gai Community Workshop The Shed Inc requesting support for the establishment of a community workshop in Ku-ring-gai. It was the intention that 'the shed' would be available to the whole community, in particular, to older men to undertake woodwork, light engineering and handicraft activities.

The 'Shed' concept has been steadily gaining popularity in Australia. A decade ago there were only a handful of 'sheds' scattered around Australia. Today there are 175 'shed' projects registered on the Australian Men's Shed Association's Website. The 2<sup>nd</sup> National Men's Shed Conference held in Manly in September demonstrated that each 'shed' has a unique character and purpose as it endeavours to meet the needs of their members and the community. The benefits of 'sheds' are more than providing access to a range of tools and machinery. 'Sheds' also provide opportunities to reduce isolation by creating an environment for fellowship, safe places to discuss men's health issues, while enabling members to contribute to the community.

Successful 'sheds' are those which have established strong partnerships with the community, local government authorities, community service organisations and service clubs. Within the Northern Sydney region there are currently 'sheds' at Lane Cove, Willoughby, Manly, Thornleigh, and recently in Belrose. These 'sheds' are proving to be very popular, open 4 to 5 days per week and are operating at near to capacity.

## COMMENTS

Consistent with Council's resolution in August 2007, an inter-departmental project group was established to look at suitable sites and potential partnership opportunities. The project team developed locational criteria to assess the suitability of each facility. The criteria included long term sustainability, cost effectiveness, size of the facility, accessibility to public transport and availability of off street parking. Using this criteria a number of facilities were identified including:

- Seniors Resource Centre at Lindfield
- Guide Hall in Bobbin Head Road, North Turramurra
- Disused building at Howson Reserve, South Turramurra

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- Scout Hall at Killara
- West Lindfield Sport and Recreation Club, Highfield Rd, West Lindfield

Site visits were also arranged with representatives of the Shed Association. Having visited and assessed all locations, it has been determined that the West Lindfield Sports and Recreation Club best matches the site selection criteria. The lower ground floor area can provide a working space of about 200m<sup>2</sup> with separate storage space and small engineering room. There is ample parking on site for the anticipated number of people who will be using the facility and regular bus service stops in Cooks Road, approximately 400m from the Club. The added advantage is that the Sport and Recreation Club Committee are supportive of the proposal, as 'the shed' will be adding to the range of recreation activities available at the Club particularly for older people.

The interest and support for a community workshop in Ku-ring-gai is growing. The Ku-ring-gai Community Workshop "The Shed" Association have the names of 47 people who have expressed an interest in becoming members of 'The Shed'. Additionally, 30 people attended a recent meeting of the Community Workshop which was held at the West Lindfield Bowling Sport and Recreation Club. Those in attendance held a favourable view of the proposed location and could see the potential for the successful operation of the 'shed'.

## CONSULTATION

External consultation was undertaken with Scout and Guide Associations and providers of aged care facilities. The purpose of these consultations was to identify the availability of underutilised facilities.

Council staff liaised with members of the Ku-ring-gai Community Workshop "The Shed" and visited all the available facilities. The cross departmental working party and representatives of 'The Shed Committee' agree that the West Lindfield Sport and Recreation Club as the most suitable venue for the establishment of this type of service in Ku-ring-gai.

The Board of the West Lindfield Sports and Recreation Club Co-operative is also supportive of the proposal and have invited the Community Workshop representatives to be represented on the Board of the Co-operative. This would entitle 'The Shed' to have two members nominated for election to the Board of the Co-operative.

Community organisations, including providers of aged care and home support services were also contacted by Council staff to discuss potential partnership opportunities. A number have indicated that they are able to provide ongoing support for the project. Uniting Care Ageing - North Sydney Region, who sponsor six 'sheds' in the Northern Sydney region has indicated that this organisation is interested in partnership opportunities in Ku-ring-gai. The United Protestant Association, which has a large complex in Ku-ring-gai, is also interested in supporting a project that will benefit older men.

## FINANCIAL CONSIDERATIONS

A community workshop needs to meet minimum standards including access for people with a disability, compliance with occupational health and safety requirements and provide an appropriate power supply. The area proposed for the workshop is mainly used as storage and it is estimated that the cost to upgrade the facility to an operational level will be approximately

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\$75,000. The Ku-ring-gai Community Workshop Association has requested that Council contribute \$40,000 towards the cost of establishing 'The Shed' by undertaking some of the maintenance work, to the building, which will ensure appropriate access standards are achieved, prior to the commencement of the service.

Staff from Council's Operations department have inspected the premises and have provided an estimate cost for the works listed below:

| Maintenance and Upgrade Work   | Cost of Works   |
|--|-----------------|
| Rebuilding access ramp to comply with Disability Discrimination Act standards            | \$12,700        |
| Install accessible toileting facilities  | \$ 6,000        |
| Install thermostatic mixing valve and other plumbing works                               | \$ 2,000        |
| Remove internal walls to create a large work space                                       | \$ 5,800        |
| Widen doors to meet Disability Discrimination Act standards and new door to storage area | \$ 4,000        |
| Electrical work including installing additional lights and power points                  | <u>\$ 9,500</u> |
|  | \$40,000        |

In addition, 'The Shed' members will undertake the following works:

| Maintenance and Upgrade Work                      | Cost of Materials | Value of Volunteer Labour |
|---|-------------------|---------------------------|
| ▪ Install security grills to external windows     | \$ 1,000          | \$ 1,000                  |
| ▪ Paint internal walls and floor                  | \$ 750            | \$ 3,000                  |
| ▪ Paint external windows and doors.               | \$ 500            | \$ 2,000                  |
| ▪ Construct storage cabinets                      | \$ 3,000          | \$ 1,000                  |
| ▪ Construct workbenches                           | \$ 2,600          | \$ 2,000                  |
| ▪ Purchase and install dust collector and ducting | \$ 8,200          | \$ 250                    |
| ▪ Construct an office (reusing materials)         | -                 | \$ 1,000                  |
| ▪ Tools and machinery                             | <u>\$10,000</u>   | -                         |
|   | \$27,050          | \$10,500                  |

The members of 'The Shed' will volunteer their time to undertake the work which will result in significant savings to the cost of the project 'The Shed' committee will seek.

'The Shed' members will seek to fund their contribution via voluntary financial contributions from members, donations of tools and machinery, donations from local service clubs and businesses and government grants. Receiving government and community support will be significantly easier once 'The Shed' has commenced operations and potential sponsors can see the practical application of their donations.

The Ku-ring-gai Community Workshop 'The Shed' Inc has decided that membership to the Association should be free with members requested to make a financial contribution to the establishment and running of 'The Shed'. The Association does not want financial contribution to be a barrier to participation and anticipate that some of the financial establishment costs will be recouped through selling some of the items produced by 'The Shed'.



## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

A cross departmental project group was established with representation from Community, Strategy and Operations. Staff assisted in identifying suitable facilities and prepared costings for the proposed works. Progress reports have also been presented at Director and General Manager meetings.

Council's Infrastructure Coordinator, Strategy, has advised:

That the proposed work is a new community facility of a type not previously provided at Ku-ring-gai, and that the new facility will occupy a space currently used for storage and therefore requiring extensive work to render it fit for the purpose of a new community facility. The essential capital works required to open the doors for use as a public facility have been costed at approximately \$75,000 including contingency. That this facility will directly benefit the new community, particularly the residents of the SEPP5 developments which, until recently, comprised a significant proportion of new development in Ku-ring-gai thus a clear nexus is established.

Through the nature of the facility provided and the types of activities likely to be undertaken, there is likely to be an indirect benefit to the whole community, and future grants are likely to assist in the running of the facility but are not available for the capital component of the cost.

A key issue in relation to this allocation is the expenditure of the pre-1993 contributions for the purpose for which they were levied within a reasonable time. By most interpretations of 'reasonable' that period has passed and Council needs to allocate that money in such a manner as to benefit the community as a matter of high priority.

## SUMMARY

The lower ground level of the West Lindfield Sports and Recreation Club has been identified as the most suitable location for the establishment of a 'shed' in Ku-ring-gai. Council support has been sought by the Ku-ring-gai Community Workshop. Council's support will ensure that a 'shed' can be operational as soon as possible.

## RECOMMENDATION

That Council supports the establishment of the Ku-ring-gai Community Workshop "The Shed" at the West Lindfield Sports and Recreation Club in Highfield Road, West Lindfield Sport and Recreation Club and that Council allocate \$40,000 from the pre 1993 Section 94 Plan to undertake necessary works at this facility.

Martin Butcher  
**Community Development Officer  
Aged and Disability Services**

Janice Bevan  
**Director Community**

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## 20 YEAR FINANCIAL MODEL

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### EXECUTIVE SUMMARY

|                           |   |
|---------------------------|---|
| <b>PURPOSE OF REPORT:</b> | To present to Council the 20 Year Financial Model 2009 to 2028 incorporating financial planning, capital works funding, debt reduction and depreciation funding strategies.   |
| <b>BACKGROUND:</b>        | <p>A 10 Year Financial Model was first adopted by Council on 4 December 2001 and is reviewed on an annual basis.</p> <p>A new 20 Year Financial Model was presented to Councillors at the Finance Forum held on 26 November 2007.</p>   |
| <b>COMMENTS:</b>          | The 20 Year Financial Model provides the framework for the development of Council's annual budget. It contains a core set of assumptions. The first year of the model is based on Council's 2007/2008 revised budget. Years two (2) to twenty (20) are calculated by extrapolating the budgets across each of the remaining years using these core assumptions. |
| <b>RECOMMENDATION:</b>    | That Council adopt the principles as contained in the 20 Year Financial Model and incorporate them into the development of the 2008/2009 Budget and Management Plan.  |

## PURPOSE OF REPORT

To present to Council the 20 Year Financial Model 2009 to 2028 incorporating financial planning, capital works funding, debt reduction and depreciation funding strategies.

## BACKGROUND

A Long Term Financial Model was first adopted by Council on 4 December 2001. At that time the model was developed out of the need to establish principles to ensure the long term financial sustainability of Council whilst ensuring that Council would continue to provide existing levels of service to the community. The Long Term Financial Model is reviewed annually in December, providing the framework for the development of Council's annual budget and is used for preparation of the Management Plan.

The 2007-2011 Management Plan requires that the budget is balanced to the long term financial model. The requirement as contained in the Management Plan is as follows:

|                               |  |
|-------------------------------|--|
| <b>Principal Activity:</b>    | Financial Sustainability.  |
| <b>Objective:</b>             | To ensure the financial sustainability of Council while meeting the current and future needs of our community, to maximise the return on Council's assets and to realise opportunities for revenue growth and expenditure reduction. |
| <b>Action:</b>                | Focus on providing a budget consistent with our long term financial model, while maintaining and where possible, improving service delivery across the organisation.   |
| <b>Performance Indicator:</b> | Available Working Capital.   |
| <b>Performance Measures:</b>  | Budget balanced to long term financial model.  |

In accordance with these requirements, a 20 Year Financial Model was presented to Councillors at the Finance Forum on 26 November 2007 and is now reported to Council for formal consideration.

## COMMENTS

In 2001 the model was developed out of the need to establish principles to ensure the long term financial sustainability of the organisation whilst ensuring that Council would continue to provide existing levels of service to the community. The new model must now focus on total asset management for the future. Therefore, the model has been extended from 10 years to 20 years to incorporate principles of total asset management, in particular, new facilities related to Town Centres.

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The 20 Year Financial Model contains a core set of assumptions. These assumptions are based on CPI forecasts, interest rate expectations, employee award increases and loan repayment schedules.

**MODEL 2009/2028**

The 20 year financial model quantifies the cost of Council's services for the next 20 years. The new model has been extended from 10 years to 20 years to incorporate principles of total asset management, in particular, new facilities related to Town Centres. A portfolio of all project proposals has been developed, including estimates of costs (a number of operational project costs are yet to be determined) and funding sources to determine current and future funding requirements and project funding gap. This project portfolio has been linked to the Long Term Financial Model.

The model contains a core set of assumptions. The first year of the model is based on Council's 2007/2008 revised budget. Years two (2) to twenty (20) are calculated by extrapolating the budgets across each of the remaining years using these core assumptions.

Council has a number of future options of which four scenarios have been presented in the 20 year financial model, namely:

**1. Base Case**

Current level of service as per the 2007/08 revised budget and includes projects from the 2000 and 2004-2009 S94 Plans, expanded out over the 20 years and adjusted by forecast indexes as detailed in the model. Previous S94 Plans have been used as a funding source.

**2. Sustainable Assets Case (1+2)**

Base case plus the expenditure required to address the infrastructure assets renewal gap, including both operational and capital costs.

The general over-arching principle associated with asset management is the requirement to maintain assets to a satisfactory standard.

Each asset class has its own characteristics and variables relating to useful life and determination of what is considered to be a satisfactory standard. For example, some drainage systems could last longer than their useful life of 100 years but may need replacing earlier because of damage caused by tree roots or the capacity does not meet the design standards.

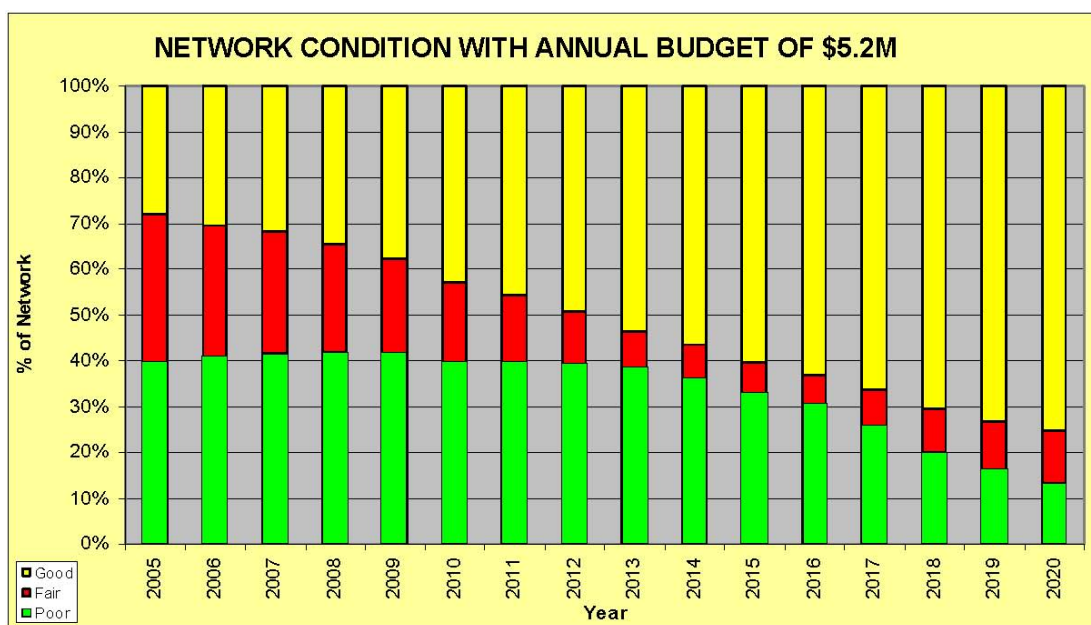
An overall strategy needs to be developed for all of Council's assets as well as an individual strategy for each class of asset. The construction of new assets increases Council's ongoing financial requirements; however, the replacement of existing assets with new assets can in some cases result in a reduction of ongoing costs.

For Case 2 of the Long Term Financial Model, determination of the level of funding required for sustainable assets was obtained from a number of basic assumptions and this is discussed below:

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Through the extension of the Infrastructure Levy Council now allocates approximately \$4.66M for the upgrade of Council's road network. Based on Council's Pavement Management System, the funding required annually to keep Council's roads to a satisfactory standard is approximately \$5.2M as shown in the graph below.



Increasing the capital works budget for road reconstruction or rehabilitation works would assist in bringing Council's roads up to a satisfactory standard over a shorter time frame. There is capacity to undertake additional work should additional funding be made available similar to the increase from the Roads to Recovery Program. As most of the work is contracted out and Council approves its road works program in July each year, it is possible to complete all the works within the financial year. Most of the work is essentially rehabilitation work and therefore, very few projects require road design work.

Given the state of Council's roads and the support received from residents when surveys were undertaken during the consultation period for the Infrastructure Levy, it is essential that Council continues funding its roads with the assistance of this levy. Any reduction in other funding sources will erode the benefits of the Road Infrastructure Levy. The Levy provides approximately \$1.9M each year and represents about \$53 per year per rateable property. The Infrastructure Levy was approved in June 2006 for a further seven (7) years and hence, it expires in 2013/14. Consideration for extension of the Levy will be dependent on the condition of Council's roads near the cessation of the Levy as assessed by the Pavement Management System.

Drainage

Council has completed the catchment analysis studies for all of the drainage systems in its three main catchments. Based on the information from the catchment studies it was estimated that approximately \$66M is required to bring Council's drainage assets up to a satisfactory standard for 1 in 20 year design storm events.

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The work involved in upgrading or providing new drainage systems is quite complex in that local flood studies have to be carried out to determine the size and type of drainage systems before detailed designs are prepared. Drainage works are generally time consuming because of the excavation, shoring of trenches, utility relocations and reinstatement. If additional funds were to be provided for drainage upgrades, additional resources would need to be engaged because the amount of work involved in the designing and construction of new drainage systems. However, now that the studies have been completed, it is considered to be an appropriate time to allocate additional funding to this asset class.

Council currently provides \$326,000 for new or improved drainage works and additional funding for catchment management and analysis works. At this stage, most of the works proposed are aimed at improving localised flooding problems by increasing lintel or pit sizes. It will be necessary to incorporate water quality treatments in some of the proposed programs and also align with projects proposed under the Environmental Levy program. The funding profile in the Long Term Financial Model for Case 2 provides for an increase of funding from \$600,000 per annum rising to \$1.2M which is essentially a strategy of upgrading the drainage systems over a 50 year time frame. This is mainly due to the resource and time constraints required to gear up to undertake local studies, designs and construction works.

All Councils are now able to levy for stormwater funds under Section 496A of the Local Government Act for improvements to drainage works. The charge is set at \$25 per rate assessment for single residential properties and 50% of this rate for medium density properties. Business rates are based on \$25 per 350 m<sup>2</sup> of land. It is estimated that this would generate approximately \$880,000 per annum for these works. While this may be considered to be a suitable option for increasing capital works funding for drainage, consideration needs to be given to the fact that Council is already levying its residents with an Environmental Levy and an Infrastructure Levy. The guidelines indicate that Council can levy this charge without approval from the Minister but should not introduce the levy if other similar levies exist such as some aspects of the Environmental Levy.

Buildings

Based on the outstanding works from the condition audits, the estimated cost to bring Council's building assets up to a satisfactory standard is \$7.36M and the annual amount required is \$1.7M. Council currently allocates \$969,000 each year to the Building Maintenance Program for maintenance and refurbishment works of Council's buildings. However, of the total recurrent allocation, approximately \$450,000 is used for other items such as fencing, signage, line marking, street signs, vandalism and street furniture. Therefore, there is an annual shortfall of approximately \$730,000 for works on Council properties in order to maintain Council's buildings to a satisfactory standard.

Whilst Council could endeavour to increase the current level of expenditure for building maintenance and refurbishment, there are a number of issues that need to be resolved before determining the preferred funding level. Such issues include, whether the current stock of Council's buildings are suitable for their current use, should Council maintain ownership of the buildings, should Council continue to subsidise uses of the buildings, could the building be improved or re-built by redeveloping the site and what other opportunities exist before determining what level of funding is required.

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A number of these processes are currently in hand for Council's buildings such as the Town Centres facilities strategy, Council's depot relocation and Marian Street Theatre. It is considered prudent to examine all of Council's property holdings and determine a strategy for each building before determining what level of funding is required for all of the buildings.

However, Case 2 of the Long Term Financial Model will show the amount required annually to bring Council's current building stock up to a satisfactory standard.

Fencing and guardrail

Council has a number of areas where fencing exists for both pedestrian and road traffic purposes. Replacement of fencing or the installation of new fencing is funded through Council's Building Maintenance recurrent budget. Guardrail is used in areas of known road safety dangers and funding is partly funded by the RTA for new or replacement guardrail on regional roads and by the road maintenance budget for local roads.

Council expends approximately \$30,000 per annum on new and replacement fencing and depending on funding from the RTA, approximately \$40,000 per annum on guardrail. The level of funding is usually based on reactive works requests however, with guardrail replacement, funding is provided by the RTA on a 50/50 basis under the road safety program or funded by the Block Grant for guardrail on regional roads. It is not considered that additional funding be provided under the recurrent budget for this asset category.

It is estimated that \$50,000 per annum is required to repair and replace existing fencing and guardrail but this does not include any new fences or guardrails.

Car Parks

There has been limited funding available for repairs and re-sheeting of car parks in the business centres and in Council's parks and reserves. Repairs, such as patching is covered under the road maintenance budget and line marking and signage is covered under the Building Maintenance budget.

The recurrent budget for car park maintenance is \$24,000 per annum for the various car parks not including car parks in parks. This covers utility service costs and some minor maintenance. In order to bring the car park assets up to a satisfactory standard, it is estimated that approximately \$100,000 per annum is required.

Council currently has in its reserves, \$450,000 previously collected from the business centres for improvements to car parks apart from any Section 94 funds that are available. Also, funding from the Business Centres Improvement Program which is a separate funding source has provided funding for several neighbourhood centre car parks.

While there are a number of other asset classes that are not considered to be funded adequately to bring them up to a satisfactory standard, further work is required to determine what is considered to be the appropriate standard so that costs can be estimated. This will be done when Council's Asset Management Strategy and Asset Management Plans have been developed.

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**Attachment B** outlines how much additional dollars are being committed to addressing the assets renewal gap.

### 3. Committed/Special Projects Case (1+2+3)

Base Case plus Sustainable assets case plus committed/special projects, namely:

| Description of Work                                 | Estimated Total Cost (\$) | Revenue Funding (Capital) | Other Fund Sources |
|---|---------------------------|---------------------------|--------------------|
| North Turrumurra Recreation Area                    | 22,590,000                | 9,840,000                 | 12,750,000         |
| Gordon Golf course watering from recycled water     | 1,827,000                 | 0                         | 1,827,000          |
| Chambers refurbishment                              | 1,000,000                 | 1,000,000                 | 0                  |
| Marion Street Theatre Upgrade                       | 3,000,000                 | 3,000,000                 | 0                  |
| West Pymble Pool Upgrade - Option 1 Report 13/11/07 | 11,924,674                | 11,413,099                | 511,575            |
| St Ives remediation                                 | 800,000                   | 0                         | 800,000            |
| SES relocation                                      | 1,000,000                 | 1,000,000                 | 0                  |
| <b>Total</b>  | <b>42,141,674</b>         | <b>26,253,099</b>         | <b>15,888,575</b>  |

Note: Rosedale Road Purchase included in Case 3 (figures confidential)

### 4. Strategic Direction (1+2+3+4)

Base case plus Sustainable assets case plus committed/special projects plus total project portfolio, including Draft Town Centres Facility Plan.

**Attachment A** shows the financial impacts of these four (4) scenarios.

### ASSUMPTIONS COMMON TO ALL CASES

Forecasts have been obtained from Access Economics using their September 2007 figures. The 2007/2008 Revised Budget has been used as a base, with forecast Working Capital surplus estimated to be \$990K as at 30 June 2008. It has also been assumed that Council will maintain existing operational service levels i.e. no new services and no services discontinued.

#### INCOME

- Rates, Infrastructure Levy and Environmental Levy increases by CPI plus 0.3% (as pegging limits have historically been higher than CPI), plus an additional 0.3% for growth. It has been assumed that Environmental Levy continues, instead of ceasing in 2011 and the Infrastructure Levy continues, instead of ceasing in 2013
- Domestic waste charges increased by CPI
- User charges and fees increased by 80% of CPI
- Interest on investments estimated at 6.1% in 2008/09 then based on projections from Access Economics relating to the 90 day bank bill rate
- Operational and Capital Grant revenue increased by CPI
- No new loan borrowings. Note: The outstanding loans at the end of 2007/2008 are \$9.6M. With no new loans, this would result in loans being fully repaid by 2017/2018
- Bus Shelter Income commences in 2009/10 at \$250K, and is increased annually by CPI and allocated to Internal Reserves



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- No asset sales are used to fund operations. Note: Depot sale included and funds transferred to Facilities Reserve for partial funding of Depot Relocation
- Section 94 Plans
  - assumed no further collection for plans predating 2004.
  - 2004-2009 Section 94 Plan: assumed 100% collection for remainder of 2004-2009 plan. Income of \$51.5M has been factored into the base model, of which \$34.7M has been collected to the end 2006/2007.or budgeted in 2007/2008. This leaves \$4.2M per year to 2011/2012.

EXPENDITURE

- Employee Costs
  - Salary and wages increased by CPI plus 0.75%.
  - Workers' compensation insurance premiums `increased by CPI plus 0.75%.
  - Superannuation holiday for Retirement Scheme assumed to cease in 2008/09
- Operating expenses increased by CPI
- Materials and contracts increased by CPI
- Depreciation: Increases with the increase in the depreciable asset balance. This figure is likely to change as we move to "fair value" accounting for depreciation
- Fire Levy increased by CPI and no increase to Planning Levy
- Operating and Capital Expenditure Project totals by four (4) scenarios and Category are attached to this report.
- Depot Relocation
  - to occur in 2008/2009 and 2009/2010 following land sale in 2008/2009
- Interest and principal repayments are in accordance with repayment schedules

ASSUMPTIONS COMMON TO SPECIFIC CASES

- Rates & Revenue: Introduce Stormwater Levy \$880K per annum from 2008/2009 (Cases 2,3 & 4 Only)
- S94 – assumed 100% collection for 2007 Town Centres Facility Plan (Case 4 only)

INDICATIVE OPERATIONAL AND CAPITAL PROJECTS

The following indicative operational and capital projects in 2008/2009 in each case are recommended, subject to review of committed/special projects:

**PROJECTS IN 2008/09 IN EACH CASE** (All prices are \$000's in 2008/09 values)

|                                | <b>Case 1</b> | <b>Case 2</b> | <b>Case 3</b> |
|--------------------------------|---------------|---------------|---------------|
| <b>Infrastructure Projects</b> |               |               |               |
| Road Rehabilitation            | 4,780         | 550           |               |
| Business Centre Improvements   | 190           |               |               |
| Drainage Works                 | 330           | 280           |               |
| Footpath Works                 | 410           |               |               |
| Traffic Facilities             | 150           |               |               |

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**PROJECTS IN 2008/09 IN EACH CASE** (All prices are \$000's in 2008/09 values)

|                                    | <b>Case 1</b> | <b>Case 2</b> | <b>Case 3</b> |
|------------------------------------|---------------|---------------|---------------|
| Parks Development                  | 220           |               |               |
| Sportsfield Refurbishment          | 350           |               |               |
| Playground Refurbishment           | 160           |               |               |
| Tennis/Netball Court Refurbishment | 250           |               |               |
| Buildings                          |               | 750           |               |
| Buildings -Chambers Refurbishment  |               |               | 1,030         |
| Parking Areas and Fencing          |               | 150           |               |
| Golf Courses (Sewer Mining)        |               |               | 940           |
| Sportsfield Enhancement            | 2,810         |               |               |
| Open Space acquisition             | 13,990        |               | 920           |
| Environmental Levy Program         | 2,000         |               |               |
| West Pymble Pool                   |               |               | 8,600         |
| North Turramurra Recreation Area   |               |               | 3,540         |
| <b>Operating Asset Turnover</b>    |               |               |               |
| Library Resources                  | 530           |               |               |
| IT Equipment                       | 130           |               |               |
| Plant & Vehicles                   | 1,080         |               |               |
| Furniture & Other                  | 10            |               |               |
| <b>Non-Capital Projects</b>        |               |               |               |
| Planning Projects                  | 270           |               |               |
| Catchment Analysis                 | 110           |               |               |
| Tree Planting                      | 130           |               |               |
| Catchment Management               | 160           |               |               |
| Community Projects                 | 50            |               |               |
| Election                           | 530           |               |               |
| IT Systems Projects                | 110           |               |               |
| <b>Other</b>                       |               |               |               |
| Depot Relocation                   | 6,150         |               |               |
| SES Relocation                     |               |               | 1,030         |
| <b>TOTAL</b>                       | <b>34,900</b> | <b>1,730</b>  | <b>16,060</b> |

*It should be noted that Council may wish to make adjustments to the mix of capital works programs. At this stage the indicative program has been built into the model as a guide to the organisations funding capabilities, based on current operating expenditure and a core capital works program.*

*A workshop will be held with Councillors in February 2008 to review the proposed program. Any variations resulting from the workshop will subsequently be reported to Council for further consideration.*

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It is proposed that a Stormwater Levy be introduced from 2008/2009 providing an additional \$880K per annum (Case 2 to 4). A Stormwater Levy could apply as follows:

- \$12.50 per Residential or Business Strata Unit.
- \$25 per normal Residence.
- \$25 + \$25 per \$350sq meters of permeable area (cannot charge for grass area) for Business properties.

It is also proposed that Council either increase the minimum rate, which would require Ministerial approval, or adopt a base amount (up to 50% maximum, applicable to all ratepayers equally) to which an ad valorem (based on valuation of land) is added. The minimum rate would normally apply to strata units. This proposal would only impact supplementary rates income as new units are constructed. Ratepayer impact and total revenue gain would have to be assessed and reported to Council, if Council is in favour of such a proposal. Initial investigations reveal that in light of increased future development, if Council was to proceed, this proposal will increase income potential. Council currently only charges the minimum allowed by the Minister which is \$392 for Residential and Business. The model for all cases does not include this proposal. A comparison with neighbouring Councils reveals the following:

| Council     | Residential Minimum<br>\$ | Business Minimum<br>\$ | Town Centre Business Minimum<br>\$ |
|-------------|---------------------------|------------------------|------------------------------------|
| Lane Cove   | 415.00                    | 618.00                 |                                    |
| Hornsby     | 363.00 Base Amt<br>(45%)  | 392.00                 |                                    |
| Willoughby  | 419.40                    | 598.90                 | 637.00                             |
| Ryde        | 392.00                    | 392.00                 |                                    |
| Warringah   | 654.70                    | 840.55                 |                                    |
| Ku-ring-gai | 392.00                    | 392.00                 |                                    |

**Borrowing Strategy**

Council's Statement of Borrowings in the 2007-2011 Management Plan states that loan funds are only to be utilised for the following purposes:

- Infrastructure refurbishment programs
- To purchase or build a major new asset, where full funding costs can be recovered over the life of the asset
- To buy an asset or establish a service which will decrease costs of service delivery or generate income and is justifiable in economic terms
- In an emergency

The current practice is to borrow \$1M per annum. It is proposed that future practice be to look at internal funding as an initial source of funding any deficit or re-time projects and borrow only if specific circumstances warrants doing so.

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### Asset Management Strategy & Funding

Council is currently developing improved strategic Asset Management Plans to review the quantum of the asset renewal gap. This involves determining:

- Appropriate levels of service
- Resource & System requirements
- Condition of Assets
- Reviewing existing depreciation

Asset renewals should be funded by the depreciation expense based on fair value. Also, subject to the new Planning Reforms, new population should fully fund new assets required to support their needs and therefore should be funded from development contributions.

### Cash Reserves Strategy

There are two (2) types of cash reserves, namely:

- Statutory (externally restricted) eg. S94 Development Contributions and Domestic Waste Management - \$44.8M as at 30 June 2007.
- Discretionary or, internal policy cash reserves (internally restricted) - \$15.7M as at 30 June 2007

Council has cash reserves for the following reasons:

- Statutory requirement (external restriction) eg. S94
- To provide for liabilities (to fund future expenditure) eg. Employee Leave Entitlements
- To manage cash flow for abnormal items and thus reduce impact on service delivery
- Specific Revenue e.g. contribution to works

It is proposed that the following changes/confirmations be made to Council's Cash Reserves strategy:

- Rename Facilities Reserve to Infrastructure and Facilities Reserve and redefine to include income from Infrastructure Restoration Levy, Street Furniture (includes Bus Shelter income), 15% of Annual depreciation and Loan Reduction, plus interest. This reserve is used to fund infrastructure programs and other asset renewal works. Existing balances from the Street Furniture and Infrastructure Restoration Levy reserves should be transferred to the Infrastructure and Facilities Reserve. It should be noted that once Council has developed improved strategic Asset Management Plans to review the quantum of the asset renewal gap, asset renewals should be funded by the depreciation expense based on fair value. Until these Asset Management Plans are developed and implemented, the 15 % of annual depreciation will continue to be placed in the Infrastructure and Facilities Reserve
- Liability reserves are used to ensure that cash is available to fund liabilities as they fall due eg. Employee Leave Entitlement or Election. It is proposed that these reserves be retained

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and their balances adjusted annually in accordance with the changing quantum of the liabilities they are to fund.

- Several reserves have an annual transfer in from general revenue, matched by an immediate transfer out of the same amount. These “In/Out” reserves which fund infrastructure renewal, are not a source of funding and therefore could be deleted namely; Drainage, Sportsfield Refurbishment & Footpaths. Any remaining balances in these reserves should be transferred to Infrastructure and Facilities Reserve. The 15 % of annual depreciation for these assets will continue to be placed in the Infrastructure and Facilities Reserve, until Asset Management Plans are developed and implemented.
- Balances held in inactive reserves could be transferred to Infrastructure and Facilities Reserve, namely:
  - Kindergarten Reserve: \$7,000
  - Library Reserve: \$9,000
  - Telco Communications Reserve: \$5,543
  - Catchment Management Reserve: \$150,000
- The following reserves could be transferred to a consolidated Open Space reserve, namely:
  - Playground Reserve: \$50,642
  - Tree Planting reserve: \$35,000
  - Parks Reserve: \$25,000
  - Natural Environment Reserve: \$32,500
  - St Ives Showground \$150,000

### Other Strategies

The 20 Year Financial Model also contains existing funding strategies which plan for the future by setting aside funds in restricted asset reserves. These initiatives include:

- 0.5% of general rate revenue be maintained in Council’s contingency reserve, to fund unforeseen or emergency expenditure requirements.
- The 20 Year Financial Model also includes an initiative to fully expend on capital projects, any reductions achieved in debt servicing costs. The base year for this initiative was 2001/2002. Therefore, since 2002/2003 reductions in debt servicing costs have been fully expended on capital projects. In 2008/2009 the relevant amount is \$1.9M. As no new loans are being proposed, this amount will continue to increase, to reach \$4.3M by 2017/2018 when existing loans are planned to be discharged.
- Maintaining a minimum of \$1M working capital. Working Capital is determined by taking net current assets less internally and externally restricted reserves and adding those current liabilities to be funded from the next year’s budget. Essentially, Working Capital is a measure of Council’s liquidity and ability to meet its obligations as they fall due. It is the primary measure of overall financial performance in Local Government. This will allow for unforeseen expenditure or reductions in revenue or other accounting adjustments.

In addition to the above principles, the following initiative is recommended in future budgets:

- That excess accumulated working capital be allocated to Council's Infrastructure and Facilities Reserve and be applied to "one-off" projects that improves financial sustainability and builds capacity for the community.

## CONSULTATION

The 20 Year Financial Model was produced in accordance with information and advice received from the Access Economics and Grove Research & Advisory Services.

## FINANCIAL CONSIDERATIONS

The core assumptions contained in the 20 Year Financial Model provides the framework for developing Council's annual budgets and longer term financial strategies.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

All departments have been consulted as part of the development of the 20 Year Financial Model.

## SUMMARY

A 10 Year Financial Model was first adopted by Council on 4 December 2001. At that time the model was developed out of the need to establish principles to ensure the long term financial sustainability of the organisation whilst ensuring that Council would continue to provide existing levels of service to the community. The new model must now focus on increased financial commitment for future total asset management. Therefore, the model has been extended from 10 years to 20 years to incorporate principles of total asset management, in particular, new facilities related to Town Centres.

It contains a core set of assumptions – expenditure, revenue and capital expenditure, as well as funding strategies which plan for the future by setting aside funds in restricted asset reserves.

The 2007-2011 Management Plan requires that the budget is balanced to the long term financial model.

A summary of the financial outcome for each case in this report is outlined below:

- Case 1 Base:  
Financially Sustainable, with minor timing of projects variations required.
- Case 2 Sustainable Assets:  
Financially Sustainable, with additional Stormwater Levy, timing of projects variations and extra draw down on reserves totalling \$6.4m over five (5) years. Council is currently developing improved strategic Asset Management Plans to review the quantum of the asset

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renewal gap. Once Council has developed improved strategic Asset Management Plans, asset renewals will be funded by the depreciation expense based on fair value. As these developments are finalised the sustainable assets case will be updated accordingly.

- Case 3 Committed/Special Projects:  
Committed/Special Projects need to be reviewed. Internal Project Reserves are exhausted in 2012/2013 if all projects proceed. This case is not financially sustainable, therefore Council may need to look at borrowings to fund some of the shortfall, additional revenue sources and retiming of some of the projects. Additionally, Council could review and prioritise projects to determine if all of them should proceed.
- Case 4 Strategic Direction:  
Need to explore opportunities to generate additional income. Requires an additional \$59.6M in today's dollars commencing in 2010 through to 2028 from revenue sources such as developer agreements or asset rationalisation, to make the case sustainable

No loans required in Case 1 and 2. Loan borrowings can be considered for Cases 3 and 4 in line with borrowing policy.➤

## RECOMMENDATIONS

1. That Council's 2007/2008 budget includes the following:
  - A. That the following changes be made to Council's Cash Reserves strategy:
    - (i) Rename Facilities Reserve to Infrastructure and Facilities Reserve.
    - (ii) Redefine Infrastructure and Facilities Reserve to include income from Infrastructure Restoration Levy, Street Furniture (includes Bus Shelter income), 15% of Annual depreciation and Loan Reduction, plus interest and used to fund infrastructure programs and other asset renewal works.
    - (iii) Existing balances from the Infrastructure Restoration Levy Street Furniture and Loan Reduction reserves, be transferred to the Infrastructure and Facilities Reserve.
    - (iv) Once Council has developed improved strategic Asset Management Plans to review the quantum of the asset renewal gap, asset renewals be funded by the depreciation expense based on fair value.
    - (v) Liability reserves eg. Employee Leave Entitlement or Election be retained and their balances adjusted annually in accordance with liabilities.
    - (vi) Reserves have an annual transfer in from general revenue, matched by an immediate transfer out of the same amount which are not a source of funding be deleted - Drainage, Sportsfield Refurbishment & Footpaths. Further, any remaining balances be transferred to Infrastructure and Facilities Reserve.
    - (vii) Balances of inactive reserves be transferred to Infrastructure and Facilities Reserve, namely:

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|    |                               |           |
|----|-------------------------------|-----------|
| 1. | Kindergarten Reserve:         | \$7,000   |
| 2. | Library Reserve:              | \$9,000   |
| 3. | Telco Communications Reserve: | \$5,543   |
| 4. | Catchment Management Reserve: | \$150,000 |

(viii) The following reserves be transferred to a consolidated Open Space reserve, namely:

|    |                              |           |
|----|------------------------------|-----------|
| 1. | Playground Reserve:          | \$50,642  |
| 2. | Tree Planting reserve:       | \$35,000  |
| 3. | Parks Reserve:               | \$25,000  |
| 4. | Natural Environment Reserve: | \$32,500  |
| 5. | St Ives Showground           | \$150,000 |

- B. 0.5% of general rate revenue be maintained in Council's contingency reserve, to fund unforeseen or emergency expenditure requirements.
- C. Reductions in debt servicing costs are restricted to the Infrastructure and Facilities reserve and fully expended on Capital Works. This amounts to \$1.9M.
- D. Indicative operational and capital projects in 2008/2009 in each case are recommended, subject to review of committed/special projects and refinement by Council in February 2008, to include:

**PROJECTS IN 2008/09 IN EACH CASE** (All Prices are \$000's in 2008/09 values)

|                                    | Case 1 | Case 2 | Case 3 |
|------------------------------------|--------|--------|--------|
| <b>Infrastructure Projects</b>     |        |        |        |
| Road Rehabilitation                | 4,780  | 550    |        |
| Business Centre Improvements       | 190    |        |        |
| Drainage Works                     | 330    | 280    |        |
| Footpath Works                     | 410    |        |        |
| Traffic Facilities                 | 150    |        |        |
| Parks Development                  | 220    |        |        |
| Sportsfield Refurbishment          | 350    |        |        |
| Playground Refurbishment           | 160    |        |        |
| Tennis/Netball Court Refurbishment | 250    |        |        |
| Buildings                          |        | 750    |        |
| Buildings -Chambers Refurbishment  |        | 1,030  |        |
| Parking Areas and Fencing          |        | 150    |        |
| Golf Courses (Sewer Mining)        |        |        | 940    |
| Sportsfield Enhancement            | 2,810  |        |        |
| Open Space acquisition             | 13,990 |        | 920    |
| Environmental Levy Program         | 2,000  |        |        |
| West Pymble Pool                   |        |        | 8,600  |
| North Turrumurra Recreation Area   |        |        | 3,540  |
| <b>Operating Asset Turnover</b>    |        |        |        |
| Library Resources                  | 530    |        |        |
| IT Equipment                       | 130    |        |        |
| Plant & Vehicles                   | 1,080  |        |        |
| Furniture & Other                  | 10     |        |        |



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|                             |               |              |               |
|-----------------------------|---------------|--------------|---------------|
| <b>Non-Capital Projects</b> |               |              |               |
| Planning Projects           | 270           |              |               |
| Catchment Analysis          | 110           |              |               |
| Tree Planting               | 130           |              |               |
| Catchment Management        | 160           |              |               |
| Community Projects          | 50            |              |               |
| Election                    | 530           |              |               |
| IT Systems Projects         | 110           |              |               |
| <b>Other</b>                |               |              |               |
| Depot Relocation            | 6,150         |              |               |
| SES Relocation              |               |              | 1,030         |
| <b>TOTAL</b>                | <b>34,900</b> | <b>1,730</b> | <b>16,060</b> |

- E. A Stormwater Levy be introduced from 2008/2009, providing an additional \$880K per annum (Cases 2 to 4).
- That Council considers rates restructure options in February 2008, to either increase the minimum rate, which would require Ministerial approval, or adopt a base amount (50% maximum) to which an ad volorem is added.
  - That annual loan borrowing cease and be re-assessed each year if business case arises.
  - That Council continues to develop improved strategic Asset Management Plans to review the quantum of the asset renewal gap. Further, asset renewals be funded by the depreciation expense based on fair value and subject to the new Planning Reforms.
  - That excess accumulated working capital be allocated to Council's Infrastructure and Facilities Reserve and be applied to "one-off" projects that improves financial sustainability and builds capacity for the community.
  - That Council staff continue to refine Case 4 and explore opportunities to generate additional income and such opportunities to be discussed at the Councillor workshop in February 2008.
  - That Council ratify the revenue/expenditure assumptions provided in this report to enable budget development for 2008/2009 to commence.

