



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 14 DECEMBER 2004 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A

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

APOLOGIES

DECLARATION OF PECUNIARY INTEREST

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

ADDRESS THE COUNCIL

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

DOCUMENTS CIRCULATED TO COUNCILLORS

CONFIRMATION OF MINUTES

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 7 December 2004

Minutes to be circulated separately.

MINUTES FROM THE MAYOR

PETITIONS

REPORTS FROM COMMITTEES

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 Telstra Communications - Deed Of Access To Use Part Of Hassell Park For Telecommunication Network 1

File: S02285

For Council to grant a Deed of Access reflecting commercial terms with Telstra Communications following their notification regarding works authorised by the low impact provisions of the Telecommunication Act (1997).

Recommendation:

That Council as Trustee approve a Deed of Access for Telstra Communications for the antenna and associated equipment shelter on the existing sports light pole located at the corner of Mawson Street and Hassell Street, St Ives (south western corner of Hassell Park).

GB.2 Killara West Pymble Rugby Club - Five Year Licence For Use Of Lofberg Oval Clubhouse - West Pymble 16

File: S02743

For Council to consider granting a five year licence to Killara West Pymble Rugby Club for the use of Lofberg Oval Clubhouse, Yanko Road, West Pymble.

Recommendation:

That Council approves the granting of a five year licence to West Pymble Rugby Club for the use of the Lofberg Oval Clubhouse, West Pymble.

GB.3 Lindfield Soldiers Memorial Park Clubhouse - Licence To Lindfield Rugby Club And Lindfield Junior Rugby Club 32

File: S02568

For Council to consider granting a five year licence to Lindfield Rugby Club and Lindfield Junior Rugby Club to use Lindfield Soldiers Memorial Park Clubhouse at Tryon Road, Lindfield.

Recommendation:

That Council approve the granting of a five year licence to Lindfield Rugby Club and Lindfield Junior Rugby Club to use the Lindfield Soldiers Memorial Park Clubhouse, Lindfield.

GB.4 Community Consultation 52

File: S02090

To report to Council on the options for conducting community surveys.

Recommendation:

That Council adopt recommendations A to E in this report.

GB.5 Lindfield Heritage Organ Restoration 74

File: S02095

To advise Council that a request for financial assistance has been received from Associate Professor Geoffrey Stacey for the restoration of the Lindfield Pipe Organ for the amount of \$8,000.

Recommendation:

That Council consider a contribution of \$8,000 towards the restoration of the Lindfield Jackson Heritage Organ as part of the December quarterly review.

GB.6 48 Fairlawn Avenue, Turramurra - Connection To Council Drainage Easement 80

File: DA0924/02

To consider a request by owners of 48 Fairlawn Avenue, Turramurra, to alter the terms of the Council drainage easement over downstream properties to permit discharge into a Council pipeline.

Recommendation:

That the proposal be approved subject to conditions A to D noted in recommendations.

GB.7 5 To 7 Eastern Road, Turramurra - Option To Renew Lease 85

File: P41845

To advise Council of Lifestart Co-operative Ltd exercising its option to renew the lease for the premises located within Cameron Park, 5-7 Eastern Road, Turramurra to operate the Lifestart Early Childhood Intervention Program.

Recommendation:

That Council authorise the exercise of the option by Lifestart Co-operative Ltd. for the premises at 5-7 Eastern Road, Turrumurra to operate their Early Childhood Intervention Program.

GB.8 10 Year Financial Model

88

File: S03096

To present to Council the 10 Year Financial Model 2005 to 2014 incorporating financial planning, capital works funding, debt reduction and depreciation funding strategies.

Recommendation:

That Council adopt the principles as contained in the 10 Year Financial Model and incorporate them into the development of the 2005/2006 budget and Management Plan.

GB.9 Parks, Sport And Recreation Reference Group - Minutes Of Meetings Held 14 October And 18 November 2004

105

File: S03447

To bring to the attention of the ordinary meeting of Council the minutes from the Parks, Sport and Recreation Reference Group meetings held 14 October and 18 November 2004.

Recommendation:

That the minutes of the Parks, Sport and Recreation Reference Group meetings held 14 October and 18 November 2004 be received and noted. That Council consider the recommendation of the Parks Sport & Recreation Reference Group with regard to nightlighting of Sportsfields in a separate report to Council addressing the issue.

GB.10 Hutchison 3G Australia Pty Ltd - Deed Of Access To Use A Portion Of Road Reserve Adjacent To 200 Pacific Highway, Lindfield

122

File: P54581

For Council to grant a Deed of Access to Hutchison 3G Australia Pty Ltd (H3GA) to use a portion of the road reserve for its telecommunication network.

Recommendation:

That Council approve a Deed of Access with Hutchison 3G Australia Pty Ltd for the antenna and associated equipment unit located on the road reserve.

GB.11 Draft Plan Of Management - Unit 1, 12 To 18 Tryon Road, Lindfield 132

File: S03609

To further action in respect of the Draft Plan of Management for the Unit 1, 12 to 18 Tryon Road, Lindfield.

Recommendation:

That the Draft Plan of Management for the Unit 1, 12 to 18 Tryon Road, Lindfield be adopted.

GB.12 Hutchison 3G Australia Pty Ltd - Deed Of Access To Use A Portion Of Road Reserve On The Corner Pentecost Avenue & Bobbin Head Road, Pymble 154

File: S03110

For Council to grant a Deed of Access to Hutchison 3G Australia Pty Ltd (H3GA) to use a portion of the road reserve for its telecommunication network.

Recommendation:

That Council approve a Deed of Access with Hutchison 3G Australia Pty Ltd for the antenna and associated equipment unit located on the road reserve.

GB.13 48 St Johns Avenue, Gordon – Property Improvements For Drainage 164

File: P00417

To seek Council's approval for the creation of an easement to drain water. Also to advise Council on the proposed measures required at 48 Johns Avenue, Gordon to manage risk and improve conveyance of stormwater by the piped and overland flow paths.

Recommendation:

That Council approves the recommendations noted in A-E of the recommendation.

GB.14 Bushland, Catchments & Natural Areas Reference Group - Minutes Of 18 October & 29 November 2004 170

File: S03448

To bring to the attention of Council the proceedings from the first two Bushland, Catchments & Natural Areas Reference Group meetings held on Monday 18 October and Monday 29 November, 2004

Recommendation:

That the minutes of the Bushland, Catchments & Natural Areas Reference Group meetings held on 18 October and 29 November be received and noted.

GB.15 NSROC Waste Tender Update 181

File: S02294

To advise Council of the current status of the NSROC / SHOROC Joint Tender for Waste Transfer Processing and Disposal Services to participating Councils.

Recommendation:

That in accordance with the Local Government (Tendering) Regulations (1999) Council rejects both Tenders as non-conforming and commences negotiations with a view to entering into a contract for the supply of waste transfer processing and disposal services.

GB.16 11 To 21 Cowan Road, St Ives - Option To Renew Lease 187

File: S02105

To advise Council that the Ku-ring-gai Neighbourhood Centre Inc. has exercised its option to renew the lease for the premises located at 11-21 Cowan Road, St Ives.

Recommendation:

That Council authorise the exercise of the option by the Ku-ring-gai Neighbourhood Centre Inc. for the premises at 11-21 Cowan Road, St Ives.

GB.17 Centenary Of Local Government In Ku-Ring-Gai Research Project 190

File: S02646

To seek Council approval to engage consultants to undertake a research project on 100 years of Local Government in Ku-ring-gai.

Recommendation:

That Council engage Pauline Curby and Virginia Macleod to undertake a research project on 100 years of Local Government in Ku-ring-gai, commencing in January 2005.

GB.18 Sustainable Funding For Environmental Improvements 194

File: S03894

This report seeks the support of Council to prepare a draft submission to the Minister for Local Government for a Special Variation in rates to fund environmental improvements across the Ku-ring-gai local government area as part of the development of the 2005-2010 Management Plan.

Recommendation:

That Council support the development of a draft submission for a special variation to rates, commencing 2005/06 for the purpose of funding a range of environmental initiatives. Submissions to be incorporated within the development of the draft Management Plan and budget for 2005/06. A further report to be presented back to Council for its consideration on the details, support and direction of the program in February 2005.

GB.19 403 Mona Vale Road, St Ives - Demolition Of The Existing Dwelling And Construction Of An Attached Dual Occupancy 221

File: DA0677/04

Ward: St Ives

Applicant: Paul and Sara Rumble C/O Glendinning Minto and Associates

Owner: Paul and Sara Rumble

To determine an application for demolition of the existing dwelling and construction of an attached dual occupancy. Council has resolved that dual occupancy development applications are not to be determined under delegated authority.

Recommendation:

Approval

GB.20 Riparian Policy 258

File: S03491

To adopt the draft Riparian Policy.

Recommendation:

That Council adopt the modified Draft Riparian Policy and make the necessary amendments to DCP 47 Water Management.

GB.21 1 Berrillee Street, Turramurra - Supplementary Report 297

File: 0535/04

To address matters raised at the site inspection of 30 October 2004 and for Council to determine a development application for a detached double carport, front fence and additions and alterations to an existing dwelling.

Recommendation:

That the additional information be noted, and that the application be refused.

GB.22 Council Adoption Of Ku-ring-gai Multi-Unit Housing Development Control Plan No 55 - Pacific Highway / Railway Corridor And St Ives Centre 314

File: S03730

To report to Council on the public exhibition and consultation of Draft Ku-ring-gai Multi-Unit Housing Development Control Plan (DCP) No 55 - Pacific Highway / Railway Corridor and St Ives Centre and to present a final amended DCP to Council for consideration for adoption.

Recommendation:

That Council adopt the recommendations A to D as outlined in this report for "Ku-ring-gai Multi-Unit Housing Development Control Plan No 55 - Pacific Highway / Railway Corridor and St Ives Centre", as included in Attachment A" to this report.

GB.23 Draft Development Control Plan For Child Care Centres 326

File: S03420

To have Council consider and adopt for public exhibition a new Draft Development Control Plan for Child Care Centres.

Recommendation:

That Council adopt the Draft Development Control Plan for Child Care Centres for exhibition.

GB.24 State Environmental Planning Policy No 65 - Design Review Panel 362

File: S02240

To allow Council to consider establishing a State Environmental Planning Policy (SEPP) No. 65 - Design Review Panel to assist in promoting the design quality of residential flat developments in Ku-ring-gai.

Recommendation:

That Council establishes a SEPP 65 Design Review Panel.

GB.25 39 Todman Avenue, West Pymble - Attached Dual Occupancy 384

File: DA1295/03

Ward: Comenarra

Applicant: T & A Tran, c/- Glendinning Minto & Associates Pty Ltd

Owner: T & A Tran

To determine development application No. 1295/03, which seeks consent for the demolition of the existing dwelling and the construction of an attached dual occupancy development.

Recommendation:

Approval

GB.26 Draft Masterplan For Carlotta Avenue Depot Site

416

File: S02054

To present to Council a Draft Masterplan for the redevelopment of the Carlotta Avenue Depot site for residential purposes.

Recommendation:

That Council adopt the draft Ku-ring-gai Council Depot Site Masterplan as a draft amendment to Development Control Plan No 55 and public exhibition as outlined in Recommendations A - D in this report.

GB.27 Review Of Trial Night Time Fixtures At Sportsgrounds

423

File: S02993

To advise Council of both the communities and sporting user groups response to the trial and to consider an amendment to Council's current policy of no night sporting fixtures at any location.

Recommendation:

That Council approve a change in policy permitting the playing of night fixtures on a location by location basis for a maximum of one night per week if the criteria and conditions are met as outlined in this report.

GB.28 23 Ryde Road, Pymble

438

File: DA968/03

To address the issues raised at the site inspection of 30 October 2004 and for Council to determine a development application for the demolition of the existing dwelling and the construction of a commercial building.

Recommendation:

Approval.

GB.29 133 Coonanbarra Road, Wahroonga - Supplementary Report 524

File: DA0639/04

To address matters raised at the site inspection of 27 November 2004 and for Council to determine a development application for a detached dual occupancy development, comprising retention of the existing residence and construction of a second dwelling.

Recommendation:

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

GB.30 Draft Local Environmental Plan No 201 - Consideration Of Submissions 598

File: S02846

To consider the submissions made in respect of the exhibition of Draft Local Environmental Plan No 201 (DLEP 201) and for Council to resolve the manner in which to finalise the Draft Plan.

Recommendation:

That Council resolve to adopt the final format of Draft Local Environmental Plan No 201, with minor exclusions, and forward it to the Minister requesting gazettal.

GB.31 3-5 Merriwa Street, Gordon - A 6 Storey Commercial Building 620

File: DA0271/04

Ward: Gordon

Applicant: Nettleton Tribe Partnership Pty Ltd

Owner: A & G Altomonte

To determine development application no 271/04 which seeks consent for the construction of a 6 storey commercial building with basement parking for 93 cars.

Recommendation:

Approval

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING REGULATION

QUESTIONS WITHOUT NOTICE

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

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

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

C.1 **Staff Matter**
(Section 10A(2)(a) - Personnel matters concerning particular individuals)

File: S03001

Report to be circulated separately.

Brian Bell
General Manager

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Environmental Planning & Assessment Act 1979 (as amended)

Section 79C

1. Matters for consideration - general

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

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

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

TELSTRA COMMUNICATIONS - DEED OF ACCESS TO USE PART OF HASSELL PARK FOR TELECOMMUNICATION NETWORK

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to grant a Deed of Access reflecting commercial terms with Telstra Communications following their notification regarding works authorised by the low impact provisions of the Telecommunication Act (1997).
BACKGROUND:	<p>On 20 March 2003, staff met with Daly International representatives on behalf of Telstra Communications with regards to a new Telstra Communications low impact facility at Hassell Park, St Ives.</p> <p>Telstra Communications served notice on Council on 1 November 2004 to commence works on 22 November 2004 and will complete their activity on or around 15 January 2005.</p>
COMMENTS:	Council staff have negotiated an arrangement with Telstra Communications, which is consistent with similar Deeds of Access being granted to other communication carriers within the Northern Sydney region for facilities on Crown Land.
RECOMMENDATION:	That Council as Trustee approve a Deed of Access for Telstra Communications for the antenna and associated equipment shelter on the existing sports light pole located at the corner of Mawson Street and Hassell Street, St Ives (south western corner of Hassell Park).

PURPOSE OF REPORT

For Council to grant a Deed of Access reflecting commercial terms with Telstra Communications following their notification regarding works authorised by the low impact provisions of the Telecommunication Act (1997).

BACKGROUND

The Commonwealth Telecommunications Act 1997 authorises licensed telecommunications carriers to carry out certain activities and undertake maintenance activities (low impact facilities) upon certain lands without the need for specific approval of the land owner /manager under certain conditions.

Daly International representatives on behalf of Telstra Communications met with officers on 20 March 2003 to outline their intention to exercise their rights afforded to them under the Telecommunications Act to enter Council land, install and operate their low impact installation facility upon Crown Reserve known as Hassell Park, St. Ives (R28761). The reserve is identified as lot 7010 in DP9361.

The facility is expected to comprise a 3 panel antennae, an external equipment shelter and ancillary infrastructure on an existing sports floodlighting pole on the south western corner of the playing field.

Staff initially directed Daly International to attempt co-location on the facility currently utilised by Hutchison Telecom in the south eastern corner of the park, previously considered by Council as a preferable location. Unfortunately the existing infrastructure at this corner of the park is structurally unable to support the load created by a second low impact facility.

Subsequent discussion with Daly International focused on finalisation of location, identification of means to minimise impact at this site, including Duffy's Forest vegetation; establishing an effective process for notification and consultation as required by the Code and establishing terms of compensation in return for the Deed of Access.

Daly International issued a letter to some 220 surrounding residents in May 2004 regarding their proposal, following a letter by Council to residents regarding the same.

In accordance with the requirements of Clause 5.5.10 of the Code for the Deployment of Radio Communications Infrastructure (the Code), Telstra provided Council with its consultation report. The report received in June 2004 included the following:

1. Summary of comments received during the consultation process.
2. Telstra Communications consideration of these comments.
3. A statement about Telstra Communications intended actions regarding the proposed work.

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Two enquiries were received by Daly International from 220 letters issued. Of the two responses, one related to co-location and the other a letter of support for improved coverage for the area. A copy of the Telstra Communications consultation report to Council forms Attachment 1 to this Report.

Council did not receive any responses to its letter during the notification process undertaken at the same time.

On 27 October 2004, Daly International advised Council that the model of antenna previously designed for the site (some two years ago) is no longer available. A design modification to the original proposed design has been issued (refer Attachment 2). The appearance of the antennae is different to that originally notified to the public, however the EME readings remain below 1% of the ACA mandated exposure limits and consistent with the low impact provision of the Act. Telstra have provided, consistent with the Code, further public notification including newspaper advertisements of this change of design.

Daly International advised on 1 December 2004 that no responses were received to the newspaper advertisement.

COMMENTS

Council has maintained a commitment to opposing the installation of telecommunication facilities on community and Crown Land and has on a number of occasions considered reports and briefings in relation to this issue.

Given the privileges afforded by the Telecommunications Act, there is little if anything that Council can do to prevent installation of "low impact facilities" on Council owned or managed lands providing the providers comply with the provisions of the Act and in particular the Code for the Deployment of Radio Communications Infrastructure.

With regard to this facility, Telstra through their representative have followed the process as set out by the Act and Code. Their final serving of statutory notice as required by the Act was received by Council 1 November 2004.

As the facility is on Crown Land, the Department of Infrastructure, Planning and Natural Resources (DIPNR) has provided a standardised Deed of Access document for use by Trust Managers when entering into agreements with telecommunications providers. Terms of agreement have been reached, subject to Council resolution. These address ongoing access to the site, fees for site remediation and restoration and a commitment to the restoration of Duffy's Forest vegetation at the site. Commercial terms are contained in Confidential Attachment No. 3 to this Report.

It is expected that installation of the facility will take approximately 4-6 weeks from which point the facility will be operational. It is recommended that the Deed of Access should take effect from the beginning of Telstra's access to the site (ie. 22 November 2004).

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Telstra has also been advised of impending works at Hassell Park for the installation of a number of new floodlighting poles and floodlights which are programmed for completion prior to the 2005 Winter Rugby season. Telstra have undertaken to work in cooperation with both St Ives Rugby Club and Council in regard to these works being achieved which may involve replacement poles to accept new light fittings.

CONSULTATION

Officers notified and provided information to the community regarding this proposal during May 2004.

Daly International on behalf of Telstra Communications, have notified surrounding residents and user groups in accordance with Councils resident notification list and as required by Australian Communications Industry Forum (ACIF Code).

Officers have met on numerous occasions with representatives from Daly International to negotiate and finalise the draft Deed of Access details, appropriate compensation for landscaping and site remediation and specific compensation for the Duffy's Forest vegetation remediation works at the site.

Both parties have reached agreement, in principle, subject to Council approval, regarding a Deed of Access for commercial terms that reflect use of part of Hassell Park for the installation of the low impact telecommunications facility.

The Director Open Space has previously forwarded memorandums to the Mayor, Councillors and General Manager regarding this proposal on 3 September 2003 and 24 May 2004.

FINANCIAL CONSIDERATIONS

Refer Attachment 3 – Confidential Financial information and terms of agreement.

If Council elects not to receive compensation by way of a Deed of Access, it would not impact on Telstra Communications rights regarding the installation of a low impact facility and would likely encourage them to install further devices across our Local Government Area without having to consider compensation for landscaping, site remediation and for ongoing access to the site.

New commercial licence or lease agreements on Crown Land are subject to a 15% Levy known as the Public Reserve Management Fund. Although the proposed "Deed of Access" is not currently subject to the requirements of this Levy which is paid to DIPNR, advice from the Department is that it may be. Accordingly Telstra have been advised that should the Levy be applicable to this Deed it will represent an additional cost and appropriate wording is included in the proposed Deed of Access agreement to reflect that circumstance, if needed.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

In the preparation of this report, Open Space has liaised with Finance and Business Development on the proposed Deed of Access term and conditions.

SUMMARY

Telstra Communications served statutory notice on Council on 1 November 2004, pursuant to the Telecommunications Act 1997 (Cth) and the Code, notifying Council of its intention to exercise its powers under the Telecommunications Act to enter onto Council land and install and operate their low impact installation facility.

Telstra Communications propose to commence their work on 22 November 2004 and will complete works on or around 15 January 2005.

In accordance with Council's resident notification process, Daly International on behalf of Telstra Communications wrote to local residents and users notifying their proposal. Daly International received two submissions during the consultation process, one related to co-location and the other a letter of support for improving coverage in the area. Council staff received no residents' concerns regarding the matter – in total 220 letters were issued by Daly International and Council staff, to ensure a thorough notification process.

Council staff have negotiated and agreed in principle with representatives of Daly International the draft Deed of Access terms and conditions, specifically the compensation amount, landscaping and site remediation funding subject to Council approval. The Department of Infrastructure Planning and Natural Resources directed staff on the amount of compensation that could be expected and supported by the Department.

Given the privileges afforded by the Telecommunications Act to telecommunication carriers there is little, if anything, that Council can do to prevent installation of 'low impact facilities' on Council owned or managed lands. This Deed of Access proposes reasonable compensation for access to the site.

RECOMMENDATION

- A. Council as Trustee of the Hassell Park (R28761) Reserve Trust, give approval to proceed with the Deed of Access between Council as Reserve Trust Manager and Telstra Communications for the antenna on the existing sports light pole and the associated equipment shelter located on the south western corner of Hassell Park (corner Mawson Street and Hassell Street, St Ives).
- B. The Deed of Access be referred to the Minister of the Department of Infrastructure Planning and Natural Resources for approval.

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- C. The Mayor and General Manager on behalf of the Hassell Park Reserve Trust be authorised to execute all necessary documentation
- D. That the Council Seal be affixed to the Deed of Access.

Amanda Colbey
Manager Parks Sport & Recreation

Steven Head
Director Open Space

Attachments:

- 1. Telstra's Consultation Report**
- 2. Summary estimated RF EME levels report and antennae design modification**
- 3. Confidential Draft Heads of Agreement**

KILLARA WEST PYMBLE RUGBY CLUB - FIVE YEAR LICENCE FOR USE OF LOFBERG OVAL CLUBHOUSE - WEST PYMBLE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to consider granting a five year licence to Killara West Pymble Rugby Club for the use of Lofberg Oval Clubhouse, Yanko Road, West Pymble.
BACKGROUND:	<p>The Club was formed by the amalgamation of West Pymble Rugby Club and Killara Rugby Club in 1980 and has occupied Lofberg Oval since 1965.</p> <p>The Club has approximately 90 members and is a member of NSW Suburban Rugby Union.</p>
COMMENTS:	The Club is a community based not for profit organisation, which returns funds from its operation into the ongoing development and promotion of rugby.
RECOMMENDATION:	That Council approves the granting of a five year licence to West Pymble Rugby Club for the use of the Lofberg Oval Clubhouse, West Pymble.

PURPOSE OF REPORT

For Council to consider granting a five year licence to Killara West Pymble Rugby Club for the use of Lofberg Oval Clubhouse, Yanko Road West Pymble.

BACKGROUND

Property

The property is known as Lot 7 & 8 DP 230332 corner Lofberg and Yanko roads, West Pymble (Refer attachment 1).

Lofberg Oval is Council owned land zoned 6(A) Recreational, classified “Community Land” and categorised “Sportsground” in accordance with the Local Government Act (1993).

The facility is situated on gently sloping land towards the western side of Ku-ring-gai Bicentennial Park, which is located on the eastern side of Yanko Road, near the corner with Lofberg Road. The Clubhouse, built around the late 1970s, comprised a two storey brick building with a concrete slab floor. The total area of the ground floor and first floor of the building is approximately 195m². Accommodation comprises public toilets, two change rooms (including showers) and club room used mainly for storage. The first floor comprises a club room, store room, male and female toilets and a viewing deck.

Any improvements of a structural nature to the Clubhouse regardless of the funding source shall become the absolute property of the Council at the expiration of the licence. However this does exclude any training or recreational equipment provided by the Club (non fixtures).

Section 47d of the Local Government Act (1993) states:

Occupation of Community Land otherwise by lease or licence:

- 1) The exclusive occupation or exclusive use by any person, of community land otherwise in accordance with:
 - a) a lease, licence or estate to which sec 47 or 47A applies, or
 - b) a sublease or other title directly or indirectly derived from the holder of such a lease, licence or estate is prohibited.
- 2) This section does not apply to:
 - a) The occupation or use of part of the site of a senior citizens club or use of community land by person and in circumstances prescribed by the regulations.
 - b) The occupation or use of community land by person and by circumstances prescribed by the regulations.

As a consequence of the requirements of the Act, Council staff commenced licence negotiations with Killara West Pymble Rugby Club in September 2004.

Plan of Management

The management of this site is covered by the Bicentennial Park Plan of Management adopted by Council August 2002. The site is also covered under the Sportsground Plan of Management

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adopted June 2003. Both plans recognise the activity and authorises such a licence in accordance with the principles of the Local Government Act (1993) and in particular management of “Community Lands”.

COMMENTS

Killara West Pymble Rugby Club is the primary user of the Clubhouse and has enjoyed exclusive use of the facility. The Club is fully incorporated and has maintained the building in good order both internally and externally.

They are a member of NSW Suburban Rugby Union, and participate in the winter season competition. The Club makes full use of the Clubhouse year round for Club activities and functions seven days a week. The Club formerly had an agreement with Council to use the Clubhouse which commenced on 8 December 1997 and expired on 7 December 2002.

Council has the right of access and entry to the clubhouse facility at all reasonable times by advanced notification to the Club executives.

As a part of the process Council engaged the State Valuation Office (SVO) on the 24 September 2004 to assess the current market value of the Clubhouse (refer attachment 2).

It should be noted that this proposed licence in no way extends the Club’s use of the facility or allows for future development. It merely formalises existing usage and provides Council with an effective mechanism to positively work with the Rugby Club should issues with the Community arise concerning Rugby’s use of the facility, Club Officials and staff have reached agreement on the proposed terms of the licence.

The table summarises of the key terms of the proposed licence.

Name of Club/organisation	Killara West Pymble Rugby Union Club Inc
INC No	NSW Y1369024
Property	Lofberg Oval Clubhouse
Contact Details	James Gahan
	0412 814 641
Postal Address	P O Box 483 GORDON NSW 2072
Licence term (no of years)	Proposed 5 years
Commencing	Expiration of public notification of the proposed licence.
Classification of land	Community
Categorisation of land	Sports ground
Plan of Management	Sports ground Plan of Management Bicentennial Park of Management
Holding over provision	Seasonal tenancy
Use	Sports clubhouse and related activities, meetings, trainings and functions of the club
Trading days & hours of operation	Monday to Friday from 11am – 1pm and from 3pm to 10:30pm all year. Saturday from 10am to 2am Sunday all year. Sunday from 9am to midnight – 26 times a year.
Payment of public reserve management fund	1. Licensee is responsible for this payment – (see attached spreadsheet). 2. The PRMF is only payable for rent exceeding \$2,000 per annum. Note – this is not applicable for this agreement.
Payment of licence fee (rental)	Yearly in advance

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Costs	<ol style="list-style-type: none"> 1. Licensee to pay 50% of Licensor's legal costs for the preparation and finalisation of the licence (estimated at \$250 plus GST). 2. Licensor to pay for 100% of valuation costs
Utility payments	<ol style="list-style-type: none"> 1. Licensee's responsibility for prompt payment of phone costs. 2. Licensee to pay for electricity and gas charges & security costs during licence period. 3. Licensor's responsibility for payment of water.

Full terms of the proposed licence are outlined in the attached Draft Heads of Agreement (refer to attachment 3)

CONSULTATION

Council staff have met and negotiated the proposed licence with the Club executives commencing September 2003 regarding terms and conditions of the proposed five year licence and subsequent recommendations as contained in this report.

The terms of the proposed licence have been negotiated between Council and the Club and agreement reached. A letter of support (refer attachment 4) of the proposed terms of the licence has been provided by the Club.

Under Section 47A of the Local Government Act (1993), Council is required to publicly notify its intention to enter a licence and consider any submissions received regarding the proposal.

FINANCIAL CONSIDERATIONS

Council has to date paid the cost associated with the valuation of the proposed licensed area.

The table below shows anticipated rental for the term of the licence and as included in the Draft Heads of Agreement.

Year	Rebate Level	CPI	CMV (excl GST)	CMV (incl GST)	Licence fee amount per year
Year 1	90%		\$4,900	\$5,390	\$539.00
Year 2	90%	1.033	\$5,062	\$5,568	\$556.79
Year 3	85%	1.033	\$5,229	\$5,752	\$862.74
Year 4	85%	1.033	\$5,401	\$5,941	\$891.21
Year 5	80%	1.033	\$5,580	\$6,137	\$1,227.50

Note - Assuming CPI is 3.3% per year (subject to change)

\$4,077.24

Current Market Value = CMV

CMV = \$4,900.00

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

In the preparation of this report, Open Space has liaised with Finance and Business Development on the proposed licence terms and conditions.

SUMMARY

It is proposed that Council enter into a licence agreement with Killara West Pymble Rugby Club for a period of five years subject to the conditions outlined in the Draft Heads of Agreement (refer to Attachment 3) and in accordance with the Local Government Act (1993) to formalise the Clubs existing utilisation of the facility.

The Club had a formal agreement with Council to use the Clubhouse which commenced December 1987 and expired December 2002.

The Clubhouse facility is located on Community Land, which is governed by the Sportsground Plan of Management and Bicentennial Park Plan of Management. The plans authorises leases or licences over land categorised as Sportsground.

The Club has occupied the Clubhouse for the past 45 years and is keen to formalise their continued usage by their agreement with Council to enter into a five year licence. Club Officials and staff have reached agreement on terms for the proposed licence.

RECOMMENDATION

- A. That Council approve the granting of a 5 year licence to the Killara West Pymble Rugby Club for the use of the clubhouse at Lofberg Oval, West Pymble under the terms outlined in this report.
- B. Council issue a public notice as prescribed by section 47A of the local Government act 1993.
- C. The licence term is to commence at the expiration date of the period of public notification, which will be in accordance with Section 47 – 47 A of the local Government Act 1993.
- D. That Council authorise the Mayor and the General Manager to sign the licence documentation should no substantial objections be received following the period of public notice.
- E. That Council authorise the affixing of the Common Seal to the licence documents.
- F. That a report be brought back to Council if there are any substantial objections received to the proposal.