Tino Caltabiano  
Manager Finance

John Clark  
Director Corporate

Greg Piconi  
Director Operations

**Attachments:**      **A: Case 1 to 4 scenarios - 862177**  
                             **B: Extra expenditure to bring assets to satisfactory standard (Case 2) - 862178**

## Case 1 - Base

|  | Balance<br>2008<br>b/fwd | Planned<br>2008/09 | Planned<br>2009/10 | Planned<br>2010/11 | Planned<br>2011/12 | Planned<br>2012/13 | Planned<br>2013/14 | Planned<br>2014/15 | Planned<br>2015/16 | Planned<br>2016/17 | Planned<br>2017/18 | Planned<br>2018/19 | Planned<br>2019/20 | Planned<br>2020/21 | Planned<br>2021/22 | Planned<br>2022/23 | Planned<br>2023/24 | Planned<br>2024/25 | Planned<br>2025/26 | Planned<br>2026/27 | Planned<br>2027/28 |
|--|--------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Operating Revenue                      |                          | 79,886             | 81,476             | 83,403             | 85,868             | 88,293             | 90,993             | 93,813             | 96,753             | 99,703             | 102,443            | 105,353            | 108,513            | 111,753            | 115,083            | 118,543            | 122,113            | 125,753            | 129,523            | 133,413            | 133,623            |
| Operating Expenses (ex Depreciation)   |                          | 63,870             | 65,030             | 66,580             | 68,440             | 70,470             | 72,480             | 74,580             | 76,760             | 79,000             | 81,340             | 83,750             | 86,250             | 88,810             | 91,450             | 94,190             | 96,980             | 99,870             | 102,860            | 105,920            | 109,100            |
| Operating Surplus                      |                          | 16,016             | 16,446             | 16,823             | 17,428             | 17,823             | 18,513             | 19,233             | 19,993             | 20,703             | 21,103             | 21,603             | 22,263             | 22,943             | 23,633             | 24,353             | 25,133             | 25,883             | 26,663             | 27,493             | 24,523             |
| Plus: Capital Income (s94 etc)         |                          | 20,630             | 4,870              | 4,910              | 4,940              | 650                | 670                | 690                | 700                | 720                | 740                | 760                | 780                | 800                | 820                | 840                | 860                | 890                | 910                | 930                | 960                |
| Less: Loan Repayments                  |                          | -1,880             | -1,710             | -1,540             | -1,280             | -990               | -800               | -600               | -400               | -252               | -131               | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  |
| Operating Funds for Projects           |                          | 34,766             | 19,606             | 20,193             | 21,088             | 17,483             | 18,383             | 19,323             | 20,293             | 21,171             | 21,712             | 22,363             | 23,043             | 23,743             | 24,453             | 25,193             | 25,993             | 26,773             | 27,573             | 28,423             | 25,483             |
| Transfers to Reserves                  |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| IR Liability Reserves - Additions      |                          | -410               | -490               | -490               | -490               | -170               | -190               | -190               | -190               | -190               | -210               | -210               | -210               | -220               | -230               | -240               | -240               | -240               | -260               | -260               | -260               |
| IR Liability Reserves - Expenditure    |                          | 850                | 330                | 0                  | 0                  | 570                | 0                  | 0                  | 0                  | 630                | 0                  | 0                  | 0                  | 700                | 0                  | 0                  | 0                  | 770                | 0                  | 0                  | 0                  |
| s94 Income to Reserves (inc Interest)  |                          | -6,570             | -5,970             | -6,020             | -6,090             | -1,750             | -1,820             | -1,910             | -2,010             | -2,050             | -1,930             | -1,850             | -1,940             | -2,030             | -2,130             | -2,240             | -2,350             | -2,470             | -2,590             | -2,720             | -2,860             |
| To Internal Reserves (inc Interest)    |                          | -18,370            | -2,110             | -2,030             | -2,130             | -2,160             | -2,200             | -2,230             | -2,370             | -2,230             | -2,250             | -2,290             | -2,310             | -2,330             | -2,350             | -2,370             | -2,390             | -2,410             | -2,420             | -2,440             | -2,460             |
| Funds for Projects (after Transfers)   |                          | 10,266             | 11,366             | 11,653             | 12,378             | 13,973             | 14,173             | 14,993             | 15,723             | 17,331             | 17,322             | 18,013             | 18,583             | 19,863             | 19,743             | 20,343             | 21,013             | 22,423             | 22,303             | 23,003             | 19,903             |
| 100%                                   |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| PROJECT EXPENDITURE                    |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| Project Expenditure                    |                          | -34,910            | -21,040            | -21,950            | -23,440            | -15,870            | -12,880            | -13,170            | -13,520            | -17,130            | -22,780            | -14,600            | -14,980            | -16,090            | -15,770            | -16,180            | -16,600            | -17,830            | -17,470            | -17,930            | -18,390            |
| Plus: External Reserves                |                          | 16,400             | 2,920              | 9,290              | 5,560              | 750                | 10                 | 0                  | 0                  | 2,080              | 6,660              | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  |
| Plus: Internal Reserves                |                          | 7,460              | 7,780              | 1,820              | 1,870              | 1,930              | 1,960              | 1,990              | 2,020              | 2,050              | 2,090              | 2,140              | 2,180              | 2,210              | 2,250              | 2,290              | 2,320              | 2,360              | 2,400              | 2,440              | 2,490              |
| Plus/Less: Net Operating Result Change |                          | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  |
| Plus: Stormwater Levy                  |                          | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  |
| Plus: Additional Int. Reserves         |                          | 794                | -1,026             | -813               | 3,632              |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| Net Cost                               |                          | -10,256            | -11,366            | -11,653            | -12,378            | -13,190            | -10,910            | -11,180            | -11,500            | -13,000            | -14,030            | -12,460            | -12,800            | -13,880            | -13,520            | -13,890            | -14,280            | -15,470            | -15,070            | -15,490            | -15,900            |
| Case 1 Surplus/Deficit                 |                          | 10                 | 0                  | -0                 | 0                  | 783                | 3,263              | 3,813              | 4,223              | 4,331              | 3,292              | 5,553              | 5,783              | 5,983              | 6,223              | 6,453              | 6,733              | 6,953              | 7,233              | 7,513              | 4,003              |
| Working Capital Balance                | 990                      | 1,000              | 1,000              | 1,000              | 1,000              | 1,783              | 5,046              | 8,858              | 13,081             | 17,412             | 20,704             | 26,257             | 32,040             | 38,022             | 44,245             | 50,698             | 57,431             | 64,384             | 71,617             | 79,129             | 83,132             |
| Reserves Balances                      |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| External                               | 47,320                   | 37,490             | 40,540             | 37,270             | 37,800             | 38,800             | 40,610             | 42,520             | 44,530             | 44,500             | 39,770             | 41,620             | 43,560             | 45,590             | 47,720             | 49,960             | 52,310             | 54,780             | 57,370             | 60,090             | 62,950             |
| Internal Liability Reserves            | 4,060                    | 3,620              | 3,780              | 4,270              | 4,760              | 4,360              | 4,550              | 4,740              | 4,930              | 4,490              | 4,700              | 4,910              | 5,120              | 4,640              | 4,870              | 5,110              | 5,350              | 4,820              | 5,080              | 5,340              | 5,600              |
| Internal Project Reserves              | 12,280                   | 22,396             | 17,752             | 18,774             | 15,402             | 15,632             | 15,872             | 16,112             | 16,462             | 16,842             | 16,802             | 16,952             | 17,082             | 17,202             | 17,302             | 17,382             | 17,452             | 17,502             | 17,522             | 17,522             | 17,492             |
| Total Reserves & Work Capital          | 64,650                   | 64,506             | 63,072             | 61,314             | 58,962             | 60,575             | 66,077             | 72,230             | 79,003             | 83,044             | 81,976             | 89,739             | 97,801             | 105,454            | 114,137            | 123,150            | 132,543            | 141,486            | 151,588            | 162,081            | 169,174            |
| PROJECTS BY CATEGORY - Future Prices   |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| TOTAL                                  |                          | 34,910             | 21,040             | 21,950             | 23,440             | 15,870             | 12,880             | 13,170             | 13,520             | 17,130             | 22,780             | 14,600             | 14,980             | 16,090             | 15,770             | 16,180             | 16,600             | 17,830             | 17,470             | 17,930             | 18,390             |
| Operating Projects                     |                          | 1,360              | 850                | 870                | 890                | 1,500              | 940                | 960                | 990                | 1,670              | 1,040              | 1,060              | 1,090              | 1,850              | 1,150              | 1,180              | 1,210              | 2,050              | 1,270              | 1,310              | 1,340              |
| Roads & Transport                      |                          | 5,340              | 5,440              | 5,580              | 5,750              | 5,880              | 6,030              | 6,190              | 6,350              | 6,510              | 6,680              | 6,860              | 7,030              | 7,220              | 7,400              | 7,600              | 7,790              | 8,000              | 8,210              | 8,420              | 8,640              |
| Streetscape & Public Domain            |                          | 300                | 310                | 200                | 200                | 210                | 210                | 220                | 230                | 230                | 240                | 240                | 250                | 260                | 260                | 270                | 280                | 280                | 290                | 300                | 310                |
| Parks & Recreation                     |                          | 17,670             | 3,860              | 10,490             | 3,360              | 970                | 990                | 1,020              | 1,040              | 3,680              | 9,650              | 1,130              | 1,160              | 1,190              | 1,220              | 1,250              | 1,280              | 1,320              | 1,350              | 1,390              | 1,420              |
| Stormwater Drainage                    |                          | 330                | 340                | 350                | 360                | 370                | 380                | 390                | 400                | 410                | 420                | 430                | 440                | 450                | 460                | 480                | 490                | 500                | 510                | 530                | 540                |
| Council Buildings                      |                          | 6,150              | 6,350              | 290                | 8,620              | 2,760              | 30                 | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  |
| Trees & Natural Environment            |                          | 2,000              | 2,110              | 2,240              | 2,380              | 2,250              | 2,310              | 2,370              | 2,430              | 2,490              | 2,560              | 2,630              | 2,690              | 2,760              | 2,840              | 2,910              | 2,980              | 3,060              | 3,140              | 3,220              | 3,310              |
| Operating Assets                       |                          | 1,750              | 1,790              | 1,940              | 1,880              | 1,930              | 1,980              | 2,030              | 2,080              | 2,140              | 2,190              | 2,250              | 2,310              | 2,370              | 2,430              | 2,500              | 2,560              | 2,630              | 2,690              | 2,770              | 2,840              |

Case 2 - Case 1 + Sustainable Assets

|  | Balance<br>2008<br>b/fwd | Planned<br>2008/09 | Planned<br>2009/10 | Planned<br>2010/11 | Planned<br>2011/12 | Planned<br>2012/13 | Planned<br>2013/14 | Planned<br>2014/15 | Planned<br>2015/16 | Planned<br>2016/17 | Planned<br>2017/18 | Planned<br>2018/19 | Planned<br>2019/20 | Planned<br>2020/21 | Planned<br>2021/22 | Planned<br>2022/23 | Planned<br>2023/24 | Planned<br>2024/25 | Planned<br>2025/26 | Planned<br>2026/27 | Planned<br>2027/28 |
|--|--------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Operating Revenue                      |                          | 79,860             | 81,408             | 83,279             | 85,665             | 88,042             | 90,723             | 93,543             | 96,483             | 99,443             | 102,173            | 105,093            | 108,253            | 111,483            | 114,823            | 118,273            | 121,853            | 125,493            | 129,253            | 133,153            | 133,363            |
| Operating Expenses (ex Depreciation)   |                          | 63,870             | 65,030             | 66,580             | 68,440             | 70,470             | 72,480             | 74,580             | 76,760             | 79,000             | 81,340             | 83,750             | 86,250             | 88,810             | 91,450             | 94,190             | 96,980             | 99,870             | 102,860            | 105,920            | 109,100            |
| Operating Surplus                      |                          | 15,990             | 16,378             | 16,699             | 17,225             | 17,572             | 18,243             | 18,963             | 19,723             | 20,443             | 20,833             | 21,343             | 22,003             | 22,673             | 23,373             | 24,083             | 24,873             | 25,623             | 26,393             | 27,233             | 24,263             |
| Plus: Capital Income (s94 etc)         |                          | 20,630             | 4,870              | 4,910              | 4,940              | 650                | 670                | 690                | 700                | 720                | 740                | 760                | 780                | 800                | 820                | 840                | 860                | 890                | 910                | 930                | 960                |
| Less: Loan Repayments                  |                          | -1,880             | -1,710             | -1,540             | -1,280             | -990               | -800               | -600               | -400               | -252               | -131               | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  |
| Operating Funds for Projects           |                          | 34,740             | 19,538             | 20,069             | 20,885             | 17,232             | 18,113             | 19,053             | 20,023             | 20,911             | 21,442             | 22,103             | 22,783             | 23,473             | 24,193             | 24,923             | 25,733             | 26,513             | 27,303             | 28,163             | 25,223             |
| Transfers to Reserves                  |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| IR Liability Reserves - Additions      |                          | -410               | -490               | -490               | -490               | -170               | -190               | -190               | -190               | -190               | -210               | -210               | -210               | -220               | -230               | -240               | -240               | -240               | -260               | -260               | -260               |
| IR Liability Reserves - Expenditure    |                          | 850                | 330                | 0                  | 0                  | 570                | 0                  | 0                  | 0                  | 630                | 0                  | 0                  | 0                  | 700                | 0                  | 0                  | 0                  | 770                | 0                  | 0                  | 0                  |
| s94 Income to Reserves (inc Interest)  |                          | -6,570             | -5,970             | -6,020             | -6,090             | -1,750             | -1,820             | -1,910             | -2,010             | -2,050             | -1,930             | -1,850             | -1,940             | -2,030             | -2,130             | -2,240             | -2,350             | -2,470             | -2,590             | -2,720             | -2,860             |
| To Internal Reserves (inc Interest)    |                          | -18,370            | -2,120             | -2,040             | -2,150             | -2,180             | -2,220             | -2,250             | -2,400             | -2,270             | -2,300             | -2,350             | -2,370             | -2,400             | -2,420             | -2,450             | -2,480             | -2,500             | -2,530             | -2,550             | -2,570             |
| Funds for Projects (after Transfers)   |                          | 10,240             | 11,288             | 11,519             | 12,155             | 13,702             | 13,883             | 14,703             | 15,423             | 17,031             | 17,002             | 17,693             | 18,263             | 19,523             | 19,413             | 19,993             | 20,663             | 22,073             | 21,923             | 22,633             | 19,533             |
| 100%                                   |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| PROJECT EXPENDITURE                    |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| Project Expenditure                    |                          | -36,640            | -22,880            | -23,890            | -25,510            | -18,050            | -15,190            | -15,620            | -16,100            | -19,850            | -25,650            | -17,620            | -18,080            | -19,280            | -19,030            | -19,530            | -20,040            | -21,360            | -21,090            | -21,640            | -22,200            |
| Plus: External Reserves                |                          | 16,400             | 2,920              | 9,290              | 5,560              | 750                | 10                 | 0                  | 0                  | 2,080              | 6,660              | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  |
| Plus: Internal Reserves                |                          | 7,480              | 7,810              | 1,860              | 1,910              | 1,970              | 2,010              | 2,050              | 2,080              | 2,120              | 2,160              | 2,220              | 2,260              | 2,300              | 2,340              | 2,390              | 2,430              | 2,480              | 2,520              | 2,570              | 2,620              |
| Plus/Less: Net Operating Result Change |                          | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  |
| Plus: Stormwater Levy                  |                          | 880                | 890                | 890                | 890                | 890                | 900                | 900                | 900                | 900                | 910                | 910                | 910                | 910                | 920                | 920                | 920                | 930                | 930                | 930                | 930                |
| Plus: Additional Int. Reserves         |                          | 1,650              | -28                | 331                | 4,995              | 738                |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| Net Cost                               |                          | -10,230            | -11,288            | -11,519            | -12,155            | -13,702            | -12,270            | -12,670            | -13,120            | -14,750            | -15,920            | -14,490            | -14,910            | -16,070            | -15,770            | -16,220            | -16,690            | -17,950            | -17,640            | -18,140            | -18,650            |
| Case 2 Surplus/Deficit                 |                          | 10                 | 0                  | 0                  | 0                  | 0                  | 1,613              | 2,033              | 2,303              | 2,281              | 1,082              | 3,203              | 3,353              | 3,453              | 3,643              | 3,773              | 3,973              | 4,123              | 4,283              | 4,493              | 883                |
| Working Capital Balance                | 990                      | 1,000              | 1,000              | 1,000              | 1,000              | 1,000              | 2,613              | 4,645              | 6,948              | 9,229              | 10,310             | 13,513             | 16,866             | 20,318             | 23,961             | 27,733             | 31,706             | 35,829             | 40,111             | 44,604             | 45,487             |
| Reserves Balances                      |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| External                               | 47,320                   | 37,490             | 40,540             | 37,270             | 37,800             | 38,800             | 40,610             | 42,520             | 44,530             | 44,500             | 39,770             | 41,620             | 43,560             | 45,590             | 47,720             | 49,960             | 52,310             | 54,780             | 57,370             | 60,090             | 62,950             |
| Internal Liability Reserves            | 4,060                    | 3,620              | 3,780              | 4,270              | 4,760              | 4,360              | 4,550              | 4,740              | 4,930              | 4,490              | 4,700              | 4,910              | 5,120              | 4,640              | 4,870              | 5,110              | 5,350              | 4,820              | 5,080              | 5,340              | 5,600              |
| Internal Project Reserves              | 12,280                   | 21,520             | 15,858             | 15,707             | 10,952             | 10,424             | 10,634             | 10,834             | 11,154             | 11,304             | 11,444             | 11,574             | 11,684             | 11,784             | 11,864             | 11,924             | 11,974             | 11,994             | 12,004             | 11,984             | 11,934             |
| Total Reserves & Work Capital          | 64,650                   | 63,630             | 61,178             | 58,247             | 54,512             | 54,584             | 58,407             | 62,739             | 67,562             | 69,523             | 66,224             | 71,617             | 77,230             | 82,332             | 88,415             | 94,728             | 101,340            | 107,423            | 114,565            | 122,018            | 125,971            |
| PROJECTS BY CATEGORY - Future Prices   |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| TOTAL                                  |                          | 36,640             | 22,880             | 23,890             | 25,510             | 18,050             | 15,190             | 15,620             | 16,100             | 19,850             | 25,650             | 17,620             | 18,080             | 19,280             | 19,030             | 19,530             | 20,040             | 21,360             | 21,090             | 21,640             | 22,200             |
| Operating Projects                     |                          | 1,360              | 850                | 870                | 890                | 1,500              | 940                | 960                | 990                | 1,670              | 1,040              | 1,060              | 1,090              | 1,850              | 1,150              | 1,180              | 1,210              | 2,050              | 1,270              | 1,310              | 1,340              |
| Roads & Transport                      |                          | 5,990              | 6,110              | 6,260              | 6,450              | 6,600              | 6,770              | 6,950              | 7,130              | 7,310              | 7,500              | 7,700              | 7,900              | 8,100              | 8,320              | 8,530              | 8,750              | 8,980              | 9,210              | 9,450              | 9,700              |
| Streetscape & Public Domain            |                          | 300                | 310                | 200                | 200                | 210                | 210                | 220                | 230                | 230                | 240                | 240                | 250                | 260                | 260                | 270                | 280                | 280                | 290                | 300                | 310                |
| Parks & Recreation                     |                          | 17,670             | 3,860              | 10,490             | 3,360              | 970                | 990                | 1,020              | 1,040              | 3,680              | 9,650              | 1,130              | 1,160              | 1,190              | 1,220              | 1,250              | 1,280              | 1,320              | 1,350              | 1,390              | 1,420              |
| Stormwater Drainage                    |                          | 620                | 690                | 770                | 860                | 950                | 1,040              | 1,140              | 1,240              | 1,350              | 1,460              | 1,580              | 1,620              | 1,660              | 1,710              | 1,750              | 1,800              | 1,840              | 1,890              | 1,940              | 1,990              |
| Council Buildings                      |                          | 6,900              | 7,110              | 1,070              | 9,430              | 3,590              | 880                | 870                | 890                | 910                | 940                | 960                | 990                | 1,010              | 1,040              | 1,070              | 1,090              | 1,120              | 1,150              | 1,180              | 1,210              |
| Trees & Natural Environment            |                          | 2,050              | 2,160              | 2,290              | 2,440              | 2,310              | 2,370              | 2,430              | 2,490              | 2,560              | 2,620              | 2,690              | 2,760              | 2,830              | 2,910              | 2,980              | 3,060              | 3,140              | 3,220              | 3,300              | 3,390              |
| Operating Assets                       |                          | 1,750              | 1,790              | 1,940              | 1,880              | 1,930              | 1,980              | 2,030              | 2,080              | 2,140              | 2,190              | 2,250              | 2,310              | 2,370              | 2,430              | 2,500              | 2,560              | 2,630              | 2,690              | 2,770              | 2,840              |

Case 3 - Cases 1&2 + Committed/Special Projects

|  | Balance<br>2008<br>b/fwd | Planned<br>2008/09 | Planned<br>2009/10 | Planned<br>2010/11 | Planned<br>2011/12 | Planned<br>2012/13 | Planned<br>2013/14 | Planned<br>2014/15 | Planned<br>2015/16 | Planned<br>2016/17 | Planned<br>2017/18 | Planned<br>2018/19 | Planned<br>2019/20 | Planned<br>2020/21 | Planned<br>2021/22 | Planned<br>2022/23 | Planned<br>2023/24 | Planned<br>2024/25 | Planned<br>2025/26 | Planned<br>2026/27 | Planned<br>2027/28 |
|--|--------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Operating Revenue                      |                          | 79,392             | 80,432             | 82,027             | 84,400             | 86,933             | 89,613             | 92,413             | 95,343             | 98,283             | 100,993            | 103,883            | 107,013            | 110,223            | 113,533            | 116,963            | 120,503            | 124,113            | 127,843            | 131,780            | 132,027            |
| Operating Expenses (ex Depreciation)   |                          | 63,870             | 65,030             | 66,580             | 68,440             | 70,470             | 72,480             | 74,580             | 76,760             | 79,000             | 81,340             | 83,750             | 86,250             | 88,810             | 91,450             | 94,190             | 96,980             | 99,870             | 102,860            | 105,920            | 109,100            |
| Operating Surplus                      |                          | 15,522             | 15,402             | 15,447             | 15,960             | 16,463             | 17,133             | 17,833             | 18,583             | 19,283             | 19,653             | 20,133             | 20,763             | 21,413             | 22,083             | 22,773             | 23,523             | 24,243             | 24,983             | 25,860             | 22,927             |
| Plus: Capital Income (s94 etc)         |                          | 20,630             | 4,870              | 4,910              | 4,940              | 650                | 670                | 690                | 700                | 720                | 740                | 760                | 780                | 800                | 820                | 840                | 860                | 890                | 910                | 930                | 960                |
| Less: Loan Repayments                  |                          | -1,880             | -1,710             | -1,540             | -1,280             | -990               | -800               | -600               | -400               | -252               | -131               | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  |
| Operating Funds for Projects           |                          | 34,272             | 18,562             | 18,817             | 19,620             | 16,123             | 17,003             | 17,923             | 18,883             | 19,751             | 20,262             | 20,893             | 21,543             | 22,213             | 22,903             | 23,613             | 24,383             | 25,133             | 25,893             | 26,790             | 23,887             |
| Transfers to Reserves                  |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| IR Liability Reserves - Additions      |                          | -410               | -490               | -490               | -490               | -170               | -190               | -190               | -190               | -190               | -210               | -210               | -210               | -220               | -230               | -240               | -240               | -240               | -260               | -260               | -260               |
| IR Liability Reserves - Expenditure    |                          | 850                | 330                | 0                  | 0                  | 570                | 0                  | 0                  | 0                  | 630                | 0                  | 0                  | 0                  | 700                | 0                  | 0                  | 0                  | 770                | 0                  | 0                  | 0                  |
| s94 Income to Reserves (inc Interest)  |                          | -6,500             | -5,820             | -5,780             | -5,770             | -1,410             | -1,460             | -1,530             | -1,610             | -1,630             | -1,480             | -1,380             | -1,450             | -1,520             | -1,590             | -1,670             | -1,750             | -1,830             | -1,920             | -2,020             | -2,120             |
| To Internal Reserves (inc Interest)    |                          | -18,370            | -2,150             | -2,090             | -2,200             | -2,240             | -2,290             | -2,330             | -2,480             | -2,350             | -2,390             | -2,440             | -2,470             | -2,500             | -2,520             | -2,550             | -2,580             | -2,600             | -2,630             | -2,650             | -2,680             |
| Funds for Projects (after Transfers)   |                          | 9,842              | 10,432             | 10,457             | 11,160             | 12,873             | 13,063             | 13,873             | 14,603             | 16,211             | 16,182             | 16,863             | 17,413             | 18,673             | 18,563             | 19,153             | 19,813             | 21,233             | 21,083             | 21,860             | 18,827             |
| 100%                                   |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| PROJECT EXPENDITURE                    |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| Project Expenditure                    |                          | -52,690            | -31,410            | -25,150            | -26,800            | -21,460            | -18,690            | -17,040            | -17,560            | -21,480            | -28,550            | -19,320            | -18,750            | -19,970            | -19,750            | -20,270            | -20,800            | -22,140            | -21,380            | -21,930            | -22,500            |
| Plus: External Reserves                |                          | 18,530             | 4,620              | 10,220             | 6,480              | 750                | 10                 | 0                  | 0                  | 2,080              | 6,660              | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  |
| Plus: Internal Reserves                |                          | 8,820              | 8,600              | 2,160              | 2,220              | 2,160              | 2,200              | 2,240              | 2,280              | 2,320              | 2,370              | 2,450              | 2,490              | 2,530              | 2,570              | 2,620              | 2,660              | 2,710              | 2,610              | 2,660              | 2,710              |
| Plus/Less: Net Operating Result Change |                          | -50                | -90                | -130               | -60                | -20                | 30                 | 60                 | 40                 | -60                | -170               | 50                 | -10                | -40                | -110               | -230               | -320               | -330               | -340               | -340               | -350               |
| Plus: Stormwater Levy                  |                          | 880                | 890                | 890                | 890                | 890                | 900                | 900                | 900                | 900                | 910                | 910                | 910                | 910                | 920                | 920                | 920                | 930                | 930                | 930                | 930                |
| Plus: Additional Int. Reserves         |                          | 14,678             | 6,958              |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    | -2,893             |                    |
| Net Cost                               |                          | -9,832             | -10,432            | -12,010            | -17,270            | -17,680            | -15,550            | -13,840            | -14,340            | -16,240            | -18,780            | -15,910            | -15,360            | -16,570            | -16,370            | -16,960            | -17,540            | -18,830            | -18,180            | -21,573            | -19,210            |
| Case 3 Surplus/Deficit                 |                          | 10                 | 0                  | -1,553             | -6,110             | -4,807             | -2,487             | 33                 | 263                | -29                | -2,598             | 953                | 2,053              | 2,103              | 2,193              | 2,193              | 2,273              | 2,403              | 2,903              | 287                | -383               |
| Working Capital Balance                | 990                      | 1,000              | 1,000              | -553               | -6,663             | -11,470            | -13,957            | -13,923            | -13,660            | -13,689            | -16,286            | -15,333            | -13,280            | -11,176            | -8,983             | -6,790             | -4,517             | -2,113             | 790                | 1,077              | 693                |
| Reserves Balances                      |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| External                               | 47,320                   | 35,290             | 36,490             | 32,050             | 31,340             | 32,000             | 33,450             | 34,980             | 36,590             | 36,140             | 30,960             | 32,340             | 33,790             | 35,310             | 36,900             | 38,570             | 40,320             | 42,150             | 44,070             | 46,090             | 48,210             |
| Internal Liability Reserves            | 4,060                    | 3,620              | 3,780              | 4,270              | 4,760              | 4,360              | 4,550              | 4,740              | 4,930              | 4,490              | 4,700              | 4,910              | 5,120              | 4,640              | 4,870              | 5,110              | 5,350              | 4,820              | 5,080              | 5,340              | 5,600              |
| Internal Project Reserves              | 12,280                   | 7,152              | -6,255             | -6,325             | -6,345             | -6,265             | -6,175             | -6,085             | -5,885             | -5,855             | -5,835             | -5,845             | -5,865             | -5,895             | -5,945             | -6,015             | -6,095             | -6,205             | -6,185             | -3,302             | -3,332             |
| Total Reserves & Work Capital          | 64,650                   | 47,062             | 35,015             | 29,441             | 23,091             | 18,624             | 17,868             | 19,711             | 21,974             | 21,086             | 13,538             | 16,071             | 19,765             | 22,878             | 26,841             | 30,875             | 35,058             | 38,651             | 43,755             | 49,205             | 51,171             |
| PROJECTS BY CATEGORY - Future Prices   |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| TOTAL                                  |                          | 52,690             | 31,410             | 25,150             | 26,800             | 21,460             | 18,690             | 17,040             | 17,560             | 21,480             | 28,550             | 19,320             | 18,750             | 19,970             | 19,750             | 20,270             | 20,800             | 22,140             | 21,380             | 21,930             | 22,500             |
| Operating Projects                     |                          | 1,360              | 850                | 870                | 890                | 1,500              | 940                | 960                | 990                | 1,670              | 1,040              | 1,060              | 1,090              | 1,850              | 1,150              | 1,180              | 1,210              | 2,050              | 1,270              | 1,310              | 1,340              |
| Roads & Transport                      |                          | 5,990              | 6,110              | 6,260              | 6,450              | 6,600              | 6,770              | 6,950              | 7,130              | 7,310              | 7,500              | 7,700              | 7,900              | 8,100              | 8,320              | 8,530              | 8,750              | 8,980              | 9,210              | 9,450              | 9,700              |
| Streetscape & Public Domain            |                          | 300                | 310                | 200                | 200                | 210                | 210                | 220                | 230                | 230                | 240                | 240                | 250                | 260                | 260                | 270                | 280                | 280                | 290                | 300                | 310                |
| Parks & Recreation                     |                          | 30,740             | 8,420              | 11,750             | 4,650              | 4,380              | 4,490              | 2,440              | 2,510              | 5,300              | 12,550             | 2,830              | 1,830              | 1,880              | 1,940              | 1,990              | 2,050              | 2,100              | 1,640              | 1,680              | 1,720              |
| Stormwater Drainage                    |                          | 620                | 690                | 770                | 860                | 950                | 1,040              | 1,140              | 1,240              | 1,350              | 1,460              | 1,580              | 1,620              | 1,660              | 1,710              | 1,750              | 1,800              | 1,840              | 1,890              | 1,940              | 1,990              |
| Council Buildings                      |                          | 8,950              | 10,250             | 1,070              | 9,430              | 3,590              | 880                | 870                | 890                | 910                | 940                | 960                | 990                | 1,010              | 1,040              | 1,070              | 1,090              | 1,120              | 1,150              | 1,180              | 1,210              |
| Trees & Natural Environment            |                          | 2,970              | 3,000              | 2,290              | 2,440              | 2,310              | 2,370              | 2,430              | 2,490              | 2,560              | 2,620              | 2,690              | 2,760              | 2,830              | 2,910              | 2,980              | 3,060              | 3,140              | 3,220              | 3,300              | 3,390              |
| Operating Assets                       |                          | 1,750              | 1,790              | 1,940              | 1,880              | 1,930              | 1,980              | 2,030              | 2,080              | 2,140              | 2,190              | 2,250              | 2,310              | 2,370              | 2,430              | 2,500              | 2,560              | 2,630              | 2,690              | 2,770              | 2,840              |



Case 4 - Cases 1,2&3 + Strategic Direction

|  | Balance<br>2008<br>b/twd | Planned<br>2008/09 | Planned<br>2009/10 | Planned<br>2010/11 | Planned<br>2011/12 | Planned<br>2012/13 | Planned<br>2013/14 | Planned<br>2014/15 | Planned<br>2015/16 | Planned<br>2016/17 | Planned<br>2017/18 | Planned<br>2018/19 | Planned<br>2019/20 | Planned<br>2020/21 | Planned<br>2021/22 | Planned<br>2022/23 | Planned<br>2023/24 | Planned<br>2024/25 | Planned<br>2025/26 | Planned<br>2026/27 | Planned<br>2027/28 |
|--|--------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Operating Revenue                      |                          | 79,482             | 80,688             | 82,328             | 84,651             | 87,165             | 90,045             | 92,925             | 96,145             | 99,515             | 101,745            | 104,195            | 107,405            | 110,545            | 113,705            | 117,145            | 120,755            | 124,385            | 128,125            | 132,015            | 132,125            |
| Operating Expenses (ex Depreciation)   |                          | 63,870             | 65,030             | 66,580             | 68,440             | 70,470             | 72,480             | 74,580             | 76,760             | 79,000             | 81,340             | 83,750             | 86,250             | 88,810             | 91,450             | 94,190             | 96,980             | 99,870             | 102,860            | 105,920            | 109,100            |
| Operating Surplus                      |                          | 15,612             | 15,658             | 15,748             | 16,211             | 16,695             | 17,565             | 18,345             | 19,385             | 20,515             | 20,405             | 20,445             | 21,155             | 21,735             | 22,255             | 22,955             | 23,775             | 24,515             | 25,265             | 26,095             | 23,025             |
| Plus: Capital Income (s94 etc)         |                          | 23,590             | 11,980             | 9,380              | 9,520              | 4,630              | 12,510             | 7,290              | 22,830             | 22,430             | 4,280              | 6,060              | 6,800              | 3,080              | 1,260              | 3,210              | 3,430              | 3,730              | 3,320              | 4,590              | 960                |
| Less: Loan Repayments                  |                          | -1,880             | -1,710             | -1,540             | -1,280             | -990               | -800               | -600               | -400               | -252               | -131               | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  |
| Operating Funds for Projects           |                          | 37,322             | 25,928             | 23,588             | 24,451             | 20,335             | 29,275             | 25,035             | 41,815             | 42,693             | 24,554             | 26,505             | 27,955             | 24,815             | 23,515             | 26,165             | 27,205             | 28,245             | 28,585             | 30,685             | 23,985             |
| Transfers to Reserves                  |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| IR Liability Reserves - Additions      |                          | -410               | -490               | -490               | -490               | -170               | -190               | -190               | -190               | -190               | -210               | -210               | -210               | -220               | -230               | -240               | -240               | -240               | -260               | -260               | -260               |
| IR Liability Reserves - Expenditure    |                          | 850                | 330                | 0                  | 0                  | 570                | 0                  | 0                  | 0                  | 630                | 0                  | 0                  | 0                  | 700                | 0                  | 0                  | 0                  | 770                | 0                  | 0                  | 0                  |
| s94 Income to Reserves (inc Interest)  |                          | -9,550             | -13,180            | -10,560            | -10,610            | -5,630             | -13,740            | -8,650             | -24,530            | -24,550            | -5,750             | -6,990             | -7,840             | -4,100             | -2,190             | -4,210             | -4,550             | -4,930             | -4,590             | -5,970             | -2,350             |
| To Internal Reserves (inc Interest)    |                          | -18,370            | -2,150             | -2,100             | -2,230             | -2,280             | -2,340             | -2,390             | -2,590             | -2,490             | -2,610             | -2,790             | -2,830             | -2,890             | -2,930             | -2,960             | -3,010             | -3,060             | -3,090             | -3,130             | -3,160             |
| Funds for Projects (after Transfers)   |                          | 9,842              | 10,438             | 10,438             | 11,121             | 12,825             | 13,005             | 13,805             | 14,505             | 16,093             | 15,984             | 16,515             | 17,075             | 18,305             | 18,165             | 18,755             | 19,405             | 20,785             | 20,645             | 21,325             | 18,215             |
| 100%                                   |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| PROJECT EXPENDITURE                    |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| Project Expenditure                    |                          | -52,690            | -34,650            | -33,750            | -31,930            | -26,940            | -23,670            | -37,040            | -27,880            | -59,380            | -85,510            | -25,860            | -33,580            | -28,940            | -23,120            | -32,440            | -30,950            | -26,240            | -31,730            | -25,980            | -30,040            |
| Plus: External Reserves                |                          | 18,530             | 7,690              | 17,650             | 11,140             | 5,500              | 4,140              | 12,310             | 6,860              | 25,080             | 29,220             | 3,670              | 5,510              | 6,250              | 2,370              | 450                | 2,460              | 2,670              | 2,950              | 2,500              | 3,800              |
| Plus: Internal Reserves                |                          | 8,820              | 8,600              | 2,170              | 2,240              | 2,190              | 2,250              | 2,300              | 2,390              | 2,450              | 2,580              | 2,790              | 2,840              | 2,910              | 2,970              | 3,020              | 3,080              | 3,150              | 3,060              | 3,120              | 3,170              |
| Plus/Less: Net Operating Result Change |                          | -50                | -90                | -130               | -60                | -20                | 30                 | 60                 | 40                 | -60                | -170               | 50                 | -10                | -40                | -110               | -230               | -320               | -330               | -340               | -340               | -350               |
| Plus: Stormwater Levy                  |                          | 880                | 890                | 890                | 890                | 890                | 900                | 900                | 900                | 900                | 910                | 910                | 910                | 910                | 920                | 920                | 920                | 930                | 930                | 930                | 930                |
| Plus: Additional Int. Reserves         |                          | 14,678             | 7,122              |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| Net Cost                               |                          | -9,832             | -10,438            | -13,170            | -17,720            | -18,380            | -16,350            | -21,470            | -17,690            | -31,010            | -52,970            | -18,440            | -24,330            | -18,910            | -16,970            | -28,280            | -24,810            | -19,820            | -25,130            | -19,770            | -22,490            |
| Case 4 Surplus/Deficit                 |                          | 10                 | 0                  | -2,732             | -6,599             | -5,555             | -3,345             | -7,665             | -3,185             | -14,917            | -36,986            | -1,925             | -7,255             | -605               | 1,195              | -9,525             | -5,405             | 965                | -4,485             | 1,555              | -4,275             |
| Working Capital Balance                | 990                      | 1,000              | 1,000              | -1,732             | -8,331             | -13,886            | -17,232            | -24,897            | -28,082            | -43,000            | -79,986            | -81,911            | -89,167            | -89,772            | -88,578            | -98,103            | -103,508           | -102,544           | -107,029           | -105,474           | -109,750           |
| Reserves Balances                      |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| External                               | 47,320                   | 38,340             | 43,830             | 36,740             | 36,210             | 36,340             | 45,940             | 42,280             | 59,950             | 59,420             | 35,950             | 39,270             | 41,600             | 39,450             | 39,270             | 43,030             | 45,120             | 47,380             | 49,020             | 52,490             | 51,040             |
| Internal Liability Reserves            | 4,060                    | 3,620              | 3,780              | 4,270              | 4,760              | 4,360              | 4,550              | 4,740              | 4,930              | 4,490              | 4,700              | 4,910              | 5,120              | 4,640              | 4,870              | 5,110              | 5,350              | 4,820              | 5,080              | 5,340              | 5,600              |
| Internal Project Reserves              | 12,280                   | 7,152              | -6,420             | -6,490             | -6,500             | -6,410             | -6,320             | -6,230             | -6,030             | -5,990             | -5,960             | -5,960             | -5,970             | -5,990             | -6,030             | -6,090             | -6,160             | -6,250             | -6,220             | -6,210             | -6,220             |
| Total Reserves & Work Capital          | 64,650                   | 50,112             | 42,190             | 32,789             | 26,140             | 20,404             | 26,939             | 15,894             | 30,768             | 14,921             | -45,296            | -43,691            | -48,416            | -51,672            | -50,467            | -56,053            | -59,198            | -56,593            | -59,149            | -53,854            | -59,329            |
| PROJECTS BY CATEGORY - Future Prices   |                          |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |                    |
| TOTAL                                  |                          | 52,690             | 34,650             | 33,750             | 31,930             | 26,940             | 23,670             | 37,040             | 27,880             | 59,380             | 85,510             | 25,860             | 33,580             | 28,940             | 23,120             | 32,440             | 30,950             | 26,240             | 31,730             | 25,980             | 30,040             |
| Operating Projects                     |                          | 1,360              | 1,160              | 870                | 890                | 1,500              | 940                | 960                | 990                | 1,670              | 1,040              | 1,060              | 1,090              | 1,850              | 1,150              | 1,180              | 1,210              | 2,050              | 1,270              | 1,310              | 1,340              |
| Roads & Transport                      |                          | 5,990              | 7,570              | 10,750             | 9,830              | 9,860              | 8,160              | 18,640             | 15,110             | 25,460             | 21,410             | 9,620              | 20,440             | 17,070             | 8,320              | 20,700             | 16,800             | 8,980              | 11,760             | 11,940             | 15,540             |
| Streetscape & Public Domain            |                          | 300                | 1,120              | 610                | 1,830              | 1,090              | 2,470              | 6,760              | 1,130              | 10,330             | 21,070             | 4,870              | 2,410              | 260                | 3,630              | 270                | 2,380              | 4,380              | 1,190              | 1,860              | 2,000              |
| Parks & Recreation                     |                          | 30,740             | 9,080              | 15,330             | 4,650              | 5,710              | 5,730              | 3,940              | 2,510              | 5,710              | 12,620             | 2,830              | 1,830              | 1,880              | 1,940              | 1,990              | 2,050              | 2,100              | 1,640              | 1,680              | 1,720              |
| Stormwater Drainage                    |                          | 620                | 690                | 880                | 980                | 950                | 1,150              | 1,340              | 1,540              | 1,350              | 1,460              | 1,580              | 1,740              | 1,660              | 1,710              | 1,750              | 1,800              | 1,840              | 1,890              | 1,940              | 1,990              |
| Council Buildings                      |                          | 8,950              | 10,250             | 1,070              | 9,430              | 3,590              | 880                | 940                | 2,030              | 10,180             | 23,090             | 960                | 990                | 1,010              | 1,040              | 1,070              | 1,090              | 1,120              | 8,060              | 1,180              | 1,210              |
| Trees & Natural Environment            |                          | 2,970              | 3,000              | 2,290              | 2,440              | 2,310              | 2,370              | 2,430              | 2,490              | 2,560              | 2,620              | 2,690              | 2,760              | 2,830              | 2,910              | 2,980              | 3,060              | 3,140              | 3,220              | 3,300              | 3,390              |
| Operating Assets                       |                          | 1,750              | 1,790              | 1,940              | 1,880              | 1,930              | 1,980              | 2,030              | 2,080              | 2,140              | 2,190              | 2,250              | 2,310              | 2,370              | 2,430              | 2,500              | 2,560              | 2,630              | 2,690              | 2,770              | 2,840              |

# ATTACHMENT B

## EXTRA EXPENDITURE TO BRING ASSETS TO SATISFACTORY STANDARD (CASE 2)

| Asset Category                   | 2009  | 2010  | 2011  | 2012  | 2013  | 2014  | 2015  | 2016  | 2017  | 2018  | 2019  | 2020  | 2021  | 2022  | 2023  | 2024  | 2025  | 2026  | 2027  | 2028  |
|----------------------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Roads Required                   | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 | 5,200 |
| Roads Now                        | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 | 4,660 |
| Roads Incremental                | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   | 540   |
| Drainage Required                | 600   | 660   | 720   | 780   | 840   | 900   | 960   | 1,020 | 1,080 | 1,140 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 |
| Drainage Now                     | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   | 326   |
| Drainage Incremental             | 274   | 334   | 394   | 454   | 514   | 574   | 634   | 694   | 754   | 814   | 874   | 874   | 874   | 874   | 874   | 874   | 874   | 874   | 874   | 874   |
| Buildings Required *             | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 | 1,700 |
| Building Now                     | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   | 969   |
| Building Incremental             | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   | 731   |
| Car parks required *             | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   | 100   |
| Fencing and guardrail required * | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    | 50    |
| Carparks & fencing Increase      | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   | 150   |

\* Includes maintenance expenses

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## ANNUAL TENDERS - PAVEMENT REHABILITATION

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To seek Council's approval to accept the schedule of rates tender T04/2007 for the Pavement Rehabilitation by either stabilisation or other means.

**BACKGROUND:**

Tenders for the Pavement Rehabilitation were called in November 2007 and closed on 27 November 2007.

**COMMENTS:**

Rates submitted by Stabilised Pavement of Australia are the lowest rates for stabilisation and reconstruction. However, Downer Edi Works has submitted lower rates for cartage and seal.

**RECOMMENDATION:**

That the tender rates submitted by Stabilised Pavement of Australia for pavement rehabilitation be accepted and tenderers be advised of Council's decision.

## PURPOSE OF REPORT

To seek Council's approval to accept the schedule of rates tender T04/2007 for the Pavement Rehabilitation by either stabilisation or other means.

## BACKGROUND

Tenders were recently called for the pavement rehabilitation by stabilisation or reconstruction and associated subgrade works for the projects nominated in the 2007/08 Capital Works Program. Tenders closed on 27 November 2007.

Tenders were received from the following two (2) companies:

1. Stabilised Pavements of Australia Pty Ltd
2. Downer EDi Works

## COMMENTS

The tenders have been assessed by a tender review committee consisting of staff from Corporate and Operations sections. The process of Stabilisation includes milling, stabilising, fixing sub grade, sealing and cartage. The tender rates submitted by Stabilised Pavement of Australia are the lowest rates for milling, stabilisation, fixing sub grade. Downer Edi has quoted lowest rates for cartage and sealing.

Although rates submitted by Downer Edi Works for cartage and sealing are low compared to the rates submitted by the Stabilised Pavement of Australia, the total cost of all processes of stabilisation by Stabilised Pavement of Australia are comparatively cheaper than the total cost of Downer Edi Works. Processes of stabilisation can not be awarded separately as all processes should be carried out concurrently in most circumstances.

Stabilised Pavement of Australia has been the preferred contractor for council since 2002, their performance and quality standard are proven and all programmes were completed ahead of schedule in a professional manner in the past. Therefore Stabilised Pavement of Australia is recommended as a preferred contractor for the pavement rehabilitation works. However, it is recommended that Downer Edi Works be the alternate contractor, if Stabilised Pavement of Australia can not meet the target.

## CONSULTATION

Not applicable.

## FINANCIAL CONSIDERATIONS

The rates submitted will be utilised to undertake works under the 2007/2008 Road Pavement Program.



## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

## SUMMARY

Stabilised Pavement of Australia is proposed to be the primary contractor for Council Pavement Rehabilitation Works for 2007/2008. It should be noted that Stabilised Pavement of Australia has carried out works in a professional manner in past years.

## RECOMMENDATION

- A. That the tender rates submitted by Stabilised Pavement of Australia for pavement rehabilitation for 2007/2008 be accepted.
- B. That the tender rates submitted by Downer Edi Works be accepted as an alternate contractor, if Stabilised Pavement of Australia can not meet the target.
- C. That the tenderers be advised of Council's decision.
- D. That authority be given to the Mayor and General Manager to affix the Common Seal of Council to the instrument for the Contract for the Pavement Rehabilitation by Stabilisation and associated specifications.

Greg Piconi  
Director Operations

Alexx Alagiah  
Pavements and Assets Engineer

**Attachments:**

- 1. Tender Evaluation T04/2007 - Confidential**
- 2. Memorandum from Tender Evaluation Committee - 861431**

## **MEMORANDUM**

TO: DIRECTOR OPERATIONS

FROM: PAVEMENTS & ASSETS ENGINEER - A ALAGIAH  
CO-ORDINATOR PAVEMENTS - M BROOKES  
MANAGER PURCHASING/INSURANCE – B BRIGHT

SUBJECT: **SCHEDULE OF RATES TENDERS T04/2007 – PAVEMENT  
REHABILITATION**

Tenders were called in November 2007 and closed on 27 November 2007 for the subject contract.

### **Background**

Each year, the Director Operations nominates projects for the rehabilitation by either stabilisation or reconstruction in the Capital Works Program and calls tenders for the schedule of rates for the same.

Two (2) companies submitted tenders.

### **Comments**

The process of stabilization includes milling, stabilizing, fixing sub grade, sealing and cartage. Stabilised Pavements of Australia Pty Ltd has submitted the lowest tender for stabilisation and reconstruction works. This company has the expertise to perform the in-situ stabilisation work and has done similar work for Council in the past. This company has been the stabilising contractor for Kuring-gai for last five years and performs their task professional manner. They are one of the largest companies in this type work with a reliable fleet of plant and equipment and experienced personnel.

Downer Edi Works has submitted lowest rates for cartage and sealing. Stabilisation work and cartage can not be awarded separately as these two processes should be carried out concurrently in most circumstances. However, it is recommended that the rates submitted by Downer Edi Works be accepted as an alternate contractor, if Stabilised Pavements of Australia can not meet the target.

## **Recommendation**

- A. That the tender rates submitted by Stabilised Pavements of Australia Pty Ltd for pavement rehabilitation for 2007/2008 be accepted.
- B. That the tender rates submitted by Downer Edi Works be accepted as an alternate contractor, if Stabilised Pavements of Australia can not meet the target.
- C. That the tenderers be advised of Council's decision.
- D. That authority be given to the Mayor and General Manager to affix the Common Seal of the Council to the instrument for the Contract for the Pavement Rehabilitation by Stabilisation associated specifications.

Alexx Alagiah  
PAVEMENTS & ASSETS ENGINEER

Michael Brookes  
ROAD ASSETS CO-ORDINATOR

Bill Bright  
MANAGER Purchasing/Insurance

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## REMOVAL OF GRAFFITI IN TOWN CENTRES

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To advise Council of the submissions received with regard to the proposed removal of graffiti from private property around Council's main business centres.

**BACKGROUND:**

Council at its meeting of 24 July 2007 considered a Mayoral Minute on the removal of graffiti within a specific area around Council's town centres.

Following the resolution, expressions of interest were sent to several companies specialising in graffiti removal to determine the cost and the most appropriate way to deal with graffiti on private property.

**COMMENTS:**

Following adoption of a minute from the Mayor in July 2007, letters were sent to a number of graffiti removal companies seeking submissions for the cost of removal of graffiti from private property around the main town centres within a 300 metre radius of the town centre.

A presentation was held in late October 2007 from the preferred companies advising on the nature and scope of the work, together with funding options for this program.

**RECOMMENDATION:**

That due to the amount of funding required to undertake this work and the ongoing program, the matter be deferred for consideration in the 2008/09 budget.

## PURPOSE OF REPORT

To advise Council of the submissions received with regard to the proposed removal of graffiti from private property around Council's main business centres.

## BACKGROUND

Council at its meeting of 24 July 2007 considered a Mayoral Minute on the removal of graffiti within a specific area around Council's town centres. Consequently, Council resolved:

*That a report be brought back to a Policy Committee on methods by which Council can assist to co-ordinate the removal of graffiti on Council property, private property and community land within a specific area around our town centres designated as a "Graffiti Free Zone".*

*The report will scope the development of a graffiti removal program that is completely independent of Council's operations and which addresses the following consideration as a minimum:*

- *An initial clean up of our Town Centres*
- *Education and literature support*
- *Environmentally safe*
- *Heritage aware*
- *Signed vehicles*
- *PDA controlled internet based*
- *Full reporting facilities*
- *Fully licensed*
- *Options as to the physical location of graffiti-free zones around our Centres*
- *State Government property*

*That this report include all costs and possible funding sources for this program.*

*That the local Police Commands be requested to re-commence the tag register system introduced in 1999 to identify continuing offenders.*

*That the report include information as to the methods used by other Local Councils recognized as being "best practice".*

Following the resolution, expressions of interest were sent to several companies specialising in graffiti removal to determine the cost and the most appropriate way to deal with graffiti on private property.

The matter was raised at Council's Policy Committee on 8 October 2007 advising that a presentation will be arranged from the preferred contractors and that if Council decides to undertake the removal of graffiti on private property, then there will need to be amendments to Council's current draft graffiti policy.

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## COMMENTS

On 30 October 2007, a presentation was organised with two companies that complied with Council's criteria as indicated in Council's resolution. The presentation included details of the company's capabilities, experience and pricing structure. A copy of the presentation material from the Graffiti Specialists is included in **Attachment A** and the information from Graffiti Gone is included in **Attachment B**. The information from each company contains details on their systems and pricing structure for the work and is regarded as confidential information.

Both companies are suitably qualified to undertake the work and meet Council's criteria relating to effective removal of graffiti using environmental friendly products, data recording, communication and community education.

The above companies undertook an audit of the town centres areas within a 300 metre radius and provided a cost to undertake the initial removal and then an ongoing cost to provide a regular monitoring and removal process based on varying frequencies.

Council is also in receipt of a submission from the Turramurra Rotary Group seeking some initial set up funding from Council to undertake removal of graffiti around the Turramurra area on a voluntary basis similar to the set up by Epping Rotary. A copy of the submission from Turramurra Rotary is included in the attachments under **Attachment C**. Essentially the group is requesting Council to supply a water pressure spray unit estimated to cost \$2000 and a contribution of \$1000 to purchase equipment.

Council undertakes removal of graffiti throughout the whole of the Council area for Council property only and the current cost to Council for this work is approximately \$55,000 per annum.

There is currently no funding provided in the recurrent budget for Council to undertake removal of graffiti from private property and if Council were to consider undertaking this work, then Council would need to determine an appropriate funding source.

Included in **Attachment D** is information from other Councils that experience graffiti problems and the way that those Councils are dealing with the issue. If Council were to pursue the removal of graffiti in accordance with the proposal by the preferred companies with a weekly inspection cycle, then this would be regarded as matching other Council's zero tolerance criteria.

## CONSULTATION

Consultation has taken place with suitably qualified companies that specialise in the removal of graffiti and associated administrative requirements.

## FINANCIAL CONSIDERATIONS

Council previously collected funds from the various business centres to deal with parking and other business related activities. These funds have been held in Council's internally restricted reserves. The funds were not obtained through Section 94 contributions and are free to be used for activities associated with the business centres. Below is a table showing the amount of funds available for the various centres.

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| Centre    | Amount    |
|-----------|-----------|
| Gordon    | \$159,770 |
| Wahroonga | \$162,185 |
| Ryde Road | \$176,285 |
| Roseville | \$35,436  |
| Lindfield | \$18,614  |

Council also provides \$185,000 per annum in its capital works program for business centre improvements. At this stage, Council has adopted a three (3) year program until 2008/2009. No further projects have been determined using this source of funding as it is anticipated that Council's development contribution strategy will provide funding for public domain works.

If Council does not wish to utilise the above sources of funding, then funding will need to be sourced from the recurrent budget and therefore result in the adjustment of other services to fund this program.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has taken place with the Community department with regard to Council's graffiti policy.

## SUMMARY

Following adoption of a minute from the Mayor in July 2007, letters were sent to a number of graffiti removal companies seeking submissions for the cost of removal of graffiti from private property around the main town centres within a 300 metre radius of the town centre.

A presentation was held in late October 2007 from the preferred companies advising on the nature and scope of the work, together with funding options for this program.

Information from other Councils indicate that if this Council was to undertake the program in accordance with the preferred contractors then this would be similar to other Councils that undertake a zero tolerance stance to graffiti.

There is currently no funding available in the recurrent budget for this work and essentially the removal of graffiti from private property is the responsibility of the property owner. However, as indicated in the financial considerations, there are some funding sources that Council may want to consider.

## RECOMMENDATION

- A. That due to the amount of funding required to undertake this work and the ongoing program, the matter be deferred for consideration in the 2008/09 budget.
- B. That Council agrees to participate in the trial for the removal of graffiti from the Turramurra area by Turramurra Rotary for a six month period with Council to

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purchase and provide a high pressure spray unit and a financial contribution of \$1000 with funds to be provided from the Ryde Road component of the Business Centres Levy funds.

Greg Piconi  
**Director Operations**

**Attachments:**

- A. Proposal from Graffiti Specialists - Confidential**
- B. Proposal from Graffiti Gone - Confidential**
- C. Proposal from Turrumurra Rotary - 846587**
- D. Information from other Councils - 862283**



# Rotary Club of Turramurra

Incorporated

P.O. Box 77, Turramurra, NSW, Australia 2074

District 9680



## **SUBMISSION TO KU-RING-GAI COUNCIL - ALLOCATION OF TURRAMURRA GRAFFITI FREE ZONE TO TURRAMURRA ROTARY**

### 1. PURPOSE OF PAPER:

To request Ku-ring-gai Council to allocate the Graffiti Free Zone of Turramurra to Turramurra Rotary in lieu of a selected contractor.

### 2. BACKGROUND

Turramurra Rotary has been interested in establishing a graffiti removal programme for the Turramurra area following discussions with Epping Rotary. The latter now has over 12 months experience with graffiti removal and has provided detailed assistance and advice. One of the aspects that was emphasized was the need to communicate and obtain initial and on-going Council support. (For Epping this was even more vital due to three Councils being present in the area.)

Accordingly two Rotarians from Turramurra met with Greg Piconi to advise intentions and seek support. Mention was made that several contractors were being considered to be employed to remove graffiti in 8 zones in the Ku-ring-gai area.

It was therefore suggested that if Turramurra forwarded a proposal by 30 October that Council would be in a position to consider allocating the Turramurra Zone to Turramurra Rotary for a trial period of 12 months.

### 3. OBJECTIVES OF TURRAMURRA ROTARY GRAFFITI REMOVAL PROJECT:

Turramurra Rotary aims to eliminate existing graffiti in the local community and keep it graffiti free. This will be achieved by

- Creating a programme aimed at private, business, public facilities and public infrastructure sites.
- Establishing communication and reporting networks to effectively and efficiently maintain a graffiti free community.
- Establishing recognized practices and procedures for cleaning graffiti sites thus promoting a professional approach with emphasis on the safety of the individuals involved or associated with this activity.



'TURRAMURRA': AN ABORIGINAL WORD FOR 'HIGH HILL', WAS THE NAME GIVEN TO THE NEWLY ESTABLISHED RAILWAY STATION IN 1890.

- Using strategies involving support, co-operation and liaison with Turramurra and other Rotarians, local Council, project sponsors and other interested groups such as schools, progress associations, local newspapers etc.
- Encouraging community education and using specific initiatives to deter activities of graffiti artists – in particular, rapid removal and monitoring recently cleaned sites to ensure immediate repeat clean up action for any reoccurring graffiti.

#### 4. BENEFITS OF ROTARY INVOLVEMENT IN GRAFFITI REMOVAL

- Negligible expenditure to Council and hence ratepayers due to free labour provided by Rotarians. In addition experience has shown that after initial acquisition of equipment and materials the graffiti removal project tends to be self funding due to the occasional donations from grateful property owners.
- Rotary involvement promotes positive attitudes in the community while at the same time acknowledgement of Council support further advertises its involvement and commitment to address the graffiti issue.
- Promotes greater community awareness and hence education in regard to the ever-present graffiti problem.
- Rotarians as local residents can more easily increase community pride and spirit.

#### 5. PRACTICAL EXPERTISE

Close liaison and support from Epping Rotary has enabled full details of graffiti removal to be acquired very quickly. This will immediately enable Turramurra Rotary to professionally remove graffiti on both porous surfaces (ie brickwork) and non-porous surfaces (ie existing painted surfaces) without the need for further training.

#### 6. SAFETY/POLLUTION AWARENESS

Due to the close association established with Epping Rotary there is substantial emphasis placed on safety when undertaking graffiti removal for both porous and non-porous surfaces. Heavy-duty overalls, eye goggles, gloves, hats are examples of the level of precautions that are taken. Chemicals used for the removal of graffiti from brickwork can be toxic. Accordingly after washing off with a pressurized water spray, door-stopper type sponges need to be used to prevent the residual liquid flowing into drains etc. In addition drop-sheets are essential when repainting painted surfaces to eliminate any accidental spillage onto paths, walkways etc.

#### 7. COMPLIANCE

- A Sydney Water Permit will be obtained for 'The Use of Water for Commercial Cleaning'.
- Property owner's permission will be sort for every site before graffiti removal work commences.
- Turramurra Rotary will comply with requirements associated with the need to record data on the Australian Graffiti Register.
- Turramurra Rotary has comprehensive public liability insurance and voluntary worker cover. The insurer will be advised of the proposed activity and confirmation obtained to ensure the cover is sufficient.



## 8. ADMINISTRATION ASPECTS

As mentioned in our objectives, Turrumurra Rotary is very conscious of the need to ensure business-like procedures and records are established. In this regard, there is considerable expertise within the Rotarians involved with this project. Council will be familiar with the expertise demonstrated by Turrumurra Rotary on such projects as Cameron Park, Lend a hand for Bland Shire and Festival of Wildflowers.

Further liaison however is intended with Council to clarify the exact nature of administrative detail required. It is assumed that this type of information and feedback would be in-line with that required from the contractor involved with the other zones. This could be provided weekly, monthly or quarterly as needed by Council.

## 9. EQUIPMENT and MATERIALS

Unlike the involvement of contractors, Turrumurra Rotary would not expect payment for removal of graffiti and once established the project would become largely self-funding.

However Council support would be needed initially to provide equipment and materials. In this regard the following assistance is sought and recommended:-

- Council to purchase the water pressure spray unit and allow future use by Turrumurra Rotary. This equipment would remain the property of the Council but for ease of access be stored at the house of a local Rotarian.
- Council to provide \$1000 to partly assist purchase of items such as graffiti-removal chemical, initial supply of paint, brushes, rollers, paint-trays, drop-sheets etc

Turrumurra Rotary would approach suppliers for overalls and other required items.

## 10. SCOPE OF PROPERTIES CLEANED FROM GRAFFITI

It is understood that contractors in other areas would essentially concentrate on removal of graffiti within a 300 metre radius of say the railway station in each zone.

While Turrumurra Rotary would concentrate its initial efforts within such an area, and follow-up with instant removal of any repetitive graffiti, it is intended that its graffiti removal programme would extent to all areas of the suburb. This is seen as particularly important as Turrumurra not only spreads over an extensive area but contains numerous shopping areas apart from the area surrounding the station eg North Turrumurra, South Turrumurra, Eastern Road and Princes Street.

While Turrumurra Rotary would initially concentrate on removing graffiti from business and commercial properties there would be no restriction to undertaking such work on private, council, and even government and public owned properties.

The times when graffiti removal would be undertaken would vary depending on:-

- Location of each site eg narrow lane would limit suitable time to say 7am when pedestrian traffic is at a minimum. A similar time would also be essential for busy shopping areas.
- Limitations requested by property owners

Rotarians undertaking such work could be very flexible in the times when this work could be done as they would not be limited to normal recognized working hours.

## 11. ADVERTISING COUNCIL'S SUPPORT AND INVOLVEMENT

Turramurra Rotary would acknowledge support given by suppliers and of course Council's assistance for equipment and any initial supply of materials. At this stage this could be best achieved by:

- Using an A-frame type advertising board to be placed at sites undertaking graffiti removal
- Verbally acknowledging support in any talks given by Rotarians on the subject
- Undertaking written acknowledgement in any newspaper articles/advertisements, literature of any nature etc initiated by either Council or Turramurra Rotary
- Utilising any other method that Council would like to recommend.

## 12. FINAL SUMMARY AND COMMENT

Turramurra Rotary therefore is seeking Ku-ring-gai Council approval to allocate the Graffiti Free Zone of Turramurra to Turramurra Rotary on the following basis:

- Turramurra Rotary undertaking this project with the direct support of and communication with Council as a separate entity but not on the basis of a paid contractor.
- Council purchasing a suitable pressure spray (for under \$2000) for use by Turramurra Rotary.
- Council providing a non-refundable once only contribution of \$1000 to partly cover the purchase of an initial supply of materials plus a wheelie bin to be used for water storage.
- Instigating an initial trial period of 6 months to ensure Council is satisfied with performance level of graffiti removal undertaken by Turramurra Rotary.
- Assuming a 12 month involvement undertaking , a further review comparing the level of performance attained against that of another similar zone allocated to a contractor.
- Further participation by Turramurra Rotary after 12 months to be assessed and agreed by Council.

Turramurra Rotary would like to acknowledge the assistance given to date by Mr Greg Piconi.



Peter Headley (President)  
Turramurra Rotary  
29 October 2007





News and Media Centre » Story Show Page

## New city graffiti plan takes zero tolerance approach

Thursday, 10 November 2005

Tagging and stand-alone stencils will not be tolerated in the City of Melbourne under the draft Graffiti Management Plan to be presented to the council's Community and Culture Committee next Tuesday.

The plan, which has been revised after public consultation, also includes time limits for the removal of graffiti from publicly and privately owned property and infrastructure.

Lord Mayor John So said the City of Melbourne was committed to ensuring the city looks its best at all times.

"This plan is a clear signal that the City of Melbourne is getting tough on graffiti. Tags are a blight on our streetscape and tagging is vandalism that is not welcome in our city," the Lord Mayor said.

"More than a million people will visit the city each day by 2014. With visitor numbers increasing at such a rapid rate, I want the city to be an inviting and welcoming place for all residents, workers and tourists. During the Commonwealth Games, our city will be on show to the world and I am sure everyone wants our city to look its best," the Lord Mayor said.

The draft Graffiti Management Plan proposes that the City of Melbourne will:

- encourage the public to use the City of Melbourne hotline to report graffiti;
- boost efforts to remove graffiti from high profile pedestrian areas and the retail core;
- establish agreements with public authorities to remove graffiti from their property and infrastructure;
- work with Victoria Police to help identify graffiti vandals;
- advocate for legislative changes to restrict the sale of graffiti-related items to people aged under 18;
- step up enforcement of the Activities Local Law, including the provision to pursue those who do not remove graffiti from their assets; and
- work with neighbouring municipalities to ensure the problem is not shifted from one municipality to another.

Chair of the Community and Culture Committee Cr David Wilson said tolerance zones were not part of the revised draft plan.

"The council needs to develop a process through which property owners who want to keep murals on their buildings can do so. This process would give neighbours and other interested people an opportunity to object to the murals in the same way they would object to a planning application," Cr Wilson said.



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## Spreading the zero tolerance message

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MEDIA RELEASE: 6 October 2006

City of Casey Mayor Cr Kevin Bradford recently chaired Casey's first Mayoral Summit on **Graffiti** which involved Mayors, Councillors and representatives from ten municipalities who are committed to effectively tackling graffiti.

"The Summit was an opportunity to share the success and principles of Casey's **Graffiti Management Program** and to highlight the need for a united front of local governments across the State, in partnership with State Government, to address the social and economic impacts that graffiti has on local communities and public transport users."

"I congratulate all the representatives who attended for their commitment towards taking a hard line against graffiti in our communities."

Cr Bradford said that while the progress of Casey's **zero tolerance** approach to graffiti and its eradication, education and enforcement principles has shown significant success, until there is a uniform approach across the State, other communities won't be spared from graffiti vandalism.

"Participants at the summit unanimously agreed that more needs to be done on a State and Federal Government level."

Casey's Mayoral Summit on **Graffiti** precedes the upcoming Municipal Association of Victoria (MAV)'s State Forum on Graffiti on 18 October, where Cr Bradford will be a guest speaker.

He will continue to urge Councillors across the State to strongly lobby for an effective program from the State Government.

"The long term success of local **graffiti** management strategies, requires the cooperation, support and assistance of the State Government, as well as Rail, Water and Energy utilities.

When the State Government shares Casey's **zero tolerance** approach to graffiti, the wider community will benefit from a neighbourhood they can be proud of."

For more information on Casey's **Graffiti Management** program contact Council's Community Safety Team on 9705 5200. To report graffiti in Casey contact 1800 VANDAL (1800 826 325), this hotline is open 24 hours a day 7 days a week.

<ENDS>

For media information call Ros Britz on 9705 5328 or 0409 969 785 / Claire Polatidis on 9705 5329 or 0407 705 594.

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## Graffiti

Studies show that repeated rapid removal of graffiti can be very effective in deterring further graffiti. Graffiti writers gain status when their work remains on view. They are discouraged and usually go elsewhere if graffiti is removed soon after it appears. The longer graffiti stays in place, the more likely it is that more will appear, as taggers compete by adding their tag.

### Council's graffiti removal service

For this reason, Council has adopted a program to comprehensively remove graffiti throughout Woollahra from Council property **and also from private property accessible from public spaces.**

We have engaged a contractor, Graffiti Clean, for a 12 month initial trial commencing November 2006, to carry out this program. A hotline number **1300 311 322** has been set-up to report graffiti requests for cleaning of publicly accessible sites. Requests can also be logged via the website [www.graffiticlean.com.au/woollahra](http://www.graffiticlean.com.au/woollahra).

**There will be no charge for this service to owners of private property adjoining public places.** This is in accordance with the *Local Government Act* of 1993, as amended. However, the legislation does not allow Councils to enter private property without permission to remove graffiti.

If a property owner wishes Council to enter his or her property to remove graffiti, we can provide this service for a fee: \$45/sq m plus GST, minimum charge \$49.50. Or you can engage a private contractor.

Graffiti will be removed as Council's contractor systematically moves through the municipality. Graffiti Clean uses traditional graffiti removal chemicals in conjunction with advanced paint technology to colour-match paint with the background surface to paint over the graffiti. A letter from Graffiti Clean will be left with all private property owners following graffiti removal.

For more information on this service, please contact Property Services Co-ordinator, Mr. Wayne Coggins, on 9391 7020.

### Report graffiti

To assist us, please report any graffiti on Council's properties, buildings, signs, park and street furniture, and road signs to Council's Customer Services line 9391 7000 as soon as you notice it.

If graffiti appears on property belonging to a public authority you can call the authority and report it directly: see [Public Authorities – graffiti contacts](#). Otherwise you can ring Council, and we will pass on the information.

### Report the graffiti on your property

If your property is hit with graffiti you should report it to us to include in our

develop profiles on where and when it is happening. Where possible, take a photograph of the graffiti and record the time, date and location. This will assist Police in court if they apprehend the offender. You can forward photos to the Police Youth Liaison Officer, Rose Bay Police Station, 1 Wunulla Road, Point Piper 2027 or send digital or scanned photos to [cpd\\_unit@agd.nsw.gov.au](mailto:cpd_unit@agd.nsw.gov.au).

You can report the incident to the Police Assistance Line via the NSW Graffiti Information on (02) 9228 8307. Details will be taken over the phone and entered into a report on the spot. This method means that the Police will not attend the scene.

You should contact Rose Bay Station directly on 9362 6399 under the following circumstances

- if the graffiti uses offensive or racist language, or if there is an obvious "trail" of the same tag along the street
- if you see an offence happening
- if you know or suspect someone who is doing graffiti

### **Strategies for minimising graffiti**

Report graffiti promptly.

Where it is not eligible for removal under Council's program, make your own arrangements to remove the graffiti promptly.

Help your neighbours to remove graffiti from their properties, particularly if they are less mobile.

Encourage others in your street to take action against graffiti.

Where possible, provide less attractive 'canvases' by breaking up large flat wall surfaces with doors, windows, ornamentation, lattice panels, screen plantings and texture.

Plant fast growing shrubs and vines to make wall surfaces less accessible.

Well lit, cared for areas are less likely to be targeted. Install sensor lighting as a deterrent, as graffiti vandals are reluctant to work in well-lit places.

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## Graffiti Removal

Burnside Council has a team of 22 volunteers to remove graffiti from private and public property throughout the Burnside area. The graffiti program was developed by the Council in response to the increasing incidence and cost of graffiti attacks.

All instances of graffiti should be reported to the Burnside Council on the Graffiti Hotline

Phone: (08) 8366 4141

Once reported, graffiti will be removed as soon as possible to minimise its impact and to discourage further attacks. Graffiti will be removed in the order that it's reported, with offensive or racist graffiti having priority.

Property owners must give their written consent before graffiti can be removed from their property.

Download the Consent form below or a Council staff member will send out one of these forms once the incident has been reported.

[Graffiti Consent Form](#)  (23 kb)

## Related Links

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## CONDUCT COMMITTEE FINDINGS - BREACH OF CONFIDENTIALITY CLAUSES SEPTEMBER/OCTOBER 2007

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### EXECUTIVE SUMMARY

|                           |  |
|---------------------------|--|
| <b>PURPOSE OF REPORT:</b> | To table findings from the Conduct Committee relating to four articles issued by Cr Hall in the press throughout September / October 2007.   |
| <b>BACKGROUND:</b>        | <p>Throughout the course of September and October 2007, four articles were published in the local media by Cr Hall.</p> <p>Subsequently, a number of formal complaints were received in relation to the abovementioned articles and the matter was referred to Council's Conduct Committee.</p> <p>At its most recent meeting convened on 27 November 2007, the Committee finalised its consideration of the issue and resolved to report its findings to Council.</p> |
| <b>COMMENTS:</b>          | <p>On 16 August 2007, the Chair of the Conduct Committee, Mr Chris Shaw, wrote to Cr Tony Hall in relation to a separate matter under enquiry at that time.</p> <p>Subsequent to this correspondence, the abovementioned articles have appeared in the local media, making direct mention to the aforementioned issue under enquiry by the Committee at that time.</p>   |
| <b>RECOMMENDATION:</b>    | That the Councillor be censured for misbehaviour, i.e. breach of confidentiality and that the Councillor be counselled.  |

## PURPOSE OF REPORT

To table findings from the Conduct Committee relating to four articles issued by Cr Hall in the press throughout September / October 2007

## BACKGROUND

Throughout the course of September and October 2007, four articles were published in the local media by Cr Hall as follows:

- 19 September 2007 – Northside Courier – *“Complaints Groundless”*
- 20 September 2007 – Hornsby and Upper North Shore Advocate – *“Hall breaks Code”*
- 3 October 2007 – Northside Courier – *“Protecting your Interests”*
- 11 October 2007 – Hornsby and Upper North Shore Advocate – *“Why shoot the messenger”*

Copies of the abovementioned four articles are attachments 1-4.

Subsequently a number of formal complaints were received in relation to the articles, and the matter was referred to Council’s Conduct Committee who considered the complaints at their meetings of 24 September 2007, 25 October 2007 and 23 November 2007, respectively.

The composition of the Conduct Committee is as follows:

|                       |                   |
|-----------------------|-------------------|
| Mr Chris Shaw (Chair) | Legal Independent |
| Cr Nick Ebbeck        | Mayor             |
| John McKee            | General Manager   |
| Kath Roach            | Independent       |
| Katharine Poolan      | Independent       |

At its most recent meeting convened on 23 November 2007, the committee finalised its consideration of the issue and resolved to report its findings to Council.

## COMMENTS

On 16 August 2007, the Chair of the Conduct Committee, Mr Chris Shaw, wrote to Cr Tony Hall in relation to a separate matter under enquiry at that time.

As is standard procedure, and in keeping with the Code of Committee Guidelines, the letter concluded as follows:

*“As with all correspondence emanating from the Committee, you are reminded of your responsibility to maintain confidentiality in accordance with Clause 9 of the Code of Conduct Committee Guidelines. Your cooperation in this matter is appreciated”.*

## Item 10

S04462  
4 December 2007

[A copy of the guidelines is attached].

Subsequent to this correspondence, four separate articles have appeared in the local media, making direct mention of the issue under enquiry by the Committee at that time. Articles appeared in the local media as follows:

- 19 September 2007 – Northside Courier – *“Complaints Groundless”*
- 20 September 2007 – Hornsby and Upper North Shore Advocate – *“Hall breaks Code”*
- 3 October 2007 – Northside Courier – *“Protecting your Interests”*
- 11 October 2007 -Hornsby and Upper North Shore Advocate – *“Why shoot the messenger”*

Subsequent to the articles being published, a number of formal complaints were received on 20 September 2007, 29 September 2007, 11 October 2007 and 29 October 2007, respectively. All complaints related to a breach of Council’s Code of Conduct, as it relates to maintaining confidentiality.

The committee subsequently considered the matter on 24 September 2007 and wrote to Cr Hall asking him to provide a written explanation, or alternatively to appear before the committee to explain his actions. Cr Hall subsequently made representations to the committee at its meeting on 25 October 2007. These representations related only to the articles on 19 and 20 September 2007.

Representations made on behalf of Cr Hall maintained that Clause 4.6 of Council’s Code of Conduct entitled *“Openness”* conflicted with Clause 9 of the Code of Committee Guidelines which deals with maintaining confidentiality, and in fact there is no substantive need to maintain confidentiality regarding such matters.

The committee further considered the four articles in question and concluded that the breach of confidentiality acknowledged in the articles, is a breach of the Code of Conduct.

The Conduct Committee recommends that Council takes the following action:

1. Censure the Councillor for misbehaviour, i.e. breach of confidentiality.
2. Counsel the Councillor.

## CONSULTATION

### Reporting Requirements

The Code of Conduct Guidelines states that the Conduct Committee will report its findings and the reasons for its findings to Council, and requires the committee to inform the affected person and the person/s making the allegations of its findings. This has been carried out.

The guidelines also require the Conduct Committee to report its recommendations to Council.

No further detail is required by the guidelines.

## FINANCIAL CONSIDERATIONS

The Conduct Committee has considered this matter at three meetings. In addition, time has been spent in analysing associated paperwork and preparation of this report.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

## SUMMARY

A number of formal complaints were received in relation to four articles published in the local media by Cr Hall. The matter was referred to Council's Conduct Committee who considered the complaints at their meetings of 24 September 2007, 25 October 2007 and 23 November 2007, respectively. Findings and recommendations by the committee are outlined in this report.

## RECOMMENDATION

- A. That the Councillor be censured for misbehaviour, i.e. breach of confidentiality.
- B. That the Councillor be counselled.

John McKee  
**General Manager**

**Attachments:**

- 1. 19 September 2007 - Northside Courier - "Complaints Groundless" - 862459
- 2. 20 September 2007 - Hornsby & Upper North Shore Advocate - "Hall breaks Code" - 862460
- 3. 3 October 2007 - Northside Courier - "Protecting your Interests" - 862463
- 4. 11 October 2007 - Hornsby and Upper North Shore Advocate - "Why shoot the Messenger" - 862472
- 5. Conduct Committee Guidelines - 599429

Northside Courier P12 19 Sept'07

## NEWS

## Complaints 'groundless'

**Edwina Guinan**

Ku-ring-gai Councillor Tony Hall has defended himself against Code of Conduct complaints by residents.

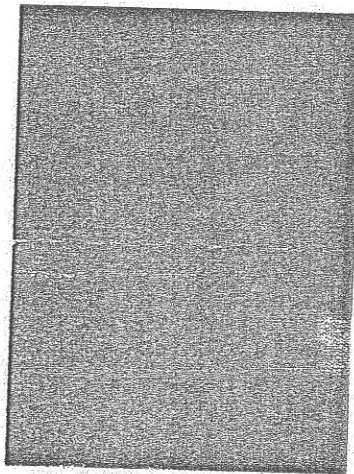
Cr Hall described the complaints filed against him as "groundless and an abuse of council's process," and said they were an effort to intimidate him.

The Code of Conduct complaints were submitted earlier this year by members of four resident action groups. Similar complaints were also made against two other councillors.

They relate to the reclassification of public land which (if it goes ahead) will allow the council to sell community facilities to developers.

"These so called community representatives are more like political activists seeking absolute control over their councillors," Cr Hall said.

"It is a concerted program designed to intimidate, but of course it will have the opposite effect."



**Cr Tony Hall**

Photo: Timothy Clapin

The complaints were heard by the council's Code of Conduct Committee in August but they are yet to be resolved.

Ku-ring-gai Council voted to defer its decision on the reclassification of public lands. It is expected to come before council in October.

The Department of Local Government has raised concern about the council's process of reclassifying land, but the council decided to go ahead with the process following legal advice.

Hornsby Advocate 20 September 2007 P.10

## NEWS

# Hall breaks code

BRETT COX

KU-RING-GAI councillor Tony Hall has breached the council's code of conduct by publicly defending himself over a separate complaint.

But Cr Hall said he should not be punished for his decision to publicly reveal the code of conduct complaint.

He argued he was being denied natural justice and should have the right to clear his name.

The complaint, which is supposed to be kept confidential, alleges Cr Hall provided misleading information to the public over the council's town centre reclassification process. He vehemently denies the claim.

Cr Hall said while he had been informed of the complaint by the council's con-



Tony Hall.

duct committee, he had not been told who made it. When approached by the *Advocate*, a council

spokesman said he was not allowed to shed any light on the complaint.

Cr Hall said he suspected he knew the community group from where the complaint had emanated, and argued the members responsible were abusing council procedures in an effort to intimidate him.

"This is the second such frivolous complaint that has been made against me," he said. The group, based in St Ives, made the complaint over the contents of a

speech he made in November last year, Cr Hall said.

"I wish they had come and discussed this with me rather than go behind my back," he said.

According to the council's conduct committee guidelines, "all persons associated with (a code of conduct) matter, including the complainant, the affected person, members of the conduct committee and any independent enquirer, shall ensure that confidentiality is maintained."

"Any breach of confidentiality shall be considered a breach of the code of conduct."

Councillors found to have breached the code could be required to apologise, seek counselling or even be dismissed from the council.

3/10/2007

Northside Courier

## OPINION

**Protecting your interests**

Any breach of Ku-ring-gai Council's code of conduct by my comments is minor compared with the importance of my continuing to push for the reclassification of council-owned lands in our draft local environmental plan. The draft LEP is with Planning Minister Frank Sartor, who is waiting for Ku-ring-gai Council's completion of the reclassification process. My detractors have mounted a delaying campaign to torpedo this process.

What would happen if councillors agree to this tactic? It would mean a takeover of town centre planning by the minister, which no responsible councillor should contemplate. The Department of Local Government's assertion that the council's reclassification processes were flawed has been overturned by the NSW Ombudsman.

This council desires to ensure the planning processes enforced on it by the State Government are complied with in the public's interest. If I am condemned for protecting the real interests of my residents, then so be it.

**Cr Tony Hall**  
**St Ives**



## Why shoot the messenger

THE report on me technically breaching the Council's Code of Conduct ('Hall breaches Code' *Advocate* 29 Sept) was a step I took only after considerable thought.

Was my silence after learning of these complaints by some residents against me, more important than the issue itself?

Should the messenger be shot?

The breach is minor compared with the importance of my continuing to push for the reclassification of council-owned lands to operational use in our town centre draft local environmental plan.

The draft LEP is now with Minister Sartor who is waiting for Kuring-gai Council's completion of the reclassification process just next month. My detractors have mounted an extraordinary delaying campaign with legal opinions, lobbying and demands on state agencies to torpedo this process for most of 2007.

What would happen if councillors agree to this opposition tactic?

It would certainly mean a takeover of the planning of Kuring-gai's six town centres by the Minister which no responsible councillor should contemplate.

Should that happen, Heaven forbid, the Minister has the relevant powers to rezone all privately owned lands in these town centres to any height he wishes, ignoring Council-owned lands in the process.

How short-sighted are our community leaders who relied on the Department of Local Government's assertion that Council's reclassification processes were flawed.

This has been completely overturned by the NSW Ombudsman who has rejected the complaints of the St Ives Progress Association, the Friends of Turramurra, F.O.K.E and the Friends of Lindfield Inc.

Those associations have squandered their members' funds on unnecessary legal opinions just to make a point against this progressive Council and its desire to ensure the planning processes enforced on it by the State Labor government are complied with in the public's interest.

## **KU-RING-GAI COUNCIL CONDUCT COMMITTEE GUIDELINES**

### **1 DEFINITIONS**

In these Guidelines, except in so far as the context or subject matter otherwise indicates or requires -

‘Council’ means that the Council of Ku-ring-gai.

‘Councillor/s’ mean the Councillor/s of Ku-ring-gai Council.

‘General Manager’ means the General Manager of Ku-ring-gai Council.

‘Mayor’ means the Mayor of Ku-ring-gai Council.

‘Conduct Committee’ means the Conduct Committee of Ku-ring-gai Council.

‘Code of Conduct’ means the Code of Conduct as adopted by Ku-ring-gai Council and includes any amendments adopted from time to time.

### **2 JURISDICTION OF CONDUCT COMMITTEE**

The Conduct Committee may only investigate and report on allegations of breaches of Council’s Code of Conduct by Councillors or the General Manager.

Allegations regarding pecuniary interest matters should be reported to the Director General of the Department of Local Government and will not be dealt with by the Conduct Committee.

### **3 COMPOSITION OF CONDUCT COMMITTEE**

#### **3.1 Members of Conduct Committee**

The Conduct Committee will comprise the Mayor, the General Manager and at least one independent person with legal qualifications.

In circumstances where the Mayor or the General Manager are the subject of the complaint, the Deputy Mayor or another Councillor designated by Council will deputise for the Mayor or the General Manager on the Committee.

#### **3.2 Selection of additional members**

The Committee will also comprise two additional persons of appropriate standing within the community, independent of Council. The selection will occur following the advertisement of an expression of interest in the local press. The General Manager in consultation with the Mayor, will establish a panel of persons considered suitable for appointment and arrange the rotation of such persons.

### **3.3 Quorum**

The quorum of the Conduct Committee will be three members comprising the Mayor, the General Manager and the independent person with legal qualifications. Business shall not be conducted at any meeting of the Committee unless a quorum is present.

### **3.4 Duration of membership**

The additional independent members, except for the member with legal qualifications, will serve for a period of twelve months and may not serve consecutive periods.

## **4 COMPLAINT HANDLING PROCEDURES**

### **4.1 Complaint to be in writing**

Complaints about the conduct of Councillors are to be addressed in writing to the General Manager.

Complaints about the conduct of the General Manager are to be addressed in writing to the Mayor, who will report the matter to the Conduct Committee.

### **4.2 Initial review**

Upon receipt of an allegation, the General Manager will undertake a review of the circumstances to determine if the matter should be referred to the Conduct Committee. Such determination shall be made within two days of receipt of the complaint. The decision of the General Manager whether to refer the matter to the Conduct Committee or not, is final.

In arriving at that decision, the General Manager shall have regard to the following -

- i Whether the allegation is covered by the Code of Conduct?
- ii Whether there is prima facie evidence of a breach of the Code of Conduct?
- iii Whether the matter may be considered frivolous, vexatious or not made in good faith?

## **5 NO REFERRAL TO CONDUCT COMMITTEE**

Where the General Manager determines not to report the matter to the Conduct Committee, the General Manager will provide the complainant with reasons in writing within two weeks of receipt of the complaint.

## **6 REFERRAL TO CONDUCT COMMITTEE**

### **6.1 Convene meeting of Conduct Committee**

Where the General Manager has determined to report the matter to the Conduct Committee, the General Manager shall, in consultation with the Mayor, convene an initial meeting of the Committee. Such meeting will be held, where practical, within three weeks of the determination.

Where the Mayor has received a complaint about the conduct of the General Manager, the Mayor shall, in consultation with the Deputy Mayor or another Councillor designated by Council, convene an initial meeting of the Committee. Such meeting will be held, where practical, within three weeks of receipt of the complaint.

## **6.2 Initial meeting of Conduct Committee**

At the initial meeting, the Conduct Committee will determine –

- i Not to make enquiries into the alleged breach. The complainant shall be provided with the reason/s in writing within two weeks of the determination.
- ii Make enquiries into the alleged breach to determine the particular factual matters.
- iii Engage an independent person to make enquiries into the alleged breach to determine the particular factual matters. Such enquiries will normally be undertaken by Council's Internal Ombudsman.

Where the Conduct Committee determines that further enquiries will be made, such enquiries will normally be undertaken within four weeks of the initial meeting.

## **6.3 Further meeting of Conduct Committee**

The General Manager will convene a further meeting of the Conduct Committee, where practical, within two weeks of completion of the enquiry. At this meeting, the Committee will consider the results of the enquiry. The person against whom the allegation has been made (the affected person) shall be provided with an opportunity to address the Committee and place before it any information the person considers relevant to the enquiry.

# **7 PROCEDURAL FAIRNESS**

In conducting the enquiry, the Conduct Committee or independent person must observe the accepted rules of procedural fairness and must -

- Inform the affected person that an allegation has been received and the details of the allegation.
- Inform the affected person that further enquiries into the allegation are being undertaken.
- Provide the affected person with a reasonable opportunity to respond to the allegation.
- Provide the affected person with an opportunity to place before the Committee or person undertaking the enquiry any information the person considers relevant to the enquiry.

- Provide the affected person with an opportunity to address the Conduct Committee in person.
- Hear all parties and consider all submissions before deciding the substance of any allegation and before making any recommendations.
- Act fairly and without prejudice or bias.

## **8 FINDINGS OF CONDUCT COMMITTEE**

### **8.1 Prima facie breach of the Code of Conduct**

Where the Conduct Committee determines that an allegation discloses a prima facie breach of the Code of Conduct, the Conduct Committee will report its findings, and the reasons for its findings, in writing to the Council. The Conduct Committee will also inform the affected person and the person making the allegation of its findings, together with associated reasons, in writing.

### **8.2 Recommendations**

The Conduct Committee may, in its report to the Council, make recommendations, that the Council take any of the following actions –

- Censure the councillor for misbehaviour.
- Require the Councillor to apologise to any person adversely affected by the breach.
- Counsel the Councillor.
- Make public findings of inappropriate conduct.
- Refer the matter to the Department of Local Government, the NSW Ombudsman, the Independent Commission Against Corruption or the NSW Police.
- Prosecute for any breach of the law.

Before making any such recommendations, the Committee shall have regard to the following:

- The seriousness of the breach.
- Whether the breach can be easily remedied.
- Whether the breach is technical or trivial only.
- Whether the breach represents repeated conduct.
- The extent to which the breach has affected other Councillors or the Council as a whole.
- Whether the breach has brought the Council into disrepute.
- The outcome for the employee or Councillor, colleagues, the Council and any other parties.
- Whether the decision or conduct can be justified in terms of the public interest and would it withstand public scrutiny.
- Whether the affected person has been the subject of repeated complaints or displayed similar behaviour.
- Whether the affected person remedied or rectified their actions.

- Whether an educative approach would be more appropriate than a coercive approach.
- The relative costs and benefits of taking formal enforcement action as opposed to taking no action or informal action.
- What action or remedy would be in the public interest.

## **9 CONFIDENTIALITY**

All person associated with the matter, including the complainant, the affected person, members of the Conduct Committee and any independent enquirer, shall ensure that confidentiality is maintained. Any breach confidentiality shall be considered a breach of the Code of Conduct.

## **10 VOTING**

Each member of the Conduct Committee shall be entitled to one vote in respect of any matter. In the event of equality of votes being cast, the Chairperson shall have the casting vote.

The Chairperson of the Committee shall be nominated by Council.

## **11 PROCEDURAL MATTERS**

In relation to any procedural matters relating to the operation of the Conduct Committee, the ruling of the Chairperson shall be final.

## **12 AMENDMENT OF GUIDELINES**

The Conduct Committee guidelines may be added to, repealed or amended by resolution of the Council.

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## **TOWN CENTRES SECTION 94 CONTRIBUTIONS PLAN UPDATE REPORT**

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### **EXECUTIVE SUMMARY**

|                           |  |
|---------------------------|--|
| <b>PURPOSE OF REPORT:</b> | To provide Council with an update on progress on the Draft Town Centres Section 94 Contributions Plan with respect to the resolution of 30 October 2007 and in the context of recent developments at State Government level.   |
| <b>BACKGROUND:</b>        | Council adopted the Town Centres Facilities Plan for new public infrastructure on 8 May 2007 and the Development Contributions Strategy on 28 August 2007. On 30 October 2007 Council considered a report on the draft plan and recommended deferral until December 2007 to address key issues. Since that date there have been significant changes foreshadowed by the Department of Planning to the contributions system as a whole, however, there is minimal detail available concerning their application to established areas. |
| <b>COMMENTS:</b>          | Council's resolution of 30 October 2007 directed staff to fully integrate Section 94 projects identified within the draft Town Centre Facilities Plan with the Long Term Financial Model; to complete and incorporate demographic analysis into the draft contributions plan; and to complete land economic assessment of land for dedication under the Town Centres DCP. This report summarises the progress on these matters in the context of the changes foreshadowed by the Department of Planning.                             |
| <b>RECOMMENDATION:</b>    | That Council receive and note the progress on the Town Centres Section 94 Contributions Plan.  |

## PURPOSE OF REPORT

To provide Council with an update on progress on the Draft Town Centres Section 94 Contributions Plan with respect to the resolution of 30 October 2007 and in the context of recent developments at State Government level.

## BACKGROUND

The *Draft Town Centres Section 94 Development Contributions Plan* is part of a funding strategy to deliver future facilities in the Town Centres. It lists the public facilities and amenities which are likely to be required to meet demand generated by expected development in the town centres. It establishes the nexus between expected development and facilities. It identifies the apportioned funding sources and identifies the contributions that will apply to each centre.

The draft plan was reported to the Council Meeting of 30 October 2007, at which Council resolved as follows:

- A. *That further consideration of the draft Town Centres Section 94 Plan be deferred to December 2007.*
- B. *That staff continue to:*
  - i. *Fully integrate Section 94 projects identified within Council's Town Centre Facilities Plan into Council's Long Term Financial Model.*
  - ii. *Complete demographic analysis and incorporate outcomes from this work into the draft contributions plan.*
  - iii. *Complete land economic assessment of land for dedication under the Town Centres DCP and incorporate results into the draft contributions.*
- C. *That further reporting be accompanied by an updated Long Term Financial Plan.*
- D. *That further report is to consider progression of the Town Centres LEP towards gazettal.*

On 6 November 2007, the Department of Planning issued a Circular foreshadowing significant change to the present system of preparing plans and levying Section 94 Development Contributions. These changes – particularly as they relate to established areas like Ku-ring-gai Council are yet to be clarified by way of future Planning Guidelines, however, it is clear that all plans not in force by 12 November 2007 will need to be compliant. The draft Town Centres Section 94 Contributions Plan is, therefore, directly affected.

This report is essentially an update report. It outlines the current status of work progressing on the Town Centres Contributions Plan in accordance with the resolution of Council in the light of the mooted changes to Section 94 and the potential for closer State Government scrutiny of the Town Centres.



## COMMENTS

### Changes to the Contributions System

A Department of Planning Circular was issued on 6 November 2007 foreshadowing changes to the contributions system generally in line with the Minister's announcement to the media on 12 October 2007. The Circular is **Attachment 1** to this report.

The Circular suggests that contributions will be restricted primarily to the hard infrastructure required to develop land including roads, local bus infrastructure, drainage, open space and land for community facilities. It then states that facilities benefiting existing communities can no longer be recovered through local contributions. It is unclear how this limitation will affect works that are fairly apportioned between the new and existing populations so that new development only pays its fair share. Both this list, and the tone and content of the Circular relates primarily to greenfield areas in general and the North West and South West Growth Centres in particular - however it states in two lines that these proposals will also apply to established areas. How these proposals are to be applied to established areas especially in respect of works that are currently apportioned between the new population and the existing population (where Council bears that part of the cost) is unclear. Details are to be released in guidelines at some unspecified point in the future.

Notwithstanding the fact that the Guidelines are not yet issued, the Circular only contains Savings Provisions only to 12 November 2007. Accordingly it is clear that current draft Contributions Plans will need to be made compliant.

Council's main Section 94 Contributions Plan 2004-2009 (Amendment 1), came into force on 19 October 2007 and is protected by the savings provisions for the present. Other proposed amendments, however, are in limbo. Council's draft Town Centres Section 94 Contributions Plan will certainly need to comply with Guidelines that are not yet available.

It is likely that the Town Centres Contributions Plan will also have to be approved by a delegate of the Minister. This particular change is stated clearly in the Circular but requires a legislative change which is unlikely to be passed before the end of February as it does not appear in any current draft Bill. The Circular also links the proposed legislative changes to the planning reform programme which may further extend the timing.

Staff will continue working on the Town Centres Contributions Plan over January. Staff will examine ways of addressing at least the spirit of the Circular and tightening nexus arguments to address implied concerns especially in relation to community facilities, apportioned works and public domain improvements. In view of the timing above, it is likely to be necessary to seek direction from the Department prior to exhibition. Staff will also continue to explore other mechanisms for funding the works in the Draft Contributions Plan such as Planning Agreements and levies. Results will be reported to Council for consideration.

### Ku-ring-gai Council and the Town Centres Planning Panel

If a Planning Panel was to be appointed by the State Government for Ku-ring-gai, one of the implications would be the effect on the Section 94 Contributions Plan. A further briefing and report will be made to Council in that event.

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**PROGRESS SINCE THE COUNCIL RESOLUTION OF 30 OCTOBER 2007**

Progress during the month of November is detailed below:

**Long Term Financial Model**

Councillors were briefed on the Long Term Financial Plan on Monday 26 November 2007. The spreadsheet and summary information was sent to all Councillors who were unable to attend.

Four options were modelled in the Long Term Financial Plan.

**1. Base Case (1)**

Current level of service as per the 2007/08 revised budget and includes projects from the 2000 and 2004-2009 S94 Plans, expanded out over the 20 years and adjusted by forecast indexes as detailed in the model. Previous S94 Plans have been used as a funding source.

**2. Sustainable Assets Case (1+2)**

Base case plus the expenditure required to address the infrastructure assets renewal gap, including both operational and capital costs. The general over-arching principle associated with asset management is the requirement to maintain assets to a satisfactory standard.

**3. Committed/Special Projects Case (1+2+3)**

Base case plus Sustainable assets case plus committed/special projects. This scenario includes works committed to in adopted Contributions Plans (together with the funding source).

**4. Strategic Direction (1+2+3+4)**

Base case plus Sustainable assets case plus committed/special projects plus total project portfolio, including Draft Town Centres Facility Plan.

Scenario 4 is the option that brings in the Town Centre works embodied in the Contributions Strategy.

It is apparent from the figures produced, especially from 2012 onwards that there is more work needed on the content of the draft works programme and investigating possible alternative funding sources before a recommendation can be made to Council. Staff intend to continue to work on these options in December and January with a view to having a further briefing session with Councillors early in 2008.

**Demographic Analysis**

Council's demographic consultants continue to work on the demographic modelling of the projected growth in the town centres and adjoining redevelopment areas.

Council staff have made extensive comment on the draft modelling that has been submitted and the consultant is now finalising their report which is due in the first week of December. This work will then be incorporated in the draft Contributions Plan. The projected age distribution needs to

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be taken into account when refining the works programme in terms of the nature of community facilities and the future design of parks and streetscapes.

The modelling will also provide projections of development take-up on a 5 yearly basis. This would help inform projected income receipts over time through the Section 94 Plan.

**Land Economic Assessment**

This work is also proceeding and is anticipated before Christmas. The results will be incorporated in the draft Contributions Plan in January 2008. The task has proven to be fairly complex and it is taking a little longer than expected to get the best outcome.

**CONSULTATION**

There will be further consultation with Councillors in the form of workshops prior to reporting the draft Contributions Plan for public exhibition. Subject to outcomes from the Department of Planning in relation to the proposed amendments to the Development Contributions System, and, if applicable, the appointment of a Planning Panel to oversee the completion of the planning for the Town Centres, it is likely that the revised draft Contributions Plan will be reported to Council in February for public exhibition. The statutory exhibition period for draft Contributions Plans is 28 days.

**FINANCIAL CONSIDERATIONS**

The financial implications that may arise from works to undertake the revitalisation of public domain and community infrastructure are considerable. A key outcome of the Town Centres Working Program 2007 is a financial strategy fully integrated into Council's overall Long Term Financial Model.

Work on integrating the projects arising from the Town Centres Contributions Strategy into the Long Term Financial Management Model is continuing. Given the significant financial commitment contained in the draft contributions plan, further refinement of the financial modelling is likely to result in further changes to the works programme. Costs incurred for the continued refinement of the Section 94 Plan and the associated Development Contributions Strategy will be recouped through the contributions plan.

**CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

An integrated Planning approach has been adopted in preparing Council's Section 94 Contributions Plans.

The Strategy Department and the Finance Section of the Corporate Department continue to liaise closely to integrate the Draft Town Centres Section 94 Contributions Plan with the Long Term Financial Model. Some work is still required on both projects. The Long Term Financial Model was the subject of a briefing for Councillors on Monday 26 November 2007 and a progress report is also being reported to this Council meeting of 11 December 2007.

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## **SUMMARY**

Staff have progressed on all matters in Council's resolution of 30 October 2007, however, two areas of uncertainty have necessarily extended the appropriate time frame into early 2008. The first issue is the uncertainty with respect to the future scope of development contributions especially in established areas. This second area of uncertainty is the possibility of a Planning Panel being appointed that will oversee the completion of planning for the Town Centres including the draft Contributions Plan.

## **RECOMMENDATION**

- A. That Council receive and note the progress report on the Town Centres Section 94 Contributions Plan.
- B. That staff continue to progress the draft Town Centres Section 94 Contributions Plan in the context of:
  - i. The Council resolution of 30 October 2007.
  - ii. Outcomes from the Department of Planning in relation to Development Contributions under Section 94 of the *Environmental Planning and Assessment Act 1979*.
- C. That a further report be brought back to Council early in 2008.

Kate Paterson  
**Infrastructure Co-ordinator**  
**Development Contributions**

Craig Wyse  
**Senior Urban Planner**

Antony Fabbro  
**Manager Urban Planning**

**Attachments:**      **Department of Planning Circular PS 07-018 - Infrastructure Contributions 6 November 2007 - 861236**



## PLANNING SYSTEM

### Development contributions

|                 |                 |
|-----------------|-----------------|
| <b>Circular</b> | PS 07-018       |
| <b>Issued</b>   | 6 November 2007 |
| <b>Related</b>  |                 |

## Infrastructure contributions

This circular is to provide early advice to local councils, relevant State agencies, the development industry and the community of recent changes to the setting and collection of infrastructure contributions in NSW. Further advice will follow as these changes are implemented. The Department will be issuing guidelines and update circulars to facilitate implementation.

### Introduction

On 12 October 2007, the Premier announced a comprehensive overhaul to the way that contributions from development in NSW are administered for State and local infrastructure.

State and local infrastructure contributions will now only fund attributable infrastructure and land requirements to support developed land rather than infrastructure requirements driven by general population growth. This means that for both State government agencies and local councils, it will only be possible to levy for a range of infrastructure items where the need for that infrastructure arises from the development of land.

The changes will ensure a more consistent approach to setting infrastructure contributions across NSW, and will improve certainty and transparency in the release of land for development.

### Changes to the infrastructure funded by State infrastructure contributions

State contributions applying to greenfield areas identified in Regional or Subregional Strategies, the Metropolitan Development Program or in an approved local strategy will fund 75% of the following attributable State infrastructure costs:

| Infrastructure item   | Previous approach | New approach |
|-----------------------|-------------------|--------------|
| Roads                 | ✓                 | ✓            |
| Rail                  | ✓                 | ✓            |
| Bus                   | ✓                 | ✓            |
| Emergency and justice | ✓                 | Land only    |
| Health                | ✓                 | Land only    |
| Education             | ✓                 | Land only    |
| Regional open space   | ✓                 | Land only    |
| Planning and delivery | ✓                 | ✓            |

In the case of the growth centres, this will result in a reduction of the per lot levy from \$33,000 to \$23,000.

These principles will apply immediately to greenfield development sites across the State where rezonings or levies have not yet been finalised. This will result in a unique levy for each precinct or region that reflects underlying attributable infrastructure costs.

The costs of the construction and operation of social infrastructure facilities such as schools and TAFEs, hospitals and emergency services will be borne by the State Government. It is the NSW Government's intention that there will be no reduction in the type, amount or delivery of infrastructure to be provided, only in how this will be funded. The State Government is implementing other changes to its infrastructure planning so there are clear alignments between the State Infrastructure Strategy and long term land use strategies.

The new contribution arrangements will not apply to planning agreements that have already been signed, rezonings already gazetted or development applications where consent has been granted.

### **Changes to infrastructure funded by local section 94 and section 94A infrastructure contributions**

Future local contributions will be set through an approved section 94 or section 94A plan based on Ministerial Guidelines (to be separately published) and will fund 100% of the following attributable local infrastructure costs:

- local roads
- local bus infrastructure
- local parks that service a development site or precinct
- drainage and water management expenses
- land and facilities for local community infrastructure that services a development site or precinct
- land for other community infrastructure and recreation facilities.

All other costs, such as facilities benefiting existing communities (including council or district-wide community and recreation facilities), can no longer be recovered through local contributions.

The Minister for Planning will issue guidelines to advise the categories of infrastructure costs to be funded from local contributions. Councils will still prepare their own section 94 or section 94A plans in accordance with the guidelines however these will need to be endorsed by a delegate of the Minister for Planning. Councils will be separately advised about the timing for the commencement of these arrangements.