Amanda Colbey
Manager Parks Sport & Recreation

Steven Head
Director Open Space

Attachments:

- 1. Site Plan**
- 1. Site Plan**
- 2. SVO Report (24.9.04)**
- 3. Draft Heads of Agreement (9.9.04)**
- 4. Club letter of support (9.9.04)**

LINDFIELD SOLDIERS MEMORIAL PARK CLUBHOUSE - LICENCE TO LINDFIELD RUGBY CLUB AND LINDFIELD JUNIOR RUGBY CLUB

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to consider granting a five year licence to Lindfield Rugby Club and Lindfield Junior Rugby Club to use Lindfield Soldiers Memorial Park Clubhouse at Tryon Road, Lindfield.
BACKGROUND:	<p>Lindfield Rugby and Lindfield Junior Rugby Club have been occupying the Clubhouse since the 1960's and both clubs are keen to continue their utilisation through a formal agreement with Council.</p> <p>Between both clubs, they have a combined membership of over 530 members comprising approximately 32 teams.</p>
COMMENTS:	Each club, a community based non-profit organisation, return funds from their operations into the ongoing development and promotion of rugby.
RECOMMENDATION:	That Council approve the granting of a five year licence to Lindfield Rugby Club and Lindfield Junior Rugby Club to use the Lindfield Soldiers Memorial Park Clubhouse, Lindfield.

PURPOSE OF REPORT

For Council to consider granting a five year licence to Lindfield Rugby Club and Lindfield Junior Rugby Club to use Lindfield Soldiers Memorial Park Clubhouse at Tryon Road, Lindfield.

BACKGROUND

Property

Lindfield Soldiers Memorial Park Clubhouse is located on Crown land and Council is the Reserve Trust Manager for the land (R41399), off 62A Tryon Road, Lindfield (refer to Attachment 1).

The land was reserved for Public Recreation and was notified in the Government Gazette on 27 February 1907 and Council was appointed Trustee of Reserve on 21 May 1921 under the Crown Lands Consolidation Act (1913). The reserve was then named, "Lindfield Soldiers Memorial Park (R41399) Reserve Trust" and was gazetted on 2 February 1996.

The facility is situated on sloping land towards the western side of Lindfield Soldiers Memorial Park, which is located on the north western side of Tryon Road, between Archbold Road and Sydney Road, Lindfield.

The Clubhouse was built during the 1960's and comprises a two level brick and fibrous cement/weatherboard clad building with a pitched roof, timber and concrete floor. Accommodation comprises a clubroom, kitchen, store room and a verandah on the top floor and toilets and dressing room on the lower level. The area of the building excluding the verandah is approximately 280sqm.

The Clubhouse was constructed predominantly by funds provided by the resident clubs. The clubs are community based non-profit organisations, which re-inject funds into the development of their respective sports.

Any improvements of a structural nature to the Clubhouse regardless of the funding source shall become the absolute property of Council at the expiration of the licence. However this does exclude any training or recreation equipment that is provided by the clubs (non fixtures).

COMMENTS

The primary users of the Clubhouse are Lindfield District Cricket Club (in summer), Lindfield Rugby Club and Lindfield Rugby Junior Club (jointly in Winter). Council Staff are currently negotiating with Lindfield District Cricket Club executives about the proposed licence to formalise their use of the facility during the summer season. Both Rugby Clubs outlined in this proposal are incorporated and have maintained the building in good order both internally and externally. Lindfield Rugby Union Club's previous licence with Council commenced 31 December 1982 and expired 30 December 2002.

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Council commenced negotiations with Lindfield Rugby Club and Lindfield Junior Rugby Club in March 2003.

Council engaged the State Valuation Office (SVO) to assess the current market value of the Clubhouse (refer to Attachment 2). As the Clubhouse is on Crown land, the Sportsground Plan of Management governs the land and authorises leases or licences over land categorised as Sportsgrounds.

Council has the right of access and entry to the Clubhouse facility at all reasonable times by advanced notification to the Club's executives.

Council resolved the Sportsground Plan of Management on the 24 June 2003. It should be noted that this proposed licence in no way extends their use of the facility or allows for future development. It merely formalises existing usage and provides Council with an effective mechanism to positively work with both clubs should issues with the community arise concerning either club's use of the facility. Club officials and staff have reached agreement on the proposed term of the licence.

Lindfield Rugby Club Inc

The Lindfield Rugby Club first appeared in Rugby records in 1920. The club ground was then called "Lindfield Oval." In 1954, work began on raising funds for building the Clubhouse at Soldiers Memorial Park with the works completed in the 1960's. The Clubhouse was officially opened as "Lindfield Rugby Union Youth Centre", with further renovations taking place during 1999.

Lindfield Junior Rugby Club

Lindfield Junior Rugby Club was formed in the 1920's. It currently has about 400 members and 27 teams in the Gordon and Metropolitan Zones competitions.

The Club does not hold a liquor function licence, nor has it had a formal licence agreement with Council.

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Summary of key terms of the proposed Licence:

Club Names	Lindfield Rugby Club and Lindfield Junior Rugby Club
Land Classification	Crown land – Reserve Trust
Use	Sports clubhouse and related activities, meetings, training and functions of the clubs.
Multi-use and sharing	<ul style="list-style-type: none"> • Licensee to allow multi-use of building when available. If there are no conflicts of use and concurrence is obtained from the Licensee, Licensor is able to hire out the facility to other users and ensure it is for appropriate passive activities only. • If the Clubhouse is hired out to other users by Council in concurrence with the Licensee, the Licensor will reimburse the Lindfield Rugby Club 50% of the hire fee and the remaining 50% of the hire fee to the Lindfield Rugby Junior Club during the winter season licence period. • During the summer season licence period, the Licensor will reimburse the licensee 100% of the hire fee to the Cricket Club. • Each casual hirer should have appropriate insurance for its activity. <p>*Note : Hire fee to be reimbursed to a maximum of Clubhouse rental to Council only</p>
Insurance	<ul style="list-style-type: none"> • Licensee to provide a copy of the certificate of currency for the sum of \$10 million for public risk insurance. • Licensee is to indemnify the licensor and the minister against all claims arising out of the use of the licensed area or the specified activity. • Licensor is to insure the clubhouse building.
Hours of use	<p>Lindfield Rugby Club</p> <ul style="list-style-type: none"> • Winter season from April to August of each year subject to the allocation park, negotiations with summer users and finals. • Tuesday & Thursday from 6:00pm to 10:00pm; • Saturday from 10:00am to 8:00pm; • Sunday from 10:00am to 8:00pm (only if rained out on Saturday). <p>Lindfield Junior Rugby Club</p> <ul style="list-style-type: none"> • Winter season from April to August of each year subject to the allocation park, negotiations with summer users and finals. • Monday/Tuesday/Wednesday and Friday 4:30-8:30 pm. • Saturdays 8am to 11am. Committee meetings last Wednesday in every month from 7:30pm – 10:00pm.
Term	Five years

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Payment frequency	Annually in advance
Utilities	<p>Electricity – Winter season – Lindfield Rugby Club 25% and Lindfield Rugby Junior Club 25% and Licensor 50%.</p> <p>Water – Licensor – 100%</p> <p>Telephone & Security costs - Each club is responsible for its cost for the season.</p>
Costs	<p>Legal – Lindfield Rugby Club – 25% Lindfield Rugby Junior Club – 25% Licensor – 50%</p> <p>Valuation – Licensor pays 100%</p>

Full terms of the proposed licence are outlined in the attached Draft Heads of Agreement (refer Attachment 3).

CONSULTATION

Council staff has met with each club to discuss the proposed licence with club executives on several occasions regarding the terms of the proposed five year licence and subsequent recommendations as contained in this report.

The terms of the licence has been negotiated between Council and the clubs and the clubs have agreed to support the terms of the proposed new licence by way of letters of support (refer to attachment 4).

FINANCIAL CONSIDERATIONS

Council has to date paid the cost associated with the valuation of the proposed licensed area.

The table below shows anticipated rental for the term of the licence and as included in the Draft Heads of Agreement.

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Year	Rebate Level	CPI	CMV (excl GST)	CMV (incl GST)	Total Annual Value
Year 1	90%		\$5,000	\$5,500	\$550.00
Year 2	90%	1.033	\$5,165	\$5,682	\$568.20
Year 3	85%	1.033	\$5,335	\$5,869	\$880.35
Year 4	85%	1.033	\$5,512	\$6,063	\$909.45
Year 5	80%	1.033	\$5,693	\$6,263	\$1,252.60

	Rent payable per annum	Per Season Charge		Lindfield Rugby Club Inc. share	Lindfield Junior Rugby Club share
		Per Annum		Per Annum	Per Annum
Year 1	\$550.00	\$275.00		\$137.50	\$137.50
Year 2	\$568.15	\$284.08		\$142.04	\$142.04
Year 3	\$880.35	\$440.18		\$220.09	\$220.09
Year 4	\$909.40	\$454.70		\$227.35	\$227.35
Year 5	\$1,252.55	\$626.28		\$313.14	\$313.14
		\$2,080.22		\$1,040.11	\$1,040.11
* CMV = Current Market Value * CMV = \$5,000					
** Assumes CPI is 3.3% per year (subject to change)					

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

In preparation of this report, Open Space has liaised with Finance and Business Development on the proposed licence terms and conditions.

SUMMARY

It is proposed that Council enter into licence agreements with Lindfield Rugby Club and Lindfield Junior Rugby Club, for a period of five years subject to the conditions outline in the Draft Heads of Agreement to formalise the clubs utilisation of the facility.

The clubhouse facility is on Crown Land with Council being the Reserve Trust Manager. The site is covered under the Sportsground Plan of Management, which authorises leases and licenses over land categorised as Sportsground and was resolved by Council 24 June 2003.

Both clubs are well established having between them a membership base over 530 members and have approximately 32 teams between them.

The clubs have occupied the Clubhouse for approximately 44 years and are keen to continue their occupation and formalise their continued usage by their agreement with Council to enter into a five year licence. Club officials and staff have reached agreement on the term of the proposed licence.

RECOMMENDATION

- A. That Council as Trustee of the Lindfield Soldiers Memorial Park (R41399) Reserve Trust approve the granting of a five year licence to Lindfield Rugby Club and Lindfield Junior Rugby Club, for the use of the Lindfield Soldiers Memorial Park clubhouse, commencing on the date of Council resolution and on the terms and conditions as outlined in this report.
- B. That Council authorises the Mayor and General Manager to sign and execute all necessary licence documents.
- C. That Council authorise the affixing of the Common Seal to the licence document.
- D. That following the execution of the new licences, the documents are submitted to the Department of Lands for the Minister's consent.

Amanda Colbey
Manager Parks, Sports and Recreation

Steven Head
Director Open Space

Attachments:

- 1. Location Map**
- 2. State Valuation Office Report (20/01/03)**
- 3. Draft Heads of Agreement for Each Club (25/09/03 & 14/10/03)**
- 4. Letter of support from Each Club (25/09/03 & 17/08/04)**

COMMUNITY CONSULTATION

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To report to Council on the options for conducting community surveys.
BACKGROUND:	The Management Plan requires Council to consider options to engage the community through consultation processes. This is in addition to the notification processes required under planning legislation.
COMMENTS:	Council has a Community Consultation Policy, however this policy does not specify any ongoing mechanism to engage our community. One option that will provide for ongoing consultation across a range of issues affecting Council is a Residents' Feedback Register.
RECOMMENDATION:	That Council adopt recommendations A to E in this report.

PURPOSE OF REPORT

To report to Council on the options for conducting community surveys.

BACKGROUND

Within the Management Plan there are a number of key performance indicators and objectives that seek to increase community engagement. These cut across many of Council's principal activities that reflect a broad need and application for robust and transparent processes. The indicators of particular relevance to this report include:

- Report to Council on the options for conducting a community survey to determine satisfaction, needs, aspirations and values
- To undertake a residents' use, needs and satisfaction levels of recreation and Open Space services
- Prepare a Community Plan
- Prepare a Cultural Plan
- Undertake community consultation for the North Turramurra recreation area
- Develop community involvement strategies for the development and review of planning policies such as DCP 38, integrated transport planning, open space strategy and tree preservation order review
- Seek support by the community, Council and Minister for Local Government for an environmental funding strategy
- Prepare an integrated transport plan (including bus, pedestrian routes and cycle ways) that encourage use of public transport
- Develop a Corporate Communication strategy.

Council has two policies that guide consultation, the consultation policy and the notification policy.

The Consultation Policy (Attachment A) outlines a number of objectives to assist the coordination of information seeking processes and management of citizen engagement. The policy provides broad guidelines to assist in the selection of appropriate research methods and factors that should be considered when undertaking any public consultation process. This is particularly relevant for Council given its diverse functions and reasons for engaging with the community.

There are a number of gaps in the current Consultation Policy. First it does not set an on-going mechanism for engaging the community which is accessible, representative, cost effective and time

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efficient. Second, the policy does not specify any statutory consultative or notification provisions, such as minimum exhibition periods. Third it does not differentiate between consultation principally concerned with the broad issues of governance (for example transparency and accountability), and matters of policy or strategic direction or issues having a more local relevance (such as a development application).

Recent community consultations that followed the intent of this policy have assisted in the development of the Community Plan, Cultural Plan and the Environment Survey. These have used a range of techniques to engage the community and have been used as a mechanism to assist in decision making and form stronger links with residents. The recent community environmental survey received over 1000 responses across four suburbs with follow group interviews and focus groups involving around 70 residents.

Community response for the recent Cultural Plan resulted in over 1000 survey responses and 98 web site responses. Focus groups were also held with a number of targeted groups including youth groups, community organisations, arts cultural groups, and culturally diverse and indigenous groups. The Community Plan received over 800 responses from residents, service providers, youth groups, parent committees, professional networks, government department officers and regional forums. Complementing this process, a range of other research methods were utilised including questionnaires, workshops, interviews and public submissions.

The strength of these programs has been in the application of a range of techniques that sought quantitative and qualitative data to inform the direction of reports and recommendations. To a large extent, the methods used demonstrate the genuine interest of our community to be involved in decision making processes. Many attended focus groups and workshops for up to 3 hours at a time, and then sought additional opportunities to participate, which reflects strong aspirations for involvement in participatory decision making.

Community Consultative Forum

At the Ordinary Meeting of Council on 9 November, 2004, Council resolved:

That a Consultative Forum be held as soon as possible, to consider the details of how public participation will occur at Council Committee meetings and to explore other avenues to improve openness and responsiveness in Council.

It is recommended, as part of this report, that in accordance with this resolution, a Consultative Forum be held in February 2005.

Council's Notification Policy

Council's Notification Policy essentially addresses development applications and rezoning applications. This policy is to be replaced by a Notification Development Control Plan. The intent behind planning notification is to provide consistency with the Environmental Planning and Assessment Act (EPA Act) 1979.

There are two key objectives in the EPA Act that relate to consultation, "to provide increased opportunity for public involvement and participation in environmental planning and assessment" (section 5(c)) and to "encourage... ecologically sustainable development" (section 5(a) (vii)). Public

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participation is an important principle of the Rio Declaration adopted in 1992 by the United Nations Conference on Environment and Development.

The requirements of EPA legislation have been considered and clarified by several cases in the Land and Environment Court. For example, in *Curac v Shoalhaven City Council* (1993) it was held that reasonable opportunities for public participation in the plan making and in the development approval system were crucial to the integrity of the planning system. In *John Brown Lenton v Minister for Urban Affairs and Planning* (1999) noted that public participation is an important objective of the Act and should be regarded as crucial to transparency and fairness in the plan making process. While acknowledging that the Rio Declaration is not binding in Australia, in that case, the judge asserted that it served as a reminder that the statutory provisions ensuring participation should be strictly observed.

Council is required by the EPA Act and Regulation to ensure that the community is consulted appropriately. To meet this requirement, *minimum* exhibition periods of planning instruments have been set. However because each plan will vary in scale, scope and degree to which it affects our community, mere adherence to these requirements would not be sufficient to comply with legislation. As such Council, through its officers, must consider who is reasonably affected by the proposals in each plan and how the public interest is affected that in turn will decide the scale and scope of public participation.

The development approval process has minimum statutory requirements set out in the legislation are complemented by further minimum requirements as adopted by Council in its Notification Development Control Plan (under consideration). This development control plan sets out further minimum requirements and Council, through its officers, considers whether additional notification and consultation is necessary.

COMMENTS

There are a variety of options to engage, collect and present community responses across a wide range of issues. The quality of results will be determined on a number of factors such as the selection of technique/s, the willingness of the community to participate, and the interpretation and reporting of the findings.

This report proposes a framework and ongoing process to build and implement a range of community consultative processes that specifically seek to provide Council with access to a broad and representative view of community opinion, and to facilitate the mechanisms by which the community can actively participate in the decision making process.

There are significant benefits in improving community engagement and information dissemination both for the Council and the community, particularly at a time when Ku-ring-gai will be experiencing rapid change.

The community they will benefit through:

- Timely and up-to-date information
- Better understanding of issues

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- Having a greater sense of involvement and ownership, and
- Benefits derived from superior outcomes that reflect their values and aspirations

Council will benefit through:

- Increased credibility and accountability
- Cost saving through addressing community concern early on in planning and decision processes
- Capacity building through mobilization of skills and resources among residents
- Improving democratic outcomes and enabling avenues for the community to raise issues
- Incorporation of local knowledge, expertise and ideas in planning processes.

Building on these widely recognised benefits, in 2003 the NSW Department of Infrastructure Planning and Natural Resources released a document 'Community Engagement in the NSW Planning System' (www.ipan.nsw.gov.au/engagement/) designed to assist local government and others on how to engage with their community in a meaningful way with a particular focus on development and planning. While the focus of the document was related to the development process, the principles and case studies cited from councils and others across NSW are applicable across all functions of Council. The framework of engagement was based on a process developed by the International Association for Public Participation as below. Levels of participation and impact increase as you move further to the right of the spectrum.

INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
Objective	Objective	Objective	Objective	Objective
To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, or solutions	To obtain public feedback on analysis, alternatives or decisions	To work directly with the public through the process to ensure that public and private concerns are consistently understood and considered	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution	To place final decision making in the hands of the public
Examples Fact sheet Web sites Open hours	Examples Public comment Focus groups Surveys Public meetings	Examples Workshops Deliberate polling	Examples Citizen advisory committees Consensus building Participatory decision making	Examples Citizen juries Ballots Delegated decision

(source: IAP2 International Association for Public Participation
<http://iap2.org/practitionertools/index.shtml>)

Consultation Methods

There are a variety of tools that can be used to increase participation. The proposal outlined below seeks to establish an ongoing forum for consultation via a Residents' Feedback Register and in so

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doing move to a more collaborative position of community engagement and participation. In addition to the register, there is also a need to continue to utilize existing techniques, such as surveys which will be used in the preparation of commercial centre plans. There will also be a need to trial other techniques such as scenario planning, which can be used to understand the nature and impacts of certainties and uncertainties, such as the direct and indirect impacts of development, changes to natural systems including biodiversity stream health, condition of bushland, the visual character including street tree canopy and changes to the community.

Residents' Feedback Register

A Residents' Feedback Register offers an affordable and representative way for local government to obtain input and feedback covering a broad range of issues and concerns. This is a technique used successfully by a number of Councils in Australia including Brisbane, Marrickville and more recently Parramatta.

The panel would consist of a demographically representative pool of people from the Ku-ring-gai Local Government Area who can be used as a sounding board to test ideas, identify attitudes to various options being considered, assess satisfaction with local services and examine the needs and aspirations of the community. Communication between the panel and Council can be in person through focus groups, mail, e-mail and phone. .

Initially the panel could comprise of 200 to 500 people with membership for up to 2 years. It is recommended that the selection of participants for the panel be undertaken by independent consultants who are qualified and have experience in this area. The Residents Feedback Register can be segmented depending on the matter under consideration on the basis of age, gender, post code, cultural and linguistic diversity etc. The register would be held by Council and used exclusively for the purpose for which it was created with no disclosure to any third party. The participants are not decision makers rather their views would offer a sounding board to Councillors and staff.

It is anticipated that initially the panel could provide feedback on a range of issues including new initiatives, needs for community facilities and services, open space planning, issues related to integrated transport planning and satisfaction with Council services.

CONSULTATION

Recent consultations with our community demonstrated an overwhelming support for greater participation and involvement in decision making. This reflects the strong views many residents have about their local area and its future and their willingness to participate. Fundamental to the success of effective public participation is the need to gain representative opinion across all sectors of our community. The introduction of a Residents' Feedback Register as outlined, will achieve this outcome.

FINANCIAL CONSIDERATIONS

Citizen engagement, community consultation and communication strategies are necessary components of any project requiring both internal and external feedback. The costs will vary depending on the scope and significance of projects under consideration. For independent

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consultants to establish a Residents' Feedback Register, a quotation of approximately \$10,000 has been provided. After the initial set up, the register can be maintained and operated utilizing the existing skills and experience of staff. In the long term there are potential savings as programs of Council can be tied more closely to the aspirations and needs of residents, rather than utilizing trials or pilots to test receptivity to ideas.

It is recommended that \$10,000 for the establishment of the Residents' Feedback Register be allocated from Council's working funds.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This report has been developed in partnership with Open Space, Community Services and Planning and Environment.

Finance and Business have been consulted in the writing of the report.

SUMMARY

The process of community participation and engagement is not a panacea to ensure Council, the community and other stakeholders are happy with an outcome. If consultations are conducted without good faith or are used as a mechanism to achieve a pre determined outcome, the process will rapidly loose the confidence of the public resulting in poor governance and policy making. As a consequence there is a need to gradually build trust with the community through a variety of projects that seek genuine community input and collaboration.

A Resident's Feedback Register will provide the consultation mechanism offered to provide a forum on which to build long term partnerships with our community. It should not be used as the only or definitive means of assisting decision making, rather as building blocks for staff in providing reports which reflect community values, aspirations and needs which will assist Councilors in making decisions.

RECOMMENDATION

- A. That Council establish a Residents' Feedback Register, with the assistance of consultants with appropriate qualifications, as an ongoing consultative forum.
- B. That \$10,000 for the establishment of the register be allocated from Council's Working Funds.
- C. That in accordance with the Council Resolution of 9 November 2004, a Community Consultative Forum be held in February 2005, to discuss public participation and consultative processes.

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- D. That Council notes its general policy on community consultation does apply to consultation and notification as required by the Environmental Assessment Act and that this will be addressed through a separate Development Control Plan.
- E. That Council's current consultative processes be continued where appropriate.

Peter Davies
Manager Sustainability &
Catchment Management

Steven Head
Director Open Space

Janice Bevan
Director Community Services

Attachments: Consultation Policy

LINDFIELD HERITAGE ORGAN RESTORATION

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To advise Council that a request for financial assistance has been received from Associate Professor Geoffrey Stacey for the restoration of the Lindfield Pipe Organ for the amount of \$8,000.

BACKGROUND:

A Council Resolution of 18 April 2000 adopted the Mayor Minute supporting the application to the NSW Heritage Council seeking grant funds for \$10,000 in the Centenary Year of Australia and that if successful, Council would contribute dollar for dollar to assist the restoration of the organ.

COMMENTS:

The Grant Application was successful, and the organ was fully classified by the NSW Heritage Council in 2003.

RECOMMENDATION:

That Council consider a contribution of \$8,000 towards the restoration of the Lindfield Jackson Heritage Organ as part of the December quarterly review.

PURPOSE OF REPORT

To advise Council that a request for financial assistance has been received from Associate Professor Geoffrey Stacey for the restoration of the Lindfield Pipe Organ for the amount of \$8,000.

BACKGROUND

At the Ordinary Meeting of Council on 18 April, 2000, Council unanimously supported a Mayoral Minute to provide dollar for dollar funding for the Lindfield Jackson Heritage Organ Restoration Project.

Council resolved:

- A. *That this Council adopt this Mayoral Minute supporting the application to the NSW Heritage Council for grant funds in the order of \$10,000 in the Centenary Year of Australia and that if successful, this Council contribute dollar for dollar to assist the restoration of this Heritage Organ.*
- B. *That the Mayor, Ward Councillors and other interested Councillors jointly explore a funding project to address the remainder of funds required through the community of Ku-ring-gai.*

A grant application was submitted to the NSW Heritage Council requesting \$10,000 towards the restoration of the organ. Ku-ring-gai Council gave an undertaking, as part of this submission, to match this amount if the application was successful.

The grant application from the NSW Heritage Council was successful, however, the Heritage Council requested the organ be heritage listed before the funds were released. In 2003 the organ was classified by the NSW Heritage Council as a heritage item under the National Trust of Australia. Tryon Road Uniting Church and content has been classified as Criteria A, Historical Significance, and the Organ as Criteria E, Research Potential. The organ is more than 160 years old and is in functional order.

COMMENTS

As the organ has now been successfully listed as a significant item with the NSW Heritage Council the restoration committee has asked Council to consider honouring its resolution of 18 April 2000. The current cost of the restoration was \$363,357. There is however, a remaining figure of \$18,096 which is required to finalise the fiscal obligation. In light of this the committee has asked Council to contribute \$8,000 towards the project, and with similar funding from the NSW Government, it is anticipated the debt incurred by the restoration committee would be eliminated.

The original donors, who contributed \$5,000 or more, were acknowledged by the inclusion of their name on a Centenary of Federation Commemorative Wall Plaque which is located in the church. Should Council contribute to the project it will be given formal recognition in the form of a similar plaque. To mark the occasion, the Mayor would be invited to unveil the plaque during Heritage Week 2005.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

No allowances have been made in the 2004 budget to fund the restoration of the Lindfield Pipe Organ. As such any contributions by Council would need to be considered at the December quarterly review.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Finance and Business Development have been consulted in the writing of this report.

SUMMARY

Council has received a request from the Lindfield Heritage Organ Restoration Committee for \$8,000, to fulfill an obligation made by a Resolution of Council 18 April 2000.

The initial request was for Council to support an application to the NSW Heritage Council to grant funds in the order of \$10,000 in the Centenary Year of Australia and that if successful, Council would contribute dollar for dollar to assist the restoration of the Heritage Organ. The allocation of this funding was on condition that the organ be Heritage classified by the NSW Heritage Council. With that classification occurring in 2003, the conditions of the funding can now be met.

Should Council decide to contribute to this project, the contribution will be acknowledged in the form of a plaque, similar to the Centenary of Federation Commemorative Wall Plaque, which contains the names of all groups who made contributions of \$5,000 or more to the restoration of the organ. The Mayor will be invited to unveil this plaque at a special service during Heritage Week in 2005.

RECOMMENDATION

That Council consider a contribution of \$8,000 towards the restoration of the Lindfield Jackson Heritage Organ as part of the December quarterly review.

Juan Perez
Manager Cultural Development

Janice Bevan
Director Community Services

Attachments: **1. Letter to Mayor**
 2. Previous Mayoral Minute 18 April 2000

48 FAIRLAWN AVENUE, TURRAMURRA - CONNECTION TO COUNCIL DRAINAGE EASEMENT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To consider a request by owners of 48 Fairlawn Avenue, Turramurra, to alter the terms of the Council drainage easement over downstream properties to permit discharge into a Council pipeline.
BACKGROUND:	<p>On 25 February 2003 Council granted deferred commencement for subdivision of one Lot into two (DA924/02), subject to conditions in Schedule "A". The applicant proposes to connect to the Council drainage system requiring submission of documentary evidence and Council approval to alter the terms of the easement, or register an easement where none exists.</p> <p>Compliance with these conditions has been prolonged as a result of refusal to give consent initially by private residences, and consequent legal matters.</p>
COMMENTS:	<p>Seven (7) properties are burdened by Council's drainage easement which requires the terms of easement to be amended. Two (2) properties at No 3 and No 65 The Chase Road are required to create a new drainage easement. Written consent of all the downstream properties of 48 Fairlawn Avenue has been obtained.</p> <p>A condition to check capacity of the downstream drainage system was absent. Council's Development Engineers have indicated that the stormwater drainage system through the downstream properties has sufficient capacity to accommodate the detention storage outflows from the subject properties. A hydraulic study by engineering consultant Boyden and Partners indicates that the peak flow rates from the site would be reduced for events up to 1 in 100 years ARI, following the installation of the on-site detention system. A further check using the DRAINS program indicates that the proposal is satisfactory.</p>
RECOMMENDATION:	That the proposal be approved subject to conditions A to D noted in recommendations.

PURPOSE OF REPORT

To consider a request by owners of 48 Fairlawn Avenue, Turramurra, to alter the terms of the Council drainage easement over downstream properties to permit discharge into a Council pipeline.

BACKGROUND

On 25 February 2003 Council granted deferred commencement for subdivision of one Lot into two (DA924/02), subject to conditions in Schedule "A".

The applicant proposes to connect to the Council drainage system requiring a report to Council prepared by Technical Services, regarding compliance with conditions below.

1. *Submission to Council of written consent from the owners of downstream properties as far as the public drainage system (ie The Chase Road) to amends the terms of the easement on their titles, or to register an easement where none exists.*
2. *Submission of a formal written request for Council approval to amend the terms of the easement over its drainage system. This requires the payment of a \$504 fee for a report to Council prepared by Council's Technical Services Department. Approval is not guaranteed.*

A considerable time has lapsed since the approval of the deferred commencement due to the applicant unable to obtain consent from No 63 and No 65 The Chase Road to grant an easement. The applicant requested Council's approval to amend or delete condition 1 in Schedule A, with a lodgement of Section 96 application. In response to the Section 96 application, a memorandum from the Development Engineer to the Development Control Officer dated 6 May 2004 recommend;

- That the condition A1 in the deferred commencement should stay, with reference to previous legal advices of similar cases.
- That Council will require consent of all property owners affected by the easement and the legal right to drain into the system. This includes registration of an easement where none exists in No 63 and No 65 The Chase Road.