### **Changes to section 94 and section 94A for riparian corridors**

Local contributions will no longer be permitted to fund acquisition of land for riparian corridors. These areas will be protected and managed through planning (zoning and other) controls.

Councils will be separately advised about the timing and method of the preparation and implementation of section 94 and section 94A contributions plans.

### **Staged contribution collection**

For all future greenfield release areas in NSW, a single contribution combining State and Local infrastructure charges will be set on a developable area basis, and collected at two stages:

- a Rezoning Infrastructure Contribution (RIC) shall apply on the purchaser, at the time land is first sold following rezoning or approval of a development application to recover 25% of State and local infrastructure costs

- a Serviced Infrastructure Contribution (SIC) will be payable by developers upon release of subdivision or occupancy certificates to recover the remaining 75% of State and local infrastructure costs.

Contributions will escalate annually against an appropriate construction cost index. Possible options for deferring the payment of the RIC and the SIC are being investigated by NSW Treasury.

### **Urban Improvement Fund**

State contributions will be held in a new Urban Improvement Fund, to be managed by NSW Treasury. The NSW Government will provide \$200 million to initially establish the fund.

Collection methods are currently being developed.

Funds will be allocated to State agencies through the Budget process. In time, developers will have the opportunity to deliver relevant infrastructure as works in kind and apply for the State's 25% contribution against milestones.

### **Section 94 and section 94A contributions held in Trust**

Section 94 and section 94A contributions from developments within the growth centres shall be held separately under Trust by NSW Treasury on behalf of councils. Councils can draw on these funds based on approved section 94 and section 94A plans, subject to funding being spent within the timetable of the approved plan.

The NSW Government may consider collecting and holding section 94 and section 94A contributions for greenfield development outside the growth centres on a case-by-case basis. In particular, this is likely to occur for other large scale greenfield release areas.

### **Precinct Acceleration Protocol**

Within the growth centres, the Precinct Acceleration Protocol will be modified. Developers will now need to pay 75% of the modified range of infrastructure costs and will be provided with a 100% refund for linkage and excess capacity infrastructure as other developments proceed.

### **Land release in areas outside of the Metropolitan Development Program or a Regional/Subregional Strategy**

Proposals in areas outside of the Metropolitan Development Program, a Regional or Subregional Strategy or an endorsed local strategy will be assessed against an objective gateway test based on the sustainability criteria included in the Metropolitan Strategy, Regional Strategies or endorsed local strategy where applicable. If compliant, 100% of the attributable infrastructure costs would be borne by the developer.

## State infrastructure contributions and section 94 and section 94A contributions in existing urban areas

The revised contributions framework will apply to section 94 and section 94A contributions in both existing urban areas and greenfield areas. However, only the incremental costs arising from development can be collected through the levy.

## Consultation

As these arrangements are developed local government and other stakeholders will be consulted.

## Planning agreements

Where a State voluntary planning agreement is being proposed (e.g. to demonstrate satisfactory arrangements for infrastructure), it must in principle be consistent with the revised infrastructure contributions framework unless approved by NSW Treasury.

## Transitional arrangements

Any local environmental plan, planning agreement or section 94 or section 94A contributions plan made on or before 12 November 2007 will continue to operate as if the changes announced by the Premier on 12 October 2007 had not been made. Once the mechanisms to implement the measures outlined in this circular have been finalised additional transitional measures will be put in place.

## Policy initiatives requiring legislative change

Legislative changes will be examined as part of the planning reform program to:

- require section 94 plans to be approved by the Minister for Planning or delegate (*Environmental Planning and Assessment Act 1979*)
- establish requirements for the payment of a Rezoning Infrastructure Contribution at the time land is first sold following its rezoning (*Real Property Act 1900*)
- require the transfer of developer contributions collected by a council in the north west or south west metropolitan growth centres to the State Government (*Local Government Act 1993*)
- establish the Urban Improvement Fund.

## What happens next?

The Department of Planning is working with NSW Treasury and the NSW Growth Centres Commission to develop guidelines and procedures to give effect to these reforms.

### Authorised by:

Sam Haddad  
Director-General

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### Important note

This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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## 205 MONA VALE ROAD, ST IVES - LEASE RENEWAL

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

For Council to consider the lease renewal of 205 Mona Vale Road, St Ives, to the current tenants for a further five [5] year term.

**BACKGROUND:**

The restaurant has been under lease from Council since 1994. The current tenants have operated a business from the premises since that time.

**COMMENTS:**

A market rental determination was undertaken by Land & Property Information Valuation Services [formerly State Valuation Office] to determine the current market rental.

**RECOMMENDATION:**

That Council enter into a lease agreement for a further five [5] years with Franco and Pina Berneschi T/A the Old School Trattoria, in the terms and conditions contained within this report.



## PURPOSE OF REPORT

For Council to consider the lease renewal of 205 Mona Vale Road, St Ives, to the current tenants for a further five [5] year term.

## BACKGROUND

The Old School Trattoria restaurant is one of a number of buildings located on the site of the former St Ives Public School. The land is classified as community land and zoned Special Uses 5(a) "Municipal Purposes". The land is covered by the "Community Groups Centre and Car Park, St Ives" Plan of Management [POM], and the original approval for use was granted pursuant to the planning provisions relating to conservation incentives for heritage items. Although a prohibited use in the zoning, the restaurant was granted approval as there would be little or no impact on the amenity of the surrounding area and without such a use in place, the overall conservation and restoration of the building would have been in jeopardy.

The restaurant has been under lease from Council since 1994. The current tenants have operated a business from the premises since that time.

The lease is due to expire on 14 December 2007, however, a holdover clause is contained in the current lease that provides for the tenants to occupy the premises on a monthly holder upon expiry.

The current tenants are seeking a further five [5] year lease term [**Attachment 1**]. Given that the lease area resides upon community classified land and the commercial use of the premises, a five year term is the maximum term permissible under the Local Government Act 1993, without the need to undertake an Expression of Interest [EOI] or a tendering process as stated in S46A of Local Government Act 1993 .

## COMMENTS

A market rental determination was undertaken by Land & Property Information Valuation Services [formerly State Valuation Office] to determine the current market rental [**Attachment 2**].

Staff advised the current tenants of the rental determination for the commencement of the new lease term. The current tenants then requested a reduction in annual rental, and other minor amendments to lessee paid outgoings. A slight reduction in the first year's annual rental was considered reasonable given that the current tenants have occupied the premises since 1994, and during this time have met all financial obligations, and complied with the terms and conditions of their lease.

The request for an exemption of some lessee outgoings was declined to ensure objectivity with other commercial leases in Council's portfolio.

The tenants have agreed to the terms & conditions contained within the attached Heads of Agreement [**Attachment 3**]. The tenants have demonstrated they are responsible and financially capable to pay rent and take on a further lease term.

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3 December 2007

The POM expressly authorises the proposed lease, and public notification of the lease is required in accordance with S47A of the Local Government Act 1993.

## CONSULTATION

A market rental valuation has been undertaken by Land & Property Information Valuation Services [formerly State Valuation Office] to determine the current market rental.

Council's solicitor Matthews Folbigg Pty Ltd, will prepare the draft lease documentation and Disclosure Statement in accordance with the Retail Leases Act 1994.

The proposed lease will be publicly notified in accordance with S47A Local Government Act 1993.

## FINANCIAL CONSIDERATIONS

The proposed lease terms and conditions are covered in the Heads of Agreement, and are consistent with previous returns for the property.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Nil.

## SUMMARY

The lease over the premises is due to expire on 14 December 2007, a holdover clause is contained in the current lease that provides for the tenants to occupy the premises on a monthly holder upon expiry.

The current tenants are seeking a further five [5] year lease term. The current tenants have occupied the premises since 1994, and have demonstrated during this time that they are responsible and financially capable to pay rent, and take on a further lease term.

A market rental determination was undertaken by Land & Property Information Valuation Services [formerly State Valuation Office] to determine the current market rental. Council staff have negotiated the terms and conditions for the new lease term, and the current tenants have accepted the terms subject to final lease documentation.

Given that the lease area is upon community classified land, public notification of the proposed lease is required to be undertaken in accordance with S47A Local Government Act 1993.

## RECOMMENDATION

- A That Council enter into a lease agreement for a further five [5] years with Franco and Pina Berneschi T/A the Old School Trattoria, in the terms and conditions contained within this report.

Item 12

**P64467**  
**3 December 2007**

- B That the Mayor and General Manager are delegated authority to execute all documentation associated with the lease.
- C That Council affix the Common Seal to any necessary documents.
- D That public notification of the proposed lease be undertaken in accordance with Section 47A of the Local Government Act 1993.

Deborah Silva  
**Commercial Services Co-ordinator**

Greg Piconi  
**Director Operations**

**Attachments:**

- 1. Letter from the Tenants seeking a further 5 year lease term - 757842**
- 2. Market Rental Determination - Confidential**
- 3. Heads of Agreement - Confidential**

*The Old School*



*Trattoria*

*3rd April, 2007*

Deborah Silva,  
Commercial Services Coordinator  
Ku-ring-gai Council  
818 Pacific Hwy, Gordon NSW 2072

Dear Deborah,

RE – LEASE OF THE OLD SCHOOL BUILDING – 205 MONA VALE ROAD –  
ST IVES

Under the terms of the lease we have for your premises at 205 Mona Vale St Ives, our lease is due to expire on 14<sup>th</sup> December 2007.

We ask that you consider us, Franco and Pina Berneschi, to renew this lease. We hope that you would renew for another 5 year term. As we will be taking an overseas trip in July to visit elderly parents, we hope that this proposal could be discussed in the very near future.

Yours sincerely,

*P. Berneschi*

Franco and Pina Berneschi

*Berneschi Franco*



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## HERITAGE ADVISORY COMMITTEE - MINUTES OF MEETING HELD 29 OCTOBER 2007

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To report to Council the minutes from the Heritage Advisory Committee meeting held on 29 October 2007.

**BACKGROUND:**

The minutes taken at the 29 October 2007 meeting were confirmed and accepted at the Heritage Advisory Committee (HAC) meeting held on 3 December 2007.

**COMMENTS:**

A range of heritage issues were discussed at the Committee meeting and a number of issues were raised for further consideration.

**RECOMMENDATION:**

That Council receive and note the minutes from the Heritage Advisory Committee meeting held on 29 October 2007.

## PURPOSE OF REPORT

To report to Council the minutes from the Heritage Advisory Committee meeting held on 29 October 2007.

## BACKGROUND

On 3 December 2007 Council's Heritage Advisory Committee (HAC) held their meeting and confirmed the HAC Minutes of the meeting on Tuesday 29 October 2007.

## COMMENTS

### TULKIYAN SUB COMMITTEE

The Tulkiyan Sub Committee successfully received an award by the State Heritage Office for work on Tulkiyan, four representatives from Tulkiyan will be accepting the award from the Honourable Frank Sartor, Minister of Planning.

#### Comment

Noted and the receipt of this award should be used to support future funding applications e.g. the updated Tulkiyan Conservation Management Plan.

### HERITAGE ACT REVIEW SUBMISSION

An update was provided and the Committee was advised that Council had made its submission to revise the NSW Heritage Act. The submission included input from Committee members.

#### Comment

Following the release of the Heritage Act Review findings a briefing will be held for the HAC committee and Councillors.

### COUNCIL CHAMBERS – ANNIVERSARY 2008

The Committee notes the presentation of the Ku-ring-gai Council Chambers to the Pacific Highway is highly significant, original fabric, and the most tangible evidence of the building including the forecourt. It is recommended that a Conservation Management Plan (CMP) should be prepared for the Council Chambers to ensure that this area remains intact and is considered significant in any future decisions affecting the building. The War Memorial and other possible ceremonious occasions could possibly be moved to the new acquired Gordon Council Park.

A tour of the council chambers for the public could be developed by Council to coincide with the anniversary of the Council Chambers and celebrate its history.

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4 December 2007

**Comment**

Noted these matters could be considered as part of the 2008-2009 Council management plan process.

**16 STANHOPE ROAD, KILLARA UPDATE – INTERIM HERITAGE ORDER & DLEP**

Committee advised of the Council resolution on this matter including that an Interim Heritage Order (IHO) under the Heritage Act was requested by Council on 2 October 2007. If granted, no work could be carried out on the site under approval had been made by the NSW Heritage Council. The case will be taken to the Land Environment Court from 27 to 29 November 2007 by Scott Robertson, Architect & Steve Layman, Planner.

**Comment**

Noted and the proposal for a draft LEP has not been supported by the NSW Department of Planning as advised by letter dated 8 November 2007, in addition Council has not received a reply in response to the request for an Interim Heritage Order.

**CULTURAL TOURISM**

A meeting was held between Mayor Nick Ebbeck and Zenny Edwards (Vice President of the National Trust), to discuss cultural tourism within Ku-ring-gai. Ku-ring-gai currently doesn't have a tourism policy. Sydney does not have an Aboriginal cultural centre; Ku-ring-gai would be an ideal location to have one. Ku-ring-gai's heritage houses and gardens could be a feature of the tourism policy.

Ku-ring-gai could possibly set up a cultural and tourism sub-committee for the Heritage Advisory Committee. Alternatively Ku-ring-gai could develop a new cultural and tourism committee, though the panel would require experts in the field.

**Comment**

This proposal would require further review and consideration, prior to being further assessed, and be considered as a project for the 2008/2009 management plan process.

**HERITAGE AWARDS**

Recommendation: The annual Heritage Awards should be re-instated in 2008 (every second year 2008, 2010, 2012). The Heritage Awards could possibly coincide with the Council Chambers Anniversary in 2008.

**Comment**

Noted, this matter is supported and can be considered as part of the 2008/2009 Council Management Plan process and the HAC program for 2008/2009.

Item 13

S03816  
4 December 2007

**Swain house, 73 Stanhope Road, Killara**

It was reported that some residents approached a Councillor and made mention of pending demolition application for 73 Stanhope Road, Killara. This site has a connection to the adjoining Swain Gardens and there is a current master plan on exhibition.

**Comment**

The dwelling whilst adjoining the Swain gardens is not part of land scape masterplan and the dwelling is not identified as a heritage item under the Ku-ring-gai planning scheme ordinance.

**UPDATE OF URBAN CONSERVATION AREAS AND HERITAGE ITEMS**

Mr Holman discussed of developing an updated heritage list for Ku-ring-gai. Architects could be emailed to enquire whether they have records of homes in Ku ring-gai which may have historical, cultural or aesthetic value.

**Comment**

Noted further information will be provided on this project.

**CONSULTATION**

The Heritage Advisory Committee includes representatives from the community and nominated heritage organisations.

**FINANCIAL CONSIDERATIONS**

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

**CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

Where relevant consultation with other departments has occurred in the development of this report.

**SUMMARY**

The Heritage Advisory Committee Meeting was held on Monday 29 October 2007. A range of issues were discussed with a number of issues reserved for further review.



## RECOMMENDATION

That Council receive and note the Minutes from the Heritage Advisory Committee Meeting held on Monday 29 October 2007.

Antony Fabbro  
**Manager Urban Planning**

**Attachments: Minutes of the Heritage Advisory Committee meeting held 29 October 2007 - 861051**

# MINUTES HERITAGE ADVISORY COMMITTEE MEETING

Monday, 29 October 2007

Council Chambers  
818 Pacific Highway, Gordon

Meeting Opened: 6.50pm

1. WELCOME BY THE CHAIR

2. APOLOGIES

Councillor I Cross  
Mayor Nick Ebbeck

3. ATTENDANCE

**Community Members:**

Mr Moore (National Trust)  
Mr Stutchbury (RAIA)  
Ms Harvey (Ku-ring-gai Historical Society)  
Mr Holman  
Ms Mack

**Councillors:**

Councillor J Anderson

**Council Officers:**

Mr A Fabbro, Manager Urban Planning  
Mr P Dignam, Heritage Advisor  
Mr D Barber, Student Planner

4. DECLARATIONS OF PECUNIARY INTERESTS

None.

## **5. TULKIYAN SUB COMMITTEE**

Photographs were taken of Tulkiyan by Chris Kane and presented to the Committee. Ian Stutchbury from the (RAIA) stated the photographs are a great contribution.

The Tulkiyan Sub Committee successfully received an award by the State Heritage Office for work on Tulkiyan, four representatives from Tulkiyan will be accepting the award from the Honourable Frank Sartor, Minister of Planning.

## **6. HERITAGE ACT REVIEW SUBMISSION**

An update was provided and the Committee was advised that Council had made its submission to revise the NSW Heritage Act. The submission included input from Committee members.

## **7. COUNCIL CHAMBERS – ANNIVERSARY 2008**

In addition to the research of the archives by Councillor Anderson, Greg Holman presented an A3 scanned photocopy of the original photo of the Council façade with a signature on the photo reading 'Neave Architects'.

The Committee notes the presentation of the Ku-ring-gai Council Chambers to the Pacific Highway is highly significant, original fabric, and the most tangible evidence of the building including the forecourt. It is recommended that a Conservation Management Plan (CMP) should be prepared for the Council Chambers to ensure that this area remains intact and is considered significant in any future decisions affecting the building.

The War Memorial and other possible ceremonious occasions could possibly be moved to the new acquired Gordon Council park.

A tour of the council chambers for the public could be developed by Council to coincide with the anniversary of the Council Chambers and celebrate its history.

## **8. MINUTES OF PREVIOUS MEETING OF 21 AUGUST 2007 & COMMITTEE MEETING MINUTES POLICY**

The HAC committee made a few alterations to the content of the previous minutes.

## **9. HERITAGE ASSISTANCE FUND - UPDATE**

The HAC Committee was given a brief update on three current applicants for the Local Heritage Assistance Fund. Further information to be provided at the next HAC meeting.

**10. NO.16 STANHOPE ROAD, KILLARA UPDATE – INTERIM HERITAGE ORDER & DLEP**

Committee advised of the Council resolution on this matter including that an Interim Heritage Order (IHO) under the Heritage Act was requested by Council on 2 October 2007. If granted, no work could be carried out on the site under approval had been made by the NSW Heritage Council.

The case will be taken to the Land Environment Court from 27 to 29 November 2007 by Scott Robertson, Architect & Steve Layman, Planner.

The Committee noted further information would be helpful to the Court Appeal.

**11. UPDATE ON 49 MOREE STREET, GORDON**

The applicant for 49 Moree Street Gordon has proposed to have a pre DA consultation before lodging the DA on 1 November 2007. The new DA is proposed to be a better design and achieve a greater outcome for the heritage listed cottage.

**12. CULTURAL TOURISM**

Mayor Nick Ebbeck and Zeny Edwards (Vice President of the National Trust) had a meeting about cultural tourism within Ku-ring-gai.

Ku-ring-gai currently doesn't have a tourism policy.

Sydney doesn't have an Aboriginal cultural centre; Ku-ring-gai would be an ideal location to have one. The heritage homes and gardens of Ku-ring-gai could be a feature of the tourism policy.

Ku-ring-gai could possibly set up a cultural and tourism sub-committee for the Heritage Advisory Committee. Alternatively Ku-ring-gai could develop a new cultural and tourism committee, though the panel would require experts in the field.

**13. HERITAGE AWARDS**

Recommendation: the annual Heritage Awards should be re-instated in 2008 (every second year 2008, 2010, 2012).

The Heritage Awards could possibly coincide with the Council Chambers Anniversary in 2008.

**14. NATIONAL TRUST FESTIVAL 2008**

The National Trust has spoken to the Mayor of possibly sponsoring Ku-ring-gai with \$10,000 to assist with the National Trust Festival 2008.

**15. FURTHER REVIEWS OF HERITAGE IN KU-RING-GAI: a) post WWII heritage b) other criteria - cultural and associative significance e.g. Swain house, 73 Stanhope Road Killara**

It was reported that some residents approached Councillor Maureen Shelley and made mention of a pending demolition application for 73 Stanhope Road. This site has a connection to the adjoining Swain Gardens and there is a current masterplan on exhibition.

**16. PROGRESS OF URBAN CONSERVATION AREAS AND HERITAGE ITEMS**

Mr Holman discussed of developing an updated heritage list for Ku-ring-gai. Architects could be emailed to enquire whether they have records of homes in Ku-ring-gai which may have historical, cultural or aesthetic value. It was noted there is a need to continually update Council's potential heritage item list on an annual basis.

**17. OTHER GENERAL MATTERS (INCLUDING CORRESPONDENCE)**

None.

**18. NEXT MEETING**

The next meeting will be held (date to be advised) at the Council Chambers at 6.30pm.

**19. CLOSE**

The meeting closed at 8.40pm.

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## NORTH SUB-REGION DRAFT SUB-REGIONAL STRATEGY

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To present to Council a draft submission on the Draft North Sub-Regional Strategy.

**BACKGROUND:**

The Draft North Subregional Strategy covering Ku-ring-gai and Hornsby Local Government Areas was released by the Department of Planning on 30 October 2007 and is on public exhibition until 8 February 2008. The Subregional Strategy provides a more detailed level of planning than the Metropolitan Strategy.

**COMMENTS:**

Council staff have commenced an initial review of the draft North Subregional Strategy and have prepared a draft submission which identifies a number of issues with the draft strategy. It is proposed that a more comprehensive final submission be reported to Council on 5 February 2008 prior to submission to the Department of Planning

**RECOMMENDATION:**

That the draft submission on the North Sub-Regional Strategy be endorsed by Council and placed on Council's website for the information of residents and that a final submission be reported back to Council on 5 February 2008.

## PURPOSE OF REPORT

To present to Council a draft submission on the Draft North Subregional Strategy.

## BACKGROUND

The Sydney Metropolitan Strategy was released in December 2005 and provides a broad framework to facilitate and manage the growth of Sydney until 2031. The Draft North Subregional Strategy, which covers Ku-ring-gai and Hornsby Local Government Areas (LGAs) was released by the Department of Planning on 30 October 2007, and is on exhibition for public comment until 8 February 2008.

The Subregional Strategy provides a more detailed level of planning than the Metropolitan Strategy and will guide land-use planning until 2031 in the Hornsby and Ku-ring-gai local government areas.

The Subregional Strategy translates objectives of the NSW Government's Metropolitan Strategy and State Plan to the local level. The North Subregional Strategy will represent an agreed State Government position on the future of the subregion and will be the pre-eminent planning document for the North Subregion. The key directions for the North Subregion identified in the strategy are:

1. Better access to a variety of housing choice
2. Strengthen the major centre
3. Enhance the subregions local centres
4. Improve public transport access to, from and within the subregion
5. Manage rural and resource lands

The Subregional Strategy will be used to guide the preparation of the Ku-ring-gai Principal Local Environmental Plan (LEP). The Department of Planning requires Principal LEPs to be consistent with the objectives and actions of the Subregional Strategy, as well as those of the Metropolitan Strategy.

## COMMENTS

The North Subregional Strategy is broken down into seven sub-strategy areas, each containing a series of objectives and actions. The strategies are linked to those of the Metropolitan Strategy. The Seven strategy areas are as follows:

- Economy and Employment
- Centres and Corridors
- Housing
- Transport
- Environment, Heritage and Resources
- Parks, Public Places and Culture
- Implementation and Governance

## Item 14

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3 December 2007

Council staff have commenced a review of the draft subregional strategy and have prepared an initial draft submission. A copy of the draft submission is included as **Attachment 1** to this report (circulated separately).

It is proposed that the initial draft submission be placed on Council's website so that members of the community can access this information to aid the preparation of their own submissions. In the meantime, Council staff will continue to review the draft subregional strategy and refine Council's submission, reporting a final draft submission to Council on 5 February 2008 for endorsement, prior to submitting to the Department of Planning on 8 February 2008.

There are a number of initial issues with the subregional strategy that have been identified by staff. These are outlined below under the relevant sub strategy headings.

### Economy and Employment

The key directions under economy and employment for the north subregion are stated as follows:

- *Strengthen Hornsby as the major centre*
- *Plan for forecast growth of 13,500 jobs*
- *Protect employment lands*
- *Manage rural and resource lands*

A key element of the strategy is the setting of binding employment capacity targets for each LGA in the subregion. The target for Ku-ring-gai is to facilitate an additional 4500 jobs (from a 2001 base) by 2031. The target for Hornsby is 9000 jobs, 3000 of which are to be within the Hornsby major centre.

It has been confirmed by the Department of Planning that the employment targets only relate to sufficient land being zoned to accommodate this level of employment rather than actual jobs on the ground by 2031.

The main concern with the employment capacity targets contained in the subregional strategy is that there appears to be little basis for the number of jobs or their distribution. Ku-ring-gai and Hornsby Councils, with the assistance of the Department of Planning, are currently undertaking an employment land study. This study is not due for completion until mid 2008. It would therefore seem premature to distribute the additional jobs across the subregion at this stage and the subregional employment study should be used as a basis to provide a more detailed framework in which to provide for such a capacity and distribution.

### Centres and Corridors

The draft North Subregional Strategy seeks to establish a clear centres hierarchy across the subregion consistent with the objectives and descriptions of centres under the Metropolitan Strategy. The key directions in the draft subregional strategy in relation to centres and corridors are as follows:

- *Consolidate and strengthen Hornsby as the subregions Major Centre*
- *Undertake structure planning for Epping*



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– *Enhance local centres*

The proposed hierarchy for Ku-ring-gai's centres contained in the draft subregional strategy are generally consistent with Council's previously stated intention for each centre and as planned within the draft Town Centres LEP. There are, however, four centres where the draft subregional strategy does contain an incorrect classification. These are outlined in the table below.

| Centre           | Classification in draft Strategy | Proposed Council classification |
|------------------|----------------------------------|---------------------------------|
| Warrawee         | Small Village                    | No Centre                       |
| Lindfield        | Small Village                    | Village                         |
| West Pymble      | Small Village                    | Neighbourhood                   |
| North Turramurra | Small Village                    | Neighbourhood                   |

Council's submission on the draft subregional strategy will provide justification on the appropriate classification for these centres.

## Housing

The key directions in the draft subregional strategy in relation to housing are as follows:

- *Improve housing choice*
- *Plan for 21000 new dwellings*
- *Enable communities to 'age in place'*
- *More housing opportunities to support a diverse workforce and population*

The subregional strategy establishes binding dwelling targets for each LGA. The dwelling targets are consistent with those already agreed to by both Councils. In the case of Ku-ring-gai, the target is 10,000 additional dwellings for between 2004 and 2031.

There are also two other key elements of housing provision contained in the draft subregional strategy:

- 5 yearly monitoring of principal LEPs to review housing delivery
- An emphasis on housing in centres i.e. 80% of new housing to be in centres

These elements would appear to be inconsistent with Council's experience with the Department of Planning to date; whereby it has been required that Council demonstrate the delivery of all 10,000 additional dwellings under LEP 194/200 and the Town Centres LEP. This is prior to developing the Principal LEP. Also, it has been require that 100% of the additional 10,000 dwellings be within the centre catchments of the main centres along the Pacific Highway/rail corridor and St Ives.

## Transport

The key directions for transport for the north subregion are stated as follows:

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- *Implement the strategic bus corridors to provide better links to major centres and employment lands*
- *Improve rail access and services*
- *Improve efficiency of freight movements and through traffic.*

While the subregional strategy generally acknowledges that there are capacity constraints of the transport network within the north subregion, there is a lack of clarity, detail and future direction in relation to location of capacity constraints in road and transport networks and Strategic Bus Corridor treatments. Also, the capacity on the North Shore rail line is also not adequately addressed.

While the subregional strategy commits Councils to the delivery of increased housing and employment growth, there is nothing in the strategy that commits the State Government to delivery of the crucial transport infrastructure to cater for such growth.

### Environment, Heritage and Resources

The key directions in regard to Environment, Heritage and Resources for the north subregion are stated as follows:

- *Protect the natural environment of the subregion*
- *Protect the cultural an heritage elements of the subregion*
- *Manage all development sustainably*

The actions contained in the subregional strategy relating to 'establishing environmental targets' and 'integrating targets into decision making' are considered inadequate consideration given to critical aspects of sustainability.

The proposed action of "managing environmental impacts" is too weak a term for the standard required in Ku-ring-gai. Environmental assets in the area tend to be in poor condition overall. Consequently, 'protecting' biodiversity is inadequate particularly for 'critically endangered' habitats; the actions contained in the draft strategy need to move to 'recovery' as the minimum standard.

In regard to cultural heritage, the subregional strategy does provide a number of areas of responsibility for the Heritage Office to help facilitate heritage planning at the local level. However, this needs to be matched by financial and non-financial support to local Council's in the preparation of heritage studies and also in the preparation of nominations for heritage listings. This should be combined with a commitment to support the overall process to finalisation.

### Parks, Public Places and Culture

The key directions under the draft subregional plan in relation to Parks, Public Places and Culture are as follows:

- *Ensure equitable access to parks and public places for all residents in the subregion*
- *Ensure open space areas and facilities are managed sustainably to cater for residents and visitors to the subregion*
- *Ensure opportunities exist for all residents to pursue cultural activities in the subregion*

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Much of the discussion and actions relating to parks and open space contained in the draft subregional strategy relates to existing strategies or projects being undertaken by Ku-ring-gai and Hornsby Council's or existing state programs e.g. Metropolitan Greenspace Program. There are no new strategies or potential funding programs identified, nor commitments in the draft strategy.

One of the key open space issues facing Ku-ring-gai is the capacity constraints of local playing fields. This issue is not adequately addressed in the subregional strategy. The recommendations contained in the recent parliamentary inquiry into sports field management should be pursued, particularly in relation to improved partnership with the Department of Education and the use of school playing fields.

In relation to the cultural aspects of the draft subregional strategy, there is no mention of the cultural and linguistic diversity of the region and how this would influence cultural planning and development on a subregional basis. State government agencies need to provide greater leadership in relation to cultural planning, facilities and events.

**Implementation and Governance**

## Key directions

- *Align subregional and local planning with strategy aims*
- *Improve state involvement in strategic places and projects*
- *Inform state investment priorities*
- *Ensure stakeholder involvement*
- *Consider funding, pricing and project delivery*

The draft subregional strategy includes several actions which state that the Department of Planning and other Government agencies will provide support for local councils to assist in the preparation of principal LEPs. However, no time frame has been provided by the Department as to when this support is to be provided.

The final subregional strategy should incorporate an implementation plan which provides State Government accountability and strategies for the provision of infrastructure and services.

**Other issues - Commitment to infrastructure provision**

The draft subregional plan is largely silent on infrastructure provision other than that already identified within the State Infrastructure Strategy (SIS) released in May 2006. The main concern with the SIS is that it does not provide the finer grain of infrastructure projects that are required at a more local region to ensure sustainable growth. The SIS does not detail all utilities requirements (specifically stormwater and sewerage management) which would be required to accommodate the proposed future population growth within the region.

There is little or no discussion in the draft subregional strategy regarding the provision of social infrastructure, services and facilities to meet the needs of existing and future population growth. The subregional strategy identifies significant population growth for Ku-ring-gai area over the next 25 years and major changes to the composition of the population. The State Government Departments responsible for provision of social infrastructure eg Health, Education, Community Services, Sport and Recreation, Police etc should outline their plans for rolling out sub-regional

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services and facilities to cater for the growth identified in the subregional strategy in cooperation with local government authorities

## **CONSULTATION**

The Draft North Subregional Strategy was released by the Department of Planning on 30 October 2007, and is on exhibition for public comment until 8 February 2008. Details of the Draft strategy are available on the Departments website and at Council's customer service centre.

A community information session on the draft Subregional Strategy was conducted by the Department of Planning at the Northern Sydney Institute TAFE, Hornsby on 22 November 2007 between 5:30pm and 8:30pm.

The Department of Planning also conducted a joint information session with Ku-ring-gai and Hornsby Councillors at Hornsby Council on 29 November 2007.

Councillors have been provided with a full copy of the Draft North Subregional Strategy and the matter was discussed at the Planning Forum on 27 November 2007.

## **FINANCIAL CONSIDERATIONS**

The financial implication of the draft North Subregional Strategy for Ku-ring-gai Council is unknown at this stage.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

The draft submission on the draft North Subregional Strategy has been prepared with an integrated planning approach including staff across all relevant sections of Council.

## **SUMMARY**

The Sydney Metropolitan Strategy was released in December 2005 and provides a broad framework to facilitate and manage the growth of Sydney until 2031. The Draft North Subregional Strategy, which covers Ku-ring-gai and Hornsby LGAs was released by the Department of Planning on 30 October 2007, and is on exhibition for public comment until 8 February 2008.

The Subregional Strategy will be used to guide the preparation of the Ku-ring-gai Principal Local Environmental Plan (LEP). The Department of Planning requires Principal LEPs to be consistent with the objectives and actions of the Subregional Strategy, as well as those of the Metropolitan Strategy.

Council staff have commenced an initial review of the draft North Subregional Strategy and have prepared a draft submission which identifies which identifies a number of issues with the draft strategy. It is proposed that a more comprehensive final submission be reported to Council on 5 February 2008 prior to submission to the Department of Planning

## **RECOMMENDATION**

- A. That the draft submission on the North Subregional Strategy be endorsed by Council and placed on Council's website for the information of residents.
- B. That the final submission be reported back to Council on 5 February 2008 prior to being submitted to the Department of Planning.

Craige Wyse  
**Senior Urban Planner**

Antony Fabbro  
**Manager Urban Planning**

Peter Davies  
**Manager Corporate Planning  
and Sustainability**

**Attachments:**      **Draft Council Submission on Draft North Sub-Regional Strategy - circulated separately**

## **Ku-ring-gai Council Submission of Draft North Subregional Strategy**

### **General**

Council supports the development of the Draft North Subregional Strategy (NSS) and is generally supportive of the key directions and actions contained in it. The strategy largely acknowledges the planning Council has undertaken to date on its town centres and provides a broad framework for the development of the remainder of Council's Principal LEP.

The following submission identifies a number of specific areas where Council considers to be shortcomings of the Draft NSS. Council's major concerns relate to the strategy's failure to detail plans or even commit state government to the provision of the necessary transport and other infrastructure to cater for the required growth to 2031.

The Draft NSS is largely silent on infrastructure provision other than that already identified within the State Infrastructure Strategy (SIS) released in May 2006. The main concern with the SIS is that it does not provide the finer grain of infrastructure projects that are required at a more local region to ensure sustainable growth. The SIS does not detail all utilities requirements (specifically stormwater and sewerage management) which would be required to accommodate the proposed future population growth within the region.

There is little or no discussion in the Draft NSS regarding the provision of social infrastructure, services and facilities to meet the needs of existing and future population growth. The NSS identifies significant population growth for Ku-ring-gai area over the next 25 years and major changes to the composition of the population. The State Government Departments responsible for provision of social infrastructure eg Health, Education, Community Services, Sport and Recreation, Police etc should outline their plans for rolling out sub-regional services and facilities to cater for the growth identified in the NSS in cooperation with local government authorities

### **Economy and Employment**

#### ***General***

##### ***Capacity Targets***

The Draft NSS indicates that the employment capacity target was formulated using a Metropolitan-wide forecasting tool and that the capacity target will need to undergo further refinement when the full 2006 Census and Journey to Work data is available. A Subregional Employment Study, as a joint study between Hornsby and Ku-ring-gai Councils and the Department of Planning is currently underway. The MOU between

the Councils and the Department, and the resultant study brief, included the following aims:

- *To ensure local employment lands strategies facilitate opportunities for an additional 8,000 jobs to be provided within the Subregion by the year 2031 as required by the Metropolitan Strategy*
- *To ensure that the distribution of additional jobs supports existing centres in Ku-ring-gai and Hornsby and provide additional opportunities in these and other centres in the subregion.*

It is understood that the target has been raised to 13,500 additional jobs (based on 2001 figures). The target for Ku-ring-gai is to facilitate an additional 4500 jobs, while the target for Hornsby is 9000 jobs, 3000 of which are to be within the Hornsby major centre.

Council seeks clarification on how these amended figures have been ascertained to assist councils in understanding future employment trends. Council also seeks information on how the monitoring of these targets will occur.

Given the joint subregional employment study, it is premature for the NSS to distribute the additional jobs across the subregion. The subregional employment study will provide a more detailed framework in which to provide for such a distribution.

#### *Employment Lands*

It is noted that the definition of employment lands includes development for business and technology parks. The potential for Pymble Business Park to become a Business Development Zone should be included within the strategy, due to its strategic location

- close to Gordon, proposed under the Draft Town Centres LEP to become the largest town centre within Ku-ring-gai LGA
- walking distance to Gordon station, and strategic bus corridor 36
- at the intersection of two major roads
- has the potential to link with subregional research assets such as UTS Lindfield and the CSIRO and the National Measurement Institute site.

This will be investigated as part of the Subregional Employment Study.

The recognition that further development for employment lands is limited because of environmental constraints is supported.

#### *Employment Diversity*

The recognition of the emerging trend for employment in the subregion for home based businesses is acknowledged. This trend should be supported and linked to more detailed actions that support start-up businesses.

Due to the significant role of education in employment within the subregion within the subregion, with a university, TAFE as well as public and numerous private

schools, the employment of the region is distinctly different than that of other areas. This difference should be encouraged and built on, as it adds to the diversity of employment types within Sydney. In addition, the potential need for an additional TAFE in the subregion should be investigated, to support more diverse skills development in the area.

Ku-ring-gai has provided for mixed use development within its 6 main centres. While this will increase the potential for the development of retail close to housing, there is still a significant lack in the provision of infrastructure to access these facilities, from a significant portion of the LGA. Improved and equitable transport provision and the development of community and cultural facilities are critical to increasing employment diversity within the subregion.

The potential for tourism development within Ku-ring-gai has not been explored, but given the extent of natural bushland areas should be investigated. Again, transport links will be critical.

### ***Specific Issues***

#### ***A1.4 - Contain the rezoning of employment lands to residential***

The Draft NSS seeks to contain the rezoning of employment lands to residential. While educational facilities are not technically included within the definition of “employment lands” the Draft NSS acknowledges that education and health are key industries within Ku-ring-gai. Figures 9 and 10 show the existing employment lands include the UTS campus at Lindfield. This large unfragmented site is also included in the list of key assets and key industries as it provides significant employment in the region. Figure 25 also shows the link between the Pacific Highway and the UTS site as an area for the encouragement of counter peak traffic flows. This would only be possible if residential density is not increased in this area at the expense of employment generating uses.

#### ***A1.6 Essential infrastructure and services***

The Draft NSS seeks to improve planning and delivery of employment lands through the identification of infrastructure and service needs. The suspension of Section 94 planning erodes the ability to provide for such services within the subregion. Detailed infrastructure and service proposals and commitment are critical to the success of the Subregional Plan and should be an integral part of it. The proposals and commitment should extend for the period 2007 to 2031, rather than just for the next ten years.

#### ***A2.3. - Industry/Innovation Clustering***

No magnet infrastructure has been identified within the subregion, however, opportunities for links to CSIRO, the National Measurement Institute, the hospitals, TAFE and University should be explored. The strategy should provide specific mechanisms that will be used and that might be available to Council to identify opportunities to strengthen/provide the linkages and to develop and promote “a learning city”. Such investigations should include innovative methods of providing transport links between institutions.



*A2.4 - Utilise local assets to encourage learning and innovation.*

The Draft NSS seeks to utilise local assets to encourage learning and innovation, however, no measures to achieve this are outlined. Similarly A2.1 seeks to support innovation. For the North Subregion this would involve innovation around knowledge activities, where the region has particular strengths. A2.5 seeks to promote learning City initiatives in selected centres, and identifies the potential to support existing clusters of knowledge assets in the subregion, and the potential for integration of TAFE and university courses among other measures. A2.2 seeks to strengthen industry clusters, and for the subregion, highlights the existing infrastructure and skills base related to education and health. The UTS campus is a significant knowledge asset within this subregion and should be included as a vital link in such initiatives.

Council supports the above actions in relation to the UTS campus, and recommends that the current Part 3A application for rezoning the site to general residential uses be reviewed in the light of the NSS to ensure that the above actions will not be compromised.

The Seventh Day Adventist Hospital site is also listed within the key industries within the subregion. It is listed as a “health institution” rather than a major hospital. Figures for Hornsby hospital are included (1,500 staff), however, no figures are included for the “SAN”. The site includes a variety of uses, including the hospital, and employs up to 2,700 people. The hospital draws clients and staff from well outside the subregion.

Figure 10 shows a significant educational institution to the south of the Pacific Highway near Turramurra. It is unclear what this institution is meant to represent. A similar symbol appears to denote Hornsby TAFE, however, there is no TAFE facility in this location. In addition, existing main retail areas are shown in Hornsby LGA, but not in Ku-ring-gai LGA. St Ives and Gordon currently provide a reasonable level of such services.

The development of Hornsby as the major employment centre in the subregion is supported. However, for a significant portion of Ku-ring-gai, the closest centres are Macquarie Park and Chatswood, rather than Hornsby. The attraction of the city as an employer is also likely to remain in the long term. Catchments for these centres need to be carefully considered in the development of the transport infrastructure to 2031.

*A3.2 - Integration of employment and housing markets*

It is likely that housing affordability is starting to have an impact on the provision of local skills to support subregional employment. A consistent approach at the state (and federal) levels is required for any significant improvements to be made in this area.

There are a number of actions that provide no details or guidance for local Councils for instance in A3.3 encouragement of emerging business. The strategy should identify the State Government’s role in establishing start-up businesses including any financial or non-financial support.

NSROC economic and employment study will also provide further direction and should be included in the final version of the strategy.

## Centres and Corridors

### *General*

The Draft NSS seeks to establish a clear centres hierarchy across the subregion consistent with the objectives and descriptions of centres under the Metropolitan Strategy. Council supports the centres policy adopted under the Metropolitan Strategy and has undertaken the planning for the six centres covered by the draft Ku-ring-gai Town Centres LEP consistent with the hierarchy established under this policy, a process it will continue to pursue in the completion of the Principal LEP.

The proposed hierarchy for Ku-ring-gai's centres contained in the Draft NSS are generally consistent with Council's previously stated intention for each centre and as planned within the draft Town Centres LEP. There are, however, four centres where the Draft NSS does contain an incorrect classification. These are outlined in the table below.

| Centre           | Classification in Draft Strategy | Proposed Council classification |
|------------------|----------------------------------|---------------------------------|
| Warrawee         | Small Village                    | No Centre                       |
| Lindfield        | Small Village                    | Village                         |
| West Pymble      | Small Village                    | Neighbourhood                   |
| North Turramurra | Small Village                    | Neighbourhood                   |

Council's rationale for its proposed classification for these centres in the NSS is outlined below. Council is willing to provide further evidence to the Department of Planning in support of these proposed classifications prior to finalising the NSS.

### *Warrawee*

While Warrawee may have a railway station, there is currently no centre of any scale adjacent to this station, nor even a neighbourhood shop within the vicinity. Historically, there has never been any intention to establish a commercial centre in this location and land has never been zoned for such a purpose. The area is readily accessible to both Turramurra and Wahroonga centres. Council's Retail Centres Study undertaken in 2005 confirms that these existing centres adequately service Warrawee.

The railway station at Warrawee serves the Knox Grammar School (with approximately 1800 students) and the surrounding residential areas. The residential areas consist of high quality and extremely highly capitalised single dwelling stock, a

substantial number of which are listed heritage items under the Ku-ring-gai Planning Scheme Ordinance.

Given the established urban structure and form around Warrawee Station, Council considers that potential to establish even a neighbourhood centre, (let alone a small village) is extremely unlikely and highly undesirable. Its identification as a centre should be removed from the NSS.

#### *Lindfield*

The Draft Ku-ring-gai Town Centres LEP has been prepared on the basis of the Lindfield centre developing as a “village” in the future rather than a “small village” as identified in the Draft NSS. The extent of future retail and commercial provision and unit development within 600m of Lindfield station provided for under the Draft LEP is consistent with the “village” typology identified in the Metropolitan Strategy.

#### *West Pymble*

West Pymble currently satisfies the criteria for the “neighbourhood centre” typology as described in the Metropolitan Strategy.

The 2005 Ku-ring-gai Retail Centres Study identified the future role of West Pymble as a neighbourhood centre, with a primary role to provide local convenience retail for the immediate residential area. The proposed expansion of the centre under the Draft NSS to a small village to service an expanded population within a 400m radius is greatly limited by the fact that there is considerable category 1 and category 2 bushfire prone land within 400m of the existing centres and a lack of services and infrastructure in the area.

In addition, Council has already catered for sufficient residential density increases under LEP 194/200 and the Draft Town Centres LEP to more than adequately cater for the 10,000 dwelling increase required under the Draft NSS. Consequently, the expansion of any of the existing neighbourhood centres outside of the Pacific Highway/rail corridor and St Ives to accommodate future residential development to achieve dwelling targets under the NSS is unjustified.

Council is of the firm opinion that West Pymble should remain as a neighbourhood centre under the NSS.

#### *North Turramurra*

North Turramurra currently stratifies the criteria for the “neighbourhood centre” typology as described in the Metropolitan Strategy. The ability to expand this centre to a “small village” as proposed by the Draft NSS is constrained by bushfire threat and bushfire evacuation risk issues as well as the limited availability of public transport.

The North Turramurra peninsula is identified as a bushfire evacuation risk area under both SEPP Seniors Living and SEPP 53. Both these state policy prevent any further increases in residential density in these area due to the potential threat to lives resulting from evacuation limitations in the event of a bushfire. The proposed

increase in the scale of centre typology for this centre under the Draft NSS to facilitate increased residential densities in surrounding areas is not appropriate and is inconsistent with the existing state planning policies.

In addition to this the area is poorly serviced by public transport, and does not fall within one of the proposed Strategic Bus Corridors.

Council is of the firm opinion that North Turramurra should remain as a neighbourhood centre under the NSS.

## Housing

### *General*

Council acknowledges that the dwelling targets are consistent with those already agreed to by both Councils. In the case of Ku-ring-gai, the target is 10,000 additional dwellings for between 2004 and 2031.

The note accompanying the dwelling targets on p52 indicates that these targets are yet to be endorsed by Council and may be subject to further review during the exhibition of the Draft NSS. This statement is not correct. Ku-ring-gai Council formally adopted its target of 10,000 additional dwellings on 8 August 2006 and this resolution has been conveyed to the Department of Planning. There should be no amendments to this target in finalising the NSS.

### *Specific Issues*

#### *C1.3 Plan for increase Housing capacity targets in existing areas*

**C1.3.2:** Council supports the Draft NSS provision for 5 yearly monitoring of principal LEPs to review housing delivery. This support is premised on the fact that Council has already been required by the Department of Planning to demonstrate the delivery of all 10,000 additional dwellings under LEP 194/200 and the draft Town Centres LEP. This is prior to developing the Principal LEP for the whole LGA. Consequently, the initial version of the Principal LEP in 2011 should not be required to deliver any additional housing outside that which has been already provided for in LEP 194 /200 and the draft Town Centres LEP. It should be the role of the subsequent 5 yearly review of housing delivery that is the mechanism to determine whether or not further amendments to the Principal LEP are required to deliver the required housing by 2031.

#### *C.2.1 Focus Residential development Around Centres*

**C2.2.1:** The Draft NSS places an emphasis on housing in centres i.e. 80% of new housing to be in centres. Ku-ring-gai Council has been required to provide 100 % of the additional 10,000 dwellings be within the centre catchments of the main centres along the Pacific Highway/rail corridor and St Ives. Consequently, the expansion of any of the existing neighbourhood centres outside of the Pacific Highway/rail corridor

and St Ives to accommodate future residential development to achieve dwelling targets under the NSS is unjustified.

*C2.2 Provide self care housing for seniors and people with a disability*

**C2.2.1** The Draft NSS correctly identifies the future challenges the north subregion faces in appropriately accommodating an aging population. While it is acknowledged that the recent amendments to the Seniors Living SEPP help to ensure that seniors housing is located on appropriate sites, there still remains significant incentives to develop housing under the SEPP in out of centre locations.

The aim of the NSS should be to appropriately accommodate seniors and people with a disability within centre catchments where they will have better access to services and facilities. The most effective and direct way to achieve the supply of housing needed is to require all Principal LEP to set minimum housing adaptability and accessibility requirements for all new medium and high density housing developments within centre catchments.

*C2.3 Provide a housing mix*

Council supports the objective to provide a greater housing mix to balance the existing supply of detached housing in the north subregion.

To date, the push from the Department of Planning has been for Ku-ring-gai Council to plan for the required additional 10,000 dwellings in the form of residential flat building or shop top housing. There has been very little scope for Council to plan for the provision of alternative forms of housing such as town houses and villa's, despite Council's 2002 Housing Needs Study indicating that there will be significant demand for this form of housing in the future.

To ensure that appropriate housing mix is achieved, the NSS should include housing mix targets, not only total housing delivery targets.

*C4.1 Improve the affordability of housing*

Council strongly supports the principle of the increased provision of affordable housing.

The main focus of housing affordability actions in the Metropolitan Strategy is on reducing supply side costs to the development industry. Such mechanisms do not work in high value housing markets such as the north subregion where the market ensures any such savings to the developer are not passed on to housing purchasers.

The most appropriate methods in areas of high land and housing values such as the north subregion is either through direct provision of housing stock through the not for profit housing sector or through the implementation of planning mechanisms in Principal LEPs requiring specified proportions of new housing being provided as affordable housing. To this end, the state and federal governments need to establish (not just "consider") comprehensive affordable housing policy and funding programs to facilitate direct provision and the Standard LEP template needs to incorporate affordable housing provisions.