The applicant lodged a legal proceeding against Council in Land and Environment Court for deemed refusal of the Section 96 application. The proceeding was discontinued on 12 August 2004, as the applicant obtained consent from the remaining downstream property owners to amend the terms of the easement and satisfy condition 1, Schedule A.

COMMENTS

The applicant has complied with conditions 1 & 2 of Schedule A. The applicant has obtained and submitted letters of consent from all nine (9) downstream property owners to permit connection to the stormwater system and to amend the terms of the easement on their titles. A location showing the Council's drainage system and existing drainage easements is attached as **Attachment 1**.

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Usually condition 2 would require the applicant to engage a consultant to determine the adequacy of the pipe capacity. This is not included as a result of the internal memorandum dated 4 February 2003 from the Development Engineers to the Development Control Officer, which indicated that the stormwater drainage system through the downstream properties has sufficient capacity to accommodate the detention storage outflows from the subject properties. This was further supported by the report submitted by the hydraulic consultant Boyden and Partners to Council on 4 November 2004.

The consultant's report indicated that with the installation of the OSD facilities, the peak flow rate from the site would be reduced by more than half for 1, 2, 5, 10, 20, 50 and 100 years ARI storm events. The consultation concluded that *"the effect that stormwater discharge will have from the proposed development appeared to be favourable, subject to the installation of on-site detention facilities"*.

A further check using the DRAINS program from the Lovers Jump catchment study report, indicates that the proposal is satisfactory.

Deferred commencement conditions in Schedule A do not make reference to the applicant's responsibility for the legal documentation process and associated costs for the creation and registration of the drainage easement. It is Council's normal practice for the Applicant to bear all these costs.

CONSULTATION

Written advice and report was received from the hydraulic consultant Boyden and Partners on behalf of the applicant.

FINANCIAL CONSIDERATIONS

There is no community benefit in granting approval to alter the terms of the easement, therefore, legal, survey and Council's administrative costs should be borne by the applicant.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has been carried out between Council's Development Assessment Engineer and Council's Corporate lawyer with regard to the compliance of conditions 1 and 2 of the deferred commencement.

SUMMARY

A deferred commencement approval was granted (DA924/02) on 25 February 2003, for subdivision of one Lot into two, on 48 Fairlawn Avenue, Turramurra. The applicant proposes to connect to the

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Council drainage system and has obtained documentary evidence and approval to alter the terms of the easement subject to two conditions contained under Schedule A.

Written consent of all the nine downstream properties of 48 Fairlawn Avenue has been granted to alter terms of easement and to register an easement where none exists in No 63 and No 65 The Chase Road.

The hydraulic study by engineering consultant Boyden and Partners indicated that the peak flow rates from the site would be reduced for up to 1 in 100 years ARI storm events, following the installation of the on-site detention system. A further check using Lovers Jump catchments study report indicates that the proposal is satisfactory.

RECOMMENDATION

- A. That Council grants approval to alter the terms of the Council Easement (LD1510 and LD 1812) burdening No 1 Karloo Street, 52 and 52A Fairlawn Avenue, 59A, 59B, 61 and 67 The Chase Road, Turramurra.
- B. That Council grants approval for the creation of new easement known as "Easement to Drain Water" in favour of Council within No 63 and 65 The Chase Road, Turramurra.
- C. That authority be given to affix the Common seal of the Council to the appropriate instrument for release and creation of the easements.
- D. That altering the terms of the Easements to Drain Water be carried out by the Applicant's Solicitors including payment of Council's legal costs and disbursement for the checking of associated documentation.

Eng Tan
Drainage Assets Engineer

Ian Taylor
Manager Support Services

Greg Piconi
Director Technical Services

Attachments: Attachment 1 - Location Plan

5 TO 7 EASTERN ROAD, TURRAMURRA - OPTION TO RENEW LEASE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council of Lifestart Co-operative Ltd exercising its option to renew the lease for the premises located within Cameron Park, 5-7 Eastern Road, Turramurra to operate the Lifestart Early Childhood Intervention Program.
BACKGROUND:	The lease for Lifestart Co-operative Ltd. expires on 31 December 2004 with that agreement containing an option to renew for a further 3 years.
COMMENTS:	Lifestart Co-operative Ltd. have exercised their option to renew as per the terms of the lease.
RECOMMENDATION:	That Council authorise the exercise of the option by Lifestart Co-operative Ltd. for the premises at 5-7 Eastern Road, Turramurra to operate their Early Childhood Intervention Program.

PURPOSE OF REPORT

To advise Council of Lifestart Co-operative Ltd exercising its option to renew the lease for the premises located within Cameron Park, 5-7 Eastern Road, Turramurra to operate the Lifestart Early Childhood Intervention Program.

BACKGROUND

Council is the owner of the former Turramurra Early Childhood Centre comprising Lots 19-21 DP 6494 and Lot B DP 358184, zoned Recreation Existing 6 (a) and classified as Community Land.

On 19 November 2004 Council resolved to grant a 2 year lease with a 3 year option to Lifestart Co-operative Ltd to operate an Early Intervention Centre for children with intellectual disabilities. The initial 2 year lease commenced on 1 January 2003 and expires on 31 December 2004.

COMMENTS

Lifestart Co-operative under the conditions of the lease has exercised the option to renew the lease for a further 3 years.

Lifestart Co-operative Ltd has operated from these premises since 1997 and have been meeting their responsibilities as a tenant and have complied with the conditions as set out in Council's Policy for Leasing Council Property to Community Organisations. Given this, it is recommended that Lifestart Co-operative Ltd. be granted a renewal of its lease.

Being an option to renew, the conditions of the previous lease stand with the exception of the exclusion of the renewal (option) clause. A condition of the original lease included a provision that the option lease be subject to Council's leasing policy at the time.

CONSULTATION

Lifestart Co-operative Ltd. has indicated to Council that they would like to exercise their option to renew as per the terms of the lease.

FINANCIAL CONSIDERATIONS

The current rental being paid by Lifestart is \$1,615pa and is subject to annual CPI adjustments throughout the option period.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

The lessee has validly exercised their option to renew and fulfilled their obligations under the term of the lease. Accordingly, Council is obliged to grant the renewal of the lease. The conditions of the original lease stand and are reflective of the leasing policy at the time.

RECOMMENDATION

- A. That Council receive and note the valid exercise of option and approve the grant of a 3 year lease to Lifestart Co-operative Ltd. over Council premises at 5-7 Eastern Road, Turramurra.
- B. That the Mayor and General Manager be authorised be authorised to execute all necessary lease documents
- C. That Council authorise the affixing of the common seal of Council to the lease agreement

Stephen Plumb
Community Facilities Coordinator

Janice Bevan
Director Community Services

10 YEAR FINANCIAL MODEL

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To present to Council the 10 Year Financial Model 2005 to 2014 incorporating financial planning, capital works funding, debt reduction and depreciation funding strategies.
BACKGROUND:	<p>The 10 Year Financial Model was first adopted by Council on 4 December 2001 and is reviewed on an annual basis.</p> <p>Council's 2004 - 2008 Management Plan requires the 10 Year Financial Model to be reviewed and reported to Council by December 2004.</p> <p>The 10 Year Financial Model was presented to Councillors at the Finance Committee held on 15 November 2004.</p>
COMMENTS:	The 10 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 Council's budget as adopted in the 2004 - 2008 Management Plan. Years two to ten are calculated by extrapolating the budgets across each of the remaining years using these core assumptions.
RECOMMENDATION:	That Council adopt the principles as contained in the 10 Year Financial Model and incorporate them into the development of the 2005/2006 budget and Management Plan.

PURPOSE OF REPORT

To present to Council the 10 Year Financial Model 2005 to 2014 incorporating financial planning, capital works funding, debt reduction and depreciation funding strategies.

BACKGROUND

The 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 Council whilst ensuring that Council would continue to provide existing levels of service to the community.

The 2004 - 2008 Management Plan requires that a formal report be presented to Council to review and update the 10 Year Financial Model. The requirement as contained in the Management Plan is as follows:

Principal Activity:	Financial Sustainability
Objective:	To ensure the financial sustainability of Council which allows for efficient service delivery and the effective management of Council's assets, now and in future years
Action:	A 10 year financial model setting the parameters for Council's Financial Framework will be adopted
Performance Indicator:	10 Year Financial Model reviewed and adopted by Council by December 2004 Report on increasing funds for works including drainage, buildings, roads and environmental initiatives as a percentage of Council's overall budget

In accordance with this requirement the 10 Year Financial Model was presented to Councillors at the Finance Committee on 15 November 2004 and is now reported to Council for formal consideration.

The 10 Year Financial Model provided the framework upon which the 2004/2005 budget was developed and will continue to provide the framework for future budget development.

COMMENTS

The 10 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.

CHANGES MADE TO ASSUMPTIONS INCLUDED IN 2004/2005 MODEL

The following table lists the changes that have been made to the assumptions included in last years model.

Category/Assumption	2004/2005	2005/2006	Justification
Salaries and Wages	3.5%	3.5% Year 1 3.0% Years 2 - 10	Represents known employee award increases
Rates & Infrastructure Levy	Rate peg increase of 3%	Rate peg increase of 3.5%	Minister's approved increase in 2004/2005
User Charges & Fees	Increased 5%	Increased 3.5%	Not financially sustainable to continue increasing fees by 5%
Interest on investments (net of fees)	5.0%	5.5%	Represents actual earnings in 2004/2005
CPI forecast	2.9% Year 1 2.5% Years 2 - 10	2.5% Year 1 2.9% Years 2 - 10	Advice received from Grove Financial Services

The 2005/2006 model includes a large number of 'core' projects, that is, those projects that are funded in the base model. The changes in comparison to the 2004/2005 model are listed in the following table:

Projects	Change for 2005/2006
Road, Footpath, Drainage & Traffic Facilities Programs	Indexed by CPI, total increase of \$125,800
Planning Projects - RDS Stage 2	Increased by \$349,000
Depot Relocation	Increased by \$563,000
Open Space Programs	Increased by \$105,000
IT Initiatives	Decreased by \$280,000

MODEL 2005/2006

The first year of the model is the budget as adopted by Council in the 2004 - 2008 Management Plan. The following years are calculated by extrapolating the budgets across each of the remaining years using the core assumptions.

The core assumptions as contained in the 10 year financial model are as follows:

Revenue:

- Rates and infrastructure levy increases capped at 3.5% per annum
- Council's infrastructure levy expires in 2005/2006. This has an impact on Council's budget in subsequent years
- Domestic waste charges increased 3% per annum
- User charges and fees increased 3.5% per annum
- Interest on investments estimated at 5.50% per annum

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- Grant revenue increased by 3% per annum
- New borrowings 2004 - 2008 taken up as per the Management Plan
- New borrowings 2008 - 2012 capped at \$1,000,000 per annum
- Section 94 revenue as per Section 94 Contributions Plan budget expectations
- No asset sales are used to fund operations
- No new levies used to fund operations

Bus Shelter Advertising Income

Council resolved to accept the upfront payment for the first three years of the bus shelter income. The payment per year was approximately \$250,000 per year to be paid at the end of each year after installation. The upfront payment involved present worth calculations to determine the amount provided to Council based on an interest rate of 6%. This equated to an upfront payment of \$683,000 of which \$150,000 will be paid on execution of the contract and the balance when all shelters are installed which is scheduled for April 2005.

Income of \$683,000 is to be received in this financial year in relation to advertising on Adshel Bus Shelters within the Ku-ring-gai area. These funds will be transferred to an internal Bus Shelter Reserve until such time that Council resolves the specific future use of these funds.

Further income of \$250,000 per annum has been factored into the model from 2008/2009 onwards and has also been transferred into the Bus Shelter Reserve.

2004 - 2009 Section 94 Plan

Income of \$50,194,700 has been factored into the base model, which represents contributions to be received from Council's most recently adopted Section 94 Plan.

Capital costs for the works to be undertaken, excluding other sources of funding such as grants, total \$57,145,000.

This leaves a cash commitment for Council of \$6,950,300 which has been factored into the model between 2006/2007 and 2013/2014.

Expenditure:

- Employee costs:
 - a) Salary and wages increased by 3.5% in year one and 3.0% in years two to ten
 - b) Workers compensation insurance premiums increased by 5% per annum
- Operating expenses increased by 2.5% in the first year and 2.9% in years two to ten

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- Materials and contracts increased by 2.5% in the first year and 2.9% in years two to ten
- Statutory levies increased by 2.5% in the first year and 2.9% in years two to ten
- Pensioner rebates increased by 1% per annum
- Interest and principal repayments are in accordance with repayment schedules. Future loans are calculated at 6.5% interest per annum with bi-annual repayments over a ten year period.

Capital Projects

The model allows for a core capital works program that incorporates the following programs:

- Road rehabilitation works of \$4,328,600 in 2005/2006 indexed annually by CPI
- Footpath works of \$378,200 in 2005/2006 indexed annually by CPI
- Drainage works of \$304,400 in 2005/2006 indexed annually by CPI
- Traffic facilities of \$147,100 in 2005/2006 indexed annually by CPI
- Business Centre improvements of \$185,000 per annum
- Plant and fleet replacement of \$1,050,000 per annum
- Planning projects (Stage 2 RDS) \$599,000
- Depot relocation project \$713,000
- Golf course levy improvement works of \$250,000 per annum
- Sportsfield improvement Works of \$320,000 per annum
- Park improvements of \$200,000 per annum
- Playground improvements of \$150,000 per annum
- Tennis court improvements of \$262,000. This is part of a ten year, \$2.5 million improvement program.
- Swimming pool refurbishment works of \$300,000. This is the third year of a five year, \$1.5 million program.
- Tree planting of \$120,000 per annum
- Catchment analysis of \$100,000 per annum
- Catchment management of \$150,000 per annum
- IT initiatives \$100,000 per annum

Total Program 2005/2006 = \$9,657,300

In addition to this core program there are funds of \$410,000 set aside to fund additional drainage, buildings, roads and environmental initiatives. This amount represents 5% of Council's depreciation liability and at this stage has not been allocated to a specific project, program or reserve.

This brings the total of capital works and projects funded in the 10 year model in 2005/2006 to \$10,067,300.

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It should be noted that Council may wish to make adjustments to the mix of the above capital works programs. At this stage the indicative program has been built into the model as a guide to the organizations funding capabilities.

Meetings will be held with Councillors in February 2005 to review the proposed program.

Depot Relocation Project

The depot relocation project is factored into the base model. Indicative income and expenditure associated with this project is outlined in **confidential attachment** Appendix B.

Other Strategies

The 10 Year Financial Model also contains funding strategies which plan for the future by setting aside funds in restricted asset reserves. These initiatives include:

- 15% of Council's depreciation liability is transferred to depreciation reserves on an annual basis. This amount is indexed by CPI.
- Interest earned on Council's depreciation reserves is restricted back into those reserves.
- 0.5% of general rate revenue is maintained in Council's contingency reserve to fund unforeseen or emergency expenditure requirements.
- Reductions in debt servicing costs are restricted to Works of Direct Community Benefit on an annual basis.
- Net debt repayments are to be made each year, that is, the amount taken up in new borrowings is to be less than the principle repayments made during the same year.
- Savings received from the Superannuation Holiday are restricted to Council's superannuation reserve to a maximum of \$1 million. This cap will be reached in March 2005 and as such the annual allocation of \$370,000 in 2005/2006 may be available for Council to allocate to other projects or reserves. Due to the fact that the superannuation holiday may end in the near future, Councils have been advised to continue budgeting for the superannuation amount payable each year. Accordingly these monies will continue to be shown as an employee cost in the model.

2005/2006 Base Model

- Contains the core assumptions and projects as listed above.

This model provides a deficit result of \$713,200 in 2005/2006.

A copy of this model and the associated assumptions is **attached** as Appendix A.

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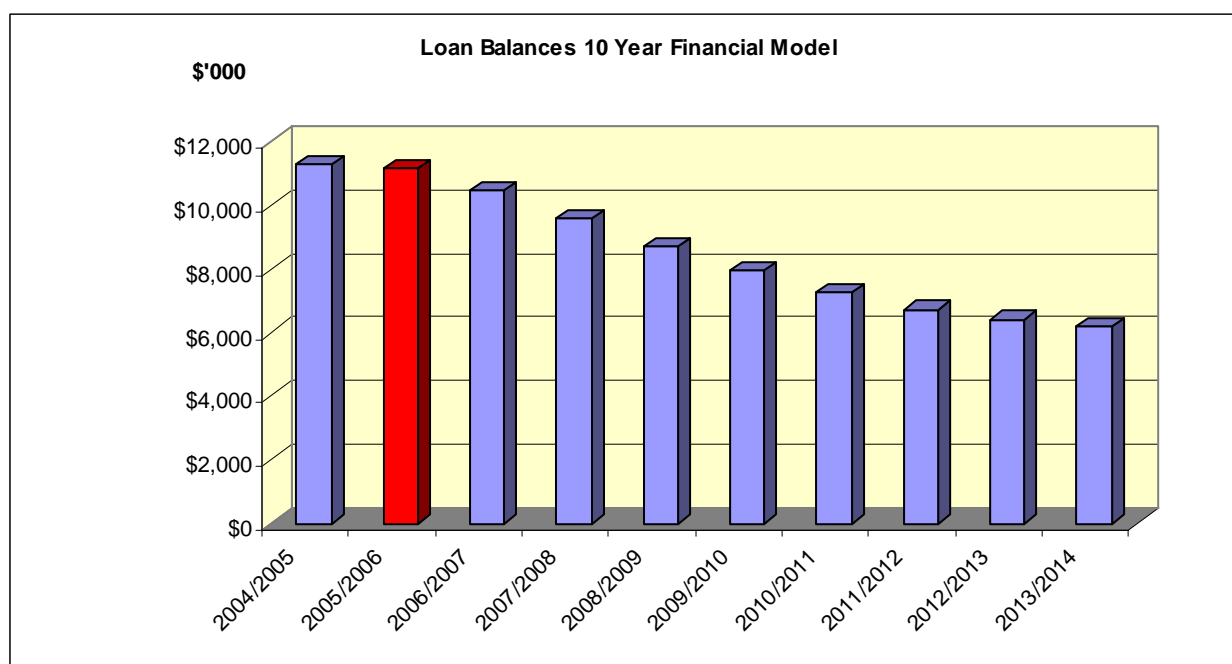
The 2005/2006 base model does not incorporate funding implications that may arise as a result of Masterplanning activities currently being explored by Council. Variations to the baseline model to reflect these considerations will be developed with Councillors and staff in February 2005.

OUTCOMES OF THE 10 YEAR FINANCIAL MODEL

The core assumptions contained in the 10 Year Financial Model will deliver the following outcomes to Council.

Loans

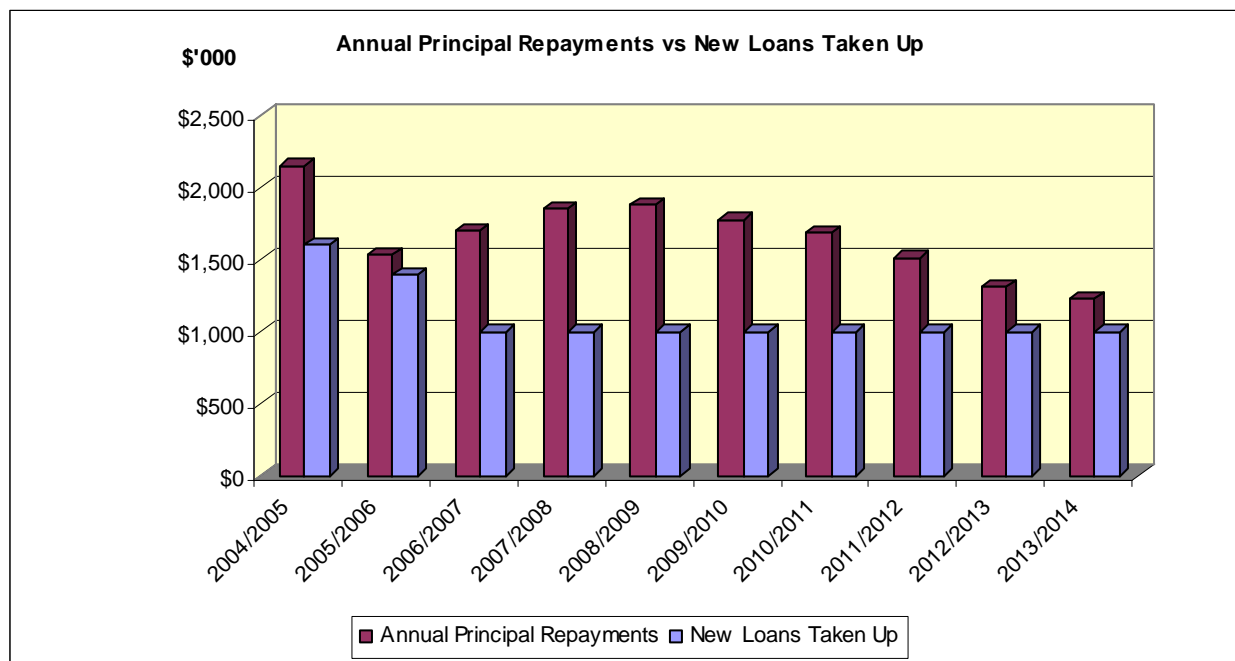
In line with Council's debt reduction strategy, Council's loan liability will reduce from \$11.3 million at the end of the 2004/2005 financial year to \$6.2 million at the end of the 2013/2014 financial year. The reduction in Council's debt liability is shown in the following graph:



Debt repayments for the period 2004/2005 – 2013/2014 total \$16.7 million, while new loans taken up are only \$11 million, a net debt repayment of \$5.7 million.

The following graph illustrates the relationship between annual principal repayments versus new loans taken up for the period 2004/2005 – 2013/2014:

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Council is committed to repaying net debt each year, that is principle repayments will be greater than new borrowings taken up. A summary showing annual net debt repayments is shown in the following table:

	04/05	05/06	06/07	07/08	08/09	09/10	10/11	11/12	12/13	13/14	Total
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Principal Repayments	\$2,154	\$1,538	\$1,706	\$1,857	\$1,877	\$1,779	\$1,690	\$1,514	\$1,315	\$1,224	\$16,654
New Loans Taken Up	\$1,600	\$1,400	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$11,000
Net Debt Repayment	\$554	\$138	\$706	\$857	\$877	\$779	\$690	\$514	\$315	\$224	\$5,654

Debt Service Ratio

The debt service ratio assesses the degree to which operating revenues are committed to the repayment of debt. It is reported in the Annual Financial Statements and is calculated by:

$$\frac{\text{interest plus principal repayments}}{\text{total revenue less specific purpose grants}}$$

Council's debt service ratio will reduce from 5.6% in 2003/2004 to 1.9% at the end of 2013/2014.

The reduction in debt service ratio is a result of Council's strategy to reduce new borrowings during the life of the model.

Reductions in Debt Servicing Costs

The 10 Year Financial Model also includes an initiative to restrict any reductions achieved in debt servicing costs to Works of Direct Community Benefit. The base year for this initiative is 2001/2002.

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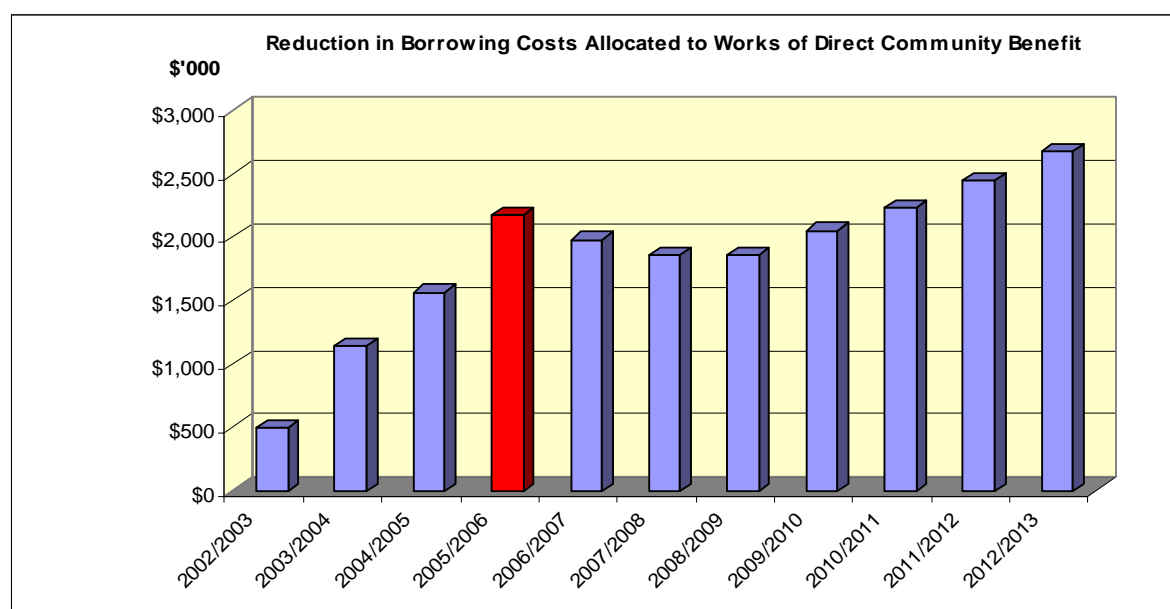
Debt servicing costs in the base year 2001/2002 totalled \$4.4 million. In the following years the difference between the base year 2001/2002 and each subsequent years debt servicing costs are allocated to Works of Direct Community Benefit.

In 2005/2006 \$2,177,000 will be restricted to Works of Direct Community Benefit.

Between 2002/2003 and 2013/2014 \$23.3 million will be allocated to Community Benefit Works as a result of this initiative. The following table shows the calculation of the reductions in borrowing costs and the amounts that are to be restricted on an annual basis:

	01/02	02/03	03/04	04/05	05/06	06/07	07/08	08/09	09/10	10/11	11/12	12/13	13/14	Total
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Interest Expense	1,001	817	729	694	698	725	694	676	583	491	454	427	413	8,402
Principal Repayments	3,412	2,780	2,543	2,153	1,538	1706	1857	1,877	1,779	1,690	1,514	1,315	1,224	25,389
Total Repayments	4,413	3,597	3,272	2,847	2,236	2,431	2,551	2,553	2,362	2,181	1,968	1,742	1,637	33,791
Difference from Base Year (01/02). Restricted to W.D.C.B	Nil	500	1,141	1,566	2,177	1,982	1,863	1,860	2,051	2,232	2,446	2,671	2,776	23,265

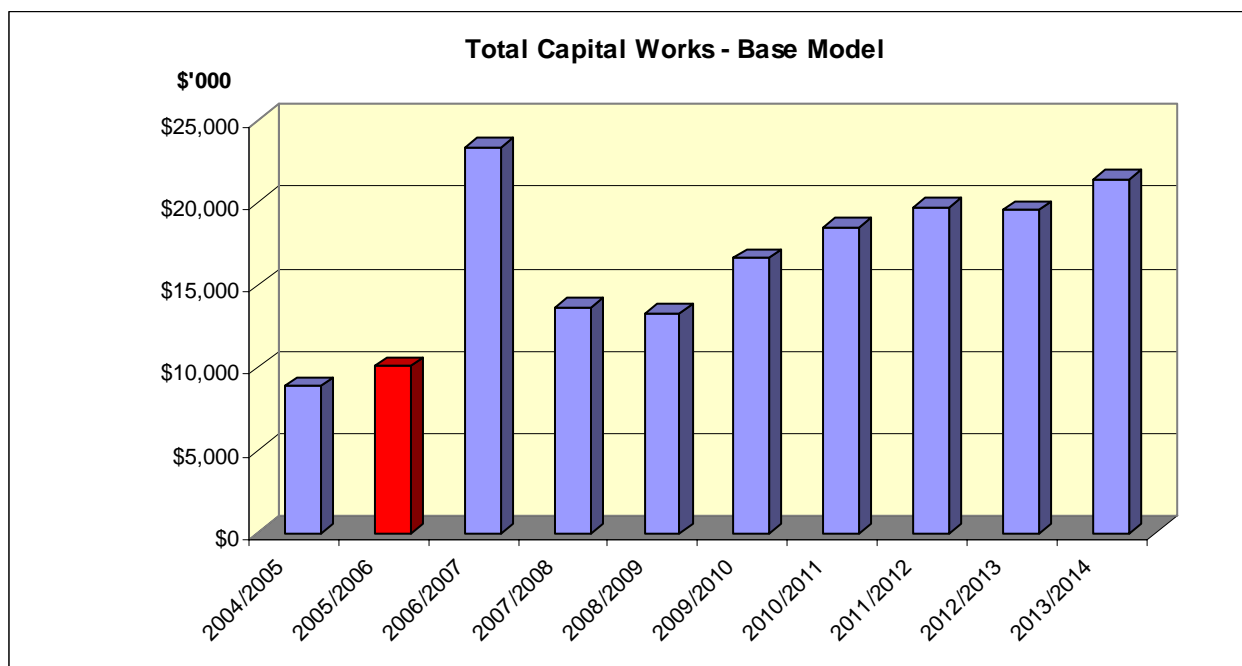
The following graph shows the annual amounts that will be allocated to Works of Direct Community Benefit as a result of this initiative:



Capital Works

Capital works over the life of the model total \$165 million. This amount is made up of core capital works projects of \$107.3 million (as listed on pages 4 and 5 of this report) and \$57.7 million Section 94 funded projects in relation to Council's most recent contributions plan.

It does not include any discretionary projects. Council's annual capital works programs over the life of the model are illustrated in the following graph:



The total of \$165 million has been increased significantly from last years model which forecast total capital works of \$115.7 million. This increase relates primarily to Section 94 funded projects that are included in Council's 2004 - 2009 Section 94 Plan.

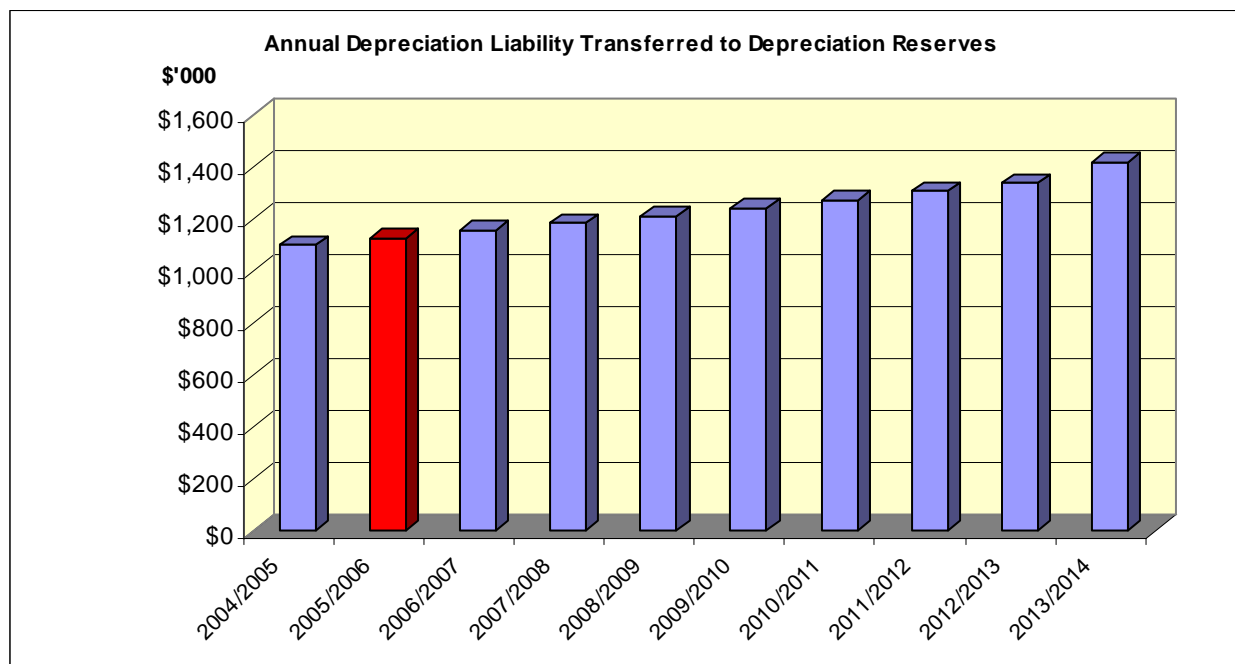
Depreciation

Another initiative included in the 10 Year Financial Model sees 15% of Council's depreciation liability (indexed by CPI) transferred to Council's depreciation reserves on an annual basis. These funds are set aside to fund future infrastructure asset rehabilitation and replacement programs. Over the life of the model this will contribute \$12.5 million to Council's depreciation reserves.

The following graph shows the annual amounts to be transferred to depreciation reserves.

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The allocation to depreciation reserves in 2005/2006 is \$1,130,000. It is recommended to allocate these funds to the following reserves:

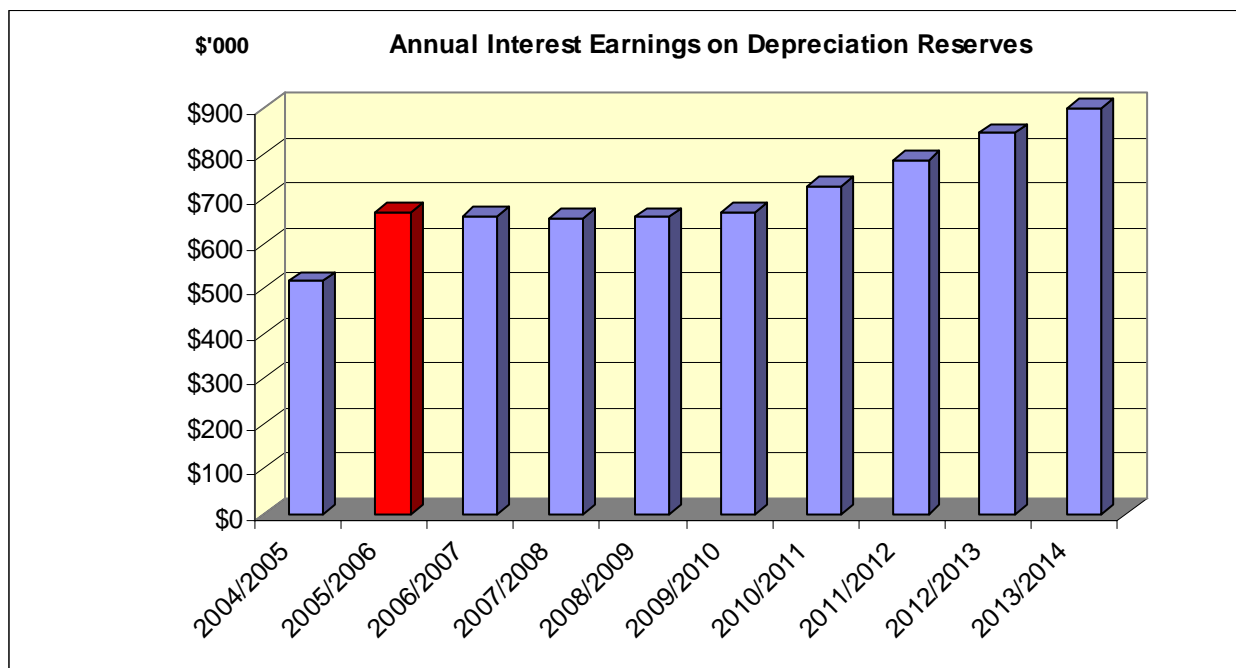
• Buildings reserve	\$160,000
• Road reserve	\$160,000
• Footpath reserve	\$200,000
• Drainage reserve	\$200,000
• Additional projects/transfers to be determined	\$410,000
Total Allocation	\$1,130,000

It should be noted that an additional amount of \$256,200 (and indexed per annum thereafter) is allocated to the building reserve in 2005/2006 in lieu of undertaking capital works on Council's buildings.

Interest on Reserves

Council has resolved to restrict interest earned on the property and depreciation reserves back to those reserves. This is in addition to interest on Section 94 and Domestic Waste Management reserves that is required by statute to be calculated and restricted.

Total interest on depreciation, Section 94 and Domestic Waste reserves totals \$7.1 million over the life of the model. These funds provide additional funding options for Council's capital works program. The following graph shows the annual amounts to be restricted:



Other Initiatives

In addition to the above principles, the following initiatives are recommended to continue in future budgets:

- That 0.5% of general rate revenue be maintained in Council's contingency reserve to fund unforeseen or emergency expenditure requirements
- That 'windfall gains' continue to be allocated to Council's depreciation reserves at each quarterly budget review
- That operational savings identified by Technical Services and Open Space be restricted at year end to fund Capital Works in those departments
- That savings received from the Superannuation Holiday continue to be restricted to Council's superannuation reserve to a maximum of \$1 million

CONSULTATION

The 10 Year Financial Model was produced in accordance with information and advice received from the Australian Bureau of Statistics, Grove Financial Services and the Department of Local Government.

FINANCIAL CONSIDERATIONS

The core assumptions contained in the 10 Year Financial Model provide the framework for developing Council's annual budgets and longer term financial strategies.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Open Space, Technical Services and Planning and Environment have been consulted in the development of the 10 Year Financial Model.

SUMMARY

The 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.

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 2004 - 2008 Management Plan requires that a formal report be presented to Council to review and update the 10 Year Financial Model by December 2004.

Highlights of the model include:

- Council's loan liability will reduce from \$11.3 million at the beginning of the 2004/2005 financial year to \$6.2 million at the end of the 2013/2014 financial year
- Debt repayments over the life of the model total \$16.7 million, while new loans taken up are only \$11 million, a net debt repayment of \$5.7 million
- Council's debt service ratio will reduce from 5.6% in 2003/2004 to 1.9% at the end of 2013/2014
- \$23.3 million will be restricted to Works of Direct Community Benefit from reductions in debt servicing costs
- Capital works over the life of the model totals \$165 million
- \$12.5 million will be transferred to depreciation reserves over the life of the model
- Interest on depreciation, section 94 and domestic waste reserves will total \$7.1 million

RECOMMENDATION

That Council's 2005/2006 budget incorporate the following:

- A. Reductions in debt servicing costs are restricted to Works of Direct Community Benefit. This amounts to \$2,176,600.
- B. Interest earned on Council's depreciation reserves is restricted back to those reserves. This amounts to \$669,500.

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C. 0.5% of general rate revenue is maintained in Council's contingency reserve to fund unforeseen or emergency expenditure requirements. Minimum balance required is \$182,800.

D. 15% of Council's depreciation liability to be transferred to depreciation reserves and allocated as follows:

▪ Buildings reserve	\$160,000
▪ Road reserve	\$160,000
▪ Footpath reserve	\$200,000
▪ Drainage reserve	\$200,000
▪ Additional projects/transfers to be determined	\$410,000
Total	\$1,130,000

E. Net debt repayments of \$138,500.

F. Indicative capital works program to include:

Road rehabilitation	\$4,328,600
Footpath works	\$378,200
Drainage works	\$304,400
Traffic facilities	\$147,100
Business centre improvements	\$185,000
Plant & fleet replacement	\$1,050,000
Planning projects (RDS Stage 2)	\$599,000
IT initiatives	\$100,000
Depot relocation	\$713,000
Golf course levy improvement works	\$250,000
Sportsfield improvements	\$320,000
Park improvements	\$200,000
Playground improvements	\$150,000
Tennis court improvements	\$262,000
Swimming pool refurbishment	\$300,000
Tree planting	\$120,000
Catchment analysis	\$100,000
Catchment management	\$150,000

G. The capital works program identified in 'F' above will be subject to refinement by Council in February 2005 as outlined in this report.

H. That 'windfall gains' continue to be allocated to Council's depreciation reserves at each quarterly budget review.

Item 8

S03096
23 November 2004

- I. That operational savings identified by Technical Services and Open Space be restricted at year end to fund Capital Works in those departments.
- J. That Council determine the allocation of savings received from the Superannuation Holiday during 2005/2006 budget preparations.

Brian Bell
General Manager

John McKee
Director Finance & Business

Melissa Crain
Manager Business Development

Attachments: **Appendix A - Base Model**
 Appendix B - Depot Relocation Project (Confidential)

PARKS, SPORT AND RECREATION REFERENCE GROUP - MINUTES OF MEETINGS HELD 14 OCTOBER AND 18 NOVEMBER 2004

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To bring to the attention of the ordinary meeting of Council the minutes from the Parks, Sport and Recreation Reference Group meetings held 14 October and 18 November 2004.
BACKGROUND:	The role of the Parks, Sport and Recreation Reference Groups (PSRRG) is to provide resident, user groups and industry expert advice to Council on matters relevant to the types and standards of service and the content of Councils strategic plans, policies and Plans of Management.
COMMENTS:	Twelve items of business were discussed (PSRRG 1 – PSRRG 12). The first meeting focused on being an introductory session for members of the reference group to meet one another and discuss the direction of the group. The second meeting provided the participants with opportunity to consider future priorities for the group and Council. Comments have been provided on the items relevant to Council and items not referred relate to general business items of the Reference Group.
RECOMMENDATION:	That the minutes of the Parks, Sport and Recreation Reference Group meetings held 14 October and 18 November 2004 be received and noted. That Council consider the recommendation of the Parks Sport & Recreation Reference Group with regard to nightlighting of Sportsfields in a separate report to Council addressing the issue.

PURPOSE OF REPORT

To bring to the attention of the ordinary meeting of Council the proceedings from the Parks, Sport and Recreation Reference Group meetings held 14 October 2004 and 18 November 2004.

BACKGROUND

The role of the Parks, Sport and Recreation Reference Groups (PSRRG) is to provide resident, user groups and industry expert advice and feedback to Council on matters relevant to Parks, Sport and Recreation within the Ku-ring-gai local government area. The group was established to ensure that community and stakeholder input is considered in Council's direction and management of Open Space.

Those matters include but are not limited to the follow areas:

- a. Future planning and policy development.
- b. Strategic program review including relevant Plans of Management.
- c. Community input into the development of Council's Management Plan.
- d. Facilitation of partnerships, community and user participation and volunteer programs.
- e. Provide support to specific project working groups established by Council from time to time.

COMMENTS

The inaugural meeting held on 14 October focussed mostly as an introductory meeting for the Reference Group identifying the member's backgrounds and proposed direction. The establishment of working parties on specific topics was canvassed and supported as well as some discussion on Council's first Community Sports Forum and the Open Space eNewsletter "Out in the Open". Attachment 1 contains the minutes of the meeting of 14 October 2004.

At the second meeting held on 18 November several items of business were discussed. Comments have been provided on the items relevant to Council and items not referred to Council relate to matters where further consideration is required prior to recommendation to Council or were items directed towards the dissemination of information.

In general terms, the meeting considered an overview of current policies, plans and identified work for Council in the area of open space, discussed a work program for 2005 for the Reference Group including meeting dates, further considered the Sports Forum and commenced the formation of specific project groups.

More specifically the Reference Group undertook a brainstorming exercise to identify what the Group views as overall priority activities. A full list of identified items is contained in Attachment 2. The highest priorities are identified below.

1. Funding

Item 9

S03447
23 November 2004

2. Capital works / upgrades of existing facilities / clubhouses
3. Space for new fields
4. Lighting/amenity

The other areas identified included leisure centres, heated pool, user co-operation, tenure / ownership, maintenance / playing surface quality, North Turrumurra Recreation Area, water sustainability, aging pool / increase in pool space, new facilities and approval process / red tape.

It should be noted that there was a heavy bias toward sporting representation at the meeting which will account for much of the focus toward active open space improvements being identified. The information and feedback obtained will be utilised in a number of ways. It will help in the development of a "Sports in Ku-ring-gai" strategy as required in the current Management Plan as well as identifying those matters that the Reference Group wish to commit their time to.

The other significant issue considered by the Reference Group is that of the playing of night fixtures on Council's sportsgrounds, currently the subject of a trial period of use as part of the consideration of a change in policy. The Reference Group discussed this issue at length subsequently recommending:

- a. Council be advised that the shortage of grounds with adequate lighting for night games is acute and is not an option for consideration but essential.*
- b. The existing floodlights on many of Council's fields are inadequate and upgrading these facilities should be given the highest priority.*
- c. Floodlights are required at new locations to accommodate increasing demand for night training as well as night games.*
- d. Priority should be given to associations who can contribute to the cost of upgrade or installation.*

A separate report considering changes to Council policy regarding the playing of night time fixtures will be considered by Council, also on 14 December, 2004. The Reference Group's recommendations have been included for consideration in that Report.

In addition to the above issues, the Reference Group further considered proposed season dates for Summer and Winter Codes for 2005 through to 2010 (refer attachment 2(5)), development of a Dry Weather Policy, water restrictions and water re-use options, a link for the Parks, Sport and Recreation Reference Group on Council's website detailing the Groups charter, agenda's and minutes for interested parties.

The next meeting of the reference Group is scheduled for Thursday 24 February, 2005.

CONSULTATION

The reference group is itself a consultative forum representing the interests of residents, user groups and industry experts.

FINANCIAL CONSIDERATIONS

There are no direct financial considerations related to this report.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation with other departments has not taken place in the preparation of this Report.

SUMMARY

The purpose of the first meeting of the Reference Group was primarily to introduce the members of the Committee and discuss, in general terms, the focus and future direction for the Reference Group to consider. The second meeting held in November gave the group members present the opportunity to begin identifying future priorities for the group and ultimately for Council to consider.

Twelve items of business were discussed at the October and November meetings, five items at the October meeting and seven at the November meeting as detailed in this report and the attached minutes

RECOMMENDATION

- A. That the minutes of the Parks, Sport and Recreation Reference Group meetings held 14 October and 18 November 2004 be received and noted.
- B. That Council consider the recommendation of the Reference Group with regard to the Night Lighting of Sportsfields in a separate Report to council addressing that issue.

Amanda Colbey
Manager Parks, Sports & Recreation

Steven Head
Director Open Space

Attachments:

- 1. Minutes of meeting held 14 October 2004**
- 2. Minutes of meeting held 18 November 2004 & Attachments**

HUTCHISON 3G AUSTRALIA PTY LTD - DEED OF ACCESS TO USE A PORTION OF ROAD RESERVE ADJACENT TO 200 PACIFIC HIGHWAY LINDFIELD

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to grant a Deed of Access to Hutchison 3G Australia Pty Ltd (H3GA) to use a portion of the road reserve for its telecommunication network.
BACKGROUND:	<p>Hutchinson served notice upon Council on 16 February 2004. The work is deemed low impact in accordance with the Telecommunications Act 1997.</p> <p>H3GA commenced installation of the low impact facility activities on 7 June 2004. Subsequent to the installation, negotiations have taken place to establish an appropriate compensation amount and Deed of Access for the site.</p>
COMMENTS:	Council staff have negotiated an arrangement which is consistent with similar Deeds of Access granted to other communications carriers within the Northern Sydney region
RECOMMENDATION:	That Council approve a Deed of Access with Hutchison 3G Australia Pty Ltd for the antenna and associated equipment unit located on the road reserve.

PURPOSE OF REPORT

For Council to grant a Deed of Access to Hutchison 3G Australia Pty Ltd (H3GA) to use a portion of the road reserve for its telecommunication network.

BACKGROUND

Hutchison 3G Australia Pty Ltd (H3GA) formally served notice upon Council on 16 February 2004 (refer to Appendix A – ATTACHED), regarding the proposed installation of a new telecommunications antenna on an Energy Australia light pole and an equipment shelter to be located on the road reserve adjacent to 200 Pacific Highway, Lindfield (refer to Appendix B – ATTACHED).

The installation is deemed low impact in accordance with the Telecommunications Act 1997 and the Telecommunications Code of Practice 1997. As such no formal development application approval is required from Council. However, all telecommunications providers must notify owners or occupiers of land that they intend to enter to install and operate telecommunication facilities.

The use of the road reserve is subject to compensation and a Deed of Access pursuant to Section 138 of the Roads Act 1993.

Council staff liaised with representatives of H3GA throughout the notification period to ensure the best possible community outcome. The community consultation plan submitted to Council included a letter box drop to 375 households and the placement of a public notice in the North Shore Times (7 April 2004).

H3GA commenced installation of the low impact facility activities on 7 June 2004. Whilst the installation works were being undertaken Council staff undertook negotiations with H3GA to establish an appropriate compensation amount and Deed of Access for the impacted site.

COMMENTS

As part of the negotiations H3GA has offered to enter into a Deed of Access for the use of the road reserve which houses the equipment unit.

Council officers and representatives of H3GA have met to negotiate and finalise the terms of compensation.

Given the powers afforded to telecommunication providers under the Telecommunication Act 1997, there is little Council can do to prevent the installation of low impact facilities on Council owned or managed land, and Council is not in a position to effect removal of the equipment unit.

CONSULTATION

H3GA have notified the residents in accordance with the original resident notification list as provided to Council. The community consultation plan submitted to Council included a letter box drop to 375 households and the placement of a public notice in the North Shore Times (7 April 2004). Lindfield Public School and the offices of State MP Barry O'Farrell and Federal MP the Hon. Dr Brendon Nelson were also notified.

Council officers did not receive any written submissions from residents outlining concerns with the installation. However, H3GA received one written submission with a petition of thirty four (34) signatories objecting to the proposal.

H3GA have responded to the objector and individually to the thirty four (34) signatories of the petition. The H3GA report concludes by advising that;

Having regard to this feedback, Hutchison intends to proceed with the proposed antenna at Lindfield. However, to give residents greater peace of mind, Hutchison has offered to commission independent testing of all radio frequency energy in the environment at Lindfield. We are hopeful that this will give residents a better understanding of the real impact of the antennas in the context of existing sources of radio frequency already in the Lindfield environment (AM and FM radio, television broadcasts, paging networks and other mobile networks).

The Deed of Access will be prepared by Councils' Solicitors Abbott Tout.

FINANCIAL CONSIDERATIONS

If Council elected not to receive compensation by way of a Deed of Access, it would not deter H3GA's installation, and would likely encourage the organisation to install further devices within the Ku-ring-gai local government area without having to consider the appropriate compensation.

H3GA have negotiated similar Deeds of Access with other local and state government bodies for the installation of their facilities. The proposed compensation fee is considered fair and reasonable and within comparable market rates.

The terms of the Deed have been negotiated with H3GA. (refer to confidential Appendix C **attached**)

In addition, Council requires the Licensee to provide confirmation of adequate Public Liability Insurance cover in a minimum amount of Ten Million Dollars (\$10,000,000.00). The Licensee has provided Council with a work method statement in relation to the installation.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

In preparation of the installation of the equipment unit on the road reserve, Finance and Business have conducted site inspections with Technical Services to negotiate and finalise the terms of the Deed of Access.

SUMMARY

H3GA served notice upon Council on 16 February 2004, pursuant to the Telecommunications Act 1997 (Commonwealth) and the Telecommunications Code, notifying Council of its intentions to exercise its powers under the Act to install and operate a low impact facility and ancillary equipment unit on an Energy Australia light pole and road reserve. The work is deemed low impact in accordance with the Telecommunications Act 1997.

H3GA commenced installation of the low impact facility activities on 7 June 2004.

In accordance with Council's original resident notification process, H3GA wrote to effected residents, informing them of the proposed installation. To date, Council staff received no residents' objections regarding this matter.

Council officers have negotiated with representatives of H3GA and the terms of the draft Deed of Access are acceptable to both parties (subject to Council approval).

Given the powers afforded to telecommunication providers under the Telecommunications Act 1997, Council does not have the powers to prevent the installation of low impact facilities on Council owned or managed land. However, Council can consult with telecommunication providers to ensure the works are in accordance with the Telecommunications Act 1997, and seek compensation where possible.

Should Council elect not to receive compensation by way of the Deed of Access, it does not reduce H3GA's position. Furthermore it may encourage additional installations within the Ku-ring-gai local government area without having to consider the appropriate community notification, compensation and site remediation.

RECOMMENDATION

- A. That Council approve the Deed of Access between Council and Hutchison 3G Australia Pty Ltd for the antenna and equipment shelter on the portion of road reserve adjacent to 200 Pacific Highway, Lindfield.
- B. That the Mayor and General Manager be authorised to execute all documentation associated with the Deed of Access.
- C. That the Council Seal be affixed to the Deed of Access.

Deborah Silva
Commercial Services Coordinator

John McKee
Director Finance and Business

Attachments: **Appendix A. Notification Letter**
 Appendix B. Location/Site Plan
 Appendix C. Heads of Agreement - Confidential

DRAFT PLAN OF MANAGEMENT - UNIT 1, 12 TO 18 TRYON ROAD, LINDFIELD

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To further action in respect of the Draft Plan of Management for the Unit 1, 12 to 18 Tryon Road, Lindfield.
BACKGROUND:	A Draft Plan of Management has been prepared for Unit 1, 12 to 18 Tryon Road Lindfield and was exhibited to 19 November 2004. A Public Hearing was held on 4 November 2004 at the premises.
COMMENTS:	There were no significant issues raised at the Public Hearing and no submissions received, consequently no amendments made to the Draft Plan.
RECOMMENDATION:	That the Draft Plan of Management for the Unit 1, 12 to 18 Tryon Road, Lindfield be adopted.

PURPOSE OF REPORT

To further action in respect of the Draft Plan of Management for the Unit 1, 12 to 18 Tryon Road, Lindfield.

BACKGROUND

The *Local Government Act 1993* contains significant requirements for Council in terms of Public Land Management.

The most pressing of the requirements are as follows:

- Plans of Management for all Community Land have to be prepared and adopted in accordance with the Act's requirements.
- Council can not enter into any agreements regarding leases, licenses or other estates relating to Community Land unless a Plan of Management, expressly authorising the lease/license/other estate, has been prepared and adopted in accordance with the requirements of the Act.
- Pending the adopting of Plans of Management the nature of and use of Community Land can not be changed.

Amendments to the *Local Government Act 1993* that came into effect on 1 January 1999 require that a Draft Plan must be re-exhibited every time it is significantly amended.

The changes also require that a Public Hearing be held for plans which have the effect of categorising or recategorising Community Land. Any new Plan for Community Land not already covered by a Plan will require a Public Hearing as it will have the effect of categorising the land.

At its meeting of 10 August 2004 Council considered a report regarding the Draft Plan of Management and resolved:

- A. *That the Draft Plan of Management for Unit 1, 12-18 Tryon Road, Lindfield be exhibited for a period of 42 days with a further 14 days for public comment in accordance with the requirements of the Local Government Act 1993.*
- B. *That during the exhibition period, copies of the Draft Plan be placed at the Council Chambers, the Ku-ring-gai Library and branch libraries at St Ives, Lindfield and Turramurra and at Unit 1, 12-18 Tryon Road, Lindfield.*
- C. *That a Public Hearing be held during the exhibition and public comment period in accordance with the requirements of the Local Government Act 1993.*
- D. *That a further report be presented to Council following the public consultation process.*

The Draft Plan was exhibited from 6 October 2004 to 19 November 2004 with the Public Hearing being held on 4 November 2004.

COMMENTS

The Draft Plan follows a similar format to Plans of Management for other areas of Community Land in Ku-ring-gai and comprises 4 Sections being:

- Introduction – containing relevant background material, plan objectives and approach.
- Basis for Management - incorporates the core values of Unit 1, 12 to 18 Tryon Road and issues affecting its management which are reflected in the vision and role for the land and is the driving force for the Plan.
- Issues, Performance Targets and Strategy Plan – Outlines the Performance Targets that have been developed in response to the key issues that affect the management of Unit 1, 12 to 18 Tryon Road, Lindfield. It also defines the strategies that will be implemented to achieve the Performance Targets.
- Monitoring Program – sets out the process for review of the Plan's implementation.

There have been no amendments made to the Draft Plan of Management.

CONSULTATION

A letter was sent to residents in the vicinity of Unit 1, 12 to 18 Tryon Road, Lindfield (152 properties) advising of the exhibition of the Draft Plan, extending an invitation to attend the Public Hearing and seeking feedback on the Draft Plan.

The public hearing was held on 4 November 2004 commencing at 6.00pm at the premises and was facilitated by Tina Spiegel. There were no attendees other than a representative of the tenant and a Council staff member. No significant issues were raised with respect to the Plan of Management at this meeting.

The public hearing report prepared by Tina Spiegel is attached as **Appendix A**.

The public comment period officially closed on 19 November 2004 with no submissions being received on the Unit 1, 12-18 Tryon Road, Lindfield Draft Plan of Management.

FINANCIAL CONSIDERATIONS

The majority of strategies and performance targets in the Draft Plan can be achieved within existing operational budgets. Those items which require capital funding will be considered through the usual capital works funding process.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation was undertaken with Community Services and Technical Services in preparing the Draft Plan of Management for Unit 1, 12 to 18 Tryon Road.

SUMMARY

A Draft Plan of Management has been prepared and exhibited for Unit 1, 12 to 18 Tryon Road, Lindfield with a Public Hearing held on 4 November 2004. There were no attendees other than a representative of the tenant and a Council staff member and no submissions received, consequently no amendments made to the Draft Plan.

RECOMMENDATION

The Draft Plan of Management for Unit 1, 12 to 18 Tryon Road, Lindfield be adopted.

Stephen Plumb
Community Facilities Coordinator

Janice Bevan
Director Community Services

Attachments: **Appendix A - Tina Spiegel's Report**
 Appendix B - Draft Plan of Management Unit 1, 12 to 18 Tryon Road,
 Lindfield

KU-RING-GAI COUNCIL

PLAN OF MANAGEMENT

**UNIT 1, 12 - 18 TRYON ROAD, LINDFIELD
(Lindfield Early Childhood Centre)**



Adopted 14 December 2004

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SECTION 1 – INTRODUCTION

1.1 Introduction/Land Covered by the Plan

This Plan of Management covers the land known as Unit 1, 12 – 18 Tryon Road, Lindfield. It is part of Lot 12 in DP 804448 and is currently occupied by Northern Sydney Area Health Service and used for services provided by the Lindfield Early Childhood Centre.

Unit 1 is part of Strata Plan 37466.

The land was dedicated to council as a condition of Consent No 1515/87 issued by Council on 9 September 1988. The consent also required the area to be “fitted out” for a “baby health centre” but placed no longer term requirements for this use. The land was transferred to Council on 28 June 1994.

The Plan is strategic in its focus and does not provide specific details on how works or actions are to be achieved.

This approach has been taken to allow for innovation and flexibility in implementation of the Plan to take advantage of opportunities and to recognise fluctuations in funding.

1.2 Plan Objectives

This Plan has been developed to meet the following objectives;

- To meet Council's obligations under Chapter 6 of the Local Government Act 1993 in respect to Community Land Management.
- To enable Council to renew and/or enter into lease/licence agreements in respect to the use or management of Unit 1, 12 – 18 Tryon Road, Lindfield.
- To provide for an effective program of asset management at Unit 1, 12 – 18 Tryon Road, Lindfield.
- In accordance with the requirements of the Local Government Act 1993 this Plan also includes the following Core objectives for land categorised as General Community Use:

The core objectives for management of community land categorised as general community use are to promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public:

- (a) *in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and*
- (b) *in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).*

1.3 Description of the Land

Unit 1, 12-18 Tryon Road, Lindfield comprises 100m² of commercial office space and includes the following layout:

- 1 x reception area.
- 2 x consulting offices.
- 1 x staff office.
- 1 x feeding room / change facility.
- 1 x unisex disabled access toilet.
- 1 x storeroom.

Fixtures include air conditioning, light fittings and carpet, glass and gyprock partitions create the current layout.

The facilities are in good condition and appear well maintained.

1.4 Categorisation

Under Division 2, Section 36 (Clause 4) of the Local Government Act 1993 Plans of Management for Community Land must categorise the land covered by the Plan.

The Act provides the following choices for categorisation:

- A natural area
- A sports ground
- A park
- General community use
- An area of cultural significance

For the purposes of Section 36 (Clause 4) this Plan of Management categorises Unit 1, 12 – 18 Tryon Road, Lindfield as general community use.

1.5 Current and Permitted Uses

This Plan provides for and authorises the current and permitted uses:

Current Uses

Service activities (early childhood centre)

Permitted Uses

Service activities (eg. early childhood centre)

Commercial activities permitted by the zoning of the land.