## Transport

### *General*

- The plan has a general lack of clarity, detail and future direction in relation to location of capacity constraints in road and transport networks and Strategic Bus corridor treatments. Capacity on the North Shore rail line is also not adequately addressed.
- While the NSS commits Councils to the delivery of increased housing and employment growth, there is nothing in the strategy that commits the state government to delivery of the crucial transport infrastructure to cater for such growth
- Timeframes for public transport projects are extensive, and should be significantly reduced. Ideally, public transport projects should precede intensification of development.
- A single Sydney transport authority should be implemented to coordinate and integrate all modes of transport, so as to avoid each mode being planned and operated “in it’s own sphere”.
- Consideration should be given to the Sydney Integrated Transport Strategy proposed by Christopher Stapleton Consulting. This could deliver attractive, all-day ready access to a network of heavy rail, metro-style rail, buses, freight, ferries, cycleways and pedestrian links within realistic timeframes and budgets. For this sub-region, the plan indicates improvements to bus, cycle, freight and road network, while providing good proximity and access to metro-rail.

### *Specific Issues*

#### *D1.1 Extend the Rail and Bus Networks to Connect Centres*

**D1.1.2:** Figure 26 (Transport Actions for the North Subregion) shows Strategic Bus Corridor route 36 not connecting with Gordon railway station. This is inconsistent with the map from the Ministerial Review of Bus Services in NSW (Unsworth Review). Council’s transport planning in the Gordon centre relies on and has made provision for route 36 connecting from Mona Vale Road/Ryde Road to Gordon railway station.

**D1.1.3:** While it is generally agreed with bus priority improvements, it is considered that they will make little improvements to travel times along sections of Route 8, 7, 14 and 36. In particular, peak hour congestion on Burns Road/Eastern Road/Junction Road, Lady Game Drive, the Comenarra Parkway and Ryde Road/Lane Cove Road would require alternative solutions in order to deliver the target bus speeds. Some sections may require dedicated road space in order for the services to be efficient and therefore attractive to users. The plan proposes measures, but does not detail what measures would be implemented where.

#### *D1.2 Extend Transport Networks To Serve Growth*

**D1.2.1:** There is a lack of clarity as to what the pinch points are on the Pacific Highway between Chatswood and Pymble. Ku-ring-gai Council’s recent work in planning for residential and retail/commercial growth in the 6 town centres

highlights that a significant number of intersections along Pacific Highway are currently operating unsatisfactorily, and are also impacting on local access.

Furthermore, the Traffic and Transport Base Study of the Ku-ring-gai road network (GHD, 2000) found significant deficiencies (Level of Service E or F) at key signalised intersections on Pacific Highway and Mona Vale Road/Ryde Road during peak times. These include the Pacific Highway at its intersection with Boundary Street, Balfour Street, St Johns Avenue, Livingstone Avenue and Fox Valley Road. The study also found that most of the Pacific Highway and Ryde Road routes were operating at an Level of Service E, which indicates additional capacity is already required. Other roads such as Burns Road and Archbold Road are effectively operating at capacity during peak hours.

The study also found that additional development along the North Shore railway corridor (and St Ives) would exacerbate these deficiencies, and that capacity improvements would be required. Future treatments planned by Council (to accommodate the mixed use development and retail/commercial growth directed by the Minister for Planning) seek to improve performance or maintain existing performance to cater for that growth. However, these treatments ultimately impact on local access. Therefore, pinch point treatments should give consideration to improving local access as well.

Consideration should be given to include widening of the railway bridge at Pymble as one of the critical pinch point treatments, as this is a significant impediment to peak period traffic flows through the area.

#### *D1.3 Connect Regions and Economic Gateways within the Greater Metropolitan Region*

**D1.3.1:** While the route of the connection under Pennant Hills Road is preferred, there is concern that all the possible connection options of the F3 Freeway and the M2 Motorway will not provide appreciable relief to traffic volumes and heavy vehicle volumes on Pacific Highway (as indicated by preliminary consultation material). To exacerbate this, the proposed “purple option” indicates a southbound unloading ramp at Pacific Highway expanded from 2 lanes to 3 lanes.

**D1.3.2:** The additional connection of the F3 Freeway and the M7 Motorway would be required beyond 2021, when capacity on the F3 Freeway is expected to be reached. Furthermore, the Pearlman review recommends that planning for this connection commence immediately. Furthermore, this should be encouraged to be the main heavy vehicle route, so as to reduce heavy vehicle volumes on Pacific Highway through the subregion.

#### *D2.1 Complete Major Transport Infrastructure Projects Underway*

**D2.1.1:** NSW Government should fast track the North West/harbour/South West Rail link and complete the Parramatta to Chatswood Rail link, as well as and bring forward plans for a metro-style rail service in response to the substantial growth in the global economic corridor, which borders the North Subregion to the south-west. This will give greater travel mode choice to/from the global economic corridor, and would reduce demand for road-based commuting.

*D2.2 Improve Reliability and Increase Capacity of Rail Services*

**D2.2.1:** Although the Rail Clearways program is generally supported, there is uncertainty about the effectiveness that the separation of freight trains from passenger services as proposed in the area between Hornsby and the Central Coast. More clarity is required, as a significant working population commutes from the Central Coast to/through the North Subregion to access employment and is dependent on a fast and reliable rail service.

*D2.3 Improve the Integration of Public Transport*

**D2.3.1:** There is still significant uncertainty around the proposed integrated ticketing scheme, despite the planned 2008 rollout date. A simpler fare system is needed, which would reduce complexity for both operators and passengers. Therefore, more certainty, clarity and simplicity is required.

**D2.3.3:** The scoping studies for interchanges should be extended to at least cover Gordon railway station, as it is a significant interchange between Strategic Bus corridor services/local bus services and rail services. There is also significant pedestrian access to the station.

In surveys undertaken by ARUP transport consultants for Ku-ring-gai Council in 2007, Turramurra railway station was found to account for the highest percentage of commuter access by bus to the railway station. Therefore, consideration should be given also to including at least Turramurra interchange in the scoping studies, as well as the other interchanges along the North Shore railway line, so as to encourage and promote the use of public transport and the transfer between bus and rail.

*2.4 Improve Operational Management of Existing Transport Networks*

Refer to comments on D1.2.1

*D3.1 Improve Local and Regional Walking and Cycling Networks*

**D3.1.1:** The Draft NSS makes no mention of a number of Regional Bike Routes which were proposed as part of the State Government's BikePlan 2010. eg the Rail trail from Chatswood to Turramurra (proposed for completion in 2010). This would serve as a dedicated alternative and safe route to the congested Pacific Highway.

The strategy should make reference to the provision of cycle parking adjacent to major transport interchanges, to encourage inter model trips.

*D3.2 Implement a Metropolitan Parking Policy*

**D3.2.1:** There are no details available yet regarding the Metropolitan Parking Policy, which is overdue. However, if reduced parking rates compared to current practice are being contemplated, this needs to be complemented with a commensurate improvement to the quality of public transport.



Consideration should be given to encourage parking of other vehicles such as motorcycles or scooters, as well as car share vehicles.

#### *D4.1 Improve Transport Planning*

A single Sydney transport authority should be implemented to coordinate and integrate all modes of transport, so as to avoid each mode being planned and operated “in it’s own sphere”. It is uncertain whether the new Centre for Transport Planning and Product Development, which is housed within the Ministry of Transport, would be able to achieve fully integrated transport planning across all modes.

## **Environment, Heritage and Resources**

### *General*

- The 2031 Vision for the North (detailed on page 4) and the objectives of the State Plan (detailed on page 13) does not include any reference to sustainability (economic, environmental or social) - These may be beyond the scope of this document, however warrant some notice.
- The proposed action of “managing environmental impacts” is too weak a term for the standard required in Ku-ring-gai. Environmental assets in the area tend to be in poor condition overall. Consequently, ‘protecting’ biodiversity is inadequate particularly for ‘critically endangered’ habitats; the actions contained in the Draft NSS need to move to ‘recovery’ as the minimum standard.
- Transport is a key environmental issue and is not mentioned on page 76, nor under the actions for the environment section, is there any reference to the effect of transport on greenhouse emission. Council carries a significant amount of commuter traffic emitting greenhouse emissions throughout the LGA
- The list of key challenges for the North Subregion (page 76) does not comprehensively account for climate change. Also, the background information on the Environment (page 78) excludes both air quality and climate change.
- There is no mention of water quality as an issue, nor is there provision for methods to mitigate any adverse effect on waterways as part of implementing this strategy.
- It seems that issues with water quality are encompassed within the Catchment Management Authority actions and a yet to be developed direction from DECC (E2.1.1), hopefully this direction will include water quality and flow targets. The Draft NSS should include specific action encouraging development to include improvements for water quality, similar to what is included for air (E2.3.1).
- Figure 28 on page 81 has failed to identify the following additional state heritage items in Ku-ring-gai.
  - Gordon Railway Station Group

- St Johns Uniting Church, Wahroonga
- Wahroonga Railway Station Group
- Wahroonga Reservoir

### *Specific Issues*

The specific issues Council would like to raise in the Environment, Heritage and Resources section are as follows:

#### *E1 Establishing growth targets for sustainable growth*

The actions contained in the NSS relating to which rely on Metropolitan Strategy actions in 'establishing environmental targets' (E1.1) and 'integrating targets into decision making' (E1.2) are considered inadequate consideration given to critical aspects of sustainability.

#### *E2.2 Protect Sydney's Unique Diversity of plants and Animals*

**E2.2.1:** The proposed action of 'protecting' biodiversity is inadequate particularly for 'critically endangered' habitats, Managing environmental impacts is too weak a term for the standard required in Ku-ring-gai. Environmental assets in the area are overall in poor condition and require at least recovery. Biodiversity actions should now be moving towards 'recovery' as the minimum standard.

**E2.2.2:** The Draft NSS lists Endangered Ecological Communities in the Region and only lists Blue Gum High and Duffy's Forest. Sydney Turpentine Ironbark Forest should also be on this list. Also, Blue Gum High is now listed as a Critically Endangered Ecological Community which should be addressed in the strategy.

The tension between the Threatened Species legislation and planning rules and regulations fails to be addressed.

#### *E2.3: Improve Sydney's Air Quality*

**E2.3.1:** While the action requiring Councils to ensure new developments encourage walking and cycling is desirable in terms of both air quality and greenhouse gas emissions, a truly sustainable action should address and balance these outcomes with the needs of the aged and less mobile populations such as in Ku-ring-gai's.

#### *E2.4 – Protect Aboriginal Cultural Heritage*

**E2.4.1:** The location of aboriginal cultural sites must not be included in an LEP. The DECC itself also states that sites should not explicitly be shown in any public documents. The reasons for this are obvious vandalism and or unintended damage from the curious plus respect for these sites to managed by the current custodians.

There are 90 odd sites recorded for KMC but it is thought that there are many more that have not yet been recorded. The sandstone bush of the KMC area contains many areas that potentially contain Aboriginal sites. It is important that management/plans for future surveying of landscapes that are likely spots for sites be included in the LEP to ensure that unrecorded sites are not lost through future development.

**E2.4.2:** The Draft NSS states that most of the remaining Aboriginal Sites in Ku-ring-gai are in bushland. However, the Ku-ring-gai GIS layer of Aboriginal Heritage sites identifies a reasonable number of sites are within the urban matrix i.e. located in streets, backyards and urban parks or in bushland very close to streets. Additionally many sites are located on or near bushland tracks that get a large amount of traffic. The strategy needs to consider management and planning in regard to Aboriginal Heritage sites that are located in streets etc. not just those in the 'bush'.

*E3.1: Contain Sydney's urban footprint*

While this is a metropolitan scale issue it needs to relate not only to the geographic footprint but the intensity of that footprint within the existing urbanised area. This is not addressed and yet is one of the issues of greatest concern, the question of sustainable capacity needs to be addressed from the local level (first) with state and national policies adapting rather than the reverse which is the current scenario.

*E5: Adapting to Climate Change,*

There is no mention of storms as a key threat, considering the significant number of canopy trees located in close proximity to buildings, roads and other infrastructure within the North Subregion

*E6 - Conserve Sydney's Cultural Heritage*

The Draft NSS does provide a number of areas of responsibility for the Heritage Office to help facilitate heritage planning at the local level. However, this needs to be matched by financial and non-financial support to local Council's in the preparation of heritage studies and also in the preparation of nominations for heritage listings. This should be combined with a commitment to support the overall process to finalisation.

## **Parks, Public Places and Culture**

*General*

- Much of the discussion and actions relating to parks and open space contained in the Draft NSS relates to existing strategies or projects being undertaken by Ku-ring-gai and Hornsby Council's or existing state programs e.g. Metropolitan Greenspace Program. There are no new strategies or potential funding programs identified, nor commitments in the Draft NSS.
- One of the key open space issues facing Ku-ring-gai is the capacity constraints of local playing fields. This issue is not adequately addressed in the NSS. Council strongly supports the recommendations contained in the Parliamentary Inquiry into Sportsground Management in NSW November 2006. Where possible, Council is implementing the recommendations, such as improved partnership with the Department of Education and access to school sports fields, and reduced playing seasons. Other recommendations from the inquiry of critical importance for the

state government to address include increased state funding, land acquisition policies, greenfields planning policies, and assisting Council's to obtain increased federal funding.

- Council believes that the NSS needs to give greater attention to the provision of a diversity of park types and embellishment of existing open space and park areas to cater for population growth and demographic changes in the LGA. Council believes the NSS should provide detail as to how the State Government will provide financial and non-financial support to local Councils, including identification of rate pegging implications on the funding of open space management and upgrades.
- Generally the document is repetitive of strategies already adopted by Ku-ring-gai Council.

### *Specific Issues*

The specific issues Council would like to raise in the Parks, Public Places and Culture section are as follows:

#### *F1.2 Improve the quality of regional open space*

Council strongly supports this objective and the actions within it, particularly the expansion of regional facilities through the continuation of the Metropolitan Greenspace Program.

#### *F2.1 Improve the quality of local open space*

Council strongly supports this objective and the actions within it, however, due to rate pegging and very limited grant funding available for this purpose from the state government, Council has very limited resources available to achieve the objective and actions.

The Draft NSS places considerable responsibility for the provision of additional open space and embellishment of existing local open spaces on local government authorities. Council is of the view that the State Government should take a more active role in providing financial support and assistance to Councils so that Councils can provide a comprehensive and appropriate local open space network. Council requests that the State Government provide greater funding assistance through existing grant funding schemes, review existing rate pegging policies and implications on the funding of open space management and upgrades. Council also requests that the State Government not consider changes to current S.94 developer contributions policy which will reduce Council's capacity to collect contributions to be used for acquisition and embellishment of land for open space.

The Draft NSS proposes that Councils should continue to maintain or enhance the provision of local open space, however it does not recognise that in the Ku-ring-gai LGA there are few opportunities to provide for additional open spaces due to the lack of available land. Council is of the view that embellishment and enhancement of existing open spaces and bushland areas is imperative if Council is to cater for population growth in the LGA. Therefore Council seeks financial and non-financial

support from the State Government in the provision of enhanced public open spaces and recreational facilities.

Recommendations 5 and 6 contained in the Parliamentary Inquiry into Sportsground Management in NSW November 2006 further support Council's request. For instance, Recommendation 5 Increased State Funding states:

*the Committee does not consider current levels of funding provided by the Department of Sport and Recreation under the Capital Assistance and Regional Sports Facilities Programs to be adequate for meeting the programs' objectives. For this reason, the Committee recommends that funding for the Capital Assistance Program be increased to \$8M per annum over the next 2 years and that funding for the Regional Sports Facilities Program be increased to reach \$16M per annum over the next 4 years.*

Recommendation 6 Increased Federal funding states:

*The committee recommends that the Federal Government make available annual funding of \$150m, based on a maximum of \$1m per Federal electorate, for sporting facilities applications to develop new grounds or to improve existing facilities for groups and organisations to meet unmet needs.*

Given the Federal Government has the primary role in provision of health and healthy lifestyles, it is appropriate that Federal funds be applied to provide a holistic solution to facilitate a physically active community. Providing additional and improved recreation facilities will reduce the long term pressures that an aging population will place on national Health expenditure. Council believes that it is the role of the State Government to assist Council's to obtain increased federal funding.

The State Government should also more fully investigate the asset management and cost recovery implications relating to open space and recreational facilities and work with Councils to provide for a sustainable framework in this regard.

In addition, the State Government should prepare guidelines for the coordination of open space networks including the utilisation of land currently in the ownership of government agencies in order to provide for continuous open space and recreation links throughout the subregion.

Finally, the Department of Planning's Outdoor Recreation and Open Space Planning Guidelines for Local Government (1992) is a valuable resource which is now quite outdated therefore Council is pleased to see the Department updating this document.

#### *F2.2 Investigate Future Options for Open Space Provision and Management*

Council strongly supports this objective and the actions within it, however due to rate pegging and very limited grant funding available for this purpose from the state government, Council has very limited resources available to achieve the objective and actions.

Council therefore requests that the state government not consider changes to current S.94 developer contributions policy which will reduce Council's capacity to

collect contributions to be used for acquisition and embellishment of land for open space, and that the state government implement Recommendations 11 and 12 contained in the Parliamentary Inquiry into Sportsground Management in NSW November 2006, which are Land Acquisition Policies and Greenfields Planning Policies respectively. Recommendation 11 states:

*The Committee recommends that the Department of Planning examine the feasibility of purchasing and allocating land for redevelopment for the exclusive use of community sportsgrounds, in areas where there is a documented shortage of such grounds. Such land should provide sufficient space for two playing fields and should take precedence over the development of smaller parcels of land adding to the currently fragmented supply of pocket parks in local neighbourhood areas.*

Council recommends that when the NSW Government disposes of surplus land, through the Government Asset Management Advisory Committee (GMAC) process, that lands suitable for active recreation be retained and dedicated for that purpose.

The examples of opportunities for open space provision and management used in this part of the NSS are projects and opportunities which Council is currently actively pursuing, however once again no funding opportunities are identified in respect of any of the actions.

### *F3 Improve Sydney's Major Sporting and Cultural Events Facilities*

This objective identifies West Pymble Pool as having a subregional role for sporting and cultural events. Council recommends that due to the limited parking capacity of Bicentennial Park and competing needs for parking due to other activities in the park, this objective should be deleted unless the State Government is prepared to expand the car parking on site by funding an underground car park.

#### *F3.1 Recognise and build upon Sydney's cultural life*

Ku-ring-gai Council has already prepared a cultural plan that is being implemented progressively to meet the future needs of the community (4.1.1).

The Draft NSS makes no mention of the cultural and linguistic diversity of the region and how this would influence cultural planning and development on a subregional basis.

State government agencies need to provide greater leadership in relation to cultural planning, facilities and events. It is also considered that the NSW Department of Planning is in a far better position to provide a coordinated and sustainable approach to sub-regional cultural facilities in cooperation with local Councils. This particularly necessary if cultural planning is to be integrated into the economic, environmental and sustainability aims proposed in the NSS.

## **Implementation and Governance**

### *General*

The Draft NSS includes several actions which state that the Department of Planning and other Government agencies will provide support for local councils to assist in the preparation of principal LEPs. However, no time frame has been provided by the Department as to when this support is to be provided.

The final NSS should incorporate an implementation plan which provides State Government accountability and strategies for the provision of infrastructure and services.

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## **PROPOSED EXTINGUISHMENT OF DRAINAGE EASEMENT & CREATION OF NEW DRAINAGE EASEMENT BENEFITING COUNCIL LAND AT 1192 PACIFIC HIGHWAY (SECRET GARDEN)**

---

### **EXECUTIVE SUMMARY**

|                           |   |
|---------------------------|---|
| <b>PURPOSE OF REPORT:</b> | To consider granting approval to extinguish a drainage easement over Lot 6 DP30236 (4 Clydesdale Place) which benefits Council land at 1192 Pacific Highway, Pymble, and to create a new drainage easement over Lot 5 DP30236 (6 Clydesdale Place, Pymble) to benefit Council land.   |
| <b>BACKGROUND:</b>        | Development Application 1428/05 for the construction of a residential flat building at 2-6 Clydesdale Place was approved by Council on 21 June 2006. The building footprint extends over the existing easement.   |
| <b>COMMENTS:</b>          | Belbore Project Management, on behalf of the new owners of the property, Clydesdale Place Pty Ltd, have submitted an application requesting Council's approval to extinguish the existing drainage easement over Lot 6 DP30236 benefiting Council land at 1192 Pacific Highway, Pymble, and create a new drainage easement over Lot 5 DP 30236. |
| <b>RECOMMENDATION:</b>    | That Council give approval to extinguish the existing drainage easement benefiting Council land at 1192 Pacific Highway, Pymble, and create a new drainage easement over Lot 5 DP 30236.  |



## PURPOSE OF REPORT

To consider granting approval to extinguish a drainage easement over Lot 6 DP30236 (4 Clydesdale Place) which benefits Council land at 1192 Pacific Highway, Pymble, and to create a new drainage easement over Lot 5 DP30236 (6 Clydesdale Place, Pymble) to benefit Council land.

## BACKGROUND

Development Application 1428/05 for the construction of a residential flat building at 2-6 Clydesdale Place was approved by Council on 21 June 2006.

Part of the development site (Lot 5 DP30236) is burdened by a drainage easement which benefits Council's land at 1192 Pacific Highway, Pymble (Lot 8 DP 30236). The drainage easement does not appear to contain a pipe.

The approved building footprint is over the drainage easement and Council's consent is required to extinguish the easement as Council adjoining property (Secret Garden) benefits from the easement. It is proposed to create a new easement benefiting Council's land which will allow the proposed development to be constructed.

### Location/Property

The lot layout in the general vicinity is illustrated at **Attachment 1**. The existing easement over Lot 6 is shown on **Attachment 2**.

The Council land benefited by the easement is Lot 8 in DP 30236, 1192 Pacific Highway (also known as the Secret Garden). Under the Draft Town Centre LEP, the land is proposed to be zoned Residential R4 allowing 5 storey apartment buildings. The draft Town Centre DCP identifies potential for future amalgamation with the adjoining lots 1190 and 1190a Pacific Highway. Lot 8 is currently classified community land and any change of use on the site would be subject to future reclassification of the land to operational (**Attachment 3**).

## COMMENTS

The construction of the approved development at 2-6 Clydesdale Place, Pymble, would be partly over Council's interallotment drainage easement. The applicant, Belbore Project Management, has requested that the easement be extinguished and a new easement be created that will not impede the development. The proposed new easement is shown on **Attachment 4**.

The extinguishment of the existing easement will not reduce Council's legal rights over the adjoining land, as a new interallotment easement will be created in a location that will allow development, and secure legal rights over the adjoining property should Council wish to utilise the easement in the future.

The applicant has advised in writing their undertaking to meet Council's legal costs associated with the extinguishment and creation of the easements (**Attachment 5**).

## CONSULTATION

Council has consulted with the applicant, Belbore Project Management Pty Ltd. No other consultation was necessary.

## FINANCIAL CONSIDERATIONS

The Applicant has agreed in writing to pay the associated costs. (Attachment 5)

Since the easement to be extinguished is to be replaced with an easement which would provide the same benefit to Council's land, it is not considered that compensation be paid by the applicant.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has been held with Council's Operations, Strategy and Corporate Lawyer, seeking comments on the proposed easement and implication (if any) to Council.

## SUMMARY

A Development Approval was granted for 2-6 Clydesdale Place, Pymble, for Development Application No 1428/05, to demolish three existing dwellings and construct a residential flat building.

As the owner of Lot 8, Council has authority to agree to the extinguishment and granting of such easements under the Conveyancing Act 1919.

The extinguishment of the existing easement will not reduce Council's legal rights over the adjoining land, as a new interallotment easement will be created in a location that will not impede development on the adjoining drainage easement in the future.

## RECOMMENDATION

- A. That Council approve the extinguishment of the existing drainage easement over Lot 5 DP30236 and the creation of a new easement over Lot 5 DP30236, to benefit Council's land at 1192 Pacific Highway, Pymble, as outlined in this report, subject to the following condition:
  - 1. Council's solicitors to check the documentation associated with the extinguishment and creation prior to affixing of the Common Seal.
- B. That Council write to the Applicant to advise the terms and conditions for the extinguishment and creation of the easement.

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**3 December 2007**

- C. That Council authorise the Mayor and General Manager to sign the documentation associated with the extinguishment and creation of the easement.
- D. That Council authorise the affixing of the Common Seal to the documentation associated with the extinguishment and creation of the easement.

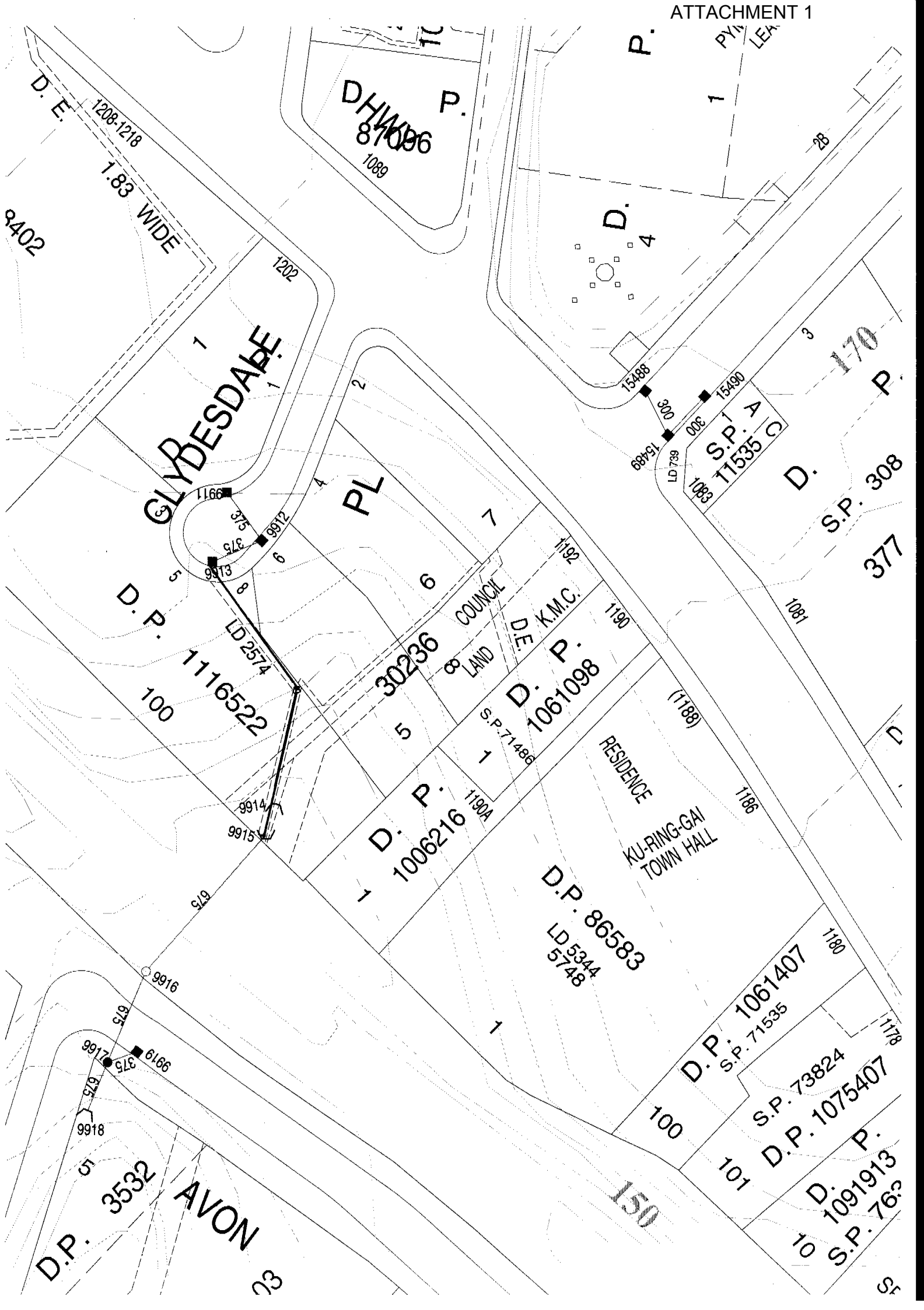
Kathy Hawken  
**Team Leader Engineering**  
**Assessment Team**

Deborah Silva  
**Commercial Services**  
**Coordinator**

Greg Piconi  
**Director Operations**

**Attachments:**

- 1. Site location Plan - 861995**
- 2. Existing Easement Plan - 861998**
- 3. Extract from draft Town Centres Development Control Plan - 862002**
- 4. Proposed easement plan - 862003**
- 5. Applicant's letter of 16 November 2007 - 862005**



**PLAN**  
 SHOWING EASEMENTS WITHIN  
 LOTS 5,6 AND 7 D.P.30236  
 CLYDESDALE PLACE, PYMBLE  
 L.G.A KU-RING-GAI  
 1:300

CLYDESDALE PLACE

D. P. 3 0 2 3 6

6

7

5

DRAINAGE EASEMENT 1.83 WIDE (H205244)

DRAINAGE EASEMENT 1.22 WIDE

No.6

DRAINAGE EASEMENT 1.22 WIDE

DRAINAGE EASEMENT 1.22 WIDE

EASEMENT FOR WATER SUPPLY 3.05 WIDE (C442786)

EASEMENT FOR WATER SUPPLY  
 WORKS 3.505 WIDE (J71576)

8

**RYGATE & COMPANY PTY. LIMITED**



SURVEYORS, TOWN PLANNERS  
 ROAD & DRAINAGE ENGINEERS  
 81 YORK STREET, SYDNEY 2000

PHONE 9282 6800

ACN 001 204897  
 ABN 61 001 204897

FAX 9282 6843

REF. 00050

DATE 3/08/2007

## P4.7.8 RESIDENTIAL AND COMMUNITY USES PRECINCT H

### DESIRED FUTURE CHARACTER

- To enhance the character and significance of Ku-ring-gai Town Hall and associated heritage items at 1186 and 1188 Pacific Highway, while permitting some sympathetic development potential and adaptive reuse.

### OBJECTIVES

- To ensure that any adaptive re-use of heritage items or new development in close proximity to the heritage items at 1186 and 1188 respects the heritage setting.
- A Heritage Impact Statement must be submitted with any potential development.
- To create new apartment and community facilities while respecting the curtilage of the existing Ku-ring-gai Town Hall building.
- To increase carparking to service the existing Ku-ring-gai Town Hall building.
- To increase the amount of useable open space associated with the existing Ku-ring-gai Town Hall building.

### CONTROLS

#### Site Amalgamation

- Refer to Section P4.3 for preferred lot amalgamations.

#### Building Height

- The maximum building heights are shown on Precinct H Plan.
- Where a building is 4 storeys or greater the top floor area should be no greater than 60% of the gross floor area of the floor immediately below.

#### Building Envelope and Separation

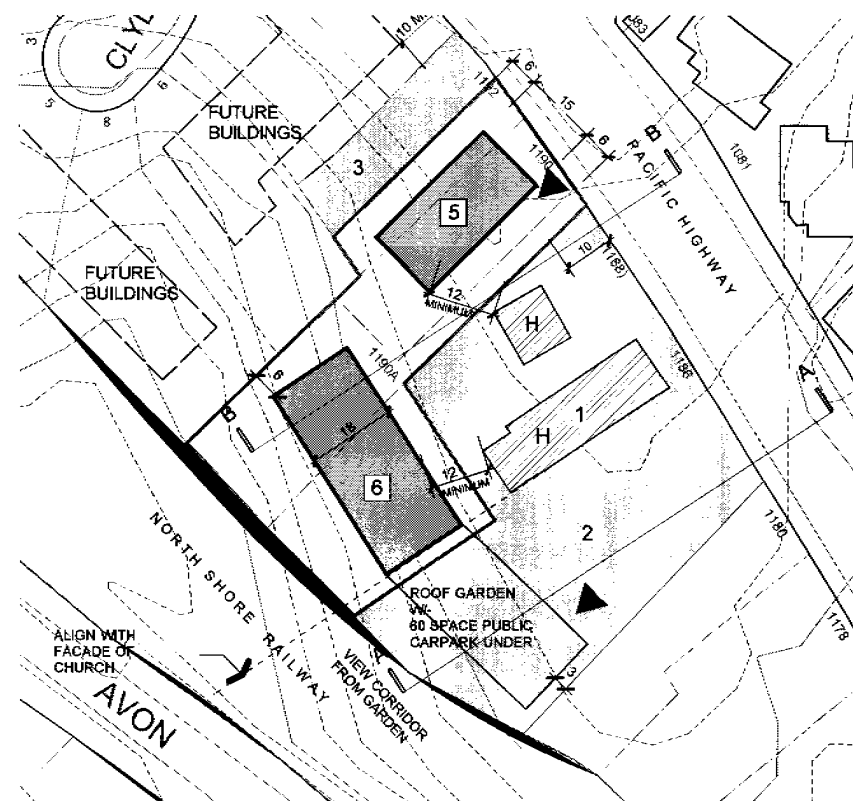
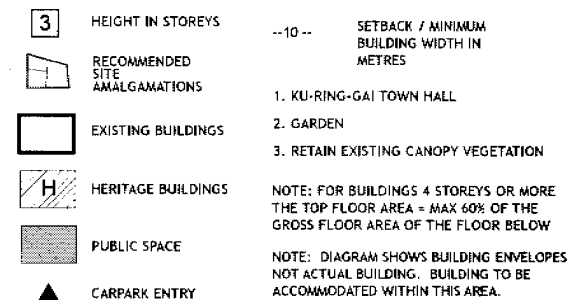
- Building depth and separation requirements for residential buildings are indicated on Precinct H Plan.
- The building envelopes provided are not intended to represent final building forms. They are a three dimensional zone that limits the extent of a building in any direction. It defines the overall building zone.

#### Setbacks

- All setbacks are to comply with Precinct H Plan.

#### Landscaped front setback

- All front setbacks to comply with Precinct H Plan.



PRECINCT H PLAN



**PLAN**  
**SHOWING EASEMENTS WITHIN**  
**LOTS 5,6 AND 7 D.P.30236**  
**CLYDESDALE PLACE, PYMBLE**  
**L.G.A KU-RING-GAI**

1:300

CLYDESDALE PLACE

D.P. 3 0 2 3 6

6

7

5

DRAINAGE EASEMENT 1.83 WIDE (H205244)

DRAINAGE EASEMENT 1.82 WIDE

No. 6

DRAINAGE EASEMENT 1.82 WIDE

EASEMENT FOR WATER SUPPLY 3.05 WIDE (C442786)

WORKS 3.505 WIDE (J71576)

new easement

Council  
LAND

8

Approx low point of council land.  
**RYGATE & COMPANY PTY. LIMITED**

SURVEYORS, TOWN PLANNERS  
 ROAD & DRAINAGE ENGINEERS  
 81 YORK STREET, SYDNEY 2000

PHONE 9262 6800

ACN 001 204897  
 ABN 81 001 204897

FAX 9262 6843

REF. 69950

DATE 3/08/2007

16<sup>th</sup> November 2007.

The General Manager  
Ku Ring Gai Council  
808 Pacific Highway  
GORDON NSW

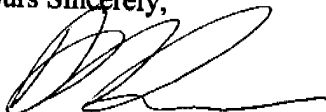
Dear Sir,

**RE 2-6 CLYDESDALE PLACE PYMBLE  
EXTINGUISHMENT OF DRAINAGE EASEMENTS**

I refer to our application to Council requesting agreement to the extinguishment of the unused easements for drainage which affect our approved development.

I confirm that Clydesdale Place Pty will meet all the legal, survey and registration costs associated with preparation of documents for the easement extinguishment, and in addition will meet the legal costs for Council's solicitor to check and approve those documents to their satisfaction.

Yours Sincerely,



David Hawes  
Director  
Clydesdale Place Pty Ltd



---

## **DRAFT LOCAL ENVIRONMENTAL PLAN NO. 212 - CONSIDERATION FOLLOWING STATUTORY PUBLIC EXHIBITION PROCESS**

---

### **EXECUTIVE SUMMARY**

|                           |  |
|---------------------------|--|
| <b>PURPOSE OF REPORT:</b> | To give consideration to public submissions and draft Local Environmental Plan No. 212 (DLEP 212) following completion of the statutory public exhibition process.   |
| <b>BACKGROUND:</b>        | An application for the rezoning of residential lands at 1228-1274 Pacific Highway, Pymble / Turramurra and 1 Beechworth Road, Pymble the draft LEP was placed on public exhibition from 27 April 2007 to 25 May 2007. Council subsequently sought an independent review of the 7 part test which was submitted with the rezoning application. This was to particularly consider the issue of the Blue Gum High Forest (BGHF) ecological community. |
| <b>COMMENTS:</b>          | Council has received 60 submissions of which 7 supported the rezoning proposal and 53 objected to it. Particular concerns related to environmental issues including impacts on endangered ecological communities, scale of development, traffic issues etc. This is also borne out by the environmental comments from Council's flora consultant and certain authorities including the Department of Environment and Climate Change.               |
| <b>RECOMMENDATION:</b>    | That Council resolve not to proceed with Draft Local Environmental Plan No 212. having regard to the likely adverse impact on the Blue Gum High Forest ecological community.   |

## PURPOSE OF REPORT

To give consideration to public submissions and draft Local Environmental Plan No. 212 (DLEP 212) following completion of the statutory public exhibition process.

## BACKGROUND

An application for the rezoning of residential lands at 1228-1274 Pacific Highway, Pymble / Turramurra and 1 Beechworth Road, Pymble was received on 2 March 2005. On 24 October 2006 Council resolved to prepare DLEP 212 (**Attachment J**) to rezone the lands 2(d3) (exclusive of the heritage item No. 1228 Pacific Highway, Pymble). Following Section 62 consultation with statutory authorities, the draft LEP was placed on public exhibition from 27 April 2007 to 25 May 2007. Council subsequently decided to seek an independent review of the 7 part test prepared pursuant to the Environmental Planning and Assessment Act that was submitted with the rezoning application. The focus of this review was to particularly consider the adequacy of the consultant's report in relation to the presence, extent and condition of the Blue Gum High Forest ecological community.

1. Council has given consideration to this site prior to the submission of the rezoning application on 2 March 2005. Since formal receipt of the rezoning application the background to the matter is as follows:

|                  |   |
|------------------|---|
| 2 March 2005     | Rezoning application received.  |
| 28 July 2005     | Further geotechnical information submitted at Council's request. This was in recognition of the highly erosive soils present on the site.   |
| 4 November 2005  | Following listing of Blue Gum high Forest under Federal Environmental Protection and Biodiversity Conservation Act 1990, Council wrote to the applicant requesting a flora and fauna 7 part test.   |
| 23 June 2006     | Council receives 7 part test.   |
| 22 August 2006   | Rezoning application presented to Council. Council resolved to have a briefing on the matter and undertake a site inspection if required.   |
| 6 September 2006 | Councillors briefing held.  |
| 24 October 2006  | Council resolved to prepare draft LEP.  |
| 3 January 2007   | Department of Planning advises that draft LEP may be prepared and Section 65(1) and 69(1) delegation was granted.   |
| 1 February 2007  | Section 62 consultation initiated with other authorities.   |
| 3 February 2007  | Councillors site inspection held.   |
| 27 March 2007    | Council resolves to place draft LEP on public exhibition.   |
| 20 April 2007    | Blue Gum High Forest gazetted as a critically endangered ecological community under the Threatened Species Conservation Act 1995. This changes the definition of the forest community to be broader including the presence of canopy trees with no understorey. |
| 27 April 2007    | Public exhibition undertaken.   |
| 16 July 2007     | The Legal Services Branch of the Department of Planning advised that an opinion had been given by Parliamentary Counsel informing that LEP212 may be legally made.  |

2. Following the public exhibition process consideration was given to the Blue Gum High Forest ecological community by Council's Planning Committee on 13 August 2007. It was determined to seek an independent review of the applicant's 7 part test as it particularly related to Blue Gum High Forest issues. This independent review has been received and forms **Attachment A** to this report.

## COMMENTS

1. Since its submission, the rezoning application for the subject lands has been given considerable scrutiny by Council, the public and statutory authorities.
2. It has been generally recognised in the past that the site is well located with respect to access to services and transport and is physically separated from existing lower density residential zones. At the end of the Section 62 consultation process, matters had not been raised that were such as to warrant Council not to proceed to preparing DLEP 212 for public exhibition.
3. Following the exhibition of DLEP 212 a number of issues have been raised in relation to BGHF including:

- The elevation of BGHF to critically endangered ecological community under the Threatened Species Conservation Act.

This listing states as key threatening processes a number of issues that would arise from the rezoning of the site. These include clearing for urban development, fragmentation (particularly in the context of bio corridors connecting Sheldon Forest) and inappropriate fire regimes that may impact on the adjacent Sheldon Forest BGHF community with respect to managing bushfire risk.

- Decisions by the Land and Environment Court (Murlan Consulting Pty Ltd v Ku-ring-gai Council [2007] NSWLEC 374) which takes notice of the Final Determination by the NSW Scientific Community and seeks to apply this in a more cautionary setting given the significance of the vegetation community as critically endangered.

This includes the need to consider regeneration potential in remnant soils, the value of existing trees with respect to genetic diversity, pollination and habitat for native fauna and recruitment and the relationship of the site in question to the broader landscape and distribution of BGHF across Ku-ring-gai.

- The receipt of the flora consultant's report commissioned by Council (**Attachment A**). This report identified the site contains Blue Gum High Forest according the Final Determination and contains many mature canopy trees, natural soils, has evidence of regeneration suggesting a potential for recovery and contributes to local bio-linkages
- The comments of the Department of Environment and Climate Change concerning BGHF on the site and its development in this context.

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While the Department did not provide a definitive response as to whether or not to support the rezoning it did make five recommendations as follows:

1. That all BGHF and Sydney Turpentine Ironbark Forest (STIF) occurring on the site and on the adjoining railway verge be surveyed and mapped at an appropriate scale.
  2. Where remnant native understorey is present it be identified and excluded from the development footprint and should also include a buffer area to the development.
  3. That the effect of future development should consider whether a change in bushfire hazard management would be required within Sheldon Forest.
  4. Protect mature significant trees.
  5. Limit car parking on the site given its proximity to public transport.
- The receipt of public submissions, the majority of which oppose the rezoning.
4. On consideration of the comments above and in combination with the five threatening processes as listed by the NSW Scientific Committee for BGHF, the rezoning on balance would have a detrimental outcome in so far as it would result in further clearing too much of the site. The key threatening processes for BGHF and comment as to the outcomes for a rezoning and development are as follows:
    1. Further clearing for development and subsequent impacts from fragmentation would result – it is not foreseeable that the proposed rezoning could have affect other than to extend clearing on the land in question, particularly if access to and egress from the site were achieved through an internal road to the south of the site that contains a significant portion of regenerating bushland and mature canopy trees.
    2. Mowing – a reduction in mowing could be achieved as an outcome of a rezoning insofar as there could be suitably tight landscaping controls. However given the comments by the DECC that seek a protection of existing remnant vegetation, landscaping options would be limited and may result in little to no grass play areas for children and others occupying the site.
    3. Urban runoff – this could be controlled through appropriate water sensitive urban design features for the site and development. Runoff presently leaving the site and that of the adjacent rail corridor is having a direct negative impact on the immediate riparian area within Sheldon Forest. It would be foreseeable that future development and appropriate conditions on the site could reduce this impact.
    4. Weed invasion – appropriate landscaping could reduce the current impact of weeds leaving the site. Given that this is largely an ongoing operational issue for the owners and or body corporate specific controls could be developed that could have a positive benefit.

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5. Inappropriate fire regimes – At this stage it would be premature to predict what type of building materials and design would be employed, particularly given the shift towards more performance based construction standards for fire. Whilst noting the comments by DECC, specific comments on fire to the immediate site and adjacent lands are more appropriately left to the appropriate fire agencies (as discussed below). Importantly when considering the aspects related to the management of fire risk and protecting the remnant forest community, it is foreseeable that the two are in conflict across a number of variables, such as the need to create an appropriate asset protection zone / perimeter access roads and to preserve and protect the existing native vegetation to the south of the land.

## CONSULTATION

### Consultation under Section 62

Prior to the exhibition of Draft LEP 212, Council consulted with relevant authorities under the provisions of Section 62 of the Environmental Planning and Assessment Act (EP&A Act) as listed in **Attachment B**.

Councillors have been provided with a series of briefings, site inspections, reports and updates at Council's Planning Committee and Forum throughout the assessment of the rezoning application.

In response, Council received submissions as follows:

1. Roads and Traffic Authority

The Roads and Traffic Authority (RTA) provided advice which was somewhat contradictory and without the benefit of having considered the traffic study which had been submitted. This was mislaid within the RTA. This was clear from officer feedback and the RTA response which requested that a traffic study be undertaken.

Council sought to understand the RTA comments. Council officers requested that revised comments be provided following consideration of the traffic study. To this end, Council has written on three occasions requesting the Authority's revised comments as well as by email / phone contact. No further response has been forthcoming. The original RTA comments are provided **Attachment C**.

There is some difficulty interpreting the RTA response as it is poorly written and unclear in some points as follows:

- Reference is made to the need for a traffic study (which has been provided).
- In the absence of traffic study consideration, a Section 94 contribution plan is indicated as being required to provide funds for Pacific Highway intersection upgrades.
- A vehicle access clause to prohibit access from the Pacific Highway is similarly required, except where not practicable. Although unclear, it is presumed that this is to relate to the subject site only. (It is unclear as to how this highway site differs from the 2(d3) "highway" sites in LEP194 for which there was no such RTA requirement.) It is noted that such road would be in potential conflict with ecological advices (DECC)

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concerning vegetation protection. It could not be established unless the “end” properties were developed first.

- Noise attenuation clause provisions are similarly required for residential development within 100m of a major arterial road (or rail corridor). It is unclear if this is sought to apply to all residential lands or just this site. This was not previously a requirement for any highway lands under LEP 194. (It is to be noted that specific provision has been made within the draft LEP for rail noise attenuation for the subject lands at the Department of Planning’s request.)

**Comment**

The gazettal of LEP194 in May 2004 related to a majority of Pacific Highway residential lands. The aforementioned provisions were not included within that LEP.

The RTA has not provided clarity in terms of its requirements for draft LEP 212 notwithstanding Council’s repeated requests. In the absence of clarification, there has been no incorporation of RTA provisions in the drafting of the draft LEP.

2. Rail Corporation NSW

RailCorp verbally advised that it had no comment in the matter and no objections are raised. There was no written comment from Railcorp.

3. Ministry of Transport

The Ministry raised no objection to the Draft LEP recognising it to be well located with respect to access to bus and rail transport. It also recognised the need for appropriate amelioration measures to minimise the impact of noise and vibration from the railway corridor. These measures have been provided for within the Draft LEP.

4. Rural Fire Service

The RFS observed the land to be identified on the Ku-ring-gai Bushfire Prone Land map as bushfire prone. Hence the need to comply with Section 79BA of the EP&A Act 1979 and Section 100B of the Rural Fires Act 1997 is identified. In this regard, the requirements of Planning for Bushfire Protection 2001 (now Planning for Bush Fire Protection 2006) are to be considered in the planning stages of development.

This includes the provision of bushfire protection measures encompassing:

- assessing the hazard levels and how this might change as a result of development;
- provision of Asset Protection Zones;
- provision of access including perimeter roads;
- provision of water supply for fire fighting;
- future dwelling construction in accordance with AS3959.

The RFS comments are provided in **Attachment D**.

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From the comments of the RFS there is no expressed objection to the DLEP or reason to assume that an appropriate development would not be able to comply with RFS requirements. In the absence of a formal development proposal, it is not possible to predict the extent to which asset protection zones (APZ) might be required on affected parts of the site (or extent to which this may impact on an endangered ecological community). There is also the possibility of incorporating "deemed to comply" provisions into the building design to offset APZ requirements, thus mitigating effects on vegetation.

5. Heritage Council

The Heritage Council notes the Ku-ring-gai Planning Scheme Ordinance includes model heritage provisions that provide for protection, conservation and management of heritage items. In considering the Draft LEP, the Heritage Council stated that Council should also determine whether any further measures should be included to minimise potential impacts from future development on the heritage item at 1228 Pacific Highway, Pymble.

The Heritage Council response is provided in **Attachment E**.

6. National Trust

The National Trust identified the site contains Blue Gum High Forest community. The Trust objects to the rezoning based on the perceived impact of development on existing trees and notes existing individual dwellings as blending with the landscape and some as significant in their own right.

The National Trust comments are contained in **Attachment F**.

7. Department of the Environment and Heritage

The Department makes reference to its earlier letter of 20 September 2006. (This letter acknowledged that Blue Gum High Forest community appeared not to apply to the site.) It re-states that the *"EPBC Act does not apply to paper decisions by Council in respect to rezoning, but does apply to developers undertaking clearing or other development works..."*.

The Department states it has no objection to the rezoning proceeding. It states that it is the developer's responsibility to refer to the Department for a decision on matters where an approval may be needed under the EPBC Act. (A copy of the Department's letter is **Attachment G**).