Community uses / purposes.

1.6 Scale and Intensity of Permitted Uses

Use	Scale	Intensity
Service Activities (eg. Early Childhood Centre)	Limited to the physical capacity of the facility	7am to midnight, 7 days a week but within limitations/conditions of any relevant consents/approvals/licences/leases issues by Ku-ring-gai council or other relevant Authority.
Commercial Activities	Limited to the physical capacity of the facility	7am to midnight, 7 days a week but within limitations/conditions of any relevant consents/approvals/licences/licences issues by Ku-ring-gai council or other relevant Authority.
Community Uses / Purposes	Limited to the physical capacity of the facility	7am to midnight, 7 days a week but within limitations/conditions of any relevant consents/approvals/licences/licences issues by Ku-ring-gai council or other relevant Authority.

SECTION 2 –BASIS FOR MANAGEMENT

2.1 Introduction

The Basis for Management is the part of the Plan which identifies the facility's context, values of the facility and issues affecting its Management. The Basis for Management also provides the relevant authority for leases and licences affecting the land.

2.2 Context

The facility currently accommodates an early childhood centre which predominately services the local area.

Given its size, it is considered unlikely to provide accommodation for services on a regional basis.

2.3 Values and Issues

Consultation with staff responsible for management of the facility has identified the following values of the site and issues affecting its management:

Values	Issues
<ul style="list-style-type: none">• Accommodation for community service providers• Commercial opportunities	Access Asset Management Commercial opportunities

2.4 Leases/Licences Permitted and Prohibited by the Plan

Leases/Licences Permitted

The grant of a lease, licence, or other estate in respect of the land to which this Plan applies, as comprises Unit 1, 12 – 18 Tryon Road, Lindfield is hereby expressly authorised:

- a) for any purpose for which the land was being used at the date of this Plan was adopted (or, for any purpose referred to in Clause 1.5 of this Plan);

or
- b) for any purpose prescribed by Section 46 of the Local Government Act 1993 or the Regulations made thereunder.

The granting of leases, licences and other estates must be consistent with the core objectives of the land's categorisation by this Plan of Management (General Community Use) as follows:-

To promote, encourage and provide for the use of the land and to provide facilities on the land to meet the current and future needs of the local community and of the wider public in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public.

Leases/Licences Prohibited

This Plan of Management prohibits leases, licences and other estates in respect of the land to which this Plan applies, as comprises Unit 1, 12 – 18 Tryon Road, Lindfield for the following:

- Activities prohibited by the zoning of the land and inconsistent with the objectives of the Plan (Section 1.2).

SECTION 3 - PERFORMANCE TARGETS AND STRATEGY PLAN

3.1 Introduction

The Performance Targets and Strategies in this Plan have been developed in response to management issues identified through consultation for the Plan.

The priority assigned to each strategy gives an indication of Council's intended timing to implement the strategies as follows:

High – within 1 year

Medium – within 2 to 3 years

Low – within 5 years

Ongoing – throughout time whilst Plan of Management is current.

3.2 Access

Issue

The site is currently wheelchair accessible and includes disabled access toilet facilities

Access to this site is only an issue at this site with respect to ensuring that access continues to be available to all persons regardless of ability.

There is also potential to improve wheelchair access from the adjoining car park by reducing the grade of the small ramp between the car park and the entrance to the unit.

Performance Target

To maximise access to Unit 1, 12 – 18 Tryon Road, Lindfield:

Strategies	Priority
Undertake an accessibility audit of Unit 1, 12 - 18 Tryon Road, Lindfield.	High
Identify constraints to and opportunities for maximising access to Unit 1, 12 - 18 Tryon Road, Lindfield.	High
Develop and implement an action plan to maximise access to facilities within Unit 1, 12 - 18 Tryon Road, Lindfield	High + Ongoing

3.3 Asset Management

Issue

Currently day to day management for the land covered by this Plan is the responsibility of Council through strata fees. The current occupant is only responsible for the operation of its service (early childhood services).

However, long term asset management, as opposed to day to day maintenance, is Council's responsibility as the owner of the land. strata plan fees currently paid by Council. Negotiations are under way to enter into a formal agreement with Northern Sydney Area Health Service.

Performance Target

Assets at Unit 1, 12 - 18 Tryon Road, Lindfield are effectively managed in a cost efficient, competitive manner.

Strategies	Priority
Council undertake a review of the unit within 18 months of adopting the Plan of Management to determine asset maintenance requirements.	Medium

3.4 Commercial Opportunities

Issue

Unit 1, 12 – 18 Tryon Road, Lindfield is currently occupied by Northern Sydney Area Health Service and is used to provide early childhood services.

The land is zoned Business 3(b) – (B2) Commercial Services under the Ku-ring-gai Planning Scheme Ordinance and can be used for a variety of business/commercial purposes as follows:

Bulk stores; bus stations; car parking; child care centres; clubs; commercial premises; community centres; drainage; light industries; motor showrooms; open space; public buildings; recreation areas; recreation facilities; refreshment rooms; service stations; subdivision; utility installations (other than gas holders or generating works); warehouses; any other purposes which, in the opinion of the Council, are consistent with the objectives of this zone.

The above uses are only permissible with development consent.

Performance Target

To maximise the return to Council from Unit 1, 12-18 Tryon Road, Lindfield.

Strategies	Priority
Lease conditions and rental are comparable to market standards for similar commercial office space	Ongoing

SECTION 4 – MONITORING PROGRAM

4.1 Monitoring Program

The strategy plan will be reviewed every 5 years unless the land is reclassified as Operational Land by a Local Environmental Plan in accordance with the requirements of the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979.

The review will include:

- A report on the progress of the plan.
- Recommendations for alterations to the existing strategy plan for the coming year.
- Any other necessary changes due to new usage trends.

HUTCHISON 3G AUSTRALIA PTY LTD - DEED OF ACCESS TO USE A PORTION OF ROAD RESERVE ON THE CORNER PENTECOST AVENUE & BOBBIN HEAD ROAD, PYMBLE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to grant a Deed of Access to Hutchison 3G Australia Pty Ltd (H3GA) to use a portion of the road reserve for its telecommunication network.
BACKGROUND:	<p>Hutchinson served notice upon Council on 14 April 2003. The work is deemed low impact in accordance with the Telecommunications Act 1997.</p> <p>H3GA commenced installation of the low impact facility on 16 June 2003. Subsequent to the installation, negotiations have taken place to establish an appropriate compensation amount and Deed of Access for the site.</p>
COMMENTS:	Council staff have negotiated an arrangement which is consistent with similar Deeds of Access granted to other communications carriers within the Northern Sydney region.
RECOMMENDATION:	That Council approve a Deed of Access with Hutchison 3G Australia Pty Ltd for the antenna and associated equipment unit located on the road reserve.

PURPOSE OF REPORT

For Council to grant a Deed of Access to Hutchison 3G Australia Pty Ltd (H3GA) to use a portion of the road reserve for its telecommunication network.

BACKGROUND

Hutchison 3G Australia Pty Ltd (H3GA) formally served notice upon Council on 14 April 2003 (refer to Appendix A – ATTACHED), regarding the proposed installation of a new telecommunications antenna on an Energy Australia light pole and an equipment shelter to be located on the road reserve adjacent to the corner of Pentecost Avenue & Bobbin Head Road, Pymble (refer to Appendix B – ATTACHED).

The installation is deemed low impact in accordance with the Telecommunications Act 1997 and the Telecommunications Code of Practice 1997. As such no formal planning approval is required from Council. However, all telecommunications providers must notify owners or occupiers of land that they intend to enter to install and operate telecommunication facilities.

The use of the road reserve is subject to compensation and a Deed of Access pursuant to Section 138 of the Roads Act 1993.

Council staff liaised with representatives of H3GA throughout the notification period to ensure the best possible community outcome. The community consultation plan submitted to Council included a letter box drop to 120 households, Lindfield Public School and the offices of State MP Barry O'Farrell and Federal MP the Hon. Dr Brendon Nelson.

H3GA commenced installation of the low impact facility activities on 16 June 2003. Whilst the installation works were being undertaken Council staff undertook negotiations with H3GA to establish an appropriate compensation amount and Deed of Access for the impacted site.

COMMENTS

As part of the negotiations H3GA has offered to enter into a Deed of Access for the use of the road reserve which houses the equipment unit.

Council officers and representatives of H3GA have met to negotiate and finalise compensation and site remediation.

Given the powers afforded to providers under the telecommunications Act 1997, there is little Council can do to prevent the installation of low impact facilities on Council owned or managed land and Council is not in a position to effect removal of the equipment unit.

CONSULTATION

H3GA have notified the residents in accordance with the original resident notification list as provided to Council. The community consultation plan submitted to Council included a letter box drop to 120 households, Lindfield Public School and the offices of State MP Barry O'Farrell and Federal MP the Hon. Dr Brendon Nelson.

H3GA received no written submissions and three (3) telephone enquiries from residents.

H3GA have advised Council that three (3) telephone calls from a letterbox drop of 120 households was a very small response which demonstrated that there was no widespread community concern regarding the proposed installation.

Council officers and representatives of H3GA have met on several occasions to negotiate and finalise the terms of the Deed of Access and the appropriate amount of compensation.

The Deed of Access will be prepared by Councils' Solicitors Abbott Tout.

FINANCIAL CONSIDERATIONS

If Council elected not to receive compensation by way of a Deed of Access, it would not deter H3GA's installation, and would likely encourage the organisation to install further devices within our LGA without having to consider the appropriate compensation.

H3GA have negotiated similar Deeds of Access with other local and state government bodies for the installation of their facilities. The proposed compensation fee is considered fair and reasonable and within comparable market rates.

The terms of the Deed have been negotiated with H3GA (refer to Confidential Appendix C **attached**).

In addition, Council requires the Licensee to provide confirmation of adequate Public Liability Insurance cover in a minimum amount of Ten Million Dollars (\$10,000,000.00). The Licensee has provided Council with a work method statement in relation to the installation.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

In preparation of the installation of the equipment unit on the road reserve, Finance and Business has liaised with Technical Services.

SUMMARY

H3GA 3G Australia Pty Ltd (H3GA) served notice upon Council on 14 April 2003, pursuant to the Telecommunications Act 1997 (Commonwealth) and the Telecommunications Code, notifying Council of its intentions to exercise its power under the Act to install and operate a low impact facility and ancillary equipment unit on an Energy Australia light pole and the road reserve. The work is deemed low impact in accordance with the Telecommunications Act 1997.

H3GA commenced installation of the low impact facility activities on 16 June 2003.

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S03110
24 November 2004

In accordance with Council's original resident notification process, H3GA wrote to affected residents, informing them of the proposed installation.

Council officers have negotiated with representatives of H3GA and the terms of the draft Deed of Access are acceptable to both parties (subject to Council approval).

Given the powers afforded to telecommunication providers under the Telecommunications Act 1997, Council does not have the powers to prevent the installation of low impact facilities on Council owned or managed land. However, Council can consult with telecommunication providers to ensure the works are in accordance with the Telecommunications Act 1997 and seek compensation where possible.

Should Council elect not to receive compensation by way of the Deed of Access, it does not reduce H3GA's position. Furthermore it may encourage additional installations within the Ku-ring-gai local government area without having to consider the appropriate community notification, compensation and site remediation.

RECOMMENDATION

- A. That Council approve the Deed of Access between Council and Hutchison 3G Australia Pty Ltd for the antenna and equipment shelter on the portion of road reserve adjacent to the corner Pentecost Avenue & Bobbin Head Road, Pymble.
- B. That the Mayor and General Manager be authorised to execute all documentation associated with the Deed of Access.
- C. That the Council Seal be affixed to the Deed of Access.

Deborah Silva
Commercial Services Coordinator

John McKee
Director Finance and Business

Attachments: **Appendix A. Notification Letter**
 Appendix B. Location/Site Plan
 Appendix C. Heads of Agreement - Confidential

48 ST JOHNS AVENUE, GORDON – PROPERTY IMPROVEMENTS FOR DRAINAGE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To seek Council's approval for the creation of an easement to drain water. Also to advise Council on the proposed measures required at 48 Johns Avenue, Gordon to manage risk and improve conveyance of stormwater by the piped and overland flow paths.

BACKGROUND:

The purchase of 48 St Johns Avenue, Gordon was settled on the 10 November 2004.

There is a need to expedite appropriate measures for drainage as soon as practicable to prepare the property for the sale, scheduled for March 2005.

COMMENTS:

A detailed survey of the property was undertaken on 6 October 2004 to assess what works were necessary on the rear of the site to address drainage and potential flooding requirements.

To meet the constraints of time, a range of measures are proposed including a mandatory requirement for a Drainage Easement over 48 St Johns Avenue, provision of flow-through fencing to permit the conveyance of overland flow across properties on both the eastern and western boundary, appending terms on Section 149 (5) Certificate and removal of obstructions in the flow path situated in the rear yard.

RECOMMENDATION:

That Council approves the recommendations noted in A-E of the recommendation.

PURPOSE OF REPORT

To seek Council's approval for the creation of an easement to drain water. Also to advise Council on the proposed measures required at 48 Johns Avenue, Gordon to manage risk and improve conveyance of stormwater by the piped and overland flow paths.

BACKGROUND

In a report on 19 October 2004, Council was informed that:

- the exchange of Contract for the purchase of 48 St Johns Avenue, Gordon took place on the 22 September 2004 with settlement on the 10 November 2004.
- prior to the resale of the property there were a number measures required to address drainage requirements on the subject property. Technical Services staff have carried out drainage investigation of the subject property involving a detailed survey in the rear yard and review of drainage conditions.
- it was intended to create an easement or covenant that meets the needs of Council for drainage conditions and to regulate control of any future building by any subsequent owner.

There is a need to expedite appropriate measures for drainage as soon as practicable to prepare the property for the sale, scheduled for March 2005.

COMMENTS

A detailed survey of the property was undertaken on 6 October 2004 to assess what works were necessary on the rear of the site to address drainage and potential flooding requirements.

The extent of measures needed must consider the multiple objectives, including meeting minimum drainage requirements balanced against constraints of time and necessary approval by the Council. Following a review of the survey and drainage conditions, key measures proposed are:

- A mandatory requirement for a Drainage Easement over 48 St Johns Avenue. The Creation of Easement to Drain Water over the existing 600mm pipeline along the southern boundary in the rear yard is necessary to enable future access for upgrading works and maintenance requirements. A width of 1.8 metres is considered appropriate for a 600mm pipe and for sizes up to 1200mm, with 900mm required for future capital works.
- Provision of flow-through fencing to permit the conveyance of overland flow across properties on both the eastern boundary upstream (common with No.46) and western boundary downstream (common with No.50) is required. This entails removal of each second timber paling below the bottom rail. Fencing between the properties of 46 and 48 St Johns Avenue is required to be replaced as the fence is in poor condition, while modification to fencing between properties of 48 and 50 is required given its current condition is satisfactory.

- Appending terms on Section 149 (5) Certificate to explicitly disclose the incidence of overland flow across property for the information of future owners. Exact wording for the terms are not available and will require legal advice.
- Removal of obstructions in the flow path situated in the rear yard. This includes for example the log retaining wall on eastern boundary and shed at the rear.

A location plan showing the existing drainage and measures required is attached as **Attachment 1**.

An extension of the partial Drainage Easement along western boundary is also required in 46 St Johns Avenue to establish continuity with 48 St Johns Avenue. This extension will need to be undertaken in the future given the need to expedite the easement over 48 St Johns for its sale.

Although overland flows affects the subject property, a Positive Covenant or Restriction of Use on Land is considered unnecessary as it places significant burden on property title in this instance and limits any potential redevelopment of the property. The terms on the Section 149 (5) Certificate would be sufficiently appropriate to acknowledge the incidence of flooding, which can be managed should any future development of the property occur. Further, properties in proximity to this, experience similar problems but do not have the restrictions on title.

Council is constrained by the legacy of existing drainage pipe sizes of 600 and 675mm downstream, compared with the ideal estimated pipe size of 900mm required. Upgrading the pipe size cannot be undertaken unless the downstream pipes are upgraded to a point where the pipe of equal or greater size is reached. This would involve several properties and significant costs and Council is constrained by time. Upgrading of pipes to a pipe of lesser size downstream, only transfers the problem to the new connection as a direct result of pit hydraulics. Therefore, on drainage grounds this is not recommended unless funding is available to upgrade the pipe in the rear of a number of properties. This work is considered to have a low priority compared with other drainage works throughout the Council area.

CONSULTATION

Legal advice was sought from Mr John Boland of Matthews Folbigg Solicitors with regard to the documents required for the creation of the Drainage Easement and any restrictions that need to be included in the Section 149 (5) Certificate.

FINANCIAL CONSIDERATIONS

Creation of Easement to Drain Water over the existing 600mm pipeline will cost an estimated minimum of \$650 for registration with the Lands Title Office (LTO). Should an identification survey, plan and other documentation be required by a Registered Surveyor, an additional estimated cost of \$800 would be required.

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Complete replacement of standard timber paling fencing is required on the eastern boundary upstream (with No.46) of 64 metres, costing an estimated \$3,200. Modification to the western boundary fence is only required, estimated to cost \$400.

An undetermined cost would be involved in obtaining legal opinion for terms on Section 149 (5) Certificate in relation to this specific drainage issue.

The likely total cost of all the works and legal requirements is estimated to be \$6000. It is suggested that this amount should be funded from Council's Drainage Reserve.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Advice was sought from Council's Property Services Co-ordinator in relation to availability of documents and processes for the sale of the property.

SUMMARY

Dealings with the owners of 48 St Johns Avenue Gordon have resulted in the purchase of the property with settlement of the property taking effect on 10 November 2004. A detailed survey was carried out on 6 October 2004 to determine appropriate works on the rear of the site affected by flooding to address drainage requirements.

Given the need to expedite appropriate measures for drainage to prepare the property for the sale in March 2005, a number of key measures are proposed including:

- Mandatory requirement for the Creation of Easement to Drain Water, 1.8metres in width over the existing 600mm pipeline along the southern boundary. If in the absence of any drafted documents, a Registered Survey is required to survey and prepare a deposited plan, an easement document and checklist suitable for registration with Lands Title Office. A property survey is normally required when preparing a property for sale.
- Provision of a new fencing on the eastern boundary and modifications to the western boundary both incorporating flow-through measures for the rear yard.
- Appending terms on Section 149 (5) Certificate.
- Removal of obstructions in the flow path situated in the rear yard.

These measures are required to be undertaken during January and February 2005.

RECOMMENDATION

- A. That approval be given to the creation of an Easement to Drain Water 1.8 metres wide over Lot 54, in Deposited Plan 6395, known as 48 St Johns Avenue, Gordon.

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- B. That authority be given to affix the Common Seal of the Council to the appropriate instrument for the creation of an Easement to Drain Water.
- C. That approval be given to the installation of new fencing incorporating flow-through sections on both sides of the property, removal of obstructions in the flow path pertaining to 48 St Johns Avenue Gordon and appending terms on Section 149 (5) Certificate.
- D. That funding for these drainage works and legal requirements be made available from Council's Drainage Reserve.
- E. That the owners of No 46 and No 50 St Johns Avenue be advised of Council's decision in relation to the creation of the easements and the need for flow-through fencing.

Ian Taylor
Manager Support Services

Greg Piconi
Director Technical Services

Attachments: Location plan showing existing drainage pipes and easements

BUSHLAND, CATCHMENTS & NATURAL AREAS REFERENCE GROUP - MINUTES OF 18 OCTOBER & 29 NOVEMBER 2004

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To bring to the attention of Council the proceedings from the first two Bushland, Catchments & Natural Areas Reference Group meetings held on Monday 18 October and Monday 29 November, 2004
BACKGROUND:	The role of the Bushland, Catchments & Natural Areas Reference Group is to provide resident and industry expert advice and feedback to Council on matters relevant to Bushland, Catchments & Natural Areas.
COMMENTS:	The Reference Group have at the initial meetings established the Group and broad priorities for future work. In addition the Reference Group have specifically considered Council's Draft Riparian Policy and a discussion paper addressing funding for environmental programs.
RECOMMENDATION:	That the minutes of the Bushland, Catchments & Natural Areas Reference Group meetings held on 18 October and 29 November be received and noted.

PURPOSE OF REPORT

To bring to the attention of Council the proceedings from the first two Bushland, Catchments & Natural Areas Reference Group meetings held on Monday 18 October and Monday 29 November, 2004

BACKGROUND

The role of the Bushland, Catchments and Natural Areas Reference Group is to provide resident, stakeholder, community groups and industry expert advice and feedback to Council on matters relevant to Bushland, Catchments & Natural Area Management within the Ku-ring-gai local government area.

Matters for consideration of the group include, but are not limited to the following areas:

- a) Future planning and policy development
- b) Strategic program review including relevant Plans of Management
- c) Community input into the development of Council's Management Plan
- d) Facilitation of partnership, community participation and volunteer programs
- e) Provide support to specific project working groups established by Council from time to time

COMMENTS

The inaugural meeting of the Reference Group was held on 18 October 2004 and was mostly an introductory meeting where Reference Group members outlined their own backgrounds and key areas of interest or priority. General discussion on a number of matters was undertaken including an overview of the operations of the Department, budgets and funding, environmentally sensitive land and topics for future discussion.

At the second meeting held on 29 November 2004, several items of business were discussed with the Reference Group making recommendations to Council regarding funding strategy for environmental programmes (BCNARG1) and Council's draft Riparian Policy (BCNARG2).

With regard to a funding strategy for a dedicated environmental program (BCNARG1), the Reference Group considered a brief discussion paper outlining gaps in Council's current approach, funding options and potential programs.

The Reference Group recommended that

“Council prepare a draft application that can be used as a basis for consultation for the development of Council's draft 2005-2010 Management Plan”.

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This recommendation has been considered in a separate report to Council regarding a funding strategy for Environmental Programs to be also considered by Council on 14 December, 2004.

With regard to the Riparian Policy (BCNARG2) the Reference Group endorsed the draft policy as had been exhibited and recommended

“Council adopt it as policy and progress actions to include the policy as applicable in instruments such as the KPSO, DCP 47 and DCP 38”.

The draft policy is also the subject of a separate report to Council on 14 December, 2004 and the recommendation has been considered in the development of that report.

CONSULTATION

The Reference Group is itself a consultative forum representing the interests of residents, users groups and industry experts.

FINANCIAL CONSIDERATIONS

There are no direct financial considerations related to this report.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation with other departments has not taken place in the preparation of this Report.

SUMMARY

The first meetings of the Bushland Catchment & Natural Area Reference group have focused toward establishing the reference Group and its priorities for future commitment. In addition the Group have considered and lent support to the adoption of Council's Riparian Policy and the preparation of a draft submission for a special rate variation that will assist in addressing priority environmental issues for the Community and Council.

RECOMMENDATION

That Council:

- A. Receive and note the attached Minutes of the Bushland, Catchments & Natural Areas Reference Group meetings of 18 October and 29 November, 2004.

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- B. Consider the recommendations of the Reference Group in relation to Council's draft Riparian Policy and funding for Environment Programmes in separate reports to Council.

Peter Davies
Manager Sustainability and Catchment
Management

Steven Head
Director Open Space

Attachments: **1. Minutes of Meeting held on 18 October 2004.**
 2. Minutes of Meeting held on 29 November 2004.

NSROC WASTE TENDER UPDATE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council of the current status of the NSROC / SHOROC Joint Tender for Waste Transfer Processing and Disposal Services to participating Councils.
BACKGROUND:	Following an extensive advertising period, only two bids were received to supply the services, namely from Waste Service NSW and Collex Pty Ltd. Neither bid demonstrated community benefit associated with a collective tender approach. Legal advice has been received that neither bid is a conforming bid in respect to the Request for Tender documentation.
COMMENTS:	NSROC has not received final determination from the ACCC with respect to authorisation to enter into a collective contract under the Trade Practices Act. The final determination is still being processed and should be available in the near future.
RECOMMENDATION:	That in accordance with the Local Government (Tendering) Regulations (1999) Council rejects both Tenders as non-conforming and commences negotiations with a view to entering into a contract for the supply of waste transfer processing and disposal services.

PURPOSE OF REPORT

To advise Council of the current status of the NSROC / SHOROC Joint Tender for Waste Transfer Processing and Disposal Services to participating Councils.

BACKGROUND

The Joint Tender for the Supply of Waste Transfer Processing and Disposal Services to the NSROC and SHOROC participating Councils was advertised in the Sydney Morning Herald in April and May 2004 and the Daily Telegraph and Weekend Australian in May 2004. A total of thirteen (13) packages of the Tender documentation were purchased. Two Pre-Tender Meetings were held on 10 May 2004 and the second on 6 September 2004 with Tenders finally closing on 29 October 2004.

During the advertising period, NSROC had applied to the ACCC for Authorisation to proceed jointly with Councils to Tender and if beneficial, contract to a service provider for the disposal and processing of the region's waste.

As of this date, NSROC has not received final determination from the ACCC with respect to Authorisation to enter into a collective contract under the Trade Practices Act. Officers from the ACCC have indicated that the final determination is still being processed with a decision being made in due course.

On 28 October 2004 Mosman Municipal Council and Warringah Council advised, in writing, that they were formally withdrawing from the tender process. At this time, Manly Council was active in the tendering process with an officer participating as a member of the Evaluation Team. Pittwater Council had not participated in the document preparation and following inquiries made by the Probity Adviser to the tendering process, he was advised by Ms Robina Warburton that Pittwater Council was not involved in the NSROC/SHOROC Tender.

Tender Opening:

The Tenders were officially opened on 29 October 2004 at 02:15pm at the Lane Cove Civic Centre by the Executive Director - NSROC (Mr Dominic Johnson), in the company of the Chairman of the Evaluation Team (Mr Tony Reed), the Probity Adviser (Mr Mike Butler) and the Evaluation Team.

Two (2) Tenders were received:

- Waste Service NSW
- Collex Pty Ltd

The Tender received from Collex was in hard copy only and the electronic copy was not received until 03:30 pm on Friday, 29 October 2004. Collex Pty Ltd advised at 01:30 pm that they had experienced a computer malfunction which had resulted in the loss of the electronic copy of the Tender.

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The Executive Director of NSROC wrote to Collex Pty Ltd requesting that they formally advise NSROC, in writing, of the reasons why the electronic version was not submitted with the Tender at the closing of the Request for Tender. The response was to be in the form of an Affidavit. Collex Pty Ltd subsequently provided their explanation in the form of an Affidavit.

Waste Service NSW:

The Tender submission by Waste Service NSW incorporated one nominated *conforming offer* and four (4) additional options for service delivery. The *conforming offer* relates to the receipt of material at the existing network of transfer stations and disposal of the material at the Eastern Creek waste management facility, which includes the bioreactor landfill and the new UR3R Plant. The offer indicates that diversion away from the landfill component of disposal will meet the targets of 45% by 2008 and 66% by 2014, as detailed in the NSW State Government Waste Strategy.

The first option relates to the receipt of material at the existing network of transfer stations and disposal of a portion of the tonnages into the UR3R Plant located at Eastern Creek, at an immediate diversion rate of 66%. This option can only be offered on an individual Council basis as our total tonnages would not be processed in the UR3R Plant, given the facility's existing capacity the current contracts let with Fairfield and Blacktown City Councils.

The second option relates to the receipt of material at the existing network of transfer stations and disposal to the existing UR3R Plant located at Eastern Creek. It should be noted that this option is again limited by the tonnage availability within the UR3R Plant.

The third option relates to the receipt of material at the existing network of transfer stations and disposal of the material at the existing bioreactor at Eastern Creek, with no diversion from landfill.

The fourth option relates to the receipt of material at the existing network of transfer stations and disposal of the material at a newly constructed alternative waste technology plant located at the Belrose Waste Management Centre. The site is owned by Waste Service NSW and is currently zoned and used as a waste management facility. The offer is subject to special conditions as it requires the construction of another Alternative Waste Treatment facility (AWT).

The Tender price for Option 4 is based on the delivery of waste from the NSROC Councils directly to the new AWT facility at Belrose. The Evaluation Team considered that the planning requirements for such a facility will take at least four (4) years to process to accommodate planning approvals and optimistic construction timeframes. It is likely that the nominated tender price will vary until these issues are finalised.

Logistical considerations favour the Waste Service NSW option as their existing network of transfer stations are more convenient for this Council.

Collex Waste Management

The Collex proposal relates to the receipt of material at the Clyde Transfer Station and transport to the Woodlawn Bioreactor for disposal. A further option is offered, which is planned to be available in the near future, which incorporates resource recovery with the construction of a materials

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handling facility termed as a WASP (Woodlawn Alternative Sorting and Processing Facility). This facility would remove green waste, metals, plastics and other inert recyclable material, prior to disposal into the Woodlawn Bioreactor. A composting facility will also be constructed at Woodlawn to process the source separated green waste as well as green waste that has been separated from the WASP.

Impacts on costs and operational procedures for delivering waste materials to Clyde are less convenient for this Council as the Clyde Transfer facility is further away and the only facility that exists at this stage. However, this issue is subject to formal confirmation with Collex as a possibility exists for last loads to visit Clyde based on the Collex depot for collection vehicles being located at Camiella.

TENDER EVALUATION

Evaluation of both tenders was carried out to identify price and non price items for assessment.

An evaluation spreadsheet was prepared by the Evaluation Committee indicating the non price items assessed in this tender including the group assessment outcomes for each selection criteria. Notwithstanding the results of the assessment, the tenders have been deemed non-conforming and as such no further evaluation is required. The results will however be of benefit in the negotiation process. Legal advice pertaining to this recommendation is attached to this report. A copy of the evaluation spreadsheet is available on request but is to be regarded as a confidential document.

A review of the tender prices indicates no financial advantage or community benefit with entering into a collective tender with other NSROC Councils under the one Contract. In most instances, the tender price is higher to enter into a collective contract rather than an individual Council Contract. The Tenderers have prepared their bids in such a way that each Council has a more advantageous bid structure associated with entering into an individual contract with the preferred contractor.

The requirement to receive Authorisation from the ACCC for a concession under the Trade Practices Act no longer applies under these circumstances as Councils would enter into contractual arrangements on an individual Council basis.

In accordance with the legal advice, and there being no benefit in a collective Contract, it is recommended that both tenders be rejected and that Council, under the Local Government (Tendering) Regulation 1999, Clause 19(3) (c) negotiate with both parties with the view to entering into a Contract.

NEGOTIATIONS

It is quite clear that the waste disposal market in Sydney is changing rapidly in order to meet the constraints of diminishing landfill space and the resource recovery strategies of the NSW State Government. It is expected that the market itself will mature in the next four (4) years in order to meet the demands of these changes. As such, it is critical for Council to participate actively in this area in order to maintain market development in the interests of Councils.

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The development of new technologies for processing waste materials with increase waste recovery and resource utilisation are emerging with options becoming available structured around a range of price, location and waste recovery variations. This has been demonstrated in the tender submissions received from Waste Service NSW and Collex. However, it is also demonstrated that these technologies are in their infancy stage and as yet have not been proven under normal operational conditions in Australia.

Given that the Request for Tenders has been advertised in the marketplace for in excess of six (6) months, there is little point in repeating another formal tender process. It is considered more appropriate for Council to negotiate with both Tenderers – Waste Service NSW and / or Collex P/L as allowed under the Local Government Act 1993 and associated regulations.

Conducting simultaneous negotiations with both Tenderers has the advantage of ensuring a competitive process and outcome, however the term of any agreement is recommended to be less than 5 years to allow for the proposed facilities to be established and proven under operational conditions.

In conducting negotiations a structured process will be in place to ensure consistency for both parties including issues associated with probity.

This process was successful for Council in it's dealings with Waste Service NSW concerning the sale and processing of Council's recycling materials which resulted in Council securing a 7 by 3 year Contract term that benefited both parties.

FINANCIAL CONSIDERATIONS

Financial considerations are the subject of consideration in the tender and final negotiations to be undertaken. Funds utilized for disposal will be from the Domestic Waste cost centre.

At present, Council has entered into an agreement with Waste Service NSW for the disposal of its putrescible waste.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation with other departments was not required under these circumstances.

SUMMARY

In accordance with the Local Government (Tendering) Regulation the two (2) Tender bids received from Waste Service NSW and Collex Pty Ltd are to be rejected given that they have not met the intent of the Joint Tender process as the bids have demonstrated that there is no significant price or community advantage in a collective NSROC Contract. Both tenders have also been assessed as non conforming as indicated in the legal advice.

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Council has fulfilled its obligation under the Local Government Act in participating in the tender process and is now in a position to allow a negotiated term Contract for these services. The term of the Contract recommended is a medium term Contract up to 5 years to allow for the emerging technologies to demonstrate their claims under normal operational conditions. A further tender process would be required after the expiry of this Contract to again comply with the Act.

As part of the next stage of the process, Councillors may wish to inspect the facilities offered by each of the Tenderers, to assist in developing an awareness of the environmental, technical and social impacts for each option under consideration. In circumstances involving site inspections strict probity conditions are required to be maintained. Should Councillors wish to inspect these locations it is intended that an invitation will be sent out in February 2005.

RECOMMENDATION

- A. That in accordance with the Local Government (Tendering) Regulations 1999, Clause 19(2) (b) both tenders be rejected in accordance with legal advice and for reasons that no price or community benefit is achieved in a collective Contact.
- B. That NSROC be advised of this Council's resolution.
- C. That in accordance with the Local Government (Tendering) Regulations 1999. Clause 19(3)(c), that negotiations commence with Waste Service NSW and Collex Pty Ltd with a view to entering into a medium term Contract up to 5 years, for the supply of waste transfer, processing and disposal services of this Council's putrescible.
- D. That the negotiations be conducted under delegated authority to the General Manager to secure a five (5) year term Contract for waste disposal services.

Colin Wright
Manager Waste Management

Greg Piconi
Director Technical Services

Attachments: NSROC Legal Advice Abbott Tout (Confidential)

11 TO 21 COWAN ROAD, ST IVES - OPTION TO RENEW LEASE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council that the Ku-ring-gai Neighbourhood Centre Inc. has exercised its option to renew the lease for the premises located at 11-21 Cowan Road, St Ives.
BACKGROUND:	The lease with the Ku-ring-gai Neighbourhood Centre Inc. expires on 31 December 2004 with that agreement containing an option to renew for a further 3 years.
COMMENTS:	The Ku-ring-gai Neighbourhood Centre Inc. has exercised their option to renew the lease for a further 3 years.
RECOMMENDATION:	That Council authorise the exercise of the option by the Ku-ring-gai Neighbourhood Centre Inc. for the premises at 11-21 Cowan Road, St Ives.

PURPOSE OF REPORT

To advise Council that the Ku-ring-gai Neighbourhood Centre Inc. has exercised its option to renew the lease for the premises located at 11-21 Cowan Road, St Ives.

BACKGROUND

Council is the owner of Lot 1 DP 420106, zoned Business 3 (a) – A2 Retail Services and classified as Community Land

On 19 November 2004 Council resolved to grant a 2 year lease with a 3 year option to the Ku-ring-gai Neighbourhood Centre Inc. to continue to operate an information and assistance service to all sections of the community. The initial 2 year lease commenced on 1 January 2003 and expires on 31 December 2004.

COMMENTS

The Ku-ring-gai Neighbourhood Centre has exercised the option to renew the lease for a further 3 years.

The Centre has operated from these premises since 1996, have been meeting their responsibilities as a tenant and complied with the conditions as set out in Council's Policy for Leasing Council Property to Community Organisations. Given this it is recommended that the Ku-ring-gai Neighbourhood Centre Inc. be granted a renewal of its lease.

Being an option to renew, the conditions of the previous lease stand with the exception of the exclusion of the renewal (option) clause. A condition of the original lease included a provision that the option lease be subject to Council's leasing policy at the time.

CONSULTATION

The Ku-ring-gai Neighbourhood Centre Inc. has exercised their option to renew the lease for a further 3 years.

FINANCIAL CONSIDERATIONS

The current rental being paid by the Neighbourhood Centre is \$1,780pa and is subject to annual CPI adjustments throughout the option period.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

The lessee has exercised their option to renew and fulfilled their obligations as tenants under the term of the lease. Accordingly, it is therefore recommended that Council grant the renewal of the lease. The conditions of the original lease stand and are reflective of the leasing policy at the time.

RECOMMENDATION

- A. That Council receive and note the exercise of option and approve the grant of a 3 year lease to the Ku-ring-gai Neighbourhood Centre Inc. for the Council premises at 11-21 Cowan Road, St. Ives.
- B. That the Mayor and General Manager be authorised to execute all necessary lease documents.
- C. That Council authorise the affixing of the Common Seal of Council to the lease agreement.

Stephen Plumb
Community Facilities Coordinator

Janice Bevan
Director Community Services

CENTENARY OF LOCAL GOVERNMENT IN KU-RING-GAI RESEARCH PROJECT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To seek Council approval to engage consultants to undertake a research project on 100 years of Local Government in Ku-ring-gai.
BACKGROUND:	Ku-ring-gai Council celebrates 100 years of Local Government in 2006. The first Council election was held on 24 November 1906, and the first Council meeting and election of President was held on 8 December 1906. As part of the celebrations for the event it is proposed to provide a permanent historical record of approximately 20,000 words, a work which is of a high standard and professionally produced, accompanied by maps, illustrations, a comprehensive index and bibliography.
COMMENTS:	An advertisement was placed in the Sydney Morning Herald on the 9 and 10 October 2004, and North Shore Times on the 6 October 2004, calling for expressions of interest from established writers and professional historians to research the first 100 years of Local Government in Ku-ring-gai. 21 briefs were sent to interested persons and 7 applications were received.
RECOMMENDATION:	That Council engage Pauline Curby and Virginia Macleod to undertake a research project on 100 years of Local Government in Ku-ring-gai, commencing in January 2005.

PURPOSE OF REPORT

To seek Council approval to engage consultants to undertake a research project on 100 years of Local Government in Ku-ring-gai.

BACKGROUND

Ku-ring-gai Council celebrates 100 years of Local Government in 2006. The first Council election was held on 24 November 1906, and the first Council meeting and election of President was held on 8 December 1906. As part of the celebrations for the event it is proposed to provide a permanent historical record of approximately 20,000 words, a work which is of a high standard and professionally produced, accompanied by maps, illustrations, a comprehensive index and bibliography.

On 24 August 2004 Council resolved:

That Council approve the expenditure of \$50,000 to commence a research project on the first 100 years of local government in Ku-ring-gai.

COMMENTS

An advertisement was placed in the Sydney Morning Herald on the 9 and 10 October 2004, and North Shore Times on the 6 October, 2004, calling for expressions of interest from established writers and professional historians to research the first 100 years of Local Government in Ku-ring-gai. 21 briefs were sent to interested persons and 7 applications were received.

Council staff interviewed a number of applicants from a short list, and have recommended the team of Pauline Curby and Virginia Macleod as the successful applicants. This recommendation is based on Curby and Macleod's prior knowledge of the history of local government in New South Wales, including Pittwater and Manly Councils, their demonstrated ability to work to time and on budget in similar commissioned histories, and their greater demonstrated track record in producing balanced and analytical publications about other local government areas.

Pauline Curby is a professional historian with over 12 years experience. She has undertaken work in oral history, environmental history, and heritage. She has a Master of Arts in Applied History from the University of Technology, Sydney (1990-92) and is currently president of the Professional Historians' Association Inc (New South Wales), and a Councillor of the Royal Australian Historical Society. She has just completed work on a *Pictorial History of Sutherland Shire* and a thematic history of Moree Plains Shire. Her publications include the following:

- *Seven Miles from Sydney: A History of Manly*, Manly Council, 2001. Winner of the print media (government and corporate section), Energy Australia/National Trust Awards, April 2002.
- *Pittwater Rising: The Making of Pittwater Council*, Pittwater Council, 2002.
- *Good Riddance: A History of Waste Management in Manly, Mosman, Pittwater and Warringah*, Warringah, Manly, Mosman and Pittwater Joint Services Committee, 2003, in association with Virginia Macleod.

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Virginia Macleod has a Master of Arts in Public History from the University of Technology, Sydney (2003). She is a part time local studies librarian with Pittwater Council and secretary of the Professional Historians' Association Inc (New South Wales). She is responsible for the content of the Pittwater Local Studies web site www.pittlink.net/ls/index.html, an interactive website for Pittwater Council giving brief histories of local suburbs, memories or oral histories, readings and bibliographies, and images and maps. Her publications include the following:

- *Burnt out? The experiences of the January 1994 bush fires in Warringah and Pittwater*, Sydney, 1996.
- *Good Riddance: A History of Waste Management in Manly, Mosman, Pittwater and Warringah*, Warringah, Manly, Mosman and Pittwater Joint Services Committee, 2003, in association with Pauline Curby.

It should be noted that the consultants are members of the PHA NSW Inc and abide by the ACPHA (Australian Council of Professional Historians Association) recommended scale of fees. The consultants are on the following pay scales:

Pauline Curby: Historian level 3

Virginia Macleod: Historian level 1.

Their proposal is:

Research and writing a 20,000 word history over approximately 26 weeks.

Historian level 3

2 days per week for 26 weeks @ \$2252 per week (\$450.40 per day) \$23,420.80

Historian level 1

3 days per week for 26 weeks @ \$1303 per week (\$260.60 per day) \$20,326.80

Copying \$200.00

TOTAL for 26 weeks research **\$43,947.60**

plus GST \$48,342.36

The brief is for the consultants to undertake a research project only. It is anticipated that the consultants commence the project in January 2005 and complete it in June 2005.

The format for publishing the research is likely to be book format. It is possible however, to publish abridged versions on the internet and in other electronic formats.

CONSULTATION

Consultation will be conducted with the community and relevant people associated with local government throughout the research project. It is also anticipated that Councillors and staff, as appropriate, will be consulted as part of the project.

FINANCIAL CONSIDERATIONS

There is \$50,000 in the 2004/05 recurrent budget set aside to be used for the research project. Publication costs will be estimated and budgeted for in the 2005/06 budget.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Finance and Business Development has been consulted in the writing of this report

SUMMARY

A professionally researched publication documenting Ku-ring-gai's very significant first 100 years of local government would be a quality work that would be of interest to the general reader, as well as serve the needs of students of local history at all levels. It would also provide a worthy tribute to the many members of the community who have contributed to the formation of the unique character and identity of Ku-ring-gai over the past 100 years.

The recommended consultants have the experience and expertise to deliver such a publication.

RECOMMENDATION

That Council engage Pauline Curby and Virginia Macleod to undertake a research project on 100 years of Local Government in Ku-ring-gai, commencing in January 2005.

Jennifer Sloggett
Local Studies Librarian

Janice Bevan
Director Community Services

SUSTAINABLE FUNDING FOR ENVIRONMENTAL IMPROVEMENTS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

This report seeks the support of Council to prepare a draft submission to the Minister for Local Government for a Special Variation in rates to fund environmental improvements across the Ku-ring-gai local government area as part of the development of the 2005-2010 Management Plan.

BACKGROUND:

The 2004-05 Management Plan requires the preparation of an environmental funding strategy. The need for a strategy has arisen due to a limitation in current funding streams to maintain many of our key environmental assets to a standard that would secure their long term viability.

COMMENTS:

The recommended funding stream for environmental improvements should be based on securing a variation in rates pursuant to Section 495 of the Local Government Act. This requires among other things a detailed submission to the Department of Local Government incorporating financial analysis and community consultation.

RECOMMENDATION:

That Council support the development of a draft submission for a special variation to rates, commencing 2005/06 for the purpose of funding a range of environmental initiatives. Submissions to be incorporated within the development of the draft Management Plan and budget for 2005/06. A further report to be presented back to Council for its consideration on the details, support and direction of the program in February 2005.

PURPOSE OF REPORT

This report seeks the support of Council to prepare a draft submission to the Minister for Local Government for a Special Variation in rates to fund environmental improvements across the Kuring-gai local government area as part of the development of the 2005-2010 Management Plan.

BACKGROUND

Council has previously considered a number of reports on the implementation of environmental programs as developed through various strategies, plans and policies. Common to these reports has been the limitation in funding affecting the maintenance of current programs and the capital funding for new initiatives. For this reason a strategy is needed to maintain many of our key environmental assets to a standard to secure their long term viability and enable funding of new key projects that will control the cumulative pressures of development and community expectation.

The 2004-05 Management Plan requires the preparation of an environmental funding strategy. In recognition of the restrictions of rate capping and limitations of existing revenue streams, the strategy proposed has sought to identify a range of program areas and funding sources including the need for a special rate variation, pursuant to Section 495 of the Local Government Act 1993. A summary of the main funding options for Council is included as Attachment A.

In 1999, Council applied unsuccessfully for a special variation in rates to fund the implementation of the Parks and Bushland Conservation Strategy. While it was not certain as to the specific reasons why this application failed, it was notable that very few applications made that year were approved by the Minister for Local Government. Prior to and since 1999, all other Councils in the region have successfully negotiated a special rate variation or extension thereof, to fund catchment and environmental improvements.

As part of this strategy a review of the condition of our natural assets has been undertaken. This has drawn on information from Council's State of the Environment Report, other studies, reports and knowledge from staff and residents. This review has identified a number of key areas of focus:

- managing our bushland areas particularly those containing endangered species or vegetation communities
- maintaining the tree canopy
- managing our weeds
- the need to incorporate water cycle management into the design of our landscapes
- protecting residential properties from the risk of bushfires
- providing opportunities for recreation in bushland
- improving the condition of creeks and waterways.

Attachment B contains an overview of the pressures and strategies that would support supplementary funding to environmental programs. The Table below provides a summary of indicative programs and projects that could be realised from the implementation of a levy.

Program	Activities	Projects
Water sensitive urban design	Stormwater harvesting	Lindfield Soldiers Oval The Glade Cliff Oval Edenborough Oval Comenarra playing field Lofberg Oval Allan Small Swain Garden Kent Oval
	Integrated drainage project	Swales and bioretention Integrated side entry and street tree pits
	Town centre projects	St Ives Gordon Turramurra
Biodiversity	Regeneration and revegetation	Sites Sheldon Forest Browns Field and surrounds Browns Forest (BGH) St Ives Showground (Duffy's Forest) Aluba Oval and surrounds The Glade Maddison (BGH) Acron Oval Turiban Reserve (BGH)
	Urban biodiversity	Wildlife promotion and management Canopy replenishment Reactive street and park planting Feral animal / noxious weed control
Water and Catchments	Creeks and streams	Creek maintenance Creek restoration Coups Creek (The Glade) Stoney Creek (Richmond Park) Gordon Creek (Swain Garden) Little Blue Gum (Paddy Pallin) Coups Creek (around San Hospital) Bushland outlet protection Middle Harbour Cowan Creek Lane Cove
Water and Catchments	Gross pollution control maintenance	Blackbutt Creek Du Faur Street wetland RTA enviropods General sites
Community partnerships	Community volunteer programs	Bushcare site improvements Bushcare Urban landcare

Program	Activities	Projects
		Community Firewise Streetcare Tree Nurturers Parkcare
	Community Grants	Small grant projects Promotions and initiatives
Recreation and Fire Management	Fire management	Ground truth bushfire prone lands (LEP Fire breaks Sheldon Forest Warrimoo Avenue Blackbutt Valley Park Crescent (North Turramurra) Craigie Street (St Ives) Fire trail Golden Jubilee fire trail Rosedale Rd to Eastern Arterial (easement) Hazard reduction
	Walking track	Sites Aluba linking to LC NP AGAL land Seven Little Australians Sheldon Forest to Mimosa Rothwell to Comenarra Paddy Pallin Little Blue Gum Creek to GNW Wildflower gardens (including bike tracks) Richmond to Craig Street General maintenance
Regulation and enforcement		Dumping Encroachment Noxious weed control
Monitoring and evaluation	Physical	Biodiversity (macroinvertebrate, flora, fauna, aquatic) Program evaluation Fire - fuel loads and moisture monitoring Weed inspectorial (weed condition)
	GIS	Aerial/satellite canopy mapping Aerial laser survey
	Community	Community survey Social research

Program	Activities	Projects
Communication		Quarterly newsletters General promotion

COMMENTS

The process for seeking a special variation in rates involves a number of steps as below.

1. Seeking Council support for the development of a detailed application.
2. Preparing a program for funding and associated submission to the Department of Local Government. This would be informed by Attachment B and also includes details of:
 - what is the percentage increase and how was it calculated
 - why the variation is necessary
 - how the additional revenue from the increase will be applied
 - will the proposed variation have a once only impact or be ongoing
 - what will be the benefits from the proposal
 - what productive improvement will result
 - what other funding options are available
 - what are the proposed rates and annual charges structure for the coming year
 - what is the current notional general income and the permissible general income for the coming year
 - details of current financial information
 - impact to ratepayers
 - publicity related to the proposed variation and resulting comment
 - views of Local Members

The preparation of the special variation application addressing the above may be lodged with the Department of Local Government prior to the expiration of the draft management plan. However the Department will not make its determination until the finalisation of the public exhibition process and all submissions are considered. The Department nevertheless encourages Councils to have preliminary discussion in relation to the preparation of a submission to ensure their submissions provide the necessary detail and justification to enable an objective assessment.

3. As part of the development and exhibition of the draft Management Plan there must be a clear indication of the Council's intention to seek a special variation, the impact on ratepayers and specifically the level of variation sought as a percentage increase of general income. The development of the proposed rating structure must also contain the rating structure if the application is not approved and what implication this would have on the delivery of programs and services.

Catchment Management Authorities

Aside from the process of a special variation in rates, changes to natural resource management at the National, State and Regional level are having direct impacts on Local Government. The development of Catchment Blueprints (an initiative of the State Government and managed by the Department of Infrastructure Planning and Natural Resources), are being used as the short to medium term strategy and planning documents to guide Natural Heritage Trust and other government funding. This process is now under the guidance of the various Catchment Management Authorities across the State.

Funding to local government and community groups will be exclusively tied to on-ground works related to Blueprint priorities or until the Authorities prepare their own Implementation Strategy. Critical to the funding arrangements will be the need for Councils and others to demonstrate matching funding. This will and has in the past been the mechanism by which the Federal and State Governments demonstrate their 'multiplier' effects in grant allocation.

In Ku-ring-gai's case this has limited the scale of projects undertaken for natural area management due to a lack of a special fund for environment projects or capital works program for natural area management. Applying this rationale, a special rate would enable Ku-ring-gai to multiply its benefits through attracting other government funding to assist in key projects and therefore achieve greater environmental outcomes. To assist this process an integrated Blueprint is being prepared that would combine key activities relevant to Ku-ring-gai from the Hawkesbury and Lower Nepean and Sydney Harbour Blueprints.

CONSULTATION

An essential element in the preparation of a special variation in rates is the need to report on the level of publicity and resulting comment. While this is a core element of any submission to the Department, it is intended that the nature of the environmental programs proposed both complement and are consistent with community values, in particular protecting and managing our natural environment.

Assisting this consultation process to date are the results of the Community Environmental Survey administered across the suburbs of Pymble, Gordon, Killara and West Lindfield in April 2004. The intention of the survey was to gather information from residents on their knowledge, reported behaviours and values towards the environment. A summary of the results is provided in Attachment C.

The survey contained a question asking residents if they would '...agree to an increase in rates if the extra money would be used to fix environmental problems.' This question was similar to that asked by the NSW Department of Environment and Conservation as part of its annual 'Who Cares?' survey. Eight per cent of respondents strongly agreed, 32 per cent agreed, 24 per cent were neutral, 20 per cent disagreed and 17 per cent strongly disagreed. In subsequent group interviews with leaders across business, community services, environment, sport and education the comments most offered as to the neutral and negative comments included:

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- the need for more detail of the environmental program to be offered (i.e. what projects would be funded)
- what mechanisms would be in place to ensure transparency and accountability and
- what role could the community play in relation to setting and review the programs.

With this in mind and the strong environmental values expressed towards protecting and enhancing habitats and biodiversity, future consultations should seek to address the concerns while ensuring programs deliver against key issues. It is proposed that this be done through two techniques, a representative community panel, a scenario planning workshop and activities and projects within the programme areas that seek participation, involvement and empowerment of our community. The community grants programme included in Attachment B is an example of this approach.

The **community panel** would be comprised of a demographically representative group of residents across the local government area to enable feedback on the process and programs related to the development of a special rate variation for environmental improvements. The panel would contain up to 400 people that would be able to respond electronically (such as e-mail surveys), in hard copy (mail) or in person to a range of questions or issues proposed. This would provide a cost effective and statistically valid mechanism by which to draw conclusions for the purpose of developing a program of works to be incorporated into the draft Management Plan and the subsequent consultation process therein. A separate report to Council's meeting of 14 December 2004 considers this item specifically and in more detail.

Scenario planning is a model for learning about how to shape corporate strategies and enabling discussion to set an agreed future. In the context of developing an environmental strategy and funding mechanism, it would be used to understand the nature and impacts of certainties and uncertainties, such as the direct and indirect impacts of development, changes to natural systems including biodiversity, stream health, condition of bushland, the visual character including street tree canopy and changes to the community. Typically the process would involve:

- Discussion on what the participants see as the big shifts affecting society, economics, technology, environment etc
- The group would then prioritise the concerns and ideas against those Council or the community can influence
- Sketch out a picture of the future based on projected changes or scenarios
- Determine how the various scenarios will affect the local area and Council
- Identify programs that would address arising issues
- Formulate a monitoring, evaluation and review process

The process would be facilitated by a moderator and have a selected panel of residents, community leaders and experts. This element of the consultation would be largely funded through a state government grant awarded to Ku-ring-gai to develop a framework for integrated catchment planning for NSW.

The implementation techniques would need to be consistent with Council's general approach to consultation that are the subject of a separate report to be considered by Council on 14 December, 2004.

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On 29 November, 2004, the Bushland, Catchment and Natural Areas Reference Group gave consideration to the discussion paper on Sustainable Funding (Attachment B). The Group endorsed the program and sought further detail on projects and how they would contribute to Ku-ring-gai's environment. Pending the decision by Council on this report, the Group has asked that it have further discussion on the program and the natural areas management at its first meeting in 2005.

In order to fully comprehend the process, the General Manager and Director Open Space have met with the Department of Local Government who have confirmed the Minister's willingness to consider applications regarding security of income that reflect community needs and sound management of assets up to a maximum period of 7 years. Any submission would need to conform with the Department of Local Government Circular to Councils 04/22 'Application for Ministerial Approval for Special Variation to General Income' and section 404 of the Local Government Act 1993.

Useful information was provided by the Department in terms of aiding any application by Council. It was also outlined any application would need to consider at the same time an extension of Council's Infrastructure Levy. Council resolved on 10 August 2004 to apply to the Minister to extend the Infrastructure Levy from 2006/2007

CONSULTATION WITH OTHER DEPARTMENTS

The development of the program and projects has been undertaken with input from Technical Services, Environmental Planning and Finance and Business Development.

FINANCIAL CONSIDERATIONS

A special variation in rates will have a direct impact on rate payers and consequently will affect a number of departments through the planning and delivery of projects in consultation with the community. This includes the preparation and if successful, the implementation.

The degree to which a special variation will impact on ratepayers, if pursued and approved by the Minister, will depend on the nature, extent and delivery of programs. This will depend on a number of review processes by Council, the community, the Department of Local Government and others.

A more detailed cost of the impact will be brought back to Council for its consideration prior to its consideration of the draft Management Plan early 2005.

Comments from Director Finance and Business

Ku-ring-gai Council's financial position has improved steadily over the past 3 years. Having said that, Council is still faced with issues relating to ageing infrastructure and a heavy reliance on rating revenue as a proportion of total income. At present, 67% of all income is sourced from rates and waste.

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Council's financial strategies are governed by a 10 year financial model which aims to increase the organisations commitment to asset renewal while simultaneously reducing debt.

The base model which is presented under separate cover at tonight's meeting makes no provision for income received from rate levies after 2005/2006. As a result, the model projects deficit results in eight (8) of the next nine (9) years as follows:

Year	05/06	06/07	07/08	08/09	09/10	10/11	11/12	12/13	13/14
Results \$000,s	(713)	(1,874)	(2,303)	(1,473)	(1,029)	(1,168)	(1,074)	572	(221)

For Council to continue its commitment to asset renewal and environmental protection, it is evident that additional funding will be required for the longer term.

Impact on Community

There are currently 37,224 rate assessments in Ku-ring-gai. Total rates income currently stands at \$35,354,000 for which \$33,110,000 relates to residential & \$2,244,300 to commercial properties. Based on a 5% levy applicable to all rateable properties, approximately \$1,760,000 could be generated on an annual basis.

Given that there are currently 37,224 rate assessments, this would equate to an average cost per household of \$47.49. It should be noted that this figure is an indicative average only and will vary between rate assessments in line with differences in rateable land values.

SUMMARY

With increasing pressures on Council's existing income streams and the need to provide greater levels of protection to our natural environment, the seeking of a special variation in rates is recommended. Such a variation must be approved by the Minister of Local Government based on a detailed submission covering the financial position and capability of Council, community support and accrued benefits. Support is needed by Council at this stage to develop this submission for incorporation into the Management Plan and Budget for 2005/06.

RECOMMENDATION

1. That Council support the development of a draft application for variation to rates commencing 2005/06 for the purpose of funding a range of environmental initiatives
2. That the submission be incorporated within the development of the draft Management Plan and budget for 2005/06
3. As part of the submission community consultation be undertaken to determine support and direction of the program

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4. A further report be presented back to Council for its consideration on the details, support, direction and community consultative mechanisms of the program in February 2005.

John McKee
Director Finance

Steven Head
Director Open Space

Peter Davies
Manager Catchments & Sustainability

Greg Piconi
Director Technical Services

Brian Bell
General Manager

Attachment A - Summary of Key Opportunities for Funding
Attachment B - Overview of Strategies to Support Supplementary Funding
Attachment C - Summary of Results - Community Environmental Survey

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	403 MONA VALE ROAD, ST IVES - DEMOLITION OF THE EXISTING DWELLING AND CONSTRUCTION OF AN ATTACHED DUAL OCCUPANCY
WARD:	St Ives
DEVELOPMENT APPLICATION N^o:	DA0677/04
SUBJECT LAND:	403 Mona Vale Road, St Ives
APPLICANT:	Paul and Sara Rumble C/O Glendinning Minto and Associates
OWNER:	Paul and Sara Rumble
DESIGNER:	Patricia Vandenbruel
PRESENT USE:	Residential
ZONING:	Residential 2C
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Development Control Plan No. 43 Car Parking, Development Control Plan No. 40 Waste Management, Dual Occupancy Code, Development Control Plan No. 38
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy No.53, State Environmental Planning Policy No.55, SREP20.
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	24 June 2004
40 DAY PERIOD EXPIRED:	3 August 2004
PROPOSAL:	Demolition of the existing dwelling and construction of an attached dual occupancy
RECOMMENDATION:	Approval

DEVELOPMENT APPLICATION N^o	DA0677/04
PREMISES:	403 MONA VALE ROAD, ST IVES
PROPOSAL:	DEMOLITION OF THE EXISTING DWELLING AND CONSTRUCTION OF AN ATTACHED DUAL OCCUPANCY
APPLICANT:	PAUL AND SARA RUMBLE C/O GLENDINNING MINTO AND ASSOCIATES
OWNER:	PAUL AND SARA RUMBLE
DESIGNER	PATRICIA VANDENBRUEL

PURPOSE FOR REPORT

To determine an application for demolition of the existing dwelling and construction of an attached dual occupancy. Council has resolved that dual occupancy development applications are not to be determined under delegated authority.

EXECUTIVE SUMMARY

Issues:	Dual Occupancy Code – front fence height, side setback, rear setback, total building length, built-upon area, first floor space ratio, building envelope, total soft landscaping.
Submissions:	One submission received.
Land & Environment Court	
Appeal:	Not applicable.
Recommendation:	Recommended for approval.

HISTORY

Site history:

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

Development application history:

The application was lodged on the 24 June 2004.