8. Department of Environment and Conservation (NSW) (as then known)

The Department verbally advised that it had no comments to raise in the matter. No written comment was provided.

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Further consultation with Federal Department of Environment and Heritage (now Environment and Water Resources DEWR) and State Department of Environment and Climate Change (DECC) (formerly Environment and Conservation):

1. Following its receipt of the independent consultant's review of the 7 part test, Council decided that this should be forwarded to DEWR and DECC for information and comment. Council at this time took the opportunity to formally write to DECC under the provisions of Section 34A of the EP&A Act. Council received the response set out in Attachment H.
2. Council has received response from DEWR.

The response does not specifically address the Draft LEP. It reaffirms previous comments and advises that the rezoning proposal is not an "action" within the meaning of the Environmental Protection and Biodiversity Conservation Act 1999. It informs that any subsequent development with the potential for significant impacts (on BGHF ecological community) will require referral to the Department by the developer. The response also provides commentary concerning the nature of the BGHF ecological community.

The Department's response is set out in **Attachment I**.

**Comment**

From the comments received, it is noted that DEWR reaffirms that its involvement would not be triggered until such time that an "action" such as a development application were proposed.

The response from DECC however has now identified a number of matters. It clearly considers the site to be subject to BGHF and that future development is likely to have significant impact on the critically endangered ecological community. This is indicated as being due to the scale of development, bushfire hazard considerations and issues associated with retaining mature native trees in a medium density development context. DECC particularly recommends the need for mapping of all BGHF and Sydney Turpentine Ironbark Forest (STIF) remnants within the site and adjacent land. This is particularly to identify areas for protection and exclusion from development. On the basis of this, Council is unable at this time to determine if development should proceed and the extent to which rezoning and development of the site might be appropriate.

**Public exhibition**

In accordance with statutory requirements, Council advertised Draft LEP212 in the local press and notified adjoining and adjacent owners and occupiers. The Draft Plan was exhibited at Council's Customer Services Centre and at Gordon and Turrumurra libraries. It was also available for inspection on Council's website.

In response to the public exhibition, Council received 60 submissions with 7 expressing support for the proposal and 53 opposing it - see **Attachment J**.

Submissions favouring the rezoning proposal and Draft LEP expressed the following comments in support:



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- site is well located for increased residential density;
- suitable land for 2(d3) development;
- land opposite site is rezoned – yet the subject lands have been singled out for special scrutiny – collated evidence supports suitability for multi unit development;
- there has been a noticeable change in the area since 1978 – residential properties opposite now 2(d3).

**Comment**

It is clear from those supporting the rezoning they considered that the site is well located for higher density development and located in an area with 2(d3) zoned lands nearby.

Submissions objecting to the Draft LEP expressed the following concerns:

- proximity to Sheldon Forest BGHF community and future impacts of development on this community;
- environmental impacts of units / development particularly on Sheldon Forest critically endangered environmental community;
- loss of trees;
- loss of habitat;
- impact on wildlife corridors and bio-linkages;
- loss of habitat connectivity with loss of tall tree canopy;
- commitment of Council to TPO would be questioned if rezoning proceeds;
- volume of traffic on Pacific Highway (extra traffic);
- retain single dwelling zone;
- development / building height should be limited to 2-3 storey avoiding overshadowing / privacy loss;
- increased runoff from development;
- potential for landslip if vegetation removal;
- opposed to high rise development;
- development would be an eyesore to road and rail commuters;
- poor location for access and road / rail noise;
- existing rezoned lands more than complies with State Government requirements;
- extra stress on water and sewer supply;
- should be conservation agreement between future body corporate and KMC to ensure nominated landscape areas of site are protected;
- loss of streetscape;
- steep site and limited depth for development;
- inappropriate scale of development;
- development should be below ridge;
- rezoning should be deferred pending formulation of a critically endangered community policy;
- precautionary principle should apply to assume the presence of BGHF;
- consideration of site for rezoning should be assessed under the comprehensive planning process.

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**Comment**

The submissions are noted and raise issues relating to the impact of potential development on the existing vegetation on site including BGHF. Other ecological issues are raised concerning loss of habitat and impact on wildlife corridors and bio-linkages. Issues are also raised as to the suitability as to a medium density built form of development in terms of site aesthetics and infrastructure.

The submissions by the public also expressed concern related to the impact of development, particularly as it might impact on endangered Blue Gum High Forest ecological communities. Overall an assessment of the submissions (including State agency submissions) it is considered that the rezoning on balance would have a detrimental impact on the ecological values of the site including BGHF.

An increase in development across the site would result in a significant loss in individual native species along with a reduction in recovery potential as a result of an increase in development footprint. A potential weakening of the bio-linkage to Sheldon Forest, one of the few remaining core areas of BGHF could result.

## **FINANCIAL CONSIDERATIONS**

Work undertaken for the rezoning and Draft LEP relates to use of staff resources, engagement of flora consultant and costs of advertising. These expenses are met by the rezoning application fee.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

Preparation of this report has involved input from within the Urban Design division and Corporate Planning and Sustainability division of the Strategy Department and the Department of Development and Regulation.

## **SUMMARY**

Draft LEP No. 212 has been publicly exhibited in accordance with statutory requirements and 60 submissions received, being 7 in support of the Plan and 53 in opposition.

The Department of Environment and Climate Change and Council's independent flora consultant identified BGHF as present on the site. Both express major concerns pertaining to Blue Gum High Forest considerations and related ecological issues.

The issue of Blue Gum High Forest has received increased prominence in the Land and Environment Court in its development refusals.

The submissions by the public also expressed concern related to the impact of development, particularly as it might impact on endangered Blue Gum High Forest ecological communities.

An increase in development across the site would result in a significant loss in individual native species along with a reduction in recovery potential as a result of an increase in development

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footprint. A potential weakening of the bio-linkage to Sheldon Forest, one of the few remaining core areas of BGHF could result.

## RECOMMENDATION

- A. That Council not proceed with draft Local Environmental Plan No. 212 on the basis of the likely adverse impact on the Blue Gum High Forest ecological community occupying the site.
- B. That the owners and occupiers of the lands subject to draft Local Environmental Plan No. 212, the applicant and those persons who made submissions be advised of Council's decision.
- C. That the Department of Planning be informed of Council's resolution.

Rod Starr  
Senior Urban Planner

Antony Fabbro  
Manager Urban Planner

Peter Davies  
Manager Corporate Planning  
& Sustainability

**Attachments:**

- Attachment A - Council's Flora Consultants report - 811811**
- Attachment B - Authorities consulted under Section 62 - 729470**
- Attachment C - Letter the from Roads and Traffic Authority - 742609**
- Attachment D - Letter from Rural Fire Service - 753577**
- Attachment E - Letter from the Heritage Council - 755536**
- Attachment F - Letter from the National Trust - 744019**
- Attachment G - Letter from Department of Environment and Heritage - 742236**
- Attachment H - Department of Environment and Climate Change submission - 855763**
- Attachment I - Department of Environment and Water Resources submission - 857883**
- Attachment J - Draft LEP212 Instrument (728766).**
- Attachment K - Copy of public submissions received - circulated separately.**

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## **Proposed re-zoning of 1228-1274 Pacific Highway (between Beechworth and Warragal Roads), Pymble - review of test of significance for Blue Gum High Forest**

### **Report to Ku-ring-gai Council**

**Teresa James August 2007**

#### **1. Background**

##### **1.1 Proposal & process**

In response to an application for rezoning of residential lands at 1228-1274 Pacific Highway, a draft Local Environmental Plan (LEP212) has been prepared by Council to rezone subject lands (except 1228) to 2(d3). Consultation as required under Section 62 of the Environment Planning & Assessment Act 1979 (EP&A Act) has taken place and the only issue raised during the process by the National Trust of Australia and "Friends of Turrumurra Inc." pertains to the presence of Blue Gum High Forest, currently listed as a *critically endangered* ecological community under both state and national legislation.

##### **1.2 Flora & fauna studies**

A flora and fauna study was prepared by Environmental Appraisal (EA June 2006). This report identifies the presence of canopy species characteristic of the Blue Gum High Forest (BGHF). It concludes, however, that the remnant no longer comprises a viable example of this community. A seven-part test of significance for BGHF concludes that the proposed rezoning and subsequent development is unlikely to result in a significant impact on the community either at the Site or within the adjoining Sheldon Forest (separated from the Site by railway line). One threatened species was recorded during the survey, the Grey-headed Flying Fox *Pteropus poliocephalus* and evidence of a further threatened species, the Gang Gang Cockatoo, was reported in Sheldon Forest only a short distance from the subject site. The Gang Gang Cockatoo population in the Hornsby and Ku-ring-gai Local Government Areas is listed as an endangered population. Seven-part tests were prepared for a range of fauna species but none were considered likely to depend on vegetation present at the site or likely to be significantly affected.

A review of the seven-part test of significance for BGHF was undertaken by Roger Lembit of Gingra Ecological Surveys (GES2007). The review concludes that the assessment is out of date due to the recent listing of BGHF as a *critically endangered* community under the *Threatened Species Conservation Act* 1995 (TSC Act) and suggests that a second endangered community, Sydney Turpentine Ironbark Forest (STIF), may also be present. Several inadequacies are also raised in relation to the seven-part test and impacts on a local occurrence of BGHF.

## **2. Field Inspection**

I briefly inspected the subject site on 31 July, 2007. Due to restricted access the entire site was not walked over, however, several properties were accessed. I also viewed other remnants of BGHF and STIF in the local area including Sheldon Forest, Creswell O'Reilly Lookout, in the vicinity of Duff Street at Turramurra and Pymble Girls College for comparison.

Remnant vegetation at the subject site is physically separated from other local occurrences of the community (e.g. Sheldon Forest) by a railway line, roads and houses although some linkage is present along the rail corridor and some movement of flora (e.g. seed transferred by wind or birds) and fauna (e.g. birds, insects) can be expected to occur over the rail line. The local occurrence of BGHF consists for the purpose of this report, therefore, of the subject site, and similar vegetation in the adjoining rail corridor and Sheldon Forest.

### **2.1 Vegetation characteristics**

Large canopy trees of Blackbutt *Eucalyptus pilularis* and/or Sydney Blue Gum *E. saligna* are present within most of the properties. At the northern end (closest to Warragal Road) these trees occur predominantly in the front parts of the properties in contrast to the southern section where the properties are larger and higher densities of Blackbutt and Blue Gum occur in the back portions contiguous with similar and more intact vegetation along the rail corridor. Less common are specimens of Grey Ironbark *Eucalyptus paniculata* and Rough-barked Apple *Angophora floribunda*.

Smaller trees or larger shrubs likely to be native to the original community include Illawarra Flame Tree *Brachychiton populneus*, Cedar Wattle *Acacia elata*, Hickory *A. implexa* and Sweet Pittosporum *Pittosporum undulatum*. Smaller native shrubs have been largely cleared and replaced by cultivated and weedy exotics. Common weeds include Lantana, Privet and Bamboo. The most common native shrub is Bleeding Heart *Omalanthus populifolius*. Native grasses and groundcover species are also uncommon with large areas covered by the exotics Wandering Jew and Panic Veldt Grass. Native species include *Dichondra repens*, *Microlaena stipoides*, *Entolasia marginata*, *Lomandra longifolia*, *Dianella caerulea*, *Pteridium esculentum*, *Geranium solanderi* and *Hydrocotyle peduncularis*. It is likely that further native grasses could be identified during the warmer months of the year.

A more diverse assemblage appeared to be present within the rail corridor towards Beechworth Road, however, there was no access to this area.

## **2.2 Condition**

The original vegetation community has been highly modified over the years resulting in a mixture of native and exotic species growing together in an urbanized environment. The neglected state of many of the properties has provided suitable conditions for the spread and dominance of exotics including noxious weeds, for example, Madeira Vine, Bamboo, Lantana and Privet. The presence of a rail corridor and the close proximity of Sheldon Forest down slope, however, have contributed to the persistence of native species. Some areas, particularly associated with the native canopy trees, retain some regeneration potential. On one property where bamboo had recently been cleared there was some evidence of regeneration, particularly of the native shrub *Omalthus populifolius*.

## **3. Discussion**

### **3.1 Ecological communities**

#### Identity

As reported by GES (2007) the final vegetation map of the Cumberland Plain (NPWS 2002) identifies a form of Turpentine Ironbark Forest at the subject site rather than BGHF with the latter community occurring on lower slopes within the local area. Both communities share many attributes including characteristic plant species and are known to intergrade. Identification of the community represented at the subject site is further complicated by the substantial loss of understorey structure and species that has occurred.

The high altitude (160-170 m above sea level), presence of Wianamatta Shale and high average annual rainfall of approx. 1400 mm (Benson & Howell 1990) provide favourable conditions for the development of BGHF. The close proximity of the site to sandstone in the gully below (Sheldon Forest remnant) also favours Sydney Turpentine Ironbark Forest (STIF) which is known to occur along ridges and close to the shale/sandstone boundary. Based on these factors and existing floristics, it is my opinion that BGHF is the dominant community at the site but that an element of STIF may also be present. The dominance of BGHF is supported by the high frequency of tall (mostly >25-30 m high) Blackbutt and Sydney Blue Gum canopy trees. STIF typically has smaller trees with mean height of 23 m (Tozer 2003) and with other canopy species more common including Turpentine *Syncarpia glomulifera*, White Stringybark *Eucalyptus globoides* and Red Mahogany *E. resinifera*. From the listing of characteristic trees found in paragraph 4 of the Final Determination for STIF, only the Grey Ironbark *Eucalyptus paniculata* and Hard-barked Apple *Angophora floribunda* are present at the site. The greater representation of understorey species typical of STIF recorded (see table 1) and other local occurrences of this community, however, suggest a likely STIF influence.

#### Integrity

The condition of BGHF present at the subject site is clearly highly modified in relation to structure, floristics and diversity. Mature, scattered canopy trees representative of the community occur through the area with highest densities in the southern most properties

and close to the rail corridor. Other canopy trees comprise exotic or non-local native species including Jacaranda and Silky Oak. The understorey is the most modified with significant loss of structure, density and diversity of native vegetation and species. Nevertheless, due to the relatively large size of most properties and retention of mature canopy trees, around 40% of the site still contains mostly natural soils with a small range of persistent native species and some evidence of regeneration potential. The presence of a rail corridor and the adjoining Sheldon Forest has also assisted in protecting the naturalness of the site. Approximately 30 native plant species are recorded from the site (see table 1).

**Table 1:** Plant species recorded from the subject site (EA 2006, James 2007) with reference to *characteristic* species as listed in the Final Determinations for Sydney Turpentine Ironbark Forest (STIF) and Blue Gum High Forest (BGHF)

| Plant species                      | Characteristic species of Blue Gum High Forest | Characteristic species of Sydney Turpentine Ironbark Forest |
|------------------------------------|--|---|
| <b>Trees</b>                       |  |   |
| <i>Acacia elata</i>                |  |   |
| <i>Acacia decurrens</i>            |  | X   |
| <i>Acacia implexa</i>              |  | X   |
| <i>Angophora floribunda</i>        | X  | X   |
| <i>Brachychiton acerifolius</i>    | X  |   |
| <i>Ceratopetalum gummiferum</i>    |  |   |
| <i>Elaeocarpus reticulatus</i>     | X  | X   |
| <i>Eucalyptus paniculata</i>       | X  | X   |
| <i>Eucalyptus pilularis</i>        | X  | X   |
| <i>Eucalyptus saligna</i>          | X  | X   |
| <i>Pittosporum undulatum</i>       | X  | X   |
|                                    |  |   |
| <b>Shrubs</b>                      |  |   |
| <i>Acacia falcate</i>              |  | X   |
| <i>Acacia maidenii</i>             |  |   |
| <i>Omalanthus populifolius</i>     |  |   |
| <i>Pittosporum revolutum</i>       | X  | X   |
|                                    |  |   |
| <b>Groundcovers &amp; climbers</b> |  |   |
| <i>Adiantum aethiopicum</i>        | X  | X   |
| <i>Blechnum cartilagineum</i>      | X  |   |
| <i>Commelina cyanea</i>            |  | X   |
| <i>Dianella caerulea</i>           | X  | X   |
| <i>Dichondra repens</i>            |  | X   |
| <i>Entolasia marginata</i>         | X  | X   |
| <i>Eustrephus latifolius</i>       | X  | X   |
| <i>Geranium solanderi</i>          |  | X   |
| <i>Hydrocotyle peduncularis</i>    |  |   |
| <i>Kennedia rubicunda</i>          |  | X   |
| <i>Lomandra longifolia</i>         | X  | X   |
| <i>Microlaena stipoides</i>        |  | X   |
| <i>Pteridium esculentum</i>        | X  |   |
| <i>Pteris tremula</i>              |  |   |
|                                    | <b>15</b>                                      | <b>20</b>   |

No listing of species was included in the flora and fauna report (AE 2006), however, based on the floristic account in section 6.1 of that report, several species observed in my brief visit do not appear to have been documented previously. Species not visible at the present time may also persist in the soil seed bank.

The condition and value of remnant vegetation at the Site has been underestimated in relation to species richness, recovery potential and contribution to local bio-linkages along the ridge-line and rail corridor, and down slope to Sheldon Forest and beyond.

### **3.2 Conservation & natural heritage value**

The AE report (2006) concludes that remnant vegetation at the Site is of negligible conservation value. My findings indicate, however, that although the site is degraded and highly modified, some representation of the BGHF community persists and with appropriate management can continue to be part of an important bio-linkage in the local area. It is unique in that it forms part of a complete vegetation sequence from ridge-top to valley (contiguous with Sheldon Forest) with similar ridge cap vegetation extensively cleared elsewhere in the local area. A similar area within a reserve along the Pacific Highway at Creswell O'Reilly Lookout is considerably smaller, lacks connectivity and is similarly highly modified and degraded. The maturity and large size of the canopy trees at the Site is also significant from both an ecological (including fauna habitat) and natural heritage perspectives. The value of the vegetation is greatly increased by its endangered and more recently *critically endangered* status. The additional element of Sydney Turpentine Ironbark Forest (STIF) is also of significance.

BGHF has a very restricted and fragmented distribution and is currently estimated to cover an area of less than 100 ha (EA 2006) or about 1% of the original extent. Remnant patches are very small and surrounded by urban development. Many of these remnants, similar to the subject site, persist mostly as small clumps of trees without native understorey. All remaining areas must be considered to be highly significant. Council's Plan of Management for Bushland Reserves (2006) and Biodiversity Strategy (2006) identify the importance of remnant vegetation, including patches of remnant trees with no understorey in maintaining landscape connectivity between bushland reserves and facilitating the movement of mobile fauna species in the LGA.

STIF is similarly a restricted and fragmented community. Both communities are listed under state and national legislation. Both BGHF and STIF have been listed as *critically endangered communities* since 2005 under the Environment Protection & Biodiversity Conservation Act 1999 (EPBC Act) and are "facing an extremely high risk of extinction in the wild in the immediate future".

#### Impact assessment

Rezoning of the Site itself will not result in impacts to BGHF, however, subsequent development for medium density housing is likely to result in loss or damage to many of the large canopy trees and most of the associated understorey species, any soil seed bank and the abiotic environment. Co-existence of the large trees and medium density housing is unlikely to be viable in view of space limitations, the extent of root systems and potential decline in tree health posing safety issues. Approximately 1–2 ha of BGHF is likely to be lost if the area is developed as proposed. In view of the restricted nature of



the community and its endangered or critically endangered status, the proposal is likely to have a significant impact.

In contrast the seven-part test prepared by EA (2006) concludes there will be no significant impact on BGHF. This conclusion is based on the assumptions that the community exists only as remnant trees, most of the trees will be retained and there are many other examples of the community in the local area. The first two assumptions are already discussed above. Most of the examples of similar remnants occur within the Middle Harbour Catchment rather than the Lane Cove Catchment (e.g. Dalrymple Hay Nature Reserve, Canisius College, North Pymble Park) or comprise at least in part other communities including sandstone gully forest and STIF (e.g. Sheldon Forest, Pymble Ladies College, Blackbutt Park). I consider the assessment of significance to be inadequate in relation to these assumptions, the failure to provide quantitative and qualitative measures of habitat to be removed or modified, failure to accurately define the local occurrence of the community, indirect impacts on BGHF and STIF along the rail corridor and cumulative impacts/incremental loss within the local area. Furthermore, BGHF (& STIF) are listed as *critically endangered communities* under the EPBC Act (August 2005) yet this isn't considered in the report and no relevant assessment is provided.

A revised seven-part test is provided in appendix 1 of this report and an assessment under the EPBC Act in appendix 2. Both assessments indicate there is a reasonable likelihood of significant impact on BGHF.

#### **4. Conclusion**

The survey and assessment undertaken by EA (2006) fails to adequately assess likely impacts on endangered ecological communities at the subject site resulting from proposed rezoning as suggested in the review prepared by Roger Lembit (June 2007). In particular, the following issues are identified:

- Failure to identify the potential presence of a second endangered ecological community at the subject site and in the local area, STIF.
- Failure to consider listing of BGHF as a *critically endangered* community under the EPBC Act and provide appropriate assessment.
- Underestimates the conservation significance of BGHF at the subject site in relation to ridge-top habitat, biodiversity, regeneration potential, bio-linkages and rarity in local area.
- Inadequate assessment of likely direct and indirect impacts.
- Lack of reference to Council's Biodiversity Strategy and Plan of Management for Bushland Reserves, and relevant conservation advice (TSC Act & EPBC Act).

The issue relating to presence of STIF is not critical in view of the dominance of BGHF at the site (only a minor element likely to be present) and the similar conservation status. Failure to recognize the high conservation value of vegetation at the site at national, state, regional and local levels and the full extent of likely impacts, however, is most important. Although the recent listing of BGHF as a *critically endangered* community under the TSC Act post dates the EA report, the listing under the EPBC Act has been in place since 2005.

Whether endangered or critically endangered, all remaining remnants of BGHF (and STIF) are potentially significant including degraded areas with remnant canopy trees and limited understorey. Until communities are mapped accurately at a local scale and priority sites identified there should be no further loss of remnants. The subject site could be identified as a priority area in view of its rare ridge-top habitat, some evidence of intergrading with STIF and valuable bio-linkages along the rail corridor and with Sheldon Forest down slope. Although rezoning itself will not result in adverse impacts, subsequent development will result in loss of the community at the site and likely indirect impacts on adjoining areas. There will be a reduction in extent and increased fragmentation of a local occurrence of BGHF with increased risk of extinction of the ridge-top form. Accordingly the assessments I have undertaken under both state and national legislation conclude that there is likely to be a significant impact. The proposed rezoning and subsequent development is not consistent with the Conservation Advice for BGHF as provided under the EPBC Act, in particular the following:

- prevent further clearing or fragmentation of the ecological community through the protection of remnants and/or local council zoning;
- restore and enhance remaining areas of BGHF to create buffer zones and linkages with other vegetation;
- develop and implement appropriate management regimes to prevent further loss and decline of functionally important species and reduction in community integrity.

Similarly, the action proposed is inconsistent with priorities identified in the Priority Action Statement (PAS) for BGHF under the TSC Act. For example, the development & implementation of protocols, guidelines and programs to protect remnants of BGHF, particularly on private land, and various actions identified to manage habitat. At a local level the protection of significant native vegetation on developed and private land through control plans, the establishment of bio-links (including remnant canopy trees) and the protection/rehabilitation of native vegetation in “pocket parks” at the interface of council reserves and corridors, are all identified as priority actions in Council’s Biodiversity Strategy (2006) and the Open Space Strategy (2005).

## 5. Recommendations

To avoid further assessment under the TSC Act and EPBC Act the following recommendations are provided.

- Rezoning of the subject site to be postponed until priority areas of BGHF are identified at local and regional levels consistent with critically endangered status.
- Detailed survey to be undertaken within the Ku-ring-gai Council area to accurately identify and map areas of BGHF, STIF and Sydney Sandstone Gully Forest to enable priority areas to be identified. BGHF may be even rarer due to possible confusion with other communities.
- Provide assistance to landholders within subject site, including rail corridor, during above investigations to control noxious weeds and protect native species. This is important to prevent further degradation and protect adjoining vegetation along the railway corridor and in Sheldon Forest.

If the subject site is identified as a priority site the zoning and any accompanying development control plan will need to be consistent with the protection and enhancement of remnant BGHF. The BGHF community is unlikely to survive even in the medium-term without appropriate management.

## 6. References

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## **Appendix 1: Assessment under the *Threatened Species Conservation Act* (1995)**

### **Seven-part test for Blue Gum High Forest BGHF (& Sydney Turpentine Ironbark Forest STIF)**

The assessment is undertaken primarily for BGHF which is the dominant community present at the subject site. It is likely that some intergrading with STIF occurred at the site, however, the extent of this is difficult to determine today due to loss of vegetation structure and species.

- (a) *not applicable*
- (b) *not applicable*
- (c) *in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:*
  - (i) *is the proposal likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or*
  - (ii) *is the proposal likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction*

(i) Rezoning and subsequent development for medium density housing is likely to result in the loss of approx. 1-2 ha of degraded BGHF (also containing a component of STIF) depending on the subsequent development footprint. In view of the relatively small area (confined by road and railway) and the large size of trees that require considerable space to remain healthy and safe, it is unlikely that many of the existing specimens will be retained long-term. The affected area is largely separated from other local occurrences of the community (e.g. Sheldon Forest) by a railway line, roads and houses although some linkage is present along the rail corridor and some movement of flora (e.g. seed transferred by wind or birds) and fauna (e.g. birds, insects) can be expected across the rail line. The local occurrence of BGHF consists, therefore, of the subject site, the rail corridor and Sheldon Forest. The affected vegetation associated with the ridge top, however, by virtue of its topographic position in the landscape is likely to represent a different form of the community to that present within the Sheldon Forest remnant where the sandstone influence is greater. The proposal is likely, therefore, to adversely affect the highly localized extent of BGHF associated with the main ridge-line and contribute further to its extinction. Most of this ridge-line habitat (along Pacific Highway) is now developed; one small reserve (Creswell O'Reilly Lookout) close to the subject site contains similar remnant trees of Blackbutt and Sydney Blue Gum, however, it is smaller, lacks connectivity and both the canopy and understorey is highly degraded.

(ii) The remnant is already highly modified and any increased intensity of development is likely to result in complete loss of the community associated with ridge-top habitat within the local occurrence.

(d) *in relation to the habitat of threatened species, population or ecological community:*

(i) *the extent to which habitat is likely to be removed or modified as a result of the action proposed, and*

(ii) *whether an area of habitat is likely to become fragmented or isolated from other areas of habitat,*

(iii) *the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality.*

(i) Rezoning and subsequent development for medium density housing is likely to result in the loss or modification of approx. 1-2 ha of degraded BGHF (also containing a component of STIF) at the subject site depending on the subsequent development footprint. Indirect impacts are also likely to occur on similar vegetation within the railway corridor and possibly down slope in Sheldon Forest as a result of increased exposure, disturbance and potential changes in drainage. Corridor values along the railway will be adversely affected.

(ii) Remaining BGHF and STIF within Sheldon Forest and along the rail corridor will become more isolated and fragmented as a result of the proposal.

(iii) The area to be removed or modified is of particular importance in relation to its rare ridge-top habitat, the STIF influence and connectivity.

(e) *whether the action proposed is likely to have an adverse effect on critical habitat.*

At the time of this report no “critical habitat” has been declared for BGHF or STIF.

(f) *whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.*

At the time of this report there is no approved recovery plan or threat abatement plan for BGHF or STIF. The action proposed is inconsistent, however, with priorities identified in the Priority Action Statement (PAS) for BGHF. For example, the development & implementation of protocols, guidelines and programs to protect remnants of BGHF, particularly on private land, and various actions identified to manage habitat.

(g) *the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.*

Rezoning itself is not a threatening process, however, subsequent development will result in the clearing of vegetation which is a Key Threatening Process (KTP) listed on Schedule 3 of the *TSC Act (1995)*.

### **Conclusion**

The subject site contains a degraded remnant of BGHF with some element of STIF also likely to be present. Both communities are highly restricted in distribution and endangered with a high risk of extinction in the near future; BGHF has recently been listed as critically endangered under the TSC Act and both communities are listed as such under the EPBC Act. In view of this status all remaining remnants are potentially significant including degraded areas of canopy trees with limited native understorey. The subject site could be identified as a priority area in view of its rare ridge-top habitat, some evidence of intergrading with STIF and valuable bio-linkages along the rail corridor and with Sheldon Forest down slope. Although rezoning itself will not result in adverse impacts, subsequent development will result in loss of the community at the site and likely indirect impacts on adjoining areas. There will be a reduction in extent and increased fragmentation of a local occurrence of BGHF with increased risk of extinction of the ridge-top form and habitat of the community. It is concluded that there is likely to be a significant impact.

## **Appendix 2: Assessment under the *Environment Protection Biodiversity Conservation Act* (EPBC Act)**

Any development affecting endangered ecological communities listed under the EPBC Act will require approval from the Environment Minister if a significant impact is likely to occur. An assessment is provided accordingly.

### **Assessment for Blue Gum High Forest (& Sydney Turpentine Ironbark Forest)**

#### ***Criteria 1: Will the proposed action reduce the extent of an ecological community***

Yes. Rezoning and subsequent development for medium density housing is likely to result in the loss of approx. 1-2 ha of degraded BGHF (also containing a component of STIF) depending on the subsequent development footprint. In view of the relatively small area (confined by road and railway) and the large size of trees that require considerable space to remain healthy and safe, it is unlikely that many of the existing specimens will be retained long-term. Associated understorey species and any soil seed bank will be similarly lost or reduced in extent.

#### ***Criteria 2: Will the proposed action fragment or increase fragmentation of an ecological community***

Yes. Remaining BGHF within Sheldon Forest and along the rail corridor is likely to become more isolated and fragmented as a result of the proposal.

#### ***Criteria 3: Will the proposed action adversely affect habitat critical to the survival of an ecological community***

At the time of this report no “critical habitat” has been declared for BGHF or STIF.

#### ***Criteria 4: Will the proposed action modify or destroy abiotic factors necessary for an ecological community’s survival***

There is likely to be significant changes to the soil and drainage conditions in the vicinity of any retained canopy trees that could risk survival of the community at the site. There may also be indirect impacts on similar vegetation within the rail corridor and Sheldon Forest resulting from alteration of surface water drainage patterns and general disturbance.



***Criteria 5: Will the proposed action cause a substantial change in the species composition of an occurrence of an ecological community***

There has already been substantial change in the species composition of BGHF occurring at the site. Any further change is likely to result in complete loss of the community at the subject site.

***Criteria 6: Will the proposed action cause a substantial reduction in the quality or integrity of an occurrence of an ecological community***

There has already been a substantial reduction in quality and integrity of BGHF occurring at the site and it is unlikely that the community could withstand any further degradation. Further adverse impacts resulting from the proposed action are likely to occur.

***Criteria 7: Will the proposed action interfere with the recovery of an ecological community***

Yes. The proposed action will result in further incremental loss of BGHF. Only approx. 100 ha of BGHF remains in total with 23 ha present in bushland reserves within the Kuring-gai Council area. Loss of 1-2 ha, particularly within ridge-top habitat is significant and is likely to interfere with recovery of this community.

**Conclusion**

There is likely to be significant impacts on BGHF and a referral to the Department of the Environment and Heritage is required.

# AUTHORITIES CONSULTED UNDER SECTION 62

# ATTACHMENT B

| NAME   | ADDRESS1                             | ADDRESS2               | ADDRESS3                | SUBURB                    | SALUTATION   | PHONE     | WEB ADDRESS |
|--|--------------------------------------|------------------------|-------------------------|---------------------------|--------------|-----------|-------------|
| National Parks & Wildlife Service              | PO Box 1967                          |                        |                         | HURSTVILLE NSW 2220       | Sir / Madam  | 9585 6444 |             |
| Department of Transport (NSW)                  | GPO Box 1620                         |                        |                         | SYDNEY NSW 2001           | Sir / Madam  |           |             |
| Roads & Traffic Authority                      | Manager Transport Planning           | PO Box 558             |                         | BLACKTOWN NSW 2148        | Sir / Madam  |           |             |
| State Transit Authority                        | 219-241 Cleveland Street             |                        |                         | STRAWBERRY HILLS NSW 2010 | Sir / Madam  |           |             |
| NSW Heritage Office                            | Locked Bag 5020                      |                        |                         | PARRAMATTA NSW 2124       | Sir / Madam  |           |             |
| Sydney Water                                   | Planning Branch                      | 16 <sup>th</sup> Floor | 115-123 Bathurst Street | SYDNEY NSW 2000           | Sir / Madam  |           |             |
| Energy Australia                               | GPO Box 4009                         |                        |                         | SYDNEY NSW 2000           | Sir / Madam  |           |             |
| Department of Natural Resources                | PO Box 3720                          |                        |                         | PARRAMATTA NSW 2124       | Sir / Madam  |           |             |
| Mr L Short                                     | NSW Rural Fire Services Headquarters | Locked Bag 17          |                         | GRANVILLE NSW 2142        | Mr Short     |           |             |
| Department of Housing                          | 21-31 Moore Street                   |                        |                         | LIVERPOOL NS W 2170       | Sir / Madam  |           |             |
| Department of State & Regional Services        | PO Box N818                          | Grosvenor Place        |                         | SYDNEY NSW 2000           | Sir / Madam  |           |             |
| WorkCover Authority of NSW                     | 92-100 Donnison Street               |                        |                         | GOSFORD NSW 2250          | Sir / Madam  |           |             |
| National Trust of Australia                    | GPO Box 518                          |                        |                         | SYDNEY NSW 2001           | Sir / Madam  |           |             |
| Department of Environment & Conservation (NSW) | PO Box A290                          |                        |                         | SYDNEY SOUTH NSW 1232     | Sir / Madam  |           |             |
| Rail Corporation New South Wales               | PO Box K349                          |                        |                         | HAYMARKET NSW 1238        | Sir / Madam  |           |             |
| Department of Environment & Heritage           | GPO Box 787                          |                        |                         | CANBERRA ACT 2601         | Sir / Madam  |           |             |
| Mr B O'Farrell                                 | Member for Ku-ring-gai               | 27 Redleaf Avenue      |                         | WAHROONGA NSW 2076        | Mr O'Farrell |           |             |
| Dr Brendan Nelson                              | Member for Bradfield                 | Suite 8                | 12-16 Tryon Road        | LINDFIELD NSW 2070        | Dr Nelson    |           |             |



Our Reference: 238.5314  
 Contact: Ravi Ravendra  
 Telephone: 8814 2540  
 19 February 2007



Ku-ring-gai Council  
 DX 8703  
 GORDON

Attention: Antony Fabbro

Dear Sir,

**Draft LEP 212, at 1234 – 1274 Pacific Highway, Pymble / Turramurra and Beachworth Road, Pymble.**

I refer to your letter of 1 February 2007 in relation to the above matter and submit the following comments for your consideration.

The RTA raises no objection to the draft LEP subject to the following aspects being addressed:

- RTA does not support direct vehicular access to the subject sites via Pacific Highway. All vehicular access is to be from a service road accessed from Beachworth Road / Warragal Road.
- It is noted that to date the traffic impact of the proposed rezoning has not been investigated. The RTA requires that a traffic study be carried out and that it include investigation of the impact of the proposal on the operation of the near by existing traffic signals including Pacific Highway and Bobbin Head Road, and the nearby intersections, Pacific Highway and Warragal Road, Pacific Highway and Warrangai Road and Pacific Highway and Beachworth Road. A Section 94 Contribution Plan should be then prepared to raise funds for any required intersection upgrades of Pacific Highway with the abovementioned intersections, due to the traffic generation of the proposed development. This should be as part of the proposed DCP for the development and should be adopted prior to the assessment of any development application.

General Comments

The following general clauses are to be incorporated into the LEP

**VEHICULAR ACCESS CLAUSE**

- a) Development on land which adjoins a **classified arterial road** unless vehicular access to the land from that road is made by way of only another road (not being a state road).



- b) Where a development may be carried out, the Council may, in relation to that development, allow permanent vehicular access to **a major arterial road**, if, in the opinion of Council, alternative access to that development is neither practicable nor provided by another road or a proposed road identified in a development control plan.
- c) Prior to determining any development application which provides for access to **a classified arterial road**, the Council shall consult with the Roads and Traffic Authority."

#### NOISE ATTENUATION CLAUSE

- a) A noise and vibration assessment must be undertaken for any proposed residential development located within 100m of a major arterial road, transitway or rail corridor and in areas that are significantly affected by road and rail noise and vibration. Council shall not consent to development in areas that are significantly effected by noise and vibration unless it is satisfied that appropriate measures to minimise this impact have been included.
- b) Development that is located adjacent to major roads or other uses that emit high levels of noise should, in accordance with the EPA criteria (The Environmental Criteria for Road Traffic Noise, (May 1999):
  - locate noise sensitive uses (ie bedrooms) away from the noise source; and
  - be protected by appropriate noise shielding or attenuation techniques as part of the design and construction of the building.

#### DEVELOPER CONTRIBUTIONS CLAUSE

"The Council is not to grant consent to the carrying out of development on any land to which this clause applies unless the Council is satisfied that arrangements satisfactory to the Roads and Traffic Authority have been made for the making of appropriate payments towards the provision and/or upgrading of arterial roads to service that land."

Please refer further queries to Ravi Ravendra on 8814 2540.

Yours faithfully

 27/2/07  
 John Hart  
 A/Landuse Development Manager  
 Sydney Client Services Branch

All communications to be addressed to:

Head Office  
NSW Rural Fire Service  
Locked Mail Bag 17  
Granville NSW 2142

Head Office  
NSW Rural Fire Service  
15 Carter Street  
Homebush Bay NSW 2127

Telephone: (02) 8741 5555

Facsimile: (02) 8741 5550



The General Manager  
Ku-ring-gai Council  
Locked Bag 1056  
Pymble NSW 2073

**Attention: Rod Starr**

Your Ref: S05882

Our Ref: LEP/0072  
A07/0120

22 March 2007



Dear Rod,

**Re: Amendment [Rezoning] to Local Environmental Plan 123401274 Pacific Highway Pymble & 1 Beechworth Road Pymble.**

I refer to your letter dated 1 February 2007 seeking our advice in accordance with Section 62 of the *Environmental Planning & Assessment Act 1979* for the above Local Environmental Plan (LEP).

The NSW Rural Fire Service (RFS) notes that the subject area is identified as bush fire prone on the Ku-ring-gai Bush Fire Prone Land map. Development applications for residential or Special Fire Protection Purpose developments will be required to comply with Section 79BA of the *Environmental Planning and Assessment Act 1979* and Section 100B of the *Rural Fires Act 1997*.

It is therefore suggested that the requirements of *Planning for Bushfire Protection 2001* be considered in the planning stages of development. This includes the provision of the following bushfire protection measures:

- An assessment of the level of hazard posed to future development by the land or adjacent land and how the hazard may change as a result of development.
- The provision of Asset Protection Zones in accordance with Tables A2.2-A2.4 and Section 4.2 of *Planning for Bushfire Protection 2001*.
- The provision of access in accordance with Section 4.3 of *Planning for Bushfire Protection 2001*. This includes the provision of perimeter roads.
- The provision of water supply for fire fighting purposes in accordance with Section 6.4.3 of *Planning for Bushfire Protection 2001*.

- Construction of future dwellings in accordance with AS3959 – *Construction of Buildings in Bushfire Prone Areas and Planning for Bushfire Protection 2001*

For any enquiries regarding this correspondence, please contact John Delany.

Yours sincerely

  
per Lew Short

**Manager, Development Control Services**



Contact Alice Brandjes  
Telephone: 02-9873 8560  
brandja@heritage.nsw.gov.au  
File: H00/00104/1  
Your Ref: S05882  
Our Ref: HRL 44260

Mr Anthony Fabbro  
Manager Urban Planning  
Ku-ring-gai Council  
Locked Bag 1056  
Pymble NSW 2073



Dear Mr Fabbro,

**Ku-ring-gai Draft Local Environmental Plan No. 212 at No.s 1234-1274 Pacific Highway Pymble/Turramurra and No. 1 Beechworth Road Pymble – Section 62 Consultation**

Thank you for referring the draft local environmental plan to the Heritage Council for comment. The draft local environmental plan was received on 2 February 2007. Apology is made for the delay in response to your letter.

The draft plan and supporting documents have been reviewed and the following advice is provided under the provisions of section 63 of the Environmental Planning and Assessment Act 1979 and under sections 21, 83 and 84 of the Heritage Act 1977.

It is noted that the draft local environmental plan proposes to rezone land at No.s 1234 –1274 Pacific Highway Pymble/Turramurra and No. 1 Beechworth Road Pymble to Residential 2(d3) to allow development of the land for future multi unit housing development. The existing Residential 2© zone permits residential development for single dwelling houses.

It is further noted that adjacent to the land to which the draft local environmental plan will apply is situated adjacent to a heritage item listed in the heritage schedule of the Deemed Environmental Planning Instrument Ku-ring-gai Planning Scheme Ordinance – No. 1228 Pacific Highway Pymble.

The proposed 2(d3) zoning will potentially allow multi unit housing of up to a maximum of five storeys in height.

The Heritage Council notes that the Ku-ring-gai Planning Scheme Ordinance includes model heritage provisions that provide for the protection, conservation and management of heritage items. The provisions specifically require council to consider the impact of proposed development on the heritage significance of a heritage item, its visual curtilage and setting before granting consent to development in the vicinity of a heritage item. In considering the draft local environmental plan council should also consider whether any further measures should be included to minimise potential impacts from future developments on the heritage item.

If you require any additional information please contact Alice Brandjes on (02) 9873 8560.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Reece McDougall', written in a cursive style.

Reece McDougall  
**Executive Director**  
**Heritage Office**

27/3/07



**The National Trust  
of Australia (New South Wales)**



ATTACHMENT F

**NATIONAL TRUST**

5<sup>th</sup> March, 2007

Mr Antony Fabbro  
Manager  
Urban Planning  
Ku-ring-gai Council  
Locked Bag 1056  
PYMBLE NSW 2073

Dear Mr Fabbro,

Attention: Mr Rod Starr

Fax No: 9424 0880

***Ku-ring-gai Draft Local Environmental Plan No 212  
1234-1274 Pacific Highway, Pymble and 1 Beechworth Road, Pymble  
Section 62 Consultation***

Thank you for your letter inviting the National Trust to comment on the Ku-ring-gai Draft Local Environmental Plan No 212 (1234-1274 Pacific Highway, Pymble and 1 Beechworth Road, Pymble which proposes the rezoning of this land from Residential 2(c) zone permitting single dwelling house development to Residential 2(d3) permitting development of this land for future multi-unit housing development.

In response to Council's invitation for comment on this rezoning proposal, the site was inspected and assessed by the Trust's Conservation Director Ms Jacqui Goddard and Deputy Conservation Director, Mr Graham Quint.

The land in question has high scenic and landscape significance as one of the most attractive and distinctive tree-scapes along the Pacific Highway from North Sydney to Hornsby. The site is dominated by at least three dozen mature and majestic Sydney Blue Gum trees (*Eucalyptus saligna*) and a smaller number of Grey Ironbark (*Eucalyptus paniculata*) and Rough-barked Apples (*Angophora floribunda* and *Angophora bakeri*).

The site has long been developed with individual dwellings, they all blend with and complement the high-forest landscape while some of these houses are significant in their own right both architecturally and with their landscaped grounds.

It was specifically noted that even with this comparatively low dwelling density it was difficult and time consuming for residents to access the fast-flowing three-lane Pacific Highway even with the benefit of traffic light changes at nearby intersections.

Given the density of the trees and their positioning across the proposed rezoning site it would not be possible to develop the building density proposed without: -

- clearance of many of the trees, or

***The National Trust is a not-for-profit, non-government, community-based organisation  
working to conserve our built, natural and cultural heritage.***

- major impact on the root systems of the remaining trees through the construction of underground car-parking, changes to ground-water levels, changes to ground water flows and a dramatic increase in impervious surfaces across the site.

The rezoning proposed would ultimately lead to the loss of either most of these trees or probably all of them.

The tree species on this site indicate that this forest is Blue Gum High Forest, an ecologically endangered plant community which is protected by legislation both at the State and Federal level.

This community only occurs in very limited locations in the Sydney region, generally on richer soils in moister locations and the remaining populations are continuing to be threatened by urban development, particularly urban consolidation.


While it was possible to develop low density residential development within the broader Blue Gum Forest and retain the mature trees in healthy condition, this landscape cannot sustain the adverse effects of medium density housing.

Blue Gum High Forest is the distinctive landscape that distinguishes Ku-ring-gai local government area. The remnants of this forest along the Pacific Highway are among the best known and well-loved examples.

The Trust strongly objects to the rezoning proposal and urges that the present single dwelling rezoning is maintained and that the planning principles which led to the adoption of Tree Preservation Orders not only in Ku-ring-gai but across the Sydney Metropolitan Area also be maintained and re-affirmed.

Your advice on Council's decision on this matter would be appreciated in due course.

Yours sincerely,



Tina Jackson  
Executive Director



# Australian Government

ATTACHMENT G

## Department of the Environment and Heritage

Mr Antony Fabbro  
Manager Urban Planning  
Ku-ring-gai Council  
Locked Bag 1056  
PYMBLE NSW 2073

Dear Mr Fabbro

### **REZONING AT 1228-1274 PACIFIC HWY AND 1 BEECHWORTH AVE, PYMBLE, NSW**

Thank you for your letter of 1 February 2007 in regard to the above matter.

As noted in our letter of 20 September 2006, proposals that may have a significant impact on listed ecological communities (Blue Gum High Forest and Sydney Turpentine Ironbark) should be referred by the developer to this Department for consideration under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The EPBC Act does not apply to 'paper' decisions by Council in respect to rezoning, but it does potentially apply to developers undertaking clearing or other development works (eg it applies to the person/company responsible for the direct physical interaction that could harm a listed community). The Department therefore has no objection to the rezoning proceeding.

Developers are responsible for examining the potential for significant impact on the matters protected under the EPBC Act and making a referral under the Act to this Department if significant impacts are likely. If the question of significance is unclear, a project can still be referred and the Department will advise whether or not approval is needed within 20 business days. A form and guide for making a referral is available from the Department's web site ([www.environment.gov.au/epbc](http://www.environment.gov.au/epbc)).

Council may wish to advise any developer to make a referral to this Department so that a decision can be made whether or not approval is needed under the EPBC Act. Alternatively, Council may wish to provide a copy of this letter to any developer. This referral process will need to be completed prior to any construction works commencing on the site.

Please do not hesitate to contact the undersigned (02 6274 1861) if you wish to further discuss potential application of the EPBC Act.

Yours sincerely

Steve Mercer  
Director  
EPBC Act Referrals Section  
Approvals and Wildlife Division

27 February 2007



Our reference : DOC0739696  
Contact : Rachel Lonie, 9995 6837

Mr Anthony Fabbro  
Ku-ring-gai Council  
818 Pacific Highway  
Gordon NSW 2072

Attention: Rod Starr

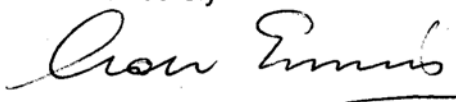
Dear Mr Fabbro

**RE: Section 34A consultation for Draft Ku-ring-gai Local Environmental Plan No 212 - Lands at 1234-1274 Pacific Highway Pymble/ Turramurra and 1 Beechworth Road, Turramurra**

I refer to your correspondence received 27 September 2007 where you request comment from the Department of Environment and Climate Change (DECC) pursuant to Section 34A of the *Environmental Planning and Assessment Act 1979* in relation to draft Ku-ring-gai Local Environmental Plan No 212.

The DECC also advises that a joint site inspection was undertaken at the site with Council staff on 31<sup>st</sup> October 2007. The DECC comments on the issues of concern and recommendations are provided in Attachment 1. If you require further information on the DECC's response please contact Rachel Lonie, Conservation Planning Officer on 9995 6837 (Monday and Wednesday only).

Yours sincerely

 13/11/07

Lou Ewins  
**Manager, Planning and Aboriginal Heritage**  
Metropolitan Branch



The Department of Environment and Conservation NSW is now known as  
the Department of Environment and Climate Change NSW

## ATTACHMENT 1

### 1. Site inspection

The subject site includes all the properties from 1234 to 1274 Pacific Highway Pymble/Turramurra and 1 Beechworth Rd, Pymble. A site inspection was undertaken with Council staff members Rod Starr, Mary-Lou Lewis and Sophia Findlay on 31<sup>st</sup> October 2007. Most properties were accessed at this time. Where observed native plant species were recorded by Mary-Lou Lewis (see attachment A).

It was observed that there were a large number of significant trees that are considered to be remnants of the Blue Gum High Forest (BGHF) critically endangered ecological community (CEEC) across the site. It was also observed in several areas that native groundcovers and some mid storey species persist or are regenerating, particularly in areas of steep terrain at the rear of certain properties (such as Nos 1246 and 1248 Pacific Hwy.) These are characteristic species of BGHF and in some cases of the Sydney Turpentine Ironbark (STIF) endangered ecological community. Despite the heavy weed infestation and mowing of garden areas, natural regeneration of BGHF and STIF native species is occurring in some of the areas viewed.