THE SITE AND SURROUNDING AREA

The site:

Zoning:	Residential 2C
Visual Character Study Category:	1945-1968
Lot Number:	3
DP Number:	650102
Area:	662.2m ²

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Side of Street:	Eastern
Cross Fall:	Centre to East and West (street)
Stormwater Drainage:	To Mona Vale Road
Heritage Affected:	No
Required Setback:	12 metres
Integrated Development:	No
Bush Fire Prone Land:	Yes
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The site is known as 403 Mona Vale Road, St Ives and is legally described as Lot 3 in DP598875. The site is located on the eastern side of Mona Vale Road and has an area of 662.2m².

The site fronts Mona Vale Road and is generally flat but rises from the west to the centre of the site from RL169.85 to RL170.43. The land also falls to the east to RL169.56.

The site is occupied by a single storey weatherboard dwelling house, attached garage and metal shed. Existing vehicle and pedestrian access is provided from Mona Vale Road.

Surrounding development:

The site is located within the 1945 to 1968 visual character area and is characterised by both residential development interspersed with few commercial properties. The surrounding residential development is typically single storey, with recent two storey development interspersed throughout the area.

Adjoining the site to the north is a garden nursery and landscape supplier, known as 405-407 Mona Vale Road or 'St Ives Village Nursery'. This property sits on the south-east corner of the junction of Mona Vale Road and Richmond Avenue.

The adjoining property to the immediate south supports a part single and part two storey dwelling house. This is known at 401 Mona Vale Road.

THE PROPOSAL

The proposal is to construct an attached dual occupancy development. The dwellings will each be of two storeys and will have double garages located between the two dwellings. Access to these garages will be via a single driveway leading from Mona Vale Road along the southern boundary. A new front fence to Mona Vale Road is also proposed to a height of 1800mm.

Details of the proposed development are as follows:

Dwelling 1 (western, closest to Mona Vale Road)

Dwelling 1 is two storeys in height and comprises a family area, kitchen, laundry and WC at ground floor. The first floor level comprises three bedrooms (one of which includes an ensuite and walk-

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in-robe), and separate bathroom. Dwelling 1 has a maximum ceiling height of 6.7 metres. The private open space for this dwelling is proposed to the north (where a timber raised deck is also proposed) and to the front of the site. A clothes drying area adjoining the laundry is also provided.

Dwelling 2 (eastern, rear dwelling)

Dwelling 2 is two storeys in height, and comprises at ground floor level a study, living area, dining area, kitchen, laundry and WC. The first floor level comprises three bedrooms (one of which includes ensuite and walk-in-robe) and separate bathroom. Dwelling 2 has a maximum ceiling height of 6.7 metres. Private open space is located towards the north-eastern corner of the site. A clothes drying area adjoining the laundry is also provided.

CONSULTATION - COMMUNITY

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

1. *Elizabeth Olsson, 384 Mona Vale Road, St Ives*

The submission raised the following issue:

That it be made a condition of consent that construction vehicles do not park on Mona Vale Road during morning peak hour.

A condition of consent is recommended to ensure that the roadway fronting the site is maintained in a safe condition at all times – for both pedestrian and vehicular users (***refer Condition No. 51***).

CONSULTATION - WITHIN COUNCIL

Landscaping

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

Impacts on trees/Trees to be removed

The proposed development has minimal tree impacts as the proposal has been designed to accommodate the mature Jacaranda located in the rear garden. The proposed rear setback of 3.0m will bring the proposed dwelling within the canopy drip line of a mature Alnus jorulensis (Evergreen Alder) located adjacent to the rear site boundary in the neighbouring property. The species is exempt under councils Tree Preservation Order, but is located on the adjoining property. The species is a large fast growing tree with an aggressive root system, and may result in further impacts to the site.

Setbacks

The rear setback of 3.0m is very restrictive for landscape purposes. A setback of this width effectively only allows for screen planting and a small area of grass and does not allow for tree replenishment.

The front setback of 7.0m is also restrictive from a landscape viewpoint and limits the potential area for tree replenishment. Side setbacks are adequate for screen planting.

Landscape Plan

The landscape plan submitted with the application proposes numerous Bangalow Palms (Archontophoenix cunninghamiana) adjacent to the northern site boundary. Palms are not a plant species associated with the broader landscape of Ku ring gai and are uncharacteristic. It is required that other plant species be utilised in this area to maximise screening and privacy between the proposal and the adjoining commercial (Nursery) site. Screen planting will be required for ALL site boundaries.

The landscape plan shows the retention of existing exempt tree species and other trees (#'s 4, 5, 6) which are in poor condition and should be removed. The landscape plan is conceptual only and cannot be approved. A detailed landscape plan is required to be submitted as part of the conditions of consent prior to the issue of the Construction Certificate.

Drainage Plan

The submitted drainage plan can be supported by Landscape Services

Other

It is noted that the proposal does not comply with councils 60% soft landscape area requirements, only 47.8% is proposed.

RFS

No comments from RFS have been sighted by Landscape Services

The application can be supported with conditions (refer to Condition Nos 38-46, 73-79, 87-88).

Comment:

The rear setback is not ideal, at only 3 metres in depth, however, the setback will allow for some screening. Despite the provision of 7.0 metres to the front, this front setback will still allow for screening, particularly in front of the proposed front wall.

For the above reasons it is considered that the landscaping provided is acceptable. Conditions of consent are recommended to ensure appropriate tree protection, replenishment and screening (**refer to Conditions Nos 38-46, 73-79, 87-88**).

Engineering

Council's Development Engineer commented on the proposal as follows:

The subject site has marginal fall to the street gutter at the proposed new dwelling locations. This application seeks demolition of an existing dwelling and construction of an attached dual occupancy dwelling. A drainage plan prepared by AFCE, Drawing No. 332932/D1-D2, dated 6/2004 was submitted demonstrating that overflow from the retention and re-use tanks

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to the street is feasible. The design is considered acceptable in principle from a drainage perspective.

With respect to vehicle access, driveway gradients and vehicle maneuverability are considered satisfactory. No objections are raised subject to conditions.

This DA is recommended for approval, subject to the engineering conditions (refer to Condition Nos 47-57, 80-84, 89-93).

CONSULTATION OUTSIDE COUNCIL

Rural Fire Service

The Rural Fire Service commented on the proposal as follows:

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

Roads and Traffic Authority (RTA)

The RTA commented on the proposal as follows:

The development is not integrated development and only requires concurrence from the RTA.

The RTA has assessed the development application and would grant its concurrence under Section 138(2) of the Roads Act to the proposed development subject to Council's approval of the development application and conditions being imposed (refer to Condition Nos 58-65).

STATUTORY PROVISIONS

State Environmental Planning Policy No. 53

COMPLIANCE TABLE		
Development standards	Proposed	Complies
Allotment size (cl.19(1)(a)) <ul style="list-style-type: none"> 600m² attached dual occ. (min) 	662m ²	YES
Floor space ratio (cl.19(1)(b)) <ul style="list-style-type: none"> 0.5:1 (max) 	0.44:1 (293.06m ²)	YES
Car parking (cl.20) <ul style="list-style-type: none"> Dwelling 1: 1 car space (min) Dwelling 2: 1 car space (min) 	Dwelling 1: 2 car spaces Dwelling 2: 2 car spaces	YES YES

Site analysis (cl.31):

Clause 31 states that a consent authority cannot approve a development unless it has taken into consideration a Site Analysis prepared in accordance with the SEPP. The site analysis and Statement of Environmental Effects submitted with the application are satisfactory in terms of this Clause and Schedule 5 of SEPP 53.

Streetscape (cl.32(a)):

Mona Vale Road is characterised by a mixture of single and medium density two storey developments. The visual character of the area is between 1945-1968. There are also several new dwellings in the street, which are two storeys in height.

The design of the dwellings, proposing two storeys to a ceiling height of 6.7 metres, will be suitable for the streetscape. The dwellings are relatively plain and undecorative to Mona Vale Road, however, given the nature of the surrounding residential development, and the noisy nature of the road which prohibits many windows and use of this aspect, this is not out of context in the streetscape. The dwelling is well-relieved and can be enhanced through planting.

Dwelling 1 measures 7.0 metres from the front boundary. This is considered acceptable given the reduced front setback of several other buildings within the vicinity, including the St Ives Village Nursery which is set back 6.9 metres, and the dwelling at 399 Mona Vale Road which has a front setback of some 3-4 metres.

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

Visual privacy (cl.32(b)):

Both dwellings have been provided with reasonable setbacks to the boundaries of the site so as to minimise any potential for overlooking of the adjoining sites.

There are several windows from both of the proposed dwellings at first floor level which afford views to No. 405 Mona Vale Road. However, all of these windows are to bedrooms or bathrooms. Given that the neighbouring property is not residential, but is a garden centre, there are not likely to be any privacy impacts thereupon.

Acoustic privacy (cl.32(b)):

The application proposes outdoor living space to the north of the two dwellings, exiting from the proposed family rooms. Outdoor living space is also provided between Dwelling 1 and Mona Vale Road and to the rear, between Dwelling 2 and the eastern property, 10 Richmond Avenue.

The private open space between Dwelling 1 and Mona Vale Road will be of limited use due to the noise impact from Mona Vale Road. However, some 82m² of private open space with minimum dimensions of 5m x 11m is available between the dwelling and the northern fence. Given the

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distance from the road and the introduction of a new front fence to a height of 1.8 metres, this will be sufficient to ensure adequate acoustic privacy to future residents.

There are two balconies at first floor level which face No.401 Mona Vale Road. These both serve bedrooms and are not considered to have adverse impact upon the neighbouring dwelling at 401 Mona Vale Road. The balconies are only of 1.0m in width.

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

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

Solar access to adjoining properties

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

9.00am (June 22):

The overshadowing will extend into the rear and centre of the adjoining residence at 401 Mona Vale Road.

12.00 noon (June 22):

The overshadowing will again extend into the centre of 401 Mona Vale Road.

3.00pm (June 22):

The overshadowing will extend into the rear of 401 Mona Vale Road and the rear of 10 Richmond Avenue. There will be no consequential impact upon any neighbouring properties.

The most impacted property is clearly 401 Mona Vale Road, which will experience shading to some degree throughout the entire day. However, the dwelling at 401 Mona Vale Road does not contain any significant habitable room windows adjacent to the boundary of the subject site. Furthermore, the private open space to the rear of 401 Mona Vale Road, and the in-ground swimming pool to the front of the property, will still benefit from solar access.

Accordingly, the loss of solar access to the neighbouring property at 401 Mona Vale Road is considered acceptable and the dwelling will still obtain 3 hours of solar access as required by Council's Dual Occupancy Code.

Stormwater (cl.32(d)):

Each dwelling is provided with its own on-site detention storage tank, with all stormwater being drained to Mona Vale Road. Overflow from the detention and re-use tanks will also be directed to the street. Council's Development Control Engineer does not object to the proposed development in relation to stormwater disposal and has recommended standard conditions (*refer to Conditions Nos 47-49, 83*).

Crime prevention (cl.32(e)):

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

Accessibility (cl.32(f)):

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

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

Waste management (cl.32(g)):

Conditions have been recommended to achieve compliance with Council's standard waste management requirements (*refer to Condition No. 34*).

Visual bulk (cl.32(h)):

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

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP55 require Council to consider the potential for a site to be contaminated. The subject site has a history of residential use and, as such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

Aims and Objectives for Residential Zones

The development: (i) provides satisfactory levels of solar access & privacy to surrounding properties; (ii) is of a bulk, scale and design characteristic of the area; (iii) maintains adequate levels of soft landscaping; (iv) provides suitable egress/ingress for vehicles; and (v) maintains the landscape quality of the municipality. Consequently, the aims and objectives for residential development as outlined by Schedule 9 have been satisfied.

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Building height 8m (max)	Dwelling 1: 6.7m (ceiling) Dwelling 2: 6.7m (ceiling) The following information is not a statutory control. This information is provided for the benefit of councillors: Height to roof ridge - Dwelling 1: 7.83m Height to roof ridge - Dwelling 2: 7.9m Height to eaves line – Dwelling 1: 6.6m Height to eaves line – Dwelling 2: 6.9m	YES YES
Built-upon area 60% (max)	53% (350m ²)	YES
Notional built-upon area	Dwelling 1: 53% (365m ² site) Dwelling 2: 53% (296m ² site)	YES YES

POLICY PROVISIONS

Development Control Plan 40 – Waste Management

The site is of a sufficient size to accommodate waste storage and recycling facilities associated with the proposed use in accordance with DCP 40.

Development Control Plan No. 43 – Car Parking

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

Council's Dual Occupancy Development Control Code

COMPLIANCE TABLE		
Development control	Proposed	Complies
4.2 Streetscape:		
Roof pitch		
• 3m roof height-2 storey (max)	Dwelling 1: 1.0m Dwelling 2: 1.0m	YES YES
• Roof pitch 35 ⁰ (max)	Dwelling 1: 23 ⁰ Dwelling 2: 21 ⁰	YES
Fences		
• Front fence height: 900mm (solid fence) (max)	1800mm	NO

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<ul style="list-style-type: none"> Side fence height:1.8m (max) 	No side fencing mentioned as part of proposal - conditioned	YES
4.3 Visual and acoustic privacy:		
Visual privacy <ul style="list-style-type: none"> Windows to habitable rooms set back 9m from neighbouring windows (min) 	<p>No direct window to window relationship.</p> <p>14.9 metres between first floor bedroom window of subject site and ground floor 401 Mona Vale Road</p> <p>4.2 metres between first floor bedroom window of subject site and obscured glass window of 405 Mona Vale Road</p>	YES
4.4 Solar access and design for climate:		
Solar access <ul style="list-style-type: none"> Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min) Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min) 	<p>Dwelling 1: 3+ hours solar access received (North Facing)</p> <p>Dwelling 2: 3+ hours solar access received (North Facing)</p> <p>All neighbouring properties receive 3+ hours solar access. Proposal will not impact upon solar access of neighbouring properties.</p>	YES YES YES
Energy efficiency <ul style="list-style-type: none"> 3.5 star NatHERS Rating (min) or combined summer/winter thermal assessment of 60% 	Required by condition	YES
4.7 Accessibility:		
Vehicular access and car parking dimensions <ul style="list-style-type: none"> Garage – 3.1m x 5.4m (min) 	<p>Dwelling 1: 5.4m x 5.6m</p> <p>Dwelling 2: 5.4m x 5.6m</p>	YES YES
4.9 Visual bulk:		
Building setbacks <ul style="list-style-type: none"> Front setback 12 metres for level site; or set by established character 	7.0 metres to Dwelling 1. Is set by established character.	YES

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<ul style="list-style-type: none"> Side setback Minimum 2.0m required (ground floor) 	1.688m to northern boundary (both Dwellings 1 and 2)	NO
Minimum 2.5m required (first floor)	2.450 from Dwelling 1 to Northern boundary 2.552m from Dwelling 2 to Northern boundary	NO YES
<ul style="list-style-type: none"> Rear setback: 6.156m (15% of ave. site depth) 	3.0m from rear (eastern boundary) to Dwelling 2	NO
Building form <ul style="list-style-type: none"> Unrelieved wall length: 12m (max) Total building length: 24m (max) 	Maximum of 11.5 metres (garage elevations to south) 30.5 metres through both dwellings	YES NO
Built-upon area <ul style="list-style-type: none"> Total built upon area (max): 40% Notional built-upon area 	53% (350m ²) Dwelling 1: 53% Dwelling 2: 53%	NO NO NO
Floor space ratio <ul style="list-style-type: none"> FSR (max): 0.5:1 1st floor – 40% 	0.44:1 Dwelling 1: 68% Dwelling 2: 67.6%	YES NO NO
Height of buildings <ul style="list-style-type: none"> 8 metres Building envelope: 45⁰ from horizontal at any point 3m above boundary 	Dwelling 1 and 2: 6.7 metres Dwelling 1 Northern boundary infringement of 1.6m Dwelling 2 Northern boundary infringement 1.7m	YES NO NO
Cut and fill (building works) <ul style="list-style-type: none"> Cut & fill: 900mm & Total 1800mm (max) 	Dwelling 1: 500mm (fill for driveway) Dwelling 2: 900mm (fill for driveway)	YES YES

Section 5: Landscaping & Open Space

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Total soft landscaping : 60% (min)	47%	NO
Notional soft landscaping:	Dwelling 1: 47% Dwelling 2: 47%	NO NO
Tree retention and refurbishment • No. of Trees: 4 (min)	Required by condition	YES
Cut & fill (landscaping) • Cut & Fill: 900mm & Total 1800mm	670m (fill) located up to southern boundary	YES
Open space provisions • Area: 100m ² or 2 x 75m ² areas (min) • Min dimension 5m x 5m (min) • Grade: 1 in 8 (12 ⁰ max) • 50% receives 3+ hours solar access (min)	Dwelling 1: 82.25m ² Dwelling 2: 92.89m ² Dwelling 1: 5.0m x 5.0m Dwelling 2: 6.3m x 6.0m Dwelling 1: 1 ⁰ Dwelling 2: 1 ⁰ Dwelling 1: Open space receives 3+ hours solar access Dwelling 2: Open space receives 3+ hours solar access	NO NO YES YES YES YES YES YES

Streetscape controls

• **Fences**

The application exceeds the maximum height of 900mm for a solid front fence. The proposed front fence is 1800mm in height and is to be of hebel block construction with concrete footings. The fence is proposed to be set back 800mm from the front boundary, and is also proposed to include a recessed area for planting.

The height of the front fence is considered acceptable given that:

- (i) it will provide noise attenuation from Mona Vale Road,
- (ii) the existence of a number of high front fences within the locality (including front fencing to a height of 1800mm at 402 Mona Vale Road); and
- (iii) the possibility of landscaping being installed to the front of the fence and in the recessed area to soften the appearance of the fence.

Accordingly, the proposal is considered to be consistent with the relevant objectives 4.2 of the Dual Occupancy Development Control Code, that being the maintenance and enhancement of the existing streetscape.

Visual bulk controls

- **Front setback**

Dwelling 1 proposes a set-back of 7.0 metres from Mona Vale Road. The Dual Occupancy Code requires a setback (for a level site) of 12.0 metres.

Consideration has been given to the nature of the Mona Vale Road frontage, which lacks consistency and includes several buildings that project well forward of the 12 metre front setback control. The St Ives Village Nursery (at 405 Mona Vale Road) is set back 6.9 metres and the dwelling at 399 Mona Vale Road has a front setback of 4.7 metres. This proposed setback of 7.0 metres is therefore not uncharacteristic of the immediate area.

Furthermore, the amount of screening which will be able to be provided, in addition to the front fence and screening to the front of this wall, will ensure that the setback of 7.0 metres will be able to be utilised for private open space.

Accordingly, notwithstanding the numeric non-compliance, the proposed building front setbacks are considered satisfactory.

- **Side setback**

Both Dwellings 1 and 2 have a side ground floor setback of 1.68m to the northern boundary. The first floor provides a northern setback of 2.45m from Dwelling 1 and 2.55m from Dwelling 2.

The siting of the dwelling closer to the northern boundary is acceptable, as

- (i) it will not impact upon the solar access of the northern property at 405 Mona Vale Road
- (ii) it still provides a reasonable setback of 1.68 metres for the ground floor; and
- (iii) no windows are located at the first floor which will provide for overlooking of the neighbouring property.

Limited vegetation will be able to be provided within this setback, however, given the orientation and nature of No. 405 Mona Vale Road (which is occupied by a garden centre and which is not oriented towards the subject site) this will not have adverse impact upon the neighbouring property.

- **Rear setback**

The application proposes a rear setback of 3.0 metres. The distance provided is suitable to establish reasonable landscaping and will not intrude upon the neighbouring rear property at No.10 Richmond Avenue. This rear property does contain a swimming pool and some outdoor living area, however, the distance provided (some 9 metres between proposed Dwelling 2 and the neighbouring swimming pool at 10 Richmond Avenue) is considered sufficient.

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The planting along this boundary will also be sufficient to provide further screening. The existing trees and shrubs along this boundary include a Black Bean (*Castanspermum Australe*), to an existing height of 4.0 metres (but which can attain 9-15 metres) and a Jacaranda of 6.0 metres. Proposed planting comprises a Kaffir Lily (*Clivea Miniata*), which is being used as groundcover (and will achieve a height of 1.0-2.0 metres) and Brush Cherry (*Syzygium Paniculatum*) which can attain a height of 6.0 metres.

Accordingly, notwithstanding the numeric non-compliance, the proposed rear building setback is considered satisfactory.

- **Building form**

Council's Dual Occupancy Code requires a building length of no more than 24 metres. The attached dwellings measure 30.5 metres in length.

The design of the attached dwellings incorporates sufficient architectural relief and modulation, thereby avoiding a bulky, lengthy appearance. The dwellings incorporate several side elevations, as well as the garaging within the middle of the site so as to break up and add interest to the recesses, particularly when viewed from the southern adjoining property at 401 Mona Vale Road.

Accordingly, the building form and lengths are satisfactory.

- **Built-upon area**

Council's Dual Occupancy Code requires a total built-upon-area of no more than 40%. The proposed development incorporates a total built-upon-area of 53%. Both of the dwellings have a notional built-upon-area of 53%.

The purpose of this standard is to require adequate proportion of the site for stormwater infiltration and soft landscaping. There have been no concerns raised by Council's Development Engineer with respect to stormwater infiltration and, consequently, this is considered satisfactory. Likewise, it is considered that a suitable amount of soft landscaping and private open space can be provided on site for amenity purposes.

- **First floor ratio**

While the application conforms with the floor space ratio of 0.5:1 (at 0.44:1), the development fails to comply with the maximum first floor ratio of 40% of total floor space. Dwelling 1 proposes a first floor of 68%, and Dwelling 2 a first floor of 67.6%. Nevertheless, the dwellings relate well to the mixed character of the area (comprising both single storey and two storey dwellings) and, due to built-upon area (which complies with the KPSO) and landscaping provided, will not dominate the streetscape. Furthermore, the dwellings are oriented to the side and, therefore, have limited visual impact upon Mona Vale Road.

- **Building envelope**

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

Both Dwellings 1 and 2 include non-compliances with respect to the building height plane, to a height of 1.6 metres for Dwelling 1 and 1.7 metres for Dwelling 2. This is to accommodate two projecting first floor elements which contain bedrooms. Given that these projections will not impact upon the solar access to the neighbouring property that they will not include windows aside from high light bedroom windows, the infringement will have no adverse effect on the amenity of No.105 Mona Vale Road.

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

Landscaping and open space controls

- **Total soft landscaping**

Council's Dual Occupancy Code requires soft landscaping of at least 60% where two dwellings of two storeys are proposed. The application proposes 47% soft landscaping. Despite the non-compliance there is sufficient area within the site to allow for adequate soft landscaping to suitably screen the development as well as provide for site absorption. The non-compliance with the control has not resulted in an overdevelopment of the site.

Accordingly, the application provides sufficient soft landscaping.

- **Open Space Provisions**

Council's Dual Occupancy Code requires the provision of at least 100m², or two parcels of 75m² of open space for each dwelling. The proposal provides for 82.25m² to Dwelling 1, and 92.89m² to Dwelling 2.

The amount of private open space provided is adequate for the following reasons:

- i. The private open space provided has a northern orientation with excellent solar access;
- ii. The private open space is level and allows for immediate access from the habitable rooms of the two dwellings;
- iii. Separate clothes drying areas have already been demarcated, therefore the private open space is likely to be retained as open space.

Accordingly, the application provides sufficient private open space.

Section 94 Plan

The development attracts a section 94 contribution of \$25,973.53, which is required to be paid by *Condition 70*.

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The site is suitable for the proposed development. The land is of adequate size and shape to accommodate the proposed development and to ensure that the dual occupancy integrates with the character of the surrounding area.

ANY SUBMISSIONS

The submission received has been considered in the assessment of this application and a condition has been recommended to address the objector's concern.

PUBLIC INTEREST

The approval of the application would be in the public interest

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for assessment.

CONCLUSION

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

RECOMMENDATION

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

THAT the Council, as the consent authority, grant development consent to DA 0677/04 for demolition of the existing dwelling and erection of an attached dual occupancy on land at 403 Mona Vale Road, St Ives, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

1. The development must be carried out in accordance with plans numbered 1 and 2, dated 04/06/04, drawn by Patricia Vandenbruel, and endorsed with Council's approval stamp, except where amended by the following conditions.
2. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that authority's by-laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
3. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

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4. The dual occupancy development approved under DA 1089/03 is to be completed and an occupation certificate is to be issued by the Principal Certifying Authority prior to a Subdivision Certificate being released by Council under any separate subdivision application.
5. All building works shall comply with the Building Code of Australia.
6. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
7. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
8. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.
9. Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.
10. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
11. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
12. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
13. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
14. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.

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15. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
16. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
17. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
18. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.
19. The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.
20. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
21. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
22. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
 - cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
23. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
24. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.

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25. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
26. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
27. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
28. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
29. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
30. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
31. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
32. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
34. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
35. External finishes and colours are to be sympathetic to the surrounding environment.
36. Any fence to be constructed between Dwelling One and Dwelling Two shall comply with the requirements of Development Control Plan No 46 Exempt and Complying Development.
37. Bathrooms and toilets must have installed maximum 6/3 litre dual flush cisterns and shower heads with reduced water flow devices to ensure water conservation.
38. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

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

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39. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
40. To preserve the existing treed character of Ku ring gai, the number of Bangalow Palms (*Archontophoenix cunninghamiana*) is to be reduced by 50%.
41. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
42. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
<i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to northern site boundary in rear garden	6.0m

<i>Alnus jorulensis</i> (Evergreen Alder) Adjacent to rear site boundary in neighbouring property	6.0m
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43. To preserve the ongoing health and vigour of the *Jacaranda mimosifolia* (Jacaranda), no paving works are permitted within the canopy drip line.
44. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
45. On completion of the LANDSCAPE WORKS/TREE PLANTING OR SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
46. The following noxious and/or undesirable plant species shall be removed from the property prior to completion of the proposed building works. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to the release of the final Compliance Certificate:

Plant Species

Morus nigra (Mulberry)

Ligustrum lucidum (Large-leaved Privet)

Cinnamomum camphora (Camphor laurel)

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

47. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
48. For stormwater control a 200mm wide grated drain with heavy duty removable galvanised grates is to be located within the property at the intersection of the driveway and Council's footway to collect all surface water flowing down the driveway. The drainage line from the grated drain shall be connected to the street system, either separately or via the main site outlet.
49. An on-site stormwater detention and/or retention system(s) must be provided for each dwelling in accordance with Council's requirements described in chapter 6 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website. Separate systems are to be provided for each residence, except where a single combined system may be located in a common location readily accessible by both owners (such as under a shared driveway). In this case appropriate cross burdens are to be created on title(s) as necessary.
50. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
51. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
52. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

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53. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
54. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.
55. All garage doors shall have a minimum clear width of 4.8 metres in order to comply with section 5.4 of AS 2890.1 “Off-street car parking”.
56. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with AS2890.1 “Off-Street Car Parking”.
57. The driveway entrance and crossing width is to be widened to comply the AS2890.1 requirement for 5.5 metres width for the first 6 metres from the kerb. The balance of the driveway is to be constructed with a minimum clear width between adjacent obstructions of 3.0 metres in accordance with AS 2890.1 “Off-street Car Parking”. The driveway is to be designed so that it is structurally adequate for design vehicles up to a fully laden concrete truck
58. The driveway is to be a perpendicular to Mona Vale road with a minimum width of 5 metres at the kerblines splaying back to a width of 3 metres at the property boundary.
59. The design and construction of the proposed gutter crossing on Mona Vale Road shall be in accordance with RTA requirements. Details of these requirements should be obtained from RTA’s Project Services Manager, Traffic projects Section, Blacktown (ph 8814 2144).
60. All works associated with the proposed development shall be at no cost to the RTA.

In addition to the above, the RTA provides the following advisory comments to Council for consideration in the determination of the development application.

61. Storm water run-off from the subject site onto Mona Vale Road, as a result of the proposed development is not to exceed the existing level of run-off from the site.
62. The layout of the car parking areas associated with the subject development (including, turn paths, aisle widths, sight distance requirements, and parking bay dimension) should be in accordance with AS 2890.1-2004.

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63. Any redundant driveways along the Mona Vale Road frontage of the subject site are to be removed with kerb and gutter (Type SA) reinstated to match existing.
64. Suitable provision is to be made on site for construction vehicles to alleviate any need to park on Mona Vale Road.
65. The proposed development should be designed such that road traffic noise from Mona Vale road is mitigated by durable materials, in accordance with EPA criteria for new land use developments (The Environmental Criteria for Road Traffic Noise, May 1999). The RTA's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.

Where the EPA external noise criteria would not practically or reasonable to meet the RTA recommendations that Council applies, the following internal noise objectives for all habitable rooms under ventilated conditions complying with the requirements of the Building Code of Australia.

- All habitable rooms other than sleeping rooms: 45 dB(A) Leg (15 hr) and 40 dB(A) Leg(9hr) and
- Sleeping rooms: 35 dB(A) Leg (9hr)

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

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

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

67. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
68. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or

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

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

Details prepared by a practicing structural engineer for :

- all or any reinforced concrete, structural steel or timber framing.
- Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
- Retaining walls and associated drainage.
- Wet area waterproofing details complying with the Building Code of Australia.
- Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
- Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.

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

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE (1) ADDITIONAL DWELLING IS CURRENTLY \$25,973.53. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 13 August 2003, calculated for additional person as follows:

1. Preparation of New Residents Kit	\$10.98
2. New Resident Survey	\$9.87
3. New child care centre	

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	(including land acquisition and construction of facility)	\$252.13
4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Open Space	\$1,966.00
8.	Koola Park upgrade	\$143.09
9.	North Turramurra Sportsfield	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

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

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

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

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

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

74. A plan detailing screen planting of the northern (side), eastern (rear) and southern (side) site boundaries shall be submitted to Council prior to the release of the Construction Certificate and approved by Council's Landscape Development Officer, prior to completion of building works. The plan shall incorporate species capable of attaining a height of 5.0, 3.5, and 4.0 metres respectively.