The location and health of remnant trees have been documented in the *Planning Survey and Tree Management Plan* prepared by Ian English (2004) who found the dominant trees were Sydney Blue Gum *Eucalyptus saligna* and Blackbutt *Eucalyptus pilularis*. English recorded 117 native trees and recommended retention of all but 13 of these. However, the conclusion by English that BGHF community is only existent in remaining trees and not as an understorey community, is not supported by DECC staff as observed during the site inspection.

### 2. Review of Previous Environmental Assessments and Reports

DECC has reviewed two reports on the subject site, these are the Flora and Fauna Study prepared by Environmental Appraisal (EA June 2006) prepared on behalf of the Galwey Investment Trust and a report prepared by Teresa James (James 2007) prepared on behalf of Ku-ring-gai Council.

The first report (EA 2006) found that the site contained some remnant trees of Blue Gum High Forest but that these were no longer viable due to a number of factors. This included the physical separation of the remnant to core bushland such as Sheldon Forest to the south by the railway line, the very low indigenous plant biodiversity and severe weed infestation. The report concluded that *"there will be no significant deterioration of Blue Gum High Forest endangered ecological community than currently exists as there is no longer a viable understorey of supporting BGHF vegetation below the site's existing Sydney Blue Gums Eucalyptus saligna and other associated BGHF trees."*

The second report (James 2007) found that the condition of BGHF at the subject site was highly modified in relation to structure, floristics and diversity but that *"due to the relatively large size of most properties and retention of mature canopy trees, around 40% of the site still contains mostly natural soils with a small range of persistent native species and some evidence of regeneration potential. The presence of a rail corridor and the adjoining Sheldon Forest has also assisted in protecting the naturalness of the site"*. James found that the *"condition and value of remnant vegetation at the site has been underestimated in relation to the species richness, recovery potential and contribution to local bio-linkages along the ridge-line and rail corridor an, and down slope to Sheldon Forest and beyond"*.

James (2007) estimates that approximately 1-2 hectares of BGHF is likely to be lost if the area is developed as proposed. EA (2006) does not estimate the total area of BGHF but found that there were *"only a few individuals of a few species representative or species that are characteristic of BGHF were noted to occur sporadically or occur as a solitary plant or are location in one particular location"*. Canopy cover was not estimated in either report.

### 3. Conservation Significance and Assessment

BGHF was listed as a critically endangered ecological community (CEEC) on 20 April 2007. This determination recognises that the vegetation community:

- a) has undergone a very large reduction in its geographic distribution (less than 5% of its original distribution and less than 200 hectares in extant area);
- b) is very highly restricted in its geographic distribution and it is likely that the action of a threatening process could cause it to decline or degrade; and
- c) that it has undergone a very large reduction in ecological function.

The critically endangered status does not however change the assessment and approval process and the same impact assessment requirements for an EEC continue to apply.

The determination for the CEEC states that BGHF may intergrade with STIF in drier areas and that stands that exhibit intermediate characteristics. James states that STIF may be present at the site, particularly on the drier ridgetop. Where species are indicative of both BGHF and STIF communities, remnants can still be assessed under the "assessment of significance" as they will be covered by either Scientific Committee determinations.

For the remnant to be considered under the provisions of the *Environment Protection and Biodiversity Conservation Act 1999* it must have a canopy cover > 10% and a size greater than one hectare or with a canopy cover < 10% be a fragment greater than 1 hectare in size and occur in areas of native vegetation greater than 5 hectares.

It is understood that Council has sought advice from the Commonwealth as to whether the remnant should be considered under the provisions of the EPBC Act and they have been advised it does not trigger the Act at rezoning stage but may need referral at development application stage.

### 4. Impacts from Proposed Rezoning

Despite the conclusions of the rezoning application made to Council by Chris Young Planning Pty Ltd (2004) DECC considers that the proposed rezoning is likely to have a significant impact on the EEC due to the proposed scale of development, bushfire hazard considerations, and issues associated with retaining mature native trees within a medium density housing development.

Despite the railway line between the site and Sheldon Forest to the south there is some limited connectivity and some species would be expected to utilise this vegetation, particularly more mobile species such as microbats, flying foxes, birds and some mammals. A wildlife corridor to the north that could link to areas in the north is severely compromised by the busy Pacific Hwy, however this remnant would provide a "stepping stone" role.

Recommendations provided by English (2004) for the majority of trees to be retained and for replacement landscaping including planting of 60 new trees, appear to be in conflict with other recommendations for the site including for bush fire management. For example, English recommends a significant canopy tree and vegetation replenishment along the rear 15-30 metre rear boundary setback. The Bushfire Assessment Report states that "*the landscaping for future development on the subject site will be required to be managed as an inner protection area*", i.e. with a few shrubs or trees only that do not form a continuous canopy. Also, the indicative building platforms plan only allows for an average rear setback of 8 m at the north end and up to 15 metres at the south end. Council has also advised that consideration was being given to possible rear access which would also impact on the ability to retain native vegetation along the rear of the properties.



It is also noted that although the Bushfire Assessment concludes that *"the threat of bushfire is not a barrier to consent for the proposed rezoning development"* it states under the section on Hazard Management that *"The most significant protection that can be provided for all these dwellings would be the reduction of hazard within Sheldon Forest Reserve. If such hazard management was undertaken as required by the statutes not only would all the adjacent dwellings benefit substantially the threat of bushfire to the subject development site would be reduced to negligible levels."* Sheldon Forest contains significant remnants of BGHF as well as some STIF and is one of the most important bushland reserves in the Ku-ring-gai LGA. DECC has concerns that as a result of the proposed rezoning parts of Sheldon Forest would need to be managed for bushfire more intensively resulting in more frequent hazard reduction works.

The final determination for this EEC states that the dominant eucalypts of the community live for several hundred years. It also states that the loss of large trees removes essential habitat for a range of tree-dependent fauna and the reduction of understorey complexity degrades habitat for a range of bird and mammal species. Blue Gum Forest remnants often have a highly modified understorey. Weed invasion, mowing and/or underscrubbing and stormwater runoff are all considered to be threats to the community. Weed invasion and mowing in particular are inhibiting natural regeneration and preventing recruitment of species within the community.

## 5. Conclusions

The loss of canopy and understorey BGHF species resulting from development of the site for medium density development as proposed is considered to be likely to result in a significant impact on the CEEC.

Whilst DECC would generally support the recommendations for regeneration, weed removal and possible replanting (such as proposed by English (2004)) these are not consistent with the requirements for bush fire protection. Council needs to resolve conflicting recommendations and ensure that remnant BGHF (and/or STIF) areas are mapped and adequately protected.

Significant blue gums and blackbutts observed on site were estimated to be around 50 – 75 years in age and could be expected to live for a considerable time longer if they are not impacted by further development. Despite the proposed retention of a majority of canopy trees, past experience has shown that retention of mature trees is likely to be highly compromised by the scale of the higher density development proposed. Poor retention of mature trees is evident in similar recent medium density developments along the Pacific Highway in this area. The proposed tree protection zones are unlikely to provide adequate protection for these significant trees.

## Recommendations

DECC recommends the following:

- That all BGHF and STIF remnants occurring within the site and on the adjoining railway verge be surveyed and mapped at an appropriate scale.
- Where remnant native understorey is present (i.e. at the rear of a number of properties) that these be identified as a protected area to be excluded from the development footprint. This would include an appropriate buffer area to the development area. DECC considers that vegetation along the south side of the properties should be retained and enhanced through bush regeneration works so that the BGHF remnant can remain viable and natural recruitment can occur.
- In aiming for the above, Council should consider whether the requirements for bushfire hazard management for the proposed development will result in degradation of endangered ecological communities in Sheldon Forest. This may also result in a limited number of units being accommodated on the site.

- DECC considers that greater protection measures for the mature significant trees on the site is required in order for these to be retained in a future medium density development on the site. Council may consider a number of means to provide adequate protection but it is expected that this is likely to result in much greater tree protection zones and a reduced building and associated infrastructure footprint.
- Council could consider limiting the number of car parking spaces to be provided in the development as the site is close to existing public transport and reduced car parking would encourage greater use of public transport and reduced private car use in accordance with the objectives of the Metropolitan Strategy.



**Attachment A**  
Notes prepared by Mary-Lou Lewis  
Natural Areas Program Leader  
Ku-ring-gai Council

Native species present on private property between Beechworth Road and Warragul  
Road on pacific Highway

| Property number           | Back  | Front onto Pacific Highway  |
|---------------------------|---|---|
| 125574                    | Eucalyptus pilularis x8   | E. Pilularis x 4 E. saligna x1  |
| 12570                     | -inaccessable   | E. pilularis x2   |
| 12568                     | E. Floribunda   | E pilularis x3  |
| 12566                     | -inaccessable   | E pilularis   |
| 12564                     | E. paniculate E reticulata?   | E. pilularis  |
| 12562                     | - inaccessable  | E.pilualris Ceratopetalum gummiiferum   |
| 1258                      | E. pilularis  | inaccessable  |
| 1256                      | inaccessable  | Omolanthus x2 Angophora floribunda x2 micolena, geranium, centella.                         |
| Outside in corridor 1256  | Recruitment of 8-10 E pilularis   |   |
| 1254                      | inaccessable  | inaccessable  |
| 1252                      | inaccessable  | inaccessable  |
| 1250                      | inaccessable  | Acacia Longifolia A.falcata   |
| 1248                      | A.longifolia,diachondra repens , Pseuderanthemum, Pittosporum umnulatun, microlena stipoides, oplesminus,omolanthus, E pilularis x3 | Eucalyptus paniculate A floribunda E.pilularis  |
| 1246                      | E.saligna x 4 E. Pilularis  | E.pilularis x2 Brachychiton,microlena,Plan tain x several,Diachondra,oplismenus,pittosporum |
| 1244                      | E pilularis x6 E saligna x2   |   |
| 1242                      | inaccessable  | E. pilularis x 4  |
| 1240                      | E pilularis x9  | E. pilularis x2   |
| 1238                      | Brachychiton Acacia elata   | E. pilularis x3 Acacia elata Ceratopetalum  |
| 1236                      | E.pilularis x6 +++  | A. floribunda, E. Pilularis   |
| Rail corridor behind 1234 | inaccessable<br>Angophora floribunda x8, Eucalyptus saligna x6  |   |



Australian Government

Department of the Environment and Water Resources

ATTACHMENT I

Our reference: 2007/8760

Mr Antony Fabbro  
Manager Urban Planning  
Ku-ring-gai Council  
Locked Bag 1056  
PYMBLE NSW 2073



Dear Mr Fabbro

**LANDS AT 1234-1274 PACIFIC HIGHWAY, PYMBLE, NSW**

Thank you for your letter of 25 October 2007 inviting comment on a recent flora and fauna assessment of the above site. I regret the delay in responding.

As previously noted, the rezoning of the subject site is not an 'action' within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). However, any subsequent development with the potential for significant impacts on a matter of national environmental significance, such as the listed *Blue Gum High Forest of the Sydney Basin Bioregion* (BGHF) ecological community, will require referral to this Department by the developer.

As you are aware, BGHF must meet the definitions described in the attached information to form the ecological community listed and protected under the EPBC Act. Examples of the community that meet state criteria may not necessarily meet the criteria under the EPBC Act.

In particular, the forest patch must have a tree canopy greater than 10%, and be dominated by native species, especially *Eucalyptus saligna* (Sydney Blue Gum), and be an area greater than one hectare. The other two canopy species mentioned in the Threatened Species Scientific Committee's (2005) description of the community - *Eucalyptus pilularis* (Blackbutt) and *Angophora costata* (Sydney Red Gum) - may also occur, as well as 3 typical species of low trees mentioned by the Committee - *Pittosporum undulatum* (Pittosporum), *Elaeocarpus reticulatus* (Blueberry Ash) and *Allocasuarina torulosa* (Forest Oak).

Alternatively, patches with less than 10% tree canopy may also be listed if they are more than one hectare in size and are part of a native vegetation remnant greater than 5 hectares.

Severely modified stands of trees characteristic of the canopy of BGHF, but without a native understorey, are not included in the definition of the community, and do not form part of the listing (Threatened Species Scientific Committee 2005).

For example, patches with the typical overstorey do not constitute the listed community if the understorey has been severely modified and consists predominantly of introduced species. Forest patches where introduced species greatly outnumber native species (for example, the dominant understorey species is *Ligustrum lucidum* (Large-leaved Privet), *Genista monspessulana* (Montpellier Broom) and/or *Protasparagus aethiopicus* (Asparagus Fern)) are not the listed community under the EPBC Act. One native understorey species often common (*Pittosporum undulatum*), although a natural component of BGHF, is a troublesome native weed in Sydney urban bushland and is not a good measure of the quality of the understorey.

The Department recognises that different methodologies and interpretations may be used by botanists with a consequence that it is not always black and white as to whether the EPBC Act listed community is present.

The Department accepts the Tozer (2003) method using sets of diagnostic native species that can be used to identify the type of vegetation in 400m<sup>2</sup> plots. For the listed BGHF to occur, and assuming the requisite overstorey is present, a plot should contain at least 17 of the native diagnostic species for BGHF and the total number of native species in the plot must exceed 34.

I hope that the above is of some assistance. Please do not hesitate to contact the undersigned (02 6274 1861) if you require further information

Yours sincerely



Steve Mercer  
Director  
EPBC Act Compliance Section  
Compliance and Enforcement Branch  
Approvals and Wildlife Division



November 2007



Australian Government

Department of the Environment and Water Resources

## Threatened Species and Threatened Ecological Communities

You are here: [Environment home](#) > [Biodiversity](#) > [Threatened species & ecological communities](#)

# Blue Gum High Forest of the Sydney Basin Bioregion

**Advice to the Minister for the Environment and Heritage from the Threatened Species Scientific Committee (TSSC) on amendments to the List of Ecological Communities under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)**  
26 August 2005

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## 1. Name

This ecological community was nominated under the name **Blue Gum High Forest** and is listed under NSW legislation under that name. The name **Blue Gum High Forest of the Sydney Basin Bioregion** is considered appropriate for use as the name of the national ecological community.

## 2. Description

The Blue Gum High Forest of the Sydney Basin Bioregion ecological community belongs to the Major Vegetation Subgroup '*Eucalyptus* tall open forest', as identified under the National Vegetation Information System. It comprises a tall canopy of dominant trees, that may reach a height of over 30 m, above a midstorey of shrubs and small trees and a diverse ground layer.

It occurs in the Sydney region where it is generally found at altitudes higher than 100 m above sea level on the Hornsby Plateau in the North Shore and northern suburbs of Sydney.

It is predominantly restricted to deep soils derived from Wianamatta Shale in high-rainfall areas that receive more than 1100 mm per year. Some remnants also occur on Hawkesbury Sandstone and the Mittagong formation. In lower rainfall zones, it grades into Turpentine Ironbark Forest with which it shares some characteristic species (Benson and Howell, 1990, 1990; NSW NPWS, 2002).

Blue Gum High Forest of the Sydney Basin Bioregion is dominated by either Blackbutt (*Eucalyptus pilularis*) or Sydney Blue Gum (*E. saligna*). Smooth-barked Apple (*Angophora costata*) is also frequently observed in remnants close to the shale/sandstone boundary, but occurs infrequently on deep shale soils. A relatively diverse stratum of small trees is usually present, and includes Sweet Pittosporum (*Pittosporum undulatum*), Blueberry Ash (*Elaeocarpus reticulatus*) and Forest Oak (*Allocasuarina torulosa*). Shrub species are typically mesic, such as Coffee Bush (*Breynia oblongifolia*), Rough-fruited Pittosporum (*Pittosporum revolutum*), Hairy Clerodendrum (*Clerodendrum tomentosum*), Mock Olive (*Notelaea longifolia* f. *longifolia*), Narrow-leaved Orangebark (*Maytenus sylvestris*), Elderberry Panax (*Polyscias sambucifolia* subsp. A) and Muttonwood (*Rapanea variabilis*). Sclerophyllous species such as Narrow-leaved Geebung (*Persoonia linearis*) and *Leucopogon juniperinum* occur more frequently approaching the shale/sandstone boundary. The ground stratum is often dense and contains a mixture of herb, grass and fern species including Maidenhair Fern (*Adiantum aethiopicum*), Bordered Panic (*Entolasia marginata*), Spiny-headed Mat-rush (*Lomandra longifolia*), Common Ground Fern (*Calochlaena dubia*), *Dianella caerulea*, Pastel Flower (*Pseuderanthemum variabile*) and *Oplismenus imbecillis*. Vine species are also frequently present, in particular Bearded Tylophora (*Tylophora barbata*), Wombat Berry (*Eustrephus latifolia*), Australian Clematis (*Clematis aristata*) and Wonga Wonga Vine (*Pandorea pandorana*) (NSW NPWS, 2002).

Many species may be present in only one or two sites, or in very low numbers. On any particular site not all species may be seen at any one time, but seeds of more species may be present in the soil seed bank. The size of the site and its recent disturbance history will influence the species composition. For a number of years after a major disturbance, dominance by a few species may occur, with gradual restoration of a more complex composition and vegetation structure over time. The balance between species will change over the fire cycle, and may also change in response to changes in fire frequency. (NSW Scientific Committee 1997).

No comprehensive studies of the fauna of the Blue Gum High Forest of the Sydney Basin Bioregion have been undertaken. However, some animal species listed as threatened nationally or in NSW have been recorded in the Blue Gum High Forest of the Sydney Basin Bioregion. These may be resident or transient and include the Grey-headed Flying-fox (*Pteropus poliocephalus*), Yellow-bellied Sheath-tail-bat (*Saccolaimus flaviventris*), Glossy Black Cockatoo (*Calyptorhynchus lathami*) and the Powerful Owl (*Ninox strenua*).

### 3. Condition classes

Before European settlement the Blue Gum High Forest of the Sydney Basin Bioregion had a naturally restricted distribution. It has become highly fragmented, with all remnants occurring as isolated patches in an urban environment. Many of these patches have a modified structure, and the ecological community may now occur as either a forest or woodland.

State Agencies, Local Government, environmental groups and other stakeholders are actively managing most remnants of Blue Gum High Forest of the Sydney Basin Bioregion to conserve a range of biodiversity values. This regime results in individual patches of a relatively small size remaining viable.

Remnants of the Blue Gum High Forest of the Sydney Basin Bioregion ecological community



will typically have components representing the characteristic native species of all structural layers. The ecological community includes occurrences of the Blue Gum High Forest of the Sydney Basin Bioregion ecological community with a canopy cover greater than 10% and a size greater than one ha. These areas have the greatest conservation value. The high quality and size of these patches makes them most resilient to disturbance. Their total area covers approximately 136 ha.

Additionally, occurrences with less than 10% canopy cover are also considered part of the listed Blue Gum High Forest of the Sydney Basin Bioregion ecological community if the fragments are greater than one ha in size and occur in areas of native vegetation in excess of 5 ha. These areas enhance the potential for connectivity and viability of the ecological community. They support flora and fauna species through the facilitation of gene flow and act as buffer against disturbance. These areas total approximately 4 ha.

The five largest high-quality remnants of the Blue Gum High Forest of the Sydney Basin Bioregion ecological community are the Dalrymple-Hay Nature Reserve, Sheldon Forest, occurrences near Fox Valley Road and Burns Road in the Local Government Area of Ku-ring-gai, and an occurrence that is part of the Cumberland State Forest in Baulkham Hills. The Local Government Area of Ku-ring-gai also contains two occurrences of the threatened ecological community within larger areas of native vegetation as described above. These are located near Burns Road (between Finchley and McRae Place) and south of Mount Pleasant Avenue (between Mt Pleasant and Browns Road).

Single isolated trees or stands of trees, characteristic of the canopy of Blue Gum High Forest of the Sydney Basin Bioregion, without a native understorey are considered important as biodiversity reservoirs. However, due to having been severely modified, these areas fall outside the definition of this ecological community and therefore do not form part of this listing.

#### 4. National context

The Blue Gum High Forest of the Sydney Basin Bioregion occurs entirely within the Sydney Basin Bioregion. The most recent published mapping for this ecological community was undertaken by NSW National Parks and Wildlife Service (NPWS) as part of its project on recovery planning for the Cumberland Plain's endangered ecological communities (NSW NPWS 2002). More recent but unpublished data have been made available by Local Government Authorities.

The Blue Gum High Forest of the Sydney Basin Bioregion is listed as an endangered ecological community under the NSW *Threatened Species Conservation Act 1995* (NSW Scientific Committee 1997).

The ecological community was known to predominantly occur in the Local Government Areas of Willoughby, Ku-ring-gai, Hornsby, Baulkham Hills, Ryde, Parramatta and Lane Cove (Benson and Howell 1990; NSW Scientific Committee 1997). However, the listed ecological community, as defined above, is limited to the Local Government Areas of Ku-ring-gai, Hornsby and Baulkham Hills. The largest remnant reserved for conservation is Dalrymple Hay Nature Reserve/Browns Forest at St Ives in the Ku-ring-gai Local Government Area.

#### 5. How judged by TSSC in relation to the EPBC Act criteria

The TSSC judges the Blue Gum High Forest of the Sydney Basin Bioregion ecological community to be eligible for listing as **critically endangered** under the EPBC Act. The



justification against the criteria is as follows:

### **Criterion 1 - Decline in geographic distribution**

Prior to European arrival in Australia, Blue Gum High Forest of the Sydney Basin Bioregion was found on the high rainfall areas (above 1100 mm pa) of Wianamatta Shale soils along the central spine of Sydney's North Shore from Crows Nest to Hornsby and further west between Castle Hill and Eastwood. (Benson and Howell, 1990).

This ecological community had a naturally restricted distribution, estimated as approximately 3720 ha (NSW NPWS, 2002).

The Blue Gum High Forest of the Sydney Basin Bioregion now occurs only as small remnants and corridors in three Local Government Areas: Ku-ring-gai, Hornsby and Baulkham Hills. Occurrences in other Local Government Areas are either extinct or too degraded to be included as part of the listed ecological community.

This listing advice includes areas of Blue Gum High Forest of the Sydney Basin Bioregion that have been defined on the basis of their condition, size or connectivity. NSW NPWS mapping figures, published in 2002, indicate that the Blue Gum High Forest of the Sydney Basin Bioregion has undergone a very severe decline of 96.2%. The total remaining area of occupancy is estimated to be 140 ha .

The reduction in its geographic distribution is confirmed on the basis of unpublished Local Government data for 2003-2004.

Therefore, the ecological community is **eligible for listing as critically endangered** under this criterion.

### **Criterion 2 - Small geographic distribution coupled with demonstrable threat**

The area of occupancy for the Blue Gum High Forest of the Sydney Basin Bioregion was naturally restricted. As a consequence of ongoing development in the Cumberland Plain, the ecological community's area of occupancy has been further reduced to approximately 140 ha .

The major threats to the Blue Gum High Forest of the Sydney Basin Bioregion are vegetation clearing and fragmentation of remnants. In the past, vegetation was cleared to provide construction timber or for farming and agricultural activities. In more recent times, urban development resulting from the expansion of Sydney suburbs has become the main ongoing reason for clearing (Benson and Howell 1990).

Fragmentation of remnants has seriously disrupted the continuity of the Blue Gum High Forest of the Sydney Basin Bioregion. Remnants of this ecological community primarily consist of isolated, small patches with a high edge-to-area ratio and are consequently particularly susceptible to significant edge effects, including the invasion by exotic plant species and the decline in understorey sclerophyll shrubs and herbaceous species. Only five remnants cover areas greater than 5 ha . The largest area reserved for conservation, Dalrymple Hay Nature Reserve/Browns Forest, covers 15.2 ha, while the remaining fragments containing high-quality remnants have an average area of approximately 2 ha each.

Additional ongoing threats to the survival of the Blue Gum High Forest of the Sydney Basin

Bioregion ecological community are increased nutrient status, altered drainage, inappropriate fire regimes, invasion by exotic plants, mowing and clearing (NSW Scientific Committee, 1997).

The total area of occupancy of the Blue Gum High Forest of the Sydney Basin Bioregion ecological community is very restricted, and numerous demonstrable threats are ongoing.

Therefore, the ecological community is **eligible for listing as critically endangered** under this criterion.

### **Criterion 3 - Loss or decline of functionally important species**

Despite a general indication that both the overstorey and lower storeys have been modified, there is an absence of quantitative data about the loss of particular important species and their capacity to regenerate.

Therefore, the ecological community is **not eligible for listing** under this criterion.

### **Criterion 4 - Reduction in community integrity**

The integrity of the Blue Gum High Forest of the Sydney Basin Bioregion ecological community has been adversely affected by a number of factors. The remaining fragments are generally isolated and small with a high edge-to-area ratio. They are particularly susceptible to edge effects, including the invasion by exotic plant species.

It is estimated that at least 50% of the remaining areas containing the Blue Gum High Forest of the Sydney Basin Bioregion are subject to weed invasion (Nomination, based on unpublished Local Government Area data in 2003-2004). Inappropriate fire regimes (including cool fires and fire exclusion) have also resulted in a decline in native plant diversity in remnants of the Blue Gum High Forest of the Sydney Basin Bioregion. In the late 1980s, trials conducted at Sheldon Forest in the Ku-ring-gai Local Government Area revealed that fire is essential to maintain species diversity in Blue Gum High Forest of the Sydney Basin Bioregion. (McDonald, Wale and Bear, 2002). This was also found to be the case in the restoration of the Blue Gum High Forest of the Sydney Basin Bioregion community in the Ludovic Blackwood Memorial Sanctuary, Pennant Hills (Buchanan, 1989).

Fragmentation and the ongoing modifications from management practices have adversely impacted on the integrity of the majority of the remnants of the Blue Gum High Forest of the Sydney Basin Bioregion. As a consequence, regeneration of this ecological community is unlikely in the immediate future, even with positive human intervention.

Therefore, the ecological community is **eligible for listing as critically endangered** under this criterion.

### **Criterion 5 - Rate of continuing detrimental change**

The rate of detrimental change is predominantly controlled by the rate of urban development and population growth. Development pressure has escalated since 1950s following the development of suburbs built within bushland and dependent on car travel. However, quantitative data measuring the rate of decline are not available.

Therefore, the ecological community is **not eligible for listing** under this criterion.



## Criterion 6 - Quantitative analysis showing probability of extinction

The nomination provides no information under this criterion.

## 6. Conclusion

The **Blue Gum High Forest of the Sydney Basin Bioregion ecological community** meets criterion one as critically endangered as it has undergone a very severe decline; criterion two as critically endangered as it has a very restricted area of occupancy and is subject to ongoing and demonstrable threats; and criterion four as critically endangered as regeneration is unlikely due to the ecological community's diminished integrity.

## 7. Recommendation

TSSC recommends that the list referred to in section 181 of the EPBC Act be amended by including in the list in the critically endangered category:

- **Blue Gum High Forest of the Sydney Basin Bioregion ecological community**

## Publications used to assess the nomination

Benson, D. & Howell, J. (1990) *Taken for Granted: the Bushland of Sydney and its Suburbs*. Kangaroo Press in association with the Royal Botanic Gardens, Sydney.

Buchanan, R.A. (1989). *Bush Regeneration. Recovering Australian Landscapes*. TAFE New South Wales, Sydney.

Eby, P. and Lunney, D (2002) *Managing the Grey-headed Flying-fox as a Threatened Species*. Royal Zoological Society of New South Wales, Sydney.

McDonald, T., Wale, K. and Bear, V. (2002). Restoring Blue Gum High Forest: lessons from Sheldon Forest. *Ecological Management & Restoration* 3, 15-26.

New South Wales National Parks and Wildlife Service (2001). Endangered Ecological Community Information Sheet: *Blue Gum High Forest*.  
[http://www.nationalparks.nsw.gov.au/PDFs/Blue\\_Gum\\_High\\_Forest.pdf](http://www.nationalparks.nsw.gov.au/PDFs/Blue_Gum_High_Forest.pdf)

New South Wales National Parks and Wildlife Service (2002). *Interpretation Guidelines for the Native Vegetation Maps of the Cumberland Plain, Western Sydney*. New South Wales National Parks and Wildlife Service, Sydney.

New South Wales National Parks and Wildlife Service (2002). Native Vegetation of the Cumberland Plain, Final edition. CD Rom version. ISBN 0 7313 6921 1.

New South Wales Scientific Committee (1997). Final Determination for listing Blue Gum High Forest as an Endangered Ecological Community, NSW Government Gazette, Sydney.

## Conservation Advice

The Blue Gum High Forest of the Sydney Basin Bioregion ecological community occurs only in the Sydney Basin Bioregion in the Local Government Areas of Ku-ring-gai, Hornsby and

Baulkham Hills. Its area of occupancy is very restricted, and the remaining areas are small and severely fragmented.

The ecological community is predominantly threatened by further fragmentation. This generally results from development of unprotected remnants and clearing for infrastructure such as overhead power lines and bushfire hazard reduction. Other major threats include weed infestation, increased nutrient status, inappropriate fire regimes and mowing/clearing of the understorey.

The priority recovery and threat abatement actions required for this ecological community are:

- prevent further clearing or fragmentation of the ecological community through the protection of protected remnants and/or local council zoning;
- restore and enhance remaining areas of Blue Gum High Forest of the Sydney Basin Bioregion to create buffer zones and to link fragments with remnants of other native vegetation;
- manage weed infestation through weeding and bush regeneration activities; and
- develop and implement appropriate management regimes to prevent further loss or decline of functionally important species and reduction in community integrity.

This list does not encompass all actions that may be of benefit to this ecological community, but highlights those that are considered to be of the highest priority at the time of listing.

**Development of recovery plan:** The NSW National Parks and Wildlife Service is developing a recovery plan for all endangered ecological communities of the Cumberland Plain, including the Blue Gum High Forest of the Sydney Basin Bioregion.

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## Nationally threatened species and ecological communities

The Australian Minister for the Environment and Heritage decided to list the Blue Gum High Forest after considering advice from the Threatened Species Scientific Committee. The Committee is an independent scientific body that advises the Minister on the conservation status of native species and ecological communities.

### What does the listing of the Blue Gum High Forest mean for land managers?

National listing means that activities likely to have a significant impact upon the Blue Gum High Forest should be referred to the Minister for assessment and approval (unless they are subject to an exemption under the EPBC Act). Significant impacts may involve, but are not restricted to, clearing vegetation at a site.

Making a referral under the EPBC Act is easy and free. Just complete and submit the relevant form from the Department of the Environment and Heritage web site. Based on your referral, the Minister will determine if assessment and approval are required. If approval is not required then you can proceed with the action, as described in your referral. If approval is required, the EPBC Act ensures that the assessment and approval process is undertaken in a timely manner.

The EPBC Act allows for some exemptions to the requirement for assessment and approval. This means that some activities may not need an assessment or approval if you meet certain requirements. Information on exemptions can be found at: [www.deh.gov.au/epbc/publications/exemptions.html](http://www.deh.gov.au/epbc/publications/exemptions.html).

### What priority actions can help conserve the Blue Gum High Forest?

Priority conservation actions that can help recover the Blue Gum High Forest are to:

- prevent further clearing or fragmentation of the ecological community
- create buffer zones and link fragments through restoration of remnants
- manage weed infestations and
- develop and implement appropriate management regimes to prevent further loss or decline.

You may also wish to participate in the development and implementation of your region's Natural Resource Management Plan. In this case, contact the Sydney Metro Catchment Management Authority through their web site at: [www.dipnr.nsw.gov.au/nr/mg/sydney\\_metro.html](http://www.dipnr.nsw.gov.au/nr/mg/sydney_metro.html).

### Is funding available to help conserve the Blue Gum High Forest?

Since 1996, the Australian Government has provided more than \$440 000 of funding to help protect remnants of the Blue Gum High Forest. Local community groups and councils have used the funding to enhance these valuable remnants by replanting native species, removing weeds, and maintaining wildlife and vegetation corridors.

- Further funding is available for projects to protect and recover nationally threatened species and ecological communities.
- Information about the Threatened Species Network community grants is available at: [www.wwf.org.au/sn](http://www.wwf.org.au/sn).
- Information about Environment grants is available at: [www.nht.gov.au/envirofund](http://www.nht.gov.au/envirofund).

### Where can I get more information?

Further information is available from the Department of the Environment and Heritage.

- EPBC Act web site: [www.deh.gov.au/epbc](http://www.deh.gov.au/epbc)
- EPBC Act Administrative Guidelines on Significance: [www.deh.gov.au/epbc/assessments/approvals/guidelines/index.html](http://www.deh.gov.au/epbc/assessments/approvals/guidelines/index.html)
- Referral form: [www.deh.gov.au/epbc/assessments/approvals/referrals/form.html](http://www.deh.gov.au/epbc/assessments/approvals/referrals/form.html)
- Community Information Unit: Free call 1800 803 772

Information on endangered ecological communities and vegetation management laws in NSW is available from the NSW Department of Environment and Conservation:

- [www.environment.nsw.gov.au/index.htm](http://www.environment.nsw.gov.au/index.htm)
- the NSW Department of Infrastructure, Planning and Natural Resources:
- [www.dipnr.nsw.gov.au/index.html](http://www.dipnr.nsw.gov.au/index.html).

## Nationally threatened species and ecological communities

### BLUE GUM HIGH FOREST OF THE SYDNEY BASIN BIOREGION

Before European settlement, forest, woodland and heathland ecological communities, including the Blue Gum High Forest covered the Sydney region. This ecological community is now restricted to small bushland remnants nestled amongst the suburbs of Sydney.

The Blue Gum High Forest is listed as a critically endangered ecological community under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). It is also listed as an endangered ecological community in NSW under the *NSW Threatened Species Conservation Act 1995*.

### What is the Blue Gum High Forest?

The Blue Gum High Forest is a tall forest that typically grows in high-rainfall areas, receiving more than 1100 mm per year, and on deep soils derived from Wianamatta Shale. The forest has several vegetation layers in its undisturbed state. The tall tree canopy can be over 30 metres high. Smaller trees and shrubs grow underneath the tall tree canopy. The vegetation on the ground is a dense, diverse mix of herbs, grasses, ferns and vines.

Typical plant species found in the Blue Gum High Forest are listed in the table. The list is not exhaustive and not all of the species listed will occur in every patch of Blue Gum High Forest.

Many patches of Blue Gum High Forest have become degraded with the remaining ecological community now embedded within an urban environment. The listed ecological community includes patches with an intact vegetation structure, a tree canopy cover greater than 10%, and an area greater than one hectare. Patches with less than 10% tree canopy cover are also included if they are more than one hectare in size and are part of a native vegetation remnant larger than 5 hectares.

### Where does the Blue Gum High Forest occur?

The Blue Gum High Forest is found in Sydney's northern suburbs. It is known from the Local Government Areas of Ku-ring-gai, Hornsby and Baulkham Hills.

#### Typical plant species

##### Tall trees

Smooth-barked Apple (*Angophora costata*)  
Blackbutt (*Eucalyptus pilularis*)  
Sydney Blue Gum (*Eucalyptus saligna*)

##### Small trees and shrubs

Forest Oak (*Allocasuarina torulosa*)  
Coffee Bush (*Bryonia oblongifolia*)  
Hairy Clerodendrum (*Clerodendrum tomentosum*)  
Blushberry Ash (*Elaeocarpus reticulatus*)  
Prickly Beard-heath (*Leucopogon juniperinus*)  
Narrow-leaved Orangebark (*Mayrenus sylvestris*)  
Mock Olive (*Metelaea longifolia*)  
Narrow-leaved Gaebung (*Persea linearis*)  
Rough-fruited Ptilosporum (*Ptilosporum revolutum*)  
Sweet Ptilosporum (*Ptilosporum undulatum*)  
Muttonwood (*Rapanea variabilis*)

##### Herbs, grasses and ferns

Maidenhair Fern (*Adiantum aethiopicum*)  
Common Ground Fern (*Calocliena dubia*)  
Flax Lily (*Dianella caerulea*)  
Bordered Panic (*Eriostida marginata*)  
Spiny-headed Mat-rush (*Lomandra longifolia*)  
Pastel Flower (*Pseudanthemum variabile*)

##### Vines

Australian Clematis (*Clematis aristata*)  
Wombat Berry (*Eustrophia latifolia*)  
Wonga Wonga Vine (*Pardosia pandorana*)  
Bearded Typhophora (*Typhophora barbata*)

### Why is the Blue Gum High Forest included on the list of nationally threatened ecological communities?

Over 200 years, intensive land use in the Sydney Basin Bioregion has severely affected the Blue Gum High Forest. Most of the forest has been cleared, less than 5% of the original forest is intact and retains the structural integrity of the vegetation. Existing remnants continue to be threatened by clearing and weed invasion.

National listing of the Blue Gum High Forest aims to prevent its further decline. The listing will help land managers, community groups and other organisations in their efforts to protect and recover the ecological community.



#### Photography credits

Top to bottom:  
Sydney Blue Gum (*Eucalyptus saligna*) - Guy Parosstein  
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Australian Clematis (*Clematis aristata*) - A. McWhirter  
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© Ku-ring-gai Council  
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## Nationally threatened species and ecological communities

### Blue Gum High Forest of the Sydney Basin Bioregion

This is an indicative map only and it is not  
intended for fine scale assessment.



**Source:**  
The distribution of areas where Blue Gum High Forest of the Sydney Basin Bioregion is likely to occur is from Native Vegetation Maps of the Cumberland Plain Western Sydney, Final Edition, NSW National Parks & Wildlife Service (2002). The following attributes were included in the map: 'Ecological Community Likely to Occur' includes all areas of Polycode 'A' and 'B' with an area of 1 ha or more.

Conservation Reserves from the Department of the Environment and Heritage, Collaborative Australian Protected Areas Database (CAPAD 2003).

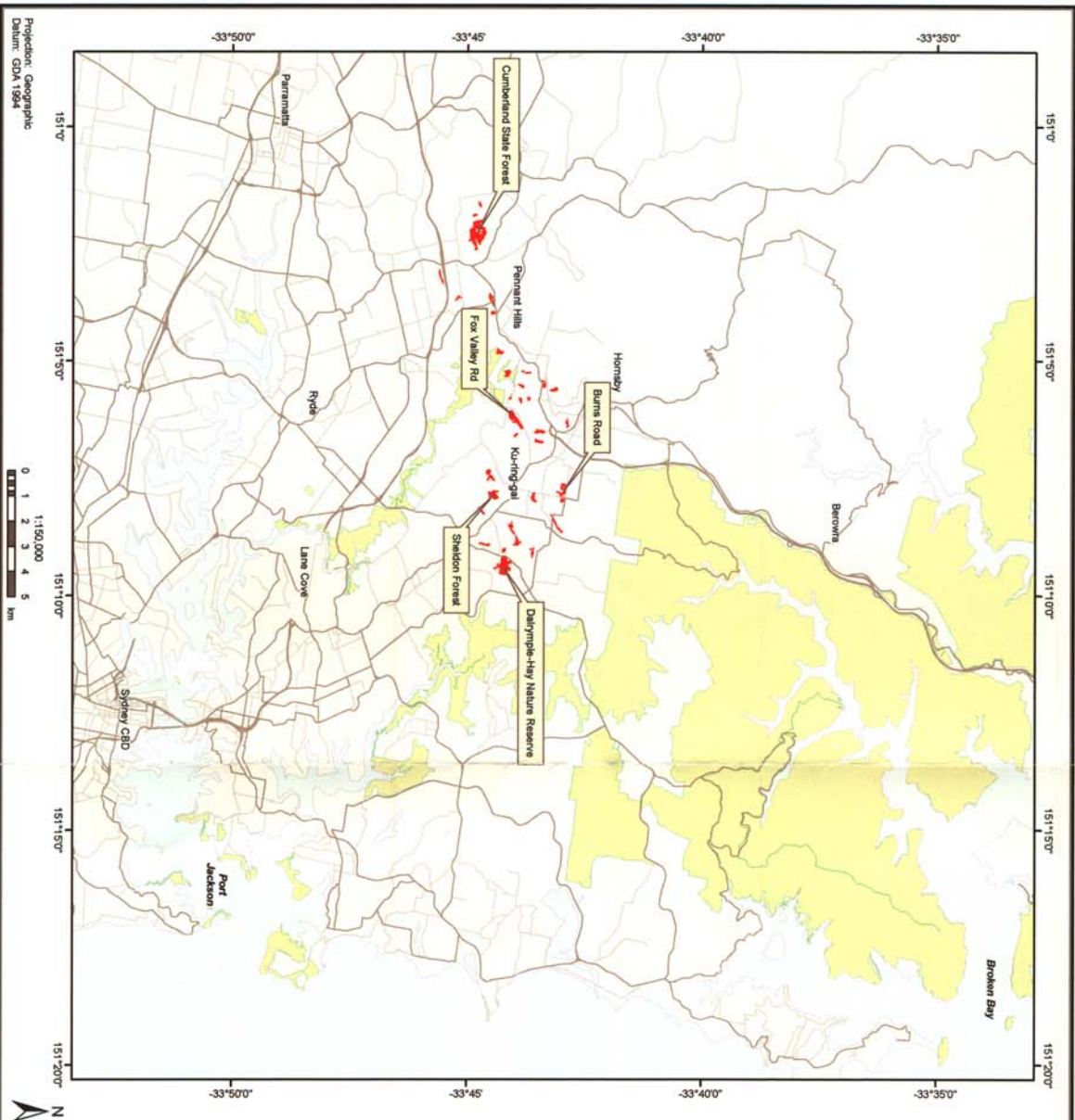
Road information is Copyright © PSWV Australia Limited (2003). Data supplied by MapData Sciences.

**caveat:**  
The information presented in this map has been provided by a range of groups and agencies. While every effort has been made to ensure accuracy and completeness, no guarantee is given, nor responsibility taken by the Commonwealth for errors or omissions, and the Commonwealth does not accept responsibility in respect of any information or advice given in relation to, or as a consequence of, anything contained herein. The user should consult a range of sources, with data at various resolutions.

Data used are assumed to be correct as received from the data suppliers.

The Native Vegetation of the Cumberland Plain data has limitations which are described in the NSW Native Vegetation and Wildlife Service (2002) Interpretation Guidelines for the Native Vegetation Maps of the Cumberland Plain Western Sydney, Final Edition, NSW NPWS, Hurville.

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Natural Resources Information Network  
Australian Government  
Department of the Environment and Heritage  
May 2005  
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Projection: Geographic  
Datum: GDA 1994

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## Draft Ku-ring-gai Local Environmental Plan No 212

under the  
Environmental Planning and Assessment Act 1979

### 1 Name of plan

This plan is *Ku-ring-gai Local Environmental Plan No 212*.

### 2 Aims of plan

The aims of this plan are to rezone the land to which this plan applies to Zone No. 2(d3) Residential “D3” under the Ku-ring-gai Planning Scheme Ordinance.

### 3 Land to which plan applies

This plan applies to land fronting 1234-1256 Pacific Highway and 1 Beechworth Road, Pymble and 1258-1274 Pacific Highway, Turramurra, as shown coloured light scarlet, with dark red edging and lettered “2(d3)” on the map marked “Ku-ring-gai Local Environmental Plan No 212” deposited in the office of Ku-ring-gai Council.

### 4 Relationship to other environmental planning instruments

This plan amends:

- (a) The *Ku-ring-gai Planning Scheme Ordinance* as set out in Schedule 1, and
- (b) *State Environmental Planning Policy No 53 – Metropolitan Residential Development* by deleting from clause 4(2) the words following “Ku-ring-gai Local Environmental Plan No 200 – Zoning Map” and inserting the words “or Ku-ring-gai Local Environmental Plan No 212 – Zoning Map held in the office of Ku-ring-gai Council”.

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**Schedule 1 Amendments****[1] Clause 4 Interpretation**

Insert in appropriate order in the definition of *Scheme map* in clause 4(1):

Ku-ring-gai Local Environmental Plan No 212

**[2] Clause 25A Land to which this Part applies**

Add at the end of the clause the words:

Ku-ring-gai Local Environmental Plan No 212 – Zoning Map

**[3] Clause 25I site requirements and development standards for multi-unit housing**

Insert in Clause 25I after subclause (9):

**(10) Development in proximity to a rail corridor**

- (a) This clause is applicable for development at 1234-1256 Pacific Highway and 1 Beechworth Road, Pymble and 1258-1274 Pacific Highway, Turramurra for the purpose of residential accommodation, places of public worship, hospitals, educational establishments or other noise sensitive buildings in the proximity of the North Shore Rail Line.
- (b) Development consent must not be granted to development that is, or is likely to be, adversely affected by rail noise or vibration, unless the consent authority is satisfied that the proposed development incorporates all practical mitigation measures for rail noise or vibration recommended by Rail Corporation New South Wales for development of that kind.

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## NATIVE VEGETATION MAPPING PROCESS FOR THE KU-RING-GAI LOCAL GOVERNMENT AREA

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To report to Council the proposed methodology for mapping vegetation across the Ku-ring-gai local government area.

**BACKGROUND:**

Changes by the NSW Scientific Committee in the determination of the status of Blue Gum High Forest (BGHF) to a Critically Endangered Ecological Community (CEEC), and the need to prepare a land capability assessment as part of the preparation of the principal Local Environment Plan (LEP) have demonstrated an urgent need to map and assess Endangered Ecological Communities (EEC) within the LGA.

**COMMENTS:**

A mapping and assessment tool has been developed to identify and undertake a conservation significance assessment of EECs. The tool is based on up to date scientific methodology, recent landscape scale mapping completed by a number of government agencies and advice from ecological experts, practitioners and the community.

**RECOMMENDATION:**

That Council receive and note the EEC mapping and assessment methodology.

## PURPOSE OF REPORT

To report to Council the proposed methodology for mapping vegetation across the Ku-ring-gai local government area.

## BACKGROUND

There are three ecological communities listed under the *Threatened Species Conservation Act 1995* within the Ku-ring-gai Local Government Area (LGA). These include Blue Gum High Forest as critically endangered and Sydney Turpentine Ironbark Forest (STIF) and Duffys Forest as endangered ecological communities (EEC). The listing of these communities under the Act recognises their vulnerability to the point that they are in immediate danger of extinction.

The listing of the endangered and critically endangered communities is made under the Threatened Species Conservation Act by the NSW Scientific Committee. In determining to list, de-list or vary the status of an ecology community, the Committee will give consideration to among other matters vegetation surveys, extent, threatening processes and likely risks to the longevity of the vegetation and its associated elements. As part of the determination, threatening process and recovery strategies are also identified.

Common to each of the three EECs are a number of threatening processes. These include:

- further clearing for urban development and the subsequent impacts from fragmentation; and
- urban runoff.

For Blue Gum High Forest and Sydney Turpentine Ironbark Forest these also include:

- mowing, which stops regrowth;
- weed encroachment; and
- inappropriate fire regimes.

Further, NSW Land and Environment Court, government agencies and others provide occasional comment on how they interpret final determinations by the Scientific Committee that in turn assist land managers such as Councils to fulfil their planning, operational and environmental obligations. In *Murlan Consulting Pty Ltd v Ku-ring-gai Council* [2007] NSWLEC 374, the Court added further weight to the need to protect Blue Gum High Forest. In particular it emphasised the need to protect mature trees, recognised the importance of connectivity and pollination vectors and placed importance on remnant seed within the soil profile. In *Walker v Minister for Planning* [2007] NSW LEC 741, the court also considered EECs in the context of sustainability and the need to have up to date mapping. In this case *Briscoe J* favoured arguments supporting the application of the Environmental Sustainable Development (ESD) principles in the management of ecologically endangered communities in that decision makers must take into account the Precautionary Principle; the Principle of Inter-generational equity; biodiversity conservation and ecological integrity; and improved valuation, pricing and incentive mechanisms. In relation to mapping it ruled that the mapping on which the Minister relied was inadequate because re-mapping had not occurred when the EEC classification details changed. This situation is analogous to the situation for final determination affecting Blue Gum High Forest.



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In the past mapping of EECs and other vegetation communities has primarily relied on predictive soil mapping. In the case of EECs the data was significantly improved through the mapping of the vegetation of the Cumberland Plan project undertaken by the NSW National Park and Wildlife Service in 2002. Local information was added to mapping within the Ku-ring-gai LGA as part of the environmentally sensitive areas baseline studies. This mapping covered approximately 100 sites and included detailed species lists for each location. Most recently, mapping of the Sydney Harbour Foreshore (2006) has further refined the method for vegetation mapping with increased resolution relying on improvements to aerial photography coupled with ground truthing. For Ku-ring-gai, this project was mostly limited to the edges of the LGA adjacent to Middle Harbour Creek and Lane Cove River and associated tributaries and did not substantially map the EECs that exist on the ridge tops.

The need for more accurate mapping at the local government level has been an issue for some time, though most notably following the final determination of Blue Gum High Forest as a critically endangered ecological community. The final determination definition has broadened the scope and extent of BGHF which now encompasses "small clumps of trees without a native understorey" and "below ground soil seed banks and dormant structures" (NSW Scientific Committee). From this definition there is no minimum area or basic composition of understorey species required and it is no longer necessary to have representation of species across all the ecological spectra, a selection of key structural components is sufficient.

The implication of this definition is likely to increase the previously described extent of BGHF as mapped by NPWS, Council and others as is evident in a number of recent planning considerations that have come before Council such as LEP 212. It is foreseeable that identification and mapping issues will continue to arise as a key factor in influencing urban planning, development control and operations across the LGA.

## COMMENTS

### Overview

A mapping and assessment procedure has been developed, based on the most up to date scientific method, to enable local scale distribution and conservation value to be determined across all areas of the LGA. The tool has been designed to provide quick, reliable information to help guide management actions and planning instruments. Importantly it will help to overcome the current reactive situation where specific sites are assessed for their vegetation significance following the lodgement of a development application, when preparing or considering a LEP or in setting operational works programs for Council's own activities.

### Objectives

The objectives of the mapping are as follows

- assist in identifying and assessing critically endangered ecological communities and endangered ecological communities across the LGA;
- provide a framework for an initial identification of EEC as a trigger for more detailed investigations as would be required for specific development applications, rezonings or preparation of an operational plan for a specific site;
- to use the mapping to inform a land capability assessment as required for the preparation of the principal Local Environment Plan;

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- classify locations containing EEC according to conservation significance;
- construct a data management system that can accommodate past and future studies;
- enable a temporal analysis to assess the effectiveness of recovery strategies;
- develop a transparent, legally and technically sound methodology for assessing EECs; and
- foster a collaborative approach between relevant State and local government agencies, independent experts and other stakeholders in assessing EECs (BGHF).

**Approach**

Ku-ring-gai's proposed approach to the vegetation assessment mapping is constructed on the basis of a nested hierarchy model. The term 'nested hierarchy' refers to a system of data collection or classification where broad scale categories define the boundaries of each subsequent level of information. In this case a level one hierarchy assessment would follow the predictive soil mapping alone. Level two would map vegetation according to an aerial photography interpretation with some field validation. Level three would use the information from the aerial mapping and ascribe some conservation significance. Level four may provide species level information such as that collected at selected sites as part of the environmentally sensitive areas study and could also identify specific management threats and opportunities. Level five would be equivalent to the information collected for a species impact statement or seven part test pursuant to the *Environmental Planning and Assessment Act 1979*. Under the proposed method a level two and three assessment would be undertaken.

A number of steps are involved in the mapping and assessment process:

***Step 1 – GIS and Aerial Photo Interpretation***

The development of the mapping tool utilises the various resources contained within Council's Geographic Information System (GIS). This includes the most recent aerial photographs (2006) to facilitate detailed aerial photograph interpretation (API) and the recently procured LiDAR (Light Detection and Ranging) data (aerial laser survey) to determine canopy heights (2007). LiDAR data displaying heights over 30m will be the primary layer used to identify remnant BGHF. This height was chosen as the vegetation structural formation for BGHF is currently mapped as Tall Open Forest (Specht 1970) across the Ku-ring-gai LGA, which is shown to have a canopy over 30m in height (Specht 1970). This is supported by the NSW Scientific Committee's description of BGHF as "dominated by a tall canopy that may exceed 30m in height" (Hughes 2007). Further, to ensure that all possible remnants are taken into account 20m LiDAR derived canopy height data will also be considered to help determine areas of BGHF that may be characterised by slightly lower canopies due to the impacts of past activities, as also highlighted by the NSW Scientific Committee: "*Most stands of the community are in a state of regrowth after past clearing or logging activities, and consequently trees may be shorter, less dense or more dense than less disturbed stands*" (Hughes 2007).

Complementing this will be the use of existing GIS data including contour lines, predictive vegetation mapping, existing environmentally sensitive areas mapping, soil types, drainage, weed mapping and known locations of endangered species.

***Step 2 – Production of preliminary mapping and field assessment***

The relevant information from Council's systems will be used to produce preliminary field maps. This will be undertaken at a maximum scale of 1:2000. This scale will enable consistency with the most recent vegetation mapping undertaken across parts of Sydney for its foreshore areas (Allen et al. 2006). The preliminary maps will be used to:

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- target areas for specific field confirmation – that is to identify boundary locations of known EECs and clarify areas of vegetation that may be uncertain;
- locate random field assessments in order to test accuracy of API; and
- locate sites for the conservation significance assessment verification.

The outcomes from this step will be to provide a significantly more accurate map than exists presently to confirm the presence of EEC and to provide useful information for the conservation significance assessment.

A field assessment tool will be used to provide a rapid audit of remnant vegetation located within individual land management unit. The information will be collected within a database to enable queries against one and multiple criteria. This will allow a conservation significance assessment to be undertaken (as below). For this exercise a land management unit would typically be an individual residential property or parcel of public land.

The nine criteria in the rapid field assessment and rationale are described below and referred to in attachment 2. Definitions for each will be developed and refined as part of the final field testing of the method so as to ensure a consistent interpretation of each of the criteria and their component parts.

1. Trees within EEC assemblage – this would assess the presence of native canopy trees as that listed as part of the assemblage for the specific EEC as determined by the Scientific Committee. This information provides a first pass as to the presence and number (though not total) of canopy species. This is particularly important in that BGHF and STIF can be defined on the presence of more than one tree alone without regard to understorey. There is also a comment field to list the canopy species present where such information may be used to provide greater contextual information for the site or locality.
2. Species composition – this would collect broader information on native species present to provide semi quantitative information on the number of different species that form part of the assemblage for the EEC. This would include canopy to ground level. This information forms a core consideration when making an assessment on species richness for a site. Under the proposed method quadrant field sampling will not be used as adopted by Tozer (2003) in the mapping of Cumberland Plan vegetation. A key outcome from the use of quadrants is the percentage cover or abundance of vegetation at a given site and its relationship to relevant species assemblages. Deviation from this method is proposed as much of the mapping will be undertaken within or on residential back yards that are likely to contain small and fragmented pockets of native species as part of landscaping rather than larger areas of bushland. As such many more quadrants would be required and their random selection on the site would not guarantee an accurate picture of species present.
3. Vegetation layers – this would assess the presence of layers or structure of vegetation. This information is useful at a lot and particularly larger scale. This information will aid in assessing if the locality would be considered as a core, remnant or support habitat. In turn this would have bearing on its conservation significance when assessed in combination with other variables collected in the rapid field assessment and aerial photo interpretation.
4. Tree maturity – An estimate is made against the oldest tree observable on the site. Tree maturity plays an important role in the determination as the dominant eucalypts of the

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community live for several hundred years with larger trees playing an important role for fauna. As such presence or absence of observed hollows is also recorded.

5. Area of remnant EEC – this provides approximate bands to describe the area of remnant forest on a particular site. This information can assist in comparing the accuracy of the aerial photography interpretation.
6. Connectivity – this attribute is important when describing current or identifying gaps to local bio-corridors across the landscape. Ecologically it has relevance to pollination vectors for various plants within the community be they canopy, mid-storey or groundcover.
7. Recruitment – this seeks to describe native succession or regeneration at the site. This information is useful to express the current status of regeneration processes and their relative strength – that is understorey (mid-storey and groundcover) and/ or canopy. Disrupted recruitment relates to situations where recruitment is obviously impacted by human activities (mowing, garden maintenance, trimming) but is still present, despite the restrictions. Successional/ layer recruitment relates to situations where evidence of recruitment at all levels of vegetation assemblage and with varying stages of maturity is observed.
8. Surface development – the amount of impervious surface across a site is a key factor to describe disturbance and most likely regeneration potential, though noting seed banks may persist under development. This attribute can also inform future planning actions that may seek to target certain sites and localities for revegetation or regeneration programs.
9. Soil disturbance– the area of disturbance and major type of disturbance is recorded. This variable is most concerned with potential for regeneration. It is known that seed banks of past vegetation communities remain present in soils for some time and if conditions are favourable, such as ceasing mowing, regeneration can occur. This variable would add to the information in the recruitment section where present and provide some indication as to a sites potential regeneration.

A comment section is also provided to record other relevant information.

These criteria have been based on key factors used to describe the various EECs, noted threatening processes and recovery strategies. They have also been based on numerous discussion within industry recognised ecologists and botanists and as part of the consultation with the Bushland Catchments and Natural Areas Reference Group and others.

**Step 3**

Once field assessment has been completed the maps will be produced showing the presence of EEC throughout the LGA. As part of this step, other studies and reports will be added to the spatial data base such as specific ecological studies and the surveys undertaken as part of the environmentally sensitive lands survey.

An analysis of the information collected via the assessment sheets will also be undertaken forming part of the conservation of significant assessment. This will seek to identify key aspects such as the value of specific sites as expressed by species composition and connectivity or pressures such as amount of imported soils, clearing, drainage and runoff. This assessment follows the approach

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taken in 'Guidelines for the conservation significance assessment of the Native Vegetation of the Cumberland Plain, Western Sydney' (NSW NPWS 2002).

This guideline outlines four categories, however only three of these are relevant to Ku-ring-gai's landscape, as "other remnant vegetation" does not consider EECs in its analysis. An additional category has been added in this project that seeks to identify and provide suitable "buffer" areas around the habitat areas recognising the potential impact of edge effects. The categories are:

1. Core habitat – an area that contributes to the backbone of a viable conservation network across the landscape. Core areas feature a largely intact vegetation structure, a diversity of endemic species and are of a resilient size.
2. Support – habitat areas that provide a range of support values to Core habitat, including increasing remnant size, buffering from edge effects and providing corridor connections.
3. Urban Remnant Tree/s - vegetation that remains as (relatively) isolated, remnant tree/s in an urban landscape.
4. Buffer – based on proximity from the GIS analysis areas adjoining core habitat will be identified for recoverability of the primary asset.

It is important to note that this assessment does not directly affect the level of protection that EECs are afforded under legislation. Regardless of the conservation significance assessment the Threatened Species Conservation Act protects all areas of these communities.

### Application

The mapping and conservation significance assessment will directly inform the land capability assessment required for the preparation of the Principal LEP and DCP. It is envisaged that this may guide zonings and land uses permitted under the LEP, and act as a trigger for specific DCP controls.

From a development control perspective the mapping will complement current requirements for more detailed vegetation assessments and is likely to expand the areas where such details needed to assist development control staff. In terms of the four categories of core habitat, support habitat, urban remnant trees and buffers, these will be able to be used to guide the significance of the impact of a proposal and subsequent determination and conditioning.

Operational staff will benefit from this mapping in that they will be able to see if any site contains known EEC as derived from the mapping. Where this is the case, procedures can be developed in conjunction with the Strategy Department and other staff from the organisation to ensure the best outcomes for the works as required.

Capital works expenditure can also be targeted to sites and activities therein to maximise regeneration and recovery. This would draw from information on soil condition, recruitment and surface development that collectively suggest a recovery potential as well as other attributes.

Targeted acquisition of sites or developing Conservation Agreements can also be more informed based on the location and recovery potential for sites.

## References

Hughes, L (chairperson) (2007) Blue Gum High Forest in the Sydney Basin Bioregion - critically endangered ecological community listing, NSW Scientific Committee - final determination [http://www.nationalparks.nsw.gov.au/npws.nsf/content/blue\\_gum\\_high\\_forest\\_endangered](http://www.nationalparks.nsw.gov.au/npws.nsf/content/blue_gum_high_forest_endangered) (accessed 03/12/2007)

New South Wales National Parks and Wildlife Service (2002) Guidelines for the conservation significance assessment of the Native Vegetation of the Cumberland Plain, Western Sydney, NSW NPWS, Hurstville.

Specht, R. L (1970) 'Vegetation', in G.W Leeper (ed.) The Australian Environment, 4th edition, CSIRO in assoc. with Melbourne University Press, Melbourne.

## **CONSULTATION**

The development of this mapping method has been an iterative process informed from many discussions and meetings. This has included a range of formal processes including a briefing to Council's Planning Committee, an expert panel meeting, presentations at three Bushland, Catchments and Natural Areas Reference Group meetings, an independent expert panel presentation and discussion and dialogue along with numerous vegetation mapping and geospatial experts, government agencies, consultants and community members.

Government agencies have included NSW Department of Environment and Climate Change, the Royal Botanic Gardens, Sydney Metropolitan Catchment Management Authority and NSW Maritime. Consultants have included those with specific expertise in the three EECs located within Ku-ring-gai and those involved in aerial photography interpretation. Community members have included those represented on the Bushland, Catchments and Natural Areas Reference Group and Blue Gum High Forest Action Group.

Comments arising from the November meeting of the Bushland, Catchments and Natural Areas Reference Group and responses to the issues raised are provided as Attachment 1. A draft of this was circulated to participants at the independent expert panel presentation on Monday 3 December 2007.

As noted in this report, the method was designed to be rapid owing to the timely need for this information, cost for more detailed assessments, usefulness of the data collected from a planning, development control and operational perspective and consistency at a regional scale. This has remained a central theme to the refinement of the method and consultation.

Amendments made to the process and particularly the field assessment sheet have resulted in a significantly improved process and one that is technically sound and robust.

## **FINANCIAL CONSIDERATIONS**

The approach adopted for the mapping methodology has sought to balance accuracy with resources whilst seeking to achieve the stated objectives of the project. Recognising that

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ecological mapping and vegetation description can be undertaken at various levels a hierarchical approach was chosen that accommodates the input of various levels of information into a spatial database linked to Council's GIS.

In terms of resourcing the mapping process, this will be undertaken by staff within the Sustainability area of the Strategy Department. The staff used will be appropriately qualified and experienced to undertake this project and where necessary consultants and other experts, as used in the development of the method, will be used for advice and quality control.

It is expected that the mapping process will involve two staff for a period of nine months at an approximate cost of \$85,000. One staff member will be funded through existing operational budget and the other will be funded through the environmental levy. This latter position will be drawn from the funding allocated to encroachments, noxious weed control and dumping. The nexus for this allocation comes as it has a strong relationship to issues affecting the urban/ bushland interface and seeks to identify those threatening processes impacting on EECs and other bushland areas.

Should the cost of the project extend beyond current budget of the section and capital works allocation related to the Environmental Levy this will be reported to Council as part of the quarterly budget review process.

In terms of seeking to undertake more detailed mapping such as undertaking detailed ecological studies at a lot basis or similar, this is not able to be funded within the budget adopted by Council for the financial year. Indicative estimates would put such an analysis well beyond \$1million for the 10,000 properties that would have previously contained EECs.

It is seen as important to the longevity of this data that this project be undertaken as far as possible by staff in the organisation and not be a consultant driven process. Indirect financial benefits for this approach include an up-skilling of staff in EEC identification and description that will aid future planning and development control matters, improvements to communication on data particularly affecting public land with operational staff and to ensure that data collection systems are directly compatible with our current technology and information systems.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This method and report has been developed in consultation with Development and Regulation, Operations, Information Technology and Land Information Section of Council.

## SUMMARY

The need to map endangered ecological communities across Ku-ring-gai is an important planning, development control and operational issue. The recent final determination by the Scientific Committee has significantly changed what was previously mapped as Blue Gum High Forest. The proposed mapping procedure has been developed and reviewed in collaboration with many persons including experts, community members and representatives of various government agencies. The process is considered to be technically robust and will contribute to the improvement of Ku-ring-gai's Endangered Ecological Communities.

## RECOMMENDATION

- A. That Council note the report and method.
- B. That interim results be reported to the Bushland, Catchments and Natural Areas Reference Group.
- C. Final report be provided to Council by December 2008.

Sophia Findlay  
**Technical Officer – Water**

Peter Davies  
**Manager Corporate Planning &  
Sustainability**

**Attachments:**

- 1. Comments & Responses received - 862163.**
- 2. Rapid Assessment Sheet - 862142.**



## Comments and responses to the development of a mapping method

**Issue 1:** The assessment sheet is dangerous as unskilled DA staff will use it to determine the significance of a site. DA staff only need to know whether an EEC is present, to trigger further detailed study.

### *Council response*

There are two parts to this response. First notification of affectations to the land pursuant to section 149 of the *Environmental Planning and Assessment Act 1979* are used as a basis to trigger assessment staff to seek additional information on sites that may or do contain EEC. Presently section 149 certificates have a notation that states:

*"This land may contain threatened species, populations and ecological communities listed under the Threatened Species Conservation Act 1995 (NSW) and or the Environment Protection Biodiversity Conservation Act 1999 (Commonwealth). For more information contact the Department of Environment and Climate Change, Tel: 99955000."*

*"This land may contain one or more of the following endangered or critically endangered ecological communities as described in the final determination of the scientific committee to list the ecological communities under Part 3 of Schedule 1 or Part 2 of Schedule 1A of the Threatened Species Conservation Act 1995 (NSW) :*

*Blue Gum High Forest,  
Duffys Forest Ecological Community in the Sydney Basin Bioregion,  
Sydney Turpentine Ironbark Forest*

*For more information contact the Department of Environment and Climate Change, Tel: 99955000"*

It is not intended that this notation would change in wording and where the proposed mapping identifies land outside the predictive area, notification will be added to the properties in question.

The second issue relates to the interpretation of this information by staff and the competence of such staff. There are a number of processes through which development applications, other activities and planning processes are made with respect to EEC. This relies on the planning and development control staff, specific landscape assessment officers, ecologists and other environmental technical officers. Any assessment will depend on the location, extent and sensitivity of a site and in turn will seek advice of specialist staff. The proposed mapping method will increase the level of detail available to all staff and will provide greater guidance for the need to seek additional studies and/ or to refer applications to more qualified staff. This would be particularly

the case where an area may be within or adjacent to core or support vegetation that is adjacent to a buffer zone. As exists currently, external experts will be used as necessary.

An important outcome of the mapping process is to substantially improve the level of skill and understanding across the organisation, minimising the need to rely on external consultants for assessments.

The rapid field assessment sheet will form part of the overall vegetation mapping process while the individual site assessment sheets may be referred to as part of a development assessment, it is not intended that they be used in isolation.

**Issue 2:** The methodology should be signed off by an expert in Blue Gum High Forest.

*Council response*

Council has sought advice and continues to consult with a range of experts in relation to the development of the method, quality control and interpretation of the data. The criterion used in the assessment has drawn from many of the core considerations a botanist or ecologist would consider as part of a site determination. In relation to the specific vegetation community the method has involved two Land and Environment Court appointed experts in Blue Gum High Forest. Important to this however, is that the method itself is not specifically targeting Blue Gum High Forest but all EEC across the local government area (LGA).

In terms of the “sign off” aspect to the method, there are two factors. First there are only a small number of “expert” Blue Gum High Forest consultants, the majority of which have been involved in somehow with the development of the method. Second, there is a need for these consultants to have some independence in the likely event that they are asked by the Land and Environment Court to offer an opinion on a site as mapped, that may conflict with the rapid assessment. While these consultants will have an ongoing role in the peer review of the data, their independence should be preserved.

As part of the expert briefing on December 3, 2007, the mapping consultant concluded the proposed method was technically sound and applicable.

**Issue 3:** What is the trigger for the assessment? What does the assessment trigger? Regeneration, recovery and restoration?

*Council response*

The term assessment can be used to cover two aspects. The first the field assessment related to the mapping method, the second for supplementary site assessments where it may be the subject of a specific activity or planning decision.

Dealing with the mapping method, the primary objective of the mapping method is to assist in identifying and assessing critically endangered ecological communities and endangered ecological communities across the LGA. The method relies on aerial photo interpretation followed by a site assessment, where the site warrants such additional investigation. Details of this are covered in the methods section of the report to council.

In terms of development control and urban planning, a more detailed assessment may be required where the proposed activity or action could impact on the vegetation of the community, was a threatening process (as listed by the NSW Scientific Committee in their final determinations) or is required by legislation. At a minimum this would remain the same as current standards, including referrals for more detailed site assessment.

In terms of what an assessment would trigger, this would need to relate to the proposed activity in the first instance. It would be a limited view to suggest that such decisions would turn on regeneration, recovery and restoration only. Rather the decision would need to relate to both the specific site, its local and regional context and the proposed activity in terms of the nine variables collected and relationships between these variables.

There are two requirements for the rapid field assessment:

1. To confirm the presence of an EEC as identified by the primary, GIS/ Aerial Photo Interpretation based mapping exercise; and
2. To contribute to the conservation significance assessment that will be utilised to guide management options.

**Issue 4:** The methodology should involve a 2 stage process: a rapid alert form, and a detailed assessment of species. The detailed assessment of species will take no longer than a rapid assessment form.

### *Council response*

A species assessment across all potential sites is a significant project and well beyond the means of Council, given the current budget and Management Plan. The time taken to identify species at a lot level is also significant and would take considerably greater time than the method proposed.

It should be noted that a full species list does not in itself provide an assessment of significance. A number of factors need to be considered for such an assessment, of which species presence/ absence is one. Existing detailed species assessments will be considered in the mapping and assessment process and further detailed assessments, conducted as part of Council's land management or as part of Development Assessment, will improve the data available at the smaller scale and, allow for an iterative and refining of the mapping and conservation significance assessment. Overall, the nested hierarchy approach as proposed enables the collection and reporting of various levels of information.

**Issue 5:** The mapping must be totally objective – clear guidelines must be provided to those undertaking the mapping and assessment.

*Council response*

Objectivity can be dealt with in two parts. Firstly whether the process needs to be quantitative and secondly how the process and method can be replicated through clear and concise guidelines minimising user bias during interpretation. A very early draft of the mapping tool provided a more objective and quantitative based field assessment tool. An expert panel and the Bushland, Catchments and Natural Areas Reference Group discussed this approach and did not support it. Rather, a semi quantitative and where necessary, qualitative approach was considered more appropriate so long as it enabled a multi variable analysis.

No mapping of environmental features can ever be totally objective or consistent. The tool proposed however seeks to provide a high degree of objectivity and consistency. Coupled to this, quality assurance will be added as part of the mapping to provide greater consistency in field interpretations. The mapping method has sought to borrow from existing processes, as used by various state agencies.

**Issue 6:** It would not be possible to verify that the mapping is accurate without species lists.

*Council response*

The mapping is not designed to be a species inventory. As a rapid tool it takes a higher level analysis that also enables greater landscape based decisions to be made based on recovery potential, identification of bio-corridors and so forth. Identification of species takes place at a semi quantitative level with estimated number of species present at a canopy and other vegetation layer levels. This level of information is sufficient to obtain a more accurate determination of the presence of EEC.

**Issue 7:** Because an EEC contains, by definition, a number of layers, it is not valid to favour the presence of canopy trees over other species and layers. The crucial species in BGHF are the dominants – Eucalyptus saligna and E pilularis, and also E paniculata and Angophora floribunda and (from the 1997 listing) Acacia implexa.

*Council response*

These statements are inconsistent with the final determination of BGHF and the findings in Murlan v. Ku-ring-gai. The presence of canopy trees alone can result in a site being considered as having BGHF.

The tool includes an assessment of the presence of other layers. Guidelines will be provided to inform the assessor of what is to be counted within each layer.

**Issue 8:** Category names should be more objective: “Layers Present” rather than “Stand Integrity”.

*Council response*

The assessment of Stand Integrity has been changed to “Vegetation layers” following the expert briefing on December 3, 2007.

**Issue 9:** In relation to the area of remnant EEC on the land, how were the margins determined? These margins fail to consider connectivity.

*Council response*

Aerial photography interpretation will enable the map to show approximate locations of canopy trees on individual land parcels. This will form the basis for the higher level mapping of presence. In terms of connectivity, a landscape approach will be taken. For some areas it may be more pertinent to relate this to a small number of properties that could link important areas of core vegetation. For other purposes connectivity may be investigated at the LGA scale, linking EEC to other bushland estate. Importantly connectivity does not have to imply continuous and contiguous cover.

**Issue 10:** The “recruitment” section is unclear. Terms such as “No recruitment”, “Disrupted recruitment”, “understorey” and “successional/layer” should be defined.

*Council response*

Agreed. This will be developed as part of the guidelines and links to the importance of objectivity as noted in Issue 5.

**Issue 11:** Connectivity must be “functional connectivity” - assessed on the ability of pollens to flow between areas – not just on tree canopies physically overlapping.

*Council response*

Discussion on this issue follows from Issue 9 (above). Further, it is noted that the Department of Environment and Climate Change uses 100m distance for its biobanking assessment in relation to connectivity. This is the maximum separation distance that is still considered as connected.

The guidelines will provide further clarity as to how to define this.

**Issue 12:** It is impossible to assess the soil in a rapid assessment. This should be removed.

*Council response*

This criteria has been the subject of considerable discussion and one that is most likely to be interpreted with greater variation than other variables. Regeneration potential is the rationale for its inclusion. As noted on many sites across the LGA, the cessation of mowing has resulted in the emergence

of native plants that are most likely a result of seed within the original soil. It is accepted that it will be indicative only, though a similar approach was used in the mapping of the Sydney Harbour Foreshore. One interpretation from this mapping project seeks to look for recovery potential that utilises this variable as a key determinant, with others such as developed area and emergent vegetation.

**Issue 13:** Tree maturity cannot be assessed by girth, as trees mature at different rates in different soil types and microclimates, while different trees will grow to different girths and heights.

*Council response*

This is accepted, and the classification index has been changed to juvenile, mature and senescent with the addition of visible hollows.

**Issue 14:** Surface Condition/ Development

The categories should be: > 50%; 25-50%; <25%

In my view <10% is too restrictive. Not even 100 Rosedale Road would qualify. Most old development had built upon areas in the range of 15-25%.

*Council response*

This was originally to refer to the site less the house footprint. However to make the definition of this category easier and more transparent, the above suggestions have been taken on board and the criterion changed.

**Issue 15:** Does the soil category include the built upon areas which will often have foreign fill or are these excluded from the calculation? If we assume built upon areas are excluded then applying the categories for a 1000 sqm lot with 30% built upon area we would get the following results:

total open space/garden area = 700 sqm

> 50% contains foreign soil would mean >350 sqm is foreign soil leaving <350 sqm for potential BGHF

10-50% contains foreign soil would yield 70-350 sqm leaving 350-630 sqm of potential BGHF

<10% contains foreign soil would yield <70 sqm leaving > 630 sqm of potential BGHF

Why would you require > 630 sqm to achieve the highest rating?

If the last 2 categories were 30-50% and <30%, the corresponding potential BGHF areas would be 350-490 sqm and >490 sqm respectively. Surely around 50% of the total site area should be sufficient to achieve the highest rank. To require less than 7% of the total site area (70 sqm) to have foreign soil in order to achieve the highest rating, I believe is unreasonable and would not serve in protecting a critically endangered ecological community.

*Council response*

The soil category relates to the % soil currently exposed, less the area under a building, pool, driveway etc. In this respect, the percentages and scenario

raised above would be able to be accommodated when considering this variable with the changes to the impervious area as per issue 14.

**Issue 16:** With regard to BGHF what is actually important is the existence of the remnant shale soil profile. Whether this has been covered with mulch or foreign soil is of lesser significance as such surface covering can readily be removed.

*Council response*

The addition of a comments section in this field will allow the assessor to make note of the issues raised. Also, the soil maps currently on Council's GIS will be used to determine presence of the remnant shale soil profile.

**Issue 17:** Consolidation of core areas is urgent. As part of a long term recovery plan we should concentrate on consolidating the viability of the core areas and use offsets where marginal remnants of BGHF exist in other areas. For example the removal of a BGHF tree in a marginal unit zone would require an equivalent canopy area to be secured in one of the preferred BGHF precinct areas.

*Council response*

It is agreed that the consolidation of core areas is urgent. The mapping and significance assessment will ensure that these core areas are mapped, as well as areas that are vital to support them, and those remnant trees that have ecological significance mainly for their genetic and pollination potential. The inclusion of a buffer zone will also aid in identifying and protecting core areas. The conservation significance assessment can be used by Council to guide owners and developers considering offset arrangements, for instance for potential biobanking sites and offsetting arrangements under the Threatened Species and Conservation Act, before doing the more detailed site assessments required. Whether or not offsets are used, the mapping and assessment methodology will provide a guide for planning and management in a short timeframe.

**Issue 18:** Points 4 (Area of Remnant EEC on Land) and 5 (Recruitment): As the experts pointed out that potential for regeneration/ recruitment on a site was a key factor, I would suggest that points 4 and 5 need a rethink. The area currently covered by an EEC remnant may be of interest if it is untouched, but the recruitment potential is more important. With 5 we can have a mown area that recruits 100% if left unmown, such as Killara Park, so I also query 5 in its current form.

*Council response*

Recording the approximate area of EEC on a parcel of land is important so appropriate management action can be undertaken to ensure that the current extent of the EEC is not reduced.

Issue 10 addresses that the definitions for recruitment will be clarified. A potential recruitment is determined according to the suite of characteristics addressed in the field assessment, this will be determined from the results of the total assessment rather than a specific section.

**Issue 19:** Is it a failsafe tool that will not (under certain circumstances) give a false reading?

*Council response*

No mapping procedure is entirely failsafe, however the method proposed will provide information that is more precise than is currently available. The methodology, including the rapid field assessment sheet has been developed to identify features considered important according to the NSW Scientific Committee's determinations and experts consulted. Expert peer review has also determined that the method proposed is technically sound.



# Rapid Field Assessment

Location: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Assessor: \_\_\_\_\_

## 1. Trees within EEC assemblage

(refer to NSW Scientific Committee assemblage lists)

- ☐ Absent  
☐ Single species present  
☐ Multiple species present  
☐ All Species: \_\_\_\_\_

## 2. Species Composition

- ☐ Absent  
☐ 1-3 species in EEC assemblage observed  
☐ 4-8 species in EEC assemblage observed  
☐ >8 species in EEC assemblage observed

## 3. Vegetation Layers

- ☐ Absent  
☐ Individual trees  
☐ Canopy  
☐ Midstorey  
☐ Groundcover

## 4. Tree Maturity

- ☐ Not applicable  
☐ Juvenile  
☐ Mature  
☐ Senescing  
 Observed Hollows Yes ☐ No ☐

## 5. Area of Remnant EEC on land

- ☐ Absent  
☐ < 10m<sup>2</sup>  
☐ 10 – 30 m<sup>2</sup>  
☐ > 30 m<sup>2</sup>

## 6. Connectivity

- ☐ No physical connection/isolated  
☐ Understorey only  
☐ Canopy only connectivity  
☐ Understorey and canopy connection

## 7. Recruitment

- ☐ No recruitment observed  
☐ Disrupted recruitment  
☐ Understorey only  
☐ Successional/layer recruitment

## 8. Surface Development

- ☐ > 50% of site contains impermeable surfaces  
☐ 25% - 50% of site contains impermeable surfaces  
☐ < 25% of site contains impermeable surfaces

## 9. Soil Disturbance

- ☐ > 50% of site contains disturbed soil  
☐ 25% - 50% of site contains disturbed soil  
☐ < 25% of site contains disturbed soil

Type: Rubble; Cut/Fill; Mulch; Mown; Garden

## 10. Comments

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## HERITAGE ADVISORY COMMITTEE - MINUTES OF MEETING HELD 3 DECEMBER 2007

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To report to Council the minutes from the Heritage Advisory Committee meeting held 3 December 2007.

**BACKGROUND:**

The minutes taken at the 3 December 2007 meeting were confirmed and accepted by the Committee at this same meeting.

**COMMENTS:**

A range of heritage issues were discussed at the Committee meeting and a number of issues were raised for further consideration.

**RECOMMENDATION:**

That the Heritage Advisory Committee Meeting minutes be adopted in accordance with this report.

## PURPOSE OF REPORT

To report to Council the minutes from the Heritage Advisory Committee meeting held 3 December 2007.

## BACKGROUND

On 3 December 2007 Council's Heritage Advisory Committee (HAC) held their meeting. The minutes were confirmed and accepted at this same meeting.

## COMMENTS

### 12 Woonona Ave, Wahroonga DA 0416/2007

Council considered the DA 12 Woonona Ave, Wahroonga on 20 November 2007 and resolved the following:

- A. *That this matter be deferred and referred to the Heritage Advisory Committee and such a meeting be held as a matter of urgency, so that the Minutes of that meeting can be considered at the Council meeting of 11 December 2007 and, in accord with Clause 61E of the KPSO.*
- B. *That the Heritage Advisory Committee give advice upon Council seeking a second opinion from an independent Heritage Consultant with advice from the Heritage Office of NSW.*

This item was discussed at the Heritage Advisory committee meeting. Prior to the matter being considered the committee heard representations from both the applicant Mr Peter Sotiriou 12 Woonona Ave, Wahroonga and the Mr Fuller owner of the State heritage listed Briars 14 Woonona Ave, Wahroonga.

It was noted the Committee members had inspected the site and had been provided with the officers reports and a copy of the Development Application. At the committee meeting a copy of the DA plans and the officers report was also provided.

The Committee discussed the proposed development in detail and resolved the following for DA0416/07 12 Woonona Ave, Wahroonga

### Recommendation

- 1. *That the HAC committee, on consideration of clause 61 E of the KPSO, does not support the application, being of the opinion that the scale and bulk of the proposal, with the proximity to the Briars, will have an unacceptable impact upon the heritage significance of the Briars as a state heritage significant item and upon its amenity as a home, which supports its conservation.*

Item 18

S03816  
4 December 2007

2. *The HAC committee recommends that if a decision on the development application is deferred, then the NSW Heritage Office be formally approached seeking a list of suitable independent heritage consultants to undertake an independent heritage assessment of the proposal.*

**Comment**

The above recommendations on 12 Woonona Ave, Wahrenonga DA 0416/2007 are presented to Council for consideration.

**Update on the Local Heritage Assistance Fund – process to review the applications received for round 1**

The committee was advised that applications closed for the Local Heritage Assistance Fund 30<sup>th</sup> November, 2007 with 8 applications received.

**Comment**

The Local Heritage Assistance Fund sub-committee will determine funding for the applicants and a report to council will be prepared in early 2008.

**Tulkiyan Conservation Management Plan update**

A draft brief for the CMP review has been prepared when finalised will be reported back to Council.

**Comment**

Noted.

**Proposed community garden at Mahratta, Wahrenonga**

A site visit needs to be arranged for the HAC committee to inspect the site.

**Comment**

Noted.

## **CONSULTATION**

The Heritage Advisory Committee includes representatives from the community and nominated heritage organisations.

## **FINANCIAL CONSIDERATIONS**

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

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Extensive consultation was conducted with the Department of Development and Regulation in regard to Item 1 on the agenda for the meeting held 3 December 2007.

## SUMMARY

The Heritage Advisory Committee Meeting was held on 3 December 2007. A range of issues were discussed with a number of issues reserved for further review. The minutes from this meeting were confirmed and accepted at this same meeting.

## RECOMMENDATION

- A. That Council receive and note the Minutes from the Heritage Advisory Committee Meeting held on Monday 3 December 2007.
- B. That the Heritage Advisory Committee recommends the following in relation to DA 0416/07, 12 Woonona Avenue, Wahroonga:
  - 1. That on consideration of Clause 61E of the Ku-ring-gai Planning Scheme Ordinance, does not support the application, being of the opinion that the scale and bulk of the proposal, with the proximity to The Briars, will have an unacceptable impact upon the heritage significance of The Briars as a state heritage significant item and upon its amenity as a home, which supports its conservation.
  - 2. That if a decision on the Development Application is deferred, then the NSW Heritage Office be formally approached seeking a list of suitable independent heritage consultants to undertake an independent heritage assessment of the proposal.

Antony Fabbro  
**Manager Urban Planning**

**Attachments: Minutes of Heritage Advisory Committee meeting held 3 December 2007 - 862530**

# MINUTES HERITAGE ADVISORY COMMITTEE MEETING

Monday 3 December 2007  
Council Chambers  
818 Pacific Highway, Gordon

Meeting Opened: 6:30pm

1. **Welcome by the Chair.**

2. **Apologies -**

Mayor Nick Ebbeck  
Mr Stutchbury (RAIA)  
Councillor Hall

3. **Attendance -**

**Community Members:**

Mr Moore (National Trust)  
Ms Harvey (Ku-ring-gai Historical Society)  
Mr Holman  
Ms Mack

**Councillors:**

Councillor Anderson  
Councillor Cross  
Councillor Lane

**Council Officers:**

Mr M Prendergast, Manager of Development Assessment  
Mr A Fabbro, Manager Urban Planning  
Mr P Dignam, Heritage Advisor  
Mr D Barber, Student Planner

Other persons in attendance for DA 416/07 12 Woonona Ave Wahrenoonga:

Mr Sotiriou (12 Woonona – applicant)  
Mr Fuller (14 Woonona)

#### 4. Declarations of Pecuniary Interests

None.

#### 5. Development Application – 12 Woonona Avenue, Wahroonga (referred by Council) – information previously circulated

Council

- A. *That this matter be deferred and referred to the Heritage Advisory Committee and such a meeting be held as a matter of urgency, so that the Minutes of that meeting can be considered at the Council meeting of 11 December 2007 and, in accord with Clause 61E of the KPSO.*
- B. *That the Heritage Advisory Committee give advice upon Council seeking a second opinion from an independent Heritage Consultant with advice from the Heritage Office of NSW.*

Officers provided an overview of the DA 12 Woonona Ave, Wahroonga, including the LEP and DCP 55 controls, noting the heritage item does not have a direct frontage to Woonona Ave. Cllr Anderson confirmed that all committee members have visited the site.

Staff noted there has been a series of changes to the proposal, several previous applications for a residential flat building have been refused. The applicant has now submitted an application which has a lower residential scale.

Ms Mack enquired about the zoning of the site and if there are requirements to maximum development on the site. Staff advised the site is zoned for multi unit housing and there is the opportunity for a development to comply with the zoning of the site.

The status of the covenant on the site was raised and it was noted the LEP overrides the covenant. Clarification was provided by staff regarding the nature of the SEPP No.1 objection lodged with the application and clarification was provided on Clause 61E of the KPSO.

Cllr Anderson provided both the applicant and the owner of No. 14 Woonona Ave an opportunity to address the committee for a maximum of 10 minutes.

## Mr Fuller

Mr Fuller made reference to an appeal at 3-13 Bundarra Avenue planning principles. The appeal established referred to the impact on the Briars and the importance of its front elevation (see para 10.) Also noted was the history of the site and the hierarchy of the heritage items and this is a state listed item. Mr Fuller read out DCP 55 part 3.5 Development in the vicinity of a Heritage item, noting the proposed development does visually dominate the items, including views to and from the item noting the view will be obliterated and the impact on the existing tree and issue of solar access.

Mr Fuller noted clause 25I (4), 25 D of the KPSO and that the development site is under size being 77% of 1,200 sqm. The issues are front and rear setbacks, loss of privacy, solar access, loss of outlook, which does not reach the overall aim and objectives of the LEP.

Mr Fuller noted The Briars was heritage listed after the single storey dwelling at the front was built.

Mr Fuller noted the new development will marginally affect the critical root system of the turpentine tree on frontage of 12 Woonona. The 'camphor laurel' trees next door to the development were removed for a neighbouring development after damage during construction when they had been conditioned for retention.

Mr Fuller noted that he had sought an opinion from John Robson re relevance of recent L& E case relating to *The Briars* and the planning principles expounded.

## P Sotiriou

Noted the covenant was 2 storeys and no longer exists, noted that he purchased the property when it was listed for sale. If the NSW heritage office or Mr Fuller wanted to purchase the site for heritage reasons this should have been done then.

Mr Sotirou noted the proposal is:

- Zoned for multi unit housing.
- Complies with all controls, the height was reduced by 480mm.
- Noted roof form is pitched tile not a multi unit apartment flat roof building.
- Both officers reports recommend approval.
- Noted cannot see The Briars from the street.
- Setbacks are 60% more than required by DCP.



- Noted L & E Court case raised by Mr Fuller.
- Noted there are 2 separate opinions including Mr Staas no need seek further advice.
- Advised if a decision is not made on 11 December 2007, the matter will proceed to the NSW L& E Court.

### Summary Committee Comments

Need to seek clarification of the life expectancy and the current age of the turpentine tree on the heritage site.

It was noted that there have been 2 heritage assessments rather than 3 of the impact of the development.

The DA plans were viewed and the supporting documentation and officers report.

The controls and the proposal were discussed in detail by the committee with staff, including the LEP and DCP controls, heritage impact to and from the site, issue of variations to the front and rear setbacks, impact on streetscape, variations to the height and bulk of the proposed development. The distance of 16.2 metres between the rear wall of the proposed apartments and the front door of *The Briars* was questioned. This measurement (16.2 mts) does not take into account the front verandah and substantial brick portico of the heritage item.

Staff noted the development may comply with the Ku-ring-gai LEP and DCP design controls, though it may not comply with all the design objectives.

It was noted that there are currently only 12 houses listed in Ku-ring-gai on the state heritage Inventory (SHI). *The Briars* being the only heritage house that can potentially have high rise development on all four sides as a result of LEP194.

If the development was proposed to move forward to reduce the impact on the heritage item it will alternatively impact on the streetscape and turpentine tree and potentially set an unwanted precedent under DCP 55.

It was noted that the current DA may be the best outcome, when taking into account the zoning, history of previous applications and the limitations of the site and that the matter could be decided in the Land & Environment Court.

A Committee member advised the covenant for No. 12 is one storey.

The view from and to the heritage site needs to be considered. The view from the front porch would be greatly dominated by the new development.

The heritage item doesn't have a 'front' and the view of the heritage item from the street is primarily of a driveway and trees.

It was stated that the current dwelling, 12 Woonona Avenue, is unliveable and it was noted that a two storey building could be built on the site which is permissible. It is likely that if refused a DA for a similar development for the site could be lodged in the future.

It was noted that whatever development is considered on the site it will achieve a poor outcome for "The Briars". The required setbacks when applied to the applicant's site (created by the subdivision of a tennis court from "The Briars") result in a very small building envelope in close proximity to "The Briars". This situation will continue to impact upon "The Briars" regardless of the outcome of this application. It was suggested that Council give consideration to amended setback requirements for the applicant's property to achieve a better outcome for "The Briars".

The committee noted the proposal has an unacceptable impact in terms of scale and bulk, proximity to the heritage item and impacts on the amenity of the heritage item.

Staff advised the HAC that another independent heritage report is always commissioned by Council in the event of a refusal and so it would only be necessary to provide a recommendation to Council to commission another heritage report in the event of a deferral.

#### **DA 0416/07 12 Woonona Avenue, Wahroonga**

##### **Recommendation:**

1. That the HAC committee, on consideration of clause 61 E of the KPSO, does not support the application, being of the opinion that the scale and bulk of the proposal, with the proximity to the Briars, will have an unacceptable impact upon the heritage significance of the Briars as a state heritage significant item and upon its amenity as a home, which supports its conservation.
2. The HAC committee recommends that if a decision on the development application is deferred, then the NSW Heritage Office be formally approached seeking a list of suitable independent heritage consultants to undertake an independent heritage assessment of the proposal.

## 6. Update on the Local Heritage Assistance Fund – process to review the applications received for round 1

Applications closed for the Local Heritage Assistance Fund on 30 November. Council was pleased with the outcome of 8 applications received. The Local Heritage Assistance Fund sub-committee will determine funding for the applicants and a report to council will be prepared.

## 7. Tulkiyan Conservation Management Plan update

A draft brief for the CMP review has been prepared and when finalised will be reported back to Council.

## 8. Other general matters (including correspondence)

**16 Stanhope Road** appeal finished 30 November 2007, judgement is withheld and will be made in the future.

**Firs Estate Cottage** has just been refurbished and opened on the 1 December 2007. It is currently leased for antique sales exhibition space and a café.

### **Community garden at Mahratta, Wahroonga**

A site visit for HAC members needs to be arranged to inspect the site through Mr John Fisher Business Lawyer Mahratta 9489 0902.

### **Next Meeting**

The next meeting will be held (date to be advised) at the Council chambers at 6.30pm.

## 9. Close

The meeting closed at 9.50pm.

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## NATIONAL TRUST FESTIVAL 2008

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To report to Council on a request from the National Trust of Australia, for Council to be a sponsor of the National Trust Festival 2008.

**BACKGROUND:**

A Mayoral Minute was presented to Council on 4 December 2007, recommending that Council support in principle sponsorship of \$10,000, subject to appropriate funding being available. It was resolved at this meeting that discussions be held with the National Trust regarding a reduction in the sponsorship amount and, that the matter be deferred to the next meeting of Council.

**COMMENTS:**

Alternative amounts for sponsorship of the National Trust Festival are \$5,000 for a half page advertisement and \$2,500 for a quarter page advertisement in the "Signature Events" Section of the National Trust Program.

**RECOMMENDATION:**

That Council provide \$2,500 for sponsorship for a quarter page advertisement in the "Signature Events" Section of the National Trust Program for the National Trust Festival for 2008.

## PURPOSE OF REPORT

To report to Council on a request from the National Trust of Australia, for Council to be a sponsor of the National Trust Festival 2008.

The festival, which celebrates Australia's natural and cultural heritage, will be held from Saturday 5 April to Sunday 20 April 2008. Its theme "Our Place" was developed to pay tribute to Australia and its people.

## BACKGROUND

A Mayoral Minute was presented to Council on 4 December 2007, recommending that Council support in principle, sponsorship of \$10,000 for the National Trust Festival 2008, subject to appropriate funding being available.

It was resolved at the this meeting, that the Mayor and Director Community hold discussions with the National Trust, about reducing the sponsorship amount, and that the matter be deferred to the next meeting of Council.

## COMMENTS

Discussions were held with a representative from the National Trust following the Council meeting of 4 December. The National Trust advised that alternative amounts for sponsorship for the festival were \$5,000 for a half page, and \$2,500 for a quarter page in the 'Signature Events' Section of the National Trust Program, which has a print run of 35,000 items, distributed across NSW.

## CONSULTATION

Not applicable

## FINANCIAL CONSIDERATIONS

Council's sponsorship budget for 2007-08 was \$10,000. From this budget, Council has sponsored the Cumberland Press Small Business Awards for 2007 for \$4,500, leaving \$5,500 in the budget for the remainder of the year.

A request has recently been received from the Ku-ring-gai Rotary Club for Council to sponsor an event in March 2008. A report to Council will follow once details of this request have been finalised. Additionally, it is anticipated that other requests for sponsorship will also come to Council before June 2008.

Other Council departments have separate advertising budgets, however, funds in these budgets are already committed for specific advertising and notification purposes.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

The Corporate Department was consulted in the writing of this report.

### **SUMMARY**

The National Trust of Australia approached Council requesting sponsorship for the National Trust Festival for 2008. The initial request was for \$10,000, which provided a full page advertisement in the 'Signature Events' Section of the National Trust Program.

Alternative options for sponsorship of the National Trust Festival were discussed, and Council was advised that \$5,000 sponsorship would provide a half page advertisement, and \$2,500 sponsorship would provide a quarter page advertisement.

Council has \$5,500 remaining in the 2007-08 budget for sponsorship. It is anticipated, however, that further requests for Council to provide sponsorship for other events will be made before June 2008.

### **RECOMMENDATION**

That Council provide \$2,500 from the 2007-08 Sponsorship Budget for sponsorship of the 2008 National Trust Festival.

Janice Bevan  
Director Community

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## NOTICE OF MOTION

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### 28 TREATTS ROAD, LINDFIELD

**Notice of Motion from Councillor Jennifer Anderson dated 3 December 2007.**

I move that:

- "1. The General Manager contact the land owner and seeks their level of interest for the sale of 28 Treatts Road, Lindfield.
2. The General Manager source valuations.
3. Confirmation that S94 funding could be used to obtain this land and an examination of any other funding sources."

### RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Cr Jennifer Anderson  
Councillor for Roseville Ward

**Attachments:**      **Background information**

## **BACKGROUND INFORMATION**

**OMC 11 December 2007**

**Notice of Motion by Councillor Jennifer Anderson dated 3 December 2007**

### **28 Treatts Road, Lindfield**

The subject site sits within Open Space catchment L4 Lindfield (East) which is priority 1-3 area for acquisition of open space.

There is no existing park within the catchment area.

There is a current under supply of parkland of about 4,000 sq metres in this catchment.

The site is 879 sq metres. A tidy home built post-1950 sits on the block.

The land known as 28 Treatts Road originally formed the front entrance curtilage of 'Inglewood', which was built c.1884 and is thus a rare example of pre-railway settlement. The property was home to author, Ethel Turner, where she famously wrote 'Seven Little Australians' and other novels.

The home's name was subsequently changed to 'Woodlands' and the land fronting Treatts Road to the south subdivided in 1952, alienating 'Woodlands' from Treatts Road and its original main entrance. Significant mature palm trees still flank this area and have been attributed in the State Heritage inventory to the formal entry gardens of 'Woodlands' and would thus possess heritage value. Acquisition of this site and its return to open space would reconnect the land with the setting and context of the heritage item.

Demolition of the contemporary home constructed at 28 Treatts Road would provide a park affording much needed open space to the community. This would return public vistas of the State listed 'Woodlands' that have been removed through subdivision. In the public interest it would also serve to protect the heritage item from any future detrimental development or incursions which might further adversely impact views of the adjoining 'Woodlands'.

'Woodlands' is one of only three State heritage-listed 'literary' properties in NSW. The two others are May Gibbs' house museum, 'Nutcote', at Neutral Bay and Patrick White's home at Centennial Park. As such, the item is rare and highly important to Ku-ring-gai's heritage as well as that of NSW. Purchase of 28 Treatts Road will provide a unique recreational opportunity to service the future needs of increased population in Lindfield.

I would like to suggest that consideration be given to any future park established on the site of 28 Treatts Road being named 'Ethel Turner Park'.