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75. The property shall support a minimum number of three (3) trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commencement of work. It is required that two of the trees to be planted be a native indigenous (locally occurring) tree species. One of which is to be planted within the front setback.
76. The two (2) 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.
77. A CASH BOND/BANK GUARANTEE of \$4 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

78. A cash bond/bank guarantee of \$1 500.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

Jacaranda mimosifolia (Jacaranda)

Located adjacent to the northern site boundary in the rear garden

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

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

Tree/Location	Radius in Metres
<i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to northern site boundary in rear garden	6.0m
<i>Alnus jorulensis</i> (Evergreen Alder) Adjacent to rear site boundary in neighbouring property	6.0m

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

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

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

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

81. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year

storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 - Plumbing and Drainage Code.

82. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including garden irrigation, laundry and toilet flushing. The necessary pumping, housing, filtration and delivery plumbing equipment for re-use shall be shown on this design. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. These details may be incorporated on the overall stormwater management plan and design for the retention/detention system.
83. The stormwater plan prepared by AFCE, Drawing No. 332932/D1&D2, dated 6/2004 shall be amended to, but not limited to the following:
The overflow from the retention tank shall be piped to downstream junction pit located at the boundary. The use of flap valve shall be eliminated.

Full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater detention/retention system incorporating the above issues shall be submitted and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate. The storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes . Rainwater tank(s) shall be designed to capture and retain runoff from a minimum 100m² roof area for each 5000 litres of storage (pro-rata basis). Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer and may be incorporated on the overall site drainage plan.

84. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), details demonstrating compliance with the requirement of a minimum 3.5 star NatHERS Rating or combined summer/winter thermal assessment of at least 60% (as detailed within section 4.4.2 of Council's Dual Occupancy Code).

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

85. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
86. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:

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

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

Tree/Location	Radius From Trunk
<i>Jacaranda mimosifolia</i> (Jacaranda)	6.0m
Adjacent to northern site boundary in rear garden	

88. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.

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

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

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

Any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection,

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contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

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

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

91. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:
- a. Construction of the stormwater drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and
 - b. The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500,.3.2, and
 - c. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.
92. A Works-as-Executed (WAE) drawing of the property stormwater drainage system is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate. The WAE plan shall show the following as built details, marked in red on the approved construction certificate stormwater drawings:
- a. As built reduced surface and invert levels for all drainage pits and connection points.
 - b. As built reduced level(s) at the approved point of discharge to the public drainage system.
 - c. Gradients of drainage lines, materials and dimensions.
93. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the installed rainwater retention devices, are to be submitted to the Principal Certifying Authority (PCA). Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor.

The Certificate is to certify:

Compatibility of the retention system(s) with the approved Construction Certificate plans.

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Compliance with AS 3500.2 & AS3500.3:1998.
Overflow from the installed retention devices directed to an approved disposal point.
The capacity of the retention storage as approved.
Provision of leaf gutter guards to all roof gutters.
Measures to prevent mosquito breeding nuisance.
Provision of a readily maintainable “first flush” system to collect sediment/debris before entering the tank(s).
Installation of proprietary tank products in accordance with manufacturers’ specifications.
The structural adequacy of tank and supporting structures/slabs.
Where required by this consent, that all toilet flushing, laundry and garden tap water usage for the approved development is sourced from the stormwater retention tank(s).
All pumping equipment is readily accessible for maintenance and cleaning purposes and the adequacy of the pumping mechanism to achieve delivery rates as required.
An air gap being provided at the top of the tank(s).
Mains backflow prevention devices being installed at all relevant locations for reticulated systems
Sediment sump of 150mm minimum being provided at the base of the tank(s)
All recycled stormwater outlet points having permanently affixed plaques in readily observable locations which read “Recycled Stormwater – Not For Drinking” or equivalent.
The provision of water mains back-up system to each collection tank for periods of low rainfall.
Evidence of Sydney Water approval to the proposed system.
The provision of filtration devices on each system to ensure no blockage of delivery plumbing systems.
Compliance with relevant sections of the latest “Plumbing and Drainage Code of Practice” issued by the Committee on Uniformity of Plumbing and Drainage Regulations in NSW.

The Works-as-Executed drawing(s) is to be marked up in red on the approved Construction Certificate design, and shall include:

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

BUILDING CONDITIONS

94. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.

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- b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
- c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
- d. Retaining walls and associated drainage.
- e. Wet area waterproofing details complying with the Building Code of Australia.
- f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
- g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

95. All structural timber members subject to weather exposure shall have a durability class rating of 2 or better in accordance with Australian Standard 1684.2-1999 (National Timber Framing Code), or be preservative treated in accordance with Australian Standard 1604-1980 (Preservative Treatment for Sawn Timbers, Veneers and Plywood).
96. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
97. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

Risers:	Maximum 190mm	Minimum 115mm
Going (Treads):	Maximum 355mm	Minimum 240mm

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

98. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:

A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
Smoke alarms which:

- a. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
- b. are connected to the mains and have a standby power supply; and
- c. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

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

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

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

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

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

Kerrin Lithgow
EXECUTIVE PLANNER – TEAM NORTH

Mark Leotta
TEAM LEADER – TEAM NORTH

Matthew Prendergast
MANAGER DEVELOPMENT
ASSESSMENT SERVICES

Michael Miocic
DIRECTOR DEVELOPMENT AND
REGULATION

Attachments

- Site Location Plan**
- Site Plan**
- Elevations**
- Shadow Diagrams**
- Landscape Plan**

RIPARIAN POLICY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To adopt the draft Riparian Policy.
BACKGROUND:	The draft Riparian Policy was tabled at the Ordinary Council Meeting of 9 June 2004. The Policy was placed on exhibition for comment from 12 August to 28 September 2004. A total of seven submissions were received.
COMMENTS:	All submissions were supportive of the draft policy and its intent. The most significant change that has been included is to resource endangered ecological communities as a key and exceptional aspect of the management of riparian zones.
RECOMMENDATION:	That Council adopt the modified Draft Riparian Policy and make the necessary amendments to DCP 47 Water Management.

PURPOSE OF REPORT

To adopt the draft Riparian Policy.

BACKGROUND

The Draft Riparian Policy, June 2004 was tabled at the Ordinary Council Meeting on 9 of June 2004. The intent of the policy is to recognise the value of creeks, aquatic habitats and the associated riparian environments and the role they play in maintaining water quality, providing habitat and giving a sense of naturalness for the community. It also seeks to protect these systems from inappropriate pressures such as development and work within existing policy instruments such as Development Control Plan 47 Water management.

The draft policy was exhibited from 12 August to 28 September 2004 on Council's website and at our four public libraries. A total of seven submissions were received including one letter of support and comments from the Department of Infrastructure Planning and Natural Resources (attachment 2). The rest were from local environmental groups, individual residents and verbal comments from an interested developer. As part of the consultation process, a copy of the modified draft policy including the accepted comments was referred to the Bushland, Catchment and Natural Areas Advisory Committee in November 2004.

COMMENTS

Ku-ring-gai Council is the first local government in the Sydney area to map and categorise its riparian environments. The process follows a detailed study from the Department of Planning, infrastructure and Natural Resources in relation to the management of riparian systems and future development in the Illawarra Escapement and Sandon Point. From a planning perspective, the policy seeks to recognise the different levels of protection that are needed to manage our riparian systems as reflected by the varying buffer widths. The greatest protection given to 'category 1' streams with a 40 metre buffer from either side of the top of bank so as to provide a robust biological links between key environmental assets. 'Category 2' streams provide the basic habitat requirement for terrestrial and aquatic systems extending 20 metres from either side from the top of bank. 'Category 3' streams seek to provide stability to the bank and protect and enhance water quality with a buffer of 10 metres from either side of the top of bank. The setting of these varying buffer widths will assist Council in determining where development is most desirable on affected land and also the Department of Planning, Infrastructure and Natural Resources in the case of integrated development where such development occurs within 40 metres of a water body as defined by the Environmental Planning and Assessment Regulation 2000 or water front land as defined by the Water Management Act 2000.

The submissions received were supportive and none opposed to draft policy. The submissions mostly suggested minor changes to wording, grammar and to the clarification of the riparian zone diagrams. The most significant change suggested was the inclusion of endangered ecological communities within the policy. This was to recognise the local value of these areas particularly where they contained riparian zones. A number of suggestions were outside the scope of the policy

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25 November 2004

and not accepted, as discussed below. Attachment 1 contains the draft policy recommended for adoption by Council.

All minor changes to grammar and wording were accepted and changed in the document. Other changes included amending the wording of Table 1 (Summary of riparian management objectives) to give a clearer definition of core riparian zones widths.

Two submissions requested the addition of the word bushland into the definition of riparian corridor, though not really strengthening the definition, was added for clarification.

Two submissions suggested inclusion of minor watercourses not shown on the riparian zones map or a change to the riparian category. Several of these were added to the map as illustrated in attachment 3.

The following suggested amendments to the policy were not accepted:

1. Inclusion of groundwater issues was not added as it is outside the scope of the Riparian Policy and is covered under Development Control Plan 47, Water Management.
2. A 30m wide Core Riparian Zone in Category 2 for Bluegum High Forest is not necessary as the **minimum** is 20m plus an extra 10m wide zone to allow for edge effects etc (see Table 1 of Draft Riparian Policy). Notwithstanding that this area contains an Endangered Ecological Community, the core zone and buffer provided would provide the necessary protection for the purpose of riparian management. State Environmental Planning Policy (SEPP) 19 Urban Bushland would apply to this site affording general protection in addition to specific protection pursuant to the Threatened Species Conservation Act 1995 and Environmental Planning and Assessment Act 1979.
3. That it is unacceptable to place any stormwater infrastructure in riparian corridors (that is outside Core Riparian Zones). The policy permits infrastructure to be located outside the core riparian zone though within the buffer affecting both public and private land. The intention of this policy position is to require more careful consideration to the design and construction of stormwater assets and other structures so as to minimize the immediate and indirect impact of stormwater discharges into the riparian system and associated impacts to bushland. The placement of private infrastructure in Council bushland reserves is generally not allowed. DCP 47 and Council's Easement policy over community land provides further guidance and additional protection to both riparian and general bushland environment.
4. Change the riparian category of a stream off Mona Vale Road (through properties 131 to 137 with remnants of Blue Gum High Forest) from category 3 to category 2. The intent of this change was to give a riparian and buffer zone of over 40m wide within the private land holding adjoining Mona Vale Road. These properties are currently developed and are zoned 2C residential. In 2000 a development application was lodged to Council seeking the construction of a SEPP 5 development on 131 and 135 Mona Vale Road. This application has been conditionally approved by the Land and Environment Court supporting the construction of 22 units. As part of the consent there includes a condition to manage the riparian zone. 137 Mona Vale Road contains an existing dwelling and driveway that has

been constructed adjacent to the riparian corridor. Access to the site is limited due to the creek and it appears that an easement has been granted over 139 Mona Vale Road. There is also a sewer main running adjacent to the creek commencing from the corner of 145 Mona Vale Road through Browns Forest. Attachment 3 illustrates the extent of the impact of the proposed riparian zones as they affect these and other land around Dalrymple Hay Nature Reserve. It is intended that the category remain as 3 that provides for a core riparian zone of 10 meters from the top of each bank (a minimum of 20 metres in total). DCP 47 Water Management and DCP 38 Good Design Manual, Council's tree preservation order and threatened species legislation are other mechanisms that can be used to protect the integrity of these sites and the downstream environments. Attachment 1 illustrates this location including the suggested category and other additions affecting Dalrymple Hay Nature Reserve.

5. Inclusion of pictures of rainwater tanks in riparian zones diagrams is not really necessary as they are covered in DCP47 Water Management.
6. A small section of the upper reach of one minor stream (Flying Fox Creek) was not added to the map as it is too highly developed (that is currently piped with buildings over it) to be regarded as streams or to be reinstated. The streams within the reserve known locally as Flying Fox Creek and Callicoma Creek were added to the map as shown in attachment 3.

There were several general comments in various submissions such as those about the condition of local streams and their eroded state. While not directly applicable to the Riparian Policy, these and other comments were noted and may be incorporated into works programs and policies in the future.

The adoption of the Riparian Policy will require some amendment to DCP 47 Water Management to ensure consistency between both instruments. This can be made when the DCP is revised that is expected to occur early 2005. Specifically the DCP will need to amend the controls related to developments that drain directly to natural water bodies and may affect developments that drain bushland, where this forms part of a riparian corridor. In relation to engineering specifications for drainage into these areas, consideration will need to be made with respect to the extent of influence of infrastructure bearing in mind the need to balance Council's obligations to protect against flooding and overland flow and the policy outcomes of the riparian policy.

CONSULTATION

The final draft Riparian Policy was placed on public exhibition for submission of comments from interested stakeholders. The exhibition period was from 12 August to 28 September 2004. The policy and associated map were exhibited on Council's website and at four local public libraries.

Copies of the final draft policy were sent to staff at DIPNR and Macquarie University who assisted Council to develop the policy.

On 29 November 2004 the Bushland, Catchment and Natural Areas Advisory Committee considered the draft policy and "recommended that Council adopt it as policy and progress actions

to include the policy as applicable in instruments such as the KPSO, DCP 47 and DCP 38” and also in relation to the management of Council watercourses.

FINANCIAL CONSIDERATIONS

Should Council adopt this policy there will be no immediate direct costs. However in the long term Council operations will need to revisit how it plans and maintains its watercourses, riparian zones and assets therein. It would be intended that a special rate variation that would focus on environmental improvements would be used to manage the implementation of this policy.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This policy was developed in consultation with Planning and Environment and Technical Services.

SUMMARY

The draft policy was exhibited and public comment was received. Local groups and individuals supported the policy. Relevant changes were made to the policy in line with submission suggestions.

RECOMMENDATION

- A. That Council adopt the amended Draft Riparian Policy.
- B. That Development Control Plan 47 be amended to comply with this policy.

Peter Davies
Manager Sustainability & Catchment
Management

Steven Head
Director Open Space

Attachments:

- 1. Final Draft of the Riparian Policy (incorporating changes).**
- 2. Letter of support from A. Kamaralli Department of Infrastructure Planning and Natural Resources (DIPNR)**
- 3. Changes to map for riparian categories at Dalrymple-Hay Nature reserve and the Ku-ring-gai Flying Fox Reserve.**

Riparian Policy

December 2004



Managing watercourses and riparian zones in the Ku-ring-gai local government area

Our urban creeks connect people to waterways that define the natural character of Sydney.

Our vision for Ku-ring-gai is to ensure our creeks support riparian ecosystems, reflect community values and sustain economic activity.

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SUMMARY

This strategy has been prepared in response to a direction by Council in the 2003/04 Management Plan to prepare a policy for the protection and remediation of urban streams.

As part of the policy a map of the Ku-ring-gai local government area has been prepared that defines the location and extent of the core riparian and buffer zones. In addition management principles have been set for the ongoing planning, operation and restoration of urban waterways and riparian systems. It is intended that these will simplify and strengthen planning and development assessment processes through the integration with development control plan 47 water management and enable management outcomes to more fully balance the needs of the environment with social and economic interests.

Ku-ring-gai's urban streams and their riparian environments have been classified into three categories and riparian objectives have been set for each. The highest category is the 'environmental corridor' whose purpose is to provide robust biological links between key environmental assets. The second category seeks to provide the basic habitat requirements for terrestrial and aquatic systems within the riparian zone. The final category is primarily concerned with providing basic bank stability and protection and enhance the quality of water. For each of the three categories minimum buffer widths have been set that are intended to achieve the desired environmental functions.

While the aim of this process is to ensure the long term viability and sustainability of our creeks and riparian zones, its implementation must consider future development pressures and existing use rights. In this respect, management principles in this policy seek to direct pragmatic outcomes to ensure multiple objectives can be achieved without compromising planning, development, conservation and restoration needs.

The process and rationale has been modelled on the investigations and approach developed by the NSW Department of Infrastructure, Planning and Natural Resources for the long term planning of the Wollongong local government area and the north west and south west land release areas in Sydney.

Acknowledgements

This project would not have been possible without the support and assistance of Chris Page, Janine Percy, Paul Bourne, Tony Towers and Mohammed Ismail from the Department of Infrastructure, Planning and Natural Resources, Dr Mark Taylor, Sophia Findlay and Amylia Fletcher from Macquarie University and Dr Louise Ormerod from Newcastle City Council.

Introduction

Urban development is impacting on the health of our natural environment. Within Ku-ring-gai, this is evident through the degradation in the quality of the natural systems including creeks, bushland fauna. To respond to this, Council and other land managers must develop integrated strategies that address both causes and symptoms. This policy is targeted towards riparian systems that incorporate waterways and adjoining vegetation.

The 2003/04 Management plan includes an action to restore natural processes and flows to degraded urban streams and develop and implement planning policies to prevent channelisation and degradation of watercourses. This policy seeks to address this need while providing reference to broader economic, environmental and community values.

Purpose

The purpose of this policy is:

- To determine how riparian systems in the Ku-ring-gai local government area will be managed, valued and how they will function in the future, and
- To provide practical direction for achieving the vision in day to day planning, assessment and management of activities and developments that affect watercourses and riparian areas.

Aims

To fulfil the purpose of this policy, a number of goals have been identified including:

- Conservation, enhancement, and protection of existing riparian corridors, giving priority to those that are most intact, and those that pass through endangered ecological communities or threatened species populations.
- Rehabilitation and restoration of degraded, fragmented and highly modified riparian corridors that provide some of the functions of an intact system
- Restoration of the bio-link value of riparian corridors by creating greater lateral and longitudinal connections between isolated or narrow riparian zones.
- Conservation and enhancement of local biodiversity and habitat quality
- Prevention of further piping and channelling of watercourses and where possible reinstate existing piped or channelised watercourses to their natural form.

Policy outcomes

In accordance with the aims, this policy seeks to guide riparian management in Ku-ring-gai towards the following outcome areas: environmental, management, community and planning.

Environmental Objectives

- Flows better reflect natural or predevelopment conditions
- Reinstate the channel form of streams that have been piped or turned into channelised drains where appropriate and feasible
- The enlargement of watercourses to concentrate flood flows within the channel does not occur
- Natural watercourses and floodplain processes are maintained
- Riparian systems are continuous and connected

- The potential for bed and bank erosion is reduced
- Environmental function of urban creeks and riparian zones are enhanced
- The management of increased stormwater flows from urban areas will be reduced to reflect the range of flows in natural areas
- The water quality is of a standard that supports native aquatic and terrestrial ecosystems
- Edge effects at the riparian corridor/urban interface are appropriately managed
- The viability of riparian vegetation and habitats is enhanced and maintained
- Natural features, functions and biodiversity within watercourses and riparian corridors are protected

Management objectives

- Watercourse and riparian zone management is integrated with flooding, risk
- The proportion of pervious surfaces across all catchments are increased
- Works programs are prioritised based on current watercourse condition and needs, connectivity potential and scope to reduce future impacts
- management, stormwater quality and the sustainable use of water
- Watercourse and riparian areas are identified and mapped
- The condition or riparian systems is assessed and rated.

Community objectives

- The community is involved in effective and participatory partnerships and initiatives
- Awareness, knowledge, understanding and skills of the community in relation to watercourse and riparian systems through education and interactive participatory approaches.
- The Ku-ring-gai community report a 'sense of place' and identity to watercourses and riparian zones
- Aboriginal custom and spirituality relating to riparian systems generally and for specific sites are respected.

Planning objectives

- Planning and development control processes based on the outcomes of the stream mapping project are simplified and strengthened
- Complement current and future local environment plan and development control planning instruments.

BACKGROUND

Ku-ring-gai Council area is part of the Hornsby Plateau that has been eroded to form a series of major and minor catchments. The geomorphology of this area consists largely of three long connected flat-topped ridges(roughly defined by the Pacific Highway and Mona Vale Road) falling into a system of deeply incised gullies that drain into the three major stormwater catchments of Middle Harbour, Lane Cove River and Cowan Creek. Urban development has occurred mainly along the higher reaches where the land is flatter, the reverse to most other developed areas where development usually occurs on the flood plain.

The minor creeks and other watercourses move water from the ridge-tops to the major waterways including Middle Harbour Creek, Lane Cove River or Cowan Creek. Generally smaller tributaries (lower order streams) have naturally eroded down to bedrock depositing their sediments into the major waterways.

Creeks and aquatic habitats and the associated riparian environments are under threat from adjacent development particularly where there is a significant increase in the proportion of connected impervious surfaces through the construction of engineered drainage and waste water systems.

The impact of these systems and associated pressures have lead to accelerated erosion, increased localised flooding, significant sediment deposits into the major waterways, increased pollution, weed proliferation and loss of habitat and biodiversity. This in turn has altered the way the community uses and values the waterways as many creeks are now unfit for swimming or other forms of recreation.

Within Ku-ring-gai these changes are apparent within the streams and riparian systems that still exist (usually confined to the steeper bushland sections) as well as the receiving water bodies such as Sydney Harbour, the Hawkesbury River and local coastal beaches. Protection is required to help maintain water quality, habitat values and functions, connectivity for maintaining biodiversity and a sense of naturalness for the community.

Urban watercourses and riparian systems

From a development control perspective it is important to be able to define and identify the watercourses and riparian zones (refer to Appendices 1 and 2 and the Glossary). This will enable development to be designed and assessed with due consideration to its environmental impact.

Riparian zones include areas of land where the interaction between aquatic and terrestrial environments occur. There is no single definable distance for a riparian system as its extent is dependant upon a range of site-specific variables, such as flow variability, valley setting and sediment type. Many legal terms in regard to rivers and riparian zones are generally aimed at describing systems in rural or natural areas and do not necessarily transfer to modified urban environments.

The following provides a basic understanding of terms used in this policy .Generally the terms provide a broader definition than otherwise afforded by legislation. The terms rivers, creeks and streams can be considered interchangeable unless otherwise specified. See glossary for further definitions.

Function of Riparian Zones

A riparian zone is very important because it contains both fluvial and terrestrial systems and the transitional systems between them. Riparian zones provide a range of functions and services, including:

- habitat, foraging areas and bio-linkages for local and migratory species
- refuges for wildlife and biodiversity including common and threatened species
- a supply of food and habitat for aquatic life – maintaining healthy food webs
- assistance in maintaining local fisheries by providing fish passage and habitat
- repositories for seeds / propagules of plants for re-colonisation or revegetation of nearby remnants or parks etc.
- filtration and exchange of inputs such as air, water and nutrients
- soil, bank and channel stability
- flood mitigation and property protection
- an aesthetic visual buffer within highly developed urban areas
- a reduction in heat pollution of streams by shading waterways
- a buffer against pollutants
- visual buffers in developed areas
- areas for passive recreation
- areas for scientific research and educational activities

In many cases remnant riparian systems are often the only corridors connecting isolated natural areas such as national parks and other reserves in highly developed landscapes. They may also be the only remnants of natural ecosystems providing critical refugia for plant communities and local flora and fauna.

The riparian corridors within the Ku-ring-gai area contribute significantly to the green, leafy character adding to the natural aesthetics by providing stands of remnant vegetation that are extensively used for passive recreation. They can also have a favourable effect on property values within the area. Many of our bushland reserves contain high proportions of riparian corridor that provide important refugia for local wildlife and green corridors connecting to the three adjoining national parks and forming a visual break between the developed urban areas, and therefore have high local and catchment significance ecologically.

Riparian Zone Categories and Definitions

Riparian zones in Ku-ring-gai have been divided into three categories. These define the core functions and current and predicted environmental significance: environmental corridors; terrestrial and aquatic habitats; and bed and bank stability and water quality. These classifications follow from a study undertaken by the Department of Infrastructure, Planning and Natural Resources (DIPNR) for the Wollongong and parts of the Shellharbour local government areas (DIPNR 2004) and are used to define the current and foreseeable condition of the riparian environments.

For each of the areas the recommended minimum widths of the riparian zones are set to support the functionality identified by the objectives, as summarised in Table 1. Full details of the categorisation and definitions is provided in section Management of Riparian Lands.

Asset protection zones (also known as APZs or fire protection zones) have in part been allowed for in category 1 and 2 riparian zones as reflected by the **addition of 10 metres** to the buffer. This buffer can serve to both counter the edge effects of urban development and also

contribute to any required asset protection zone that may affect properties classified as a high or medium fire risk (pursuant to the bushfire prone land map for the Ku-ring-gai local government area pursuant to section 146(2) of the *Environment Planning and Assessment Act 1979*). If an APZ wider than 10 metres is required, or fire control access tracks are needed, the additional width or any fire control access tracks are not to be taken from a core riparian zone.

The methodology for determining the categories and classifications within Ku-ring-gai is included in Appendix 3. Further research is required to ensure the buffer widths set reflect the conditions and environmental needs of Ku-ring-gai.

Table 1: Summary of riparian management objectives

Minimum environmental objectives for riparian zones	Category 1 Environmental corridor (Red)	Category 2 Terrestrial and aquatic habitat (Green)	Category 3 Bank stability and water quality (Blue)
Identify whether or not there is a 'watercourse' present	Not applicable	yes	yes
Delineate riparian zone on a map and zone appropriately for environmental protection	yes	yes	not required
Provide a core riparian zone width greater than (not to be considered as part of the fire protection zones)	40 m from top of both banks	20 m from top of both banks	10m from top of both banks
Provide additional width to counter edge effects on the urban interface (can be part of the fire protection zone)	10 m	10 m	generally not required
Provide continuity for movement of terrestrial and aquatic habitat	yes (including piered crossings and elevated pathways)	yes (piered crossings preferred and elevated pathways)	where appropriate
Rehabilitate/re-establish local provenance native vegetation	yes	yes	where appropriate
Locate new services outside the core riparian zone wherever possible (sewer, water, electricity, gas, communication, transport etc...)	yes	yes	
Locate playing fields and recreational activities outside core riparian zone	yes	yes	
Treat stormwater runoff before discharge into riparian zone or the watercourse	yes	yes	yes
Detain stormwater runoff before discharge into CRZ or watercourse	yes	yes	yes

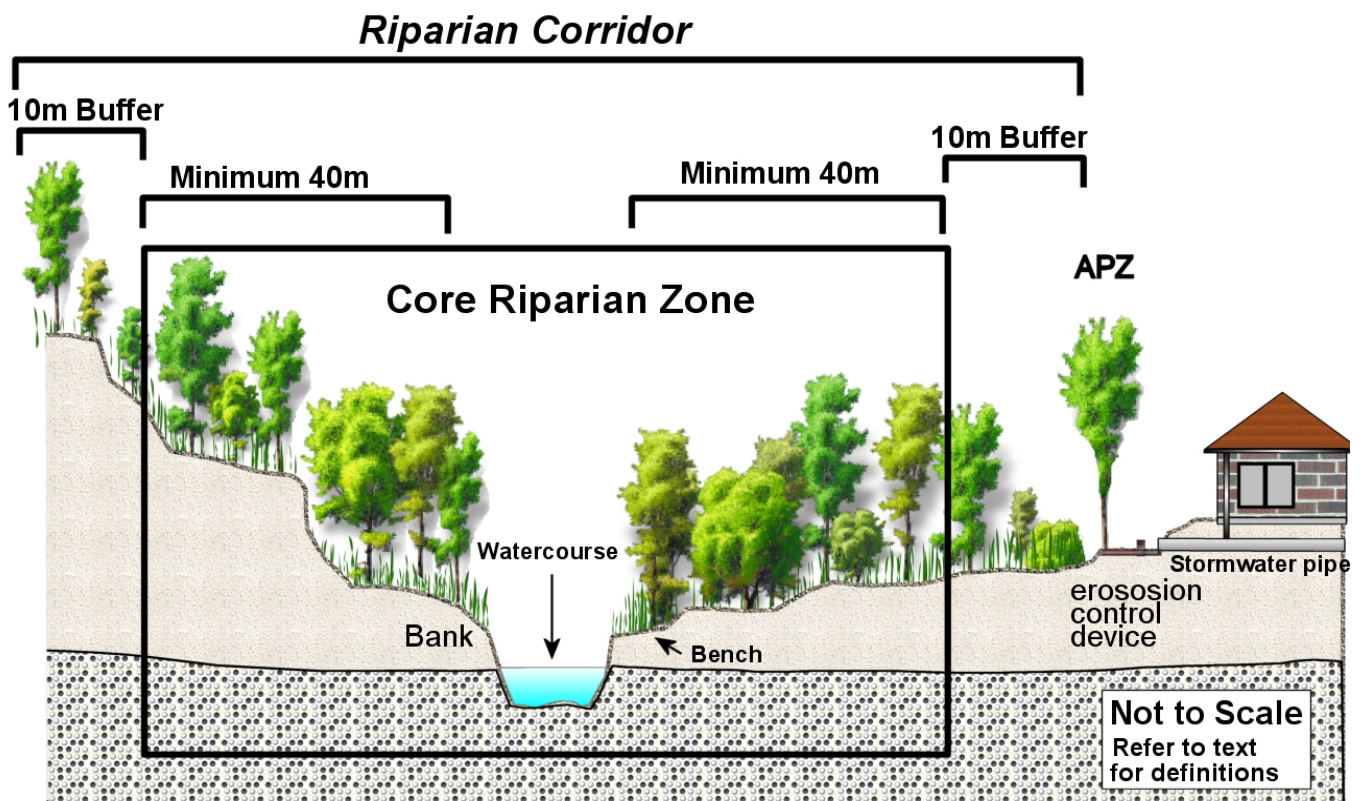
(source: modified from DIPNR 2004 p20)

Category 1 Environmental corridor

This category of riparian zone provides linkages for wildlife between Council reserves and larger adjoining areas of National Park and other catchments.

This category provides the greatest minimum width of riparian and buffer zone and typically includes the most intact riparian zones in remnant bushland areas. These areas would have the greatest value for (aquatic and terrestrial) habitat, wildlife movement and conservation, water quality maintenance, fluvial/geomorphic processes and stream stability. A critical role for this category is to provide as much habitat complexity and continuity as possible so that movement of genetic material, via pollinators (insects, birds and animals) and seed and plant material dispersal. This will minimise the risk of isolating plant and animal populations and hence their decline through reduced fitness and inbreeding depression, and is fundamental to conserving biodiversity. Figure 1 provides an illustration of the key terms for this category.

Figure 1 Environmental corridor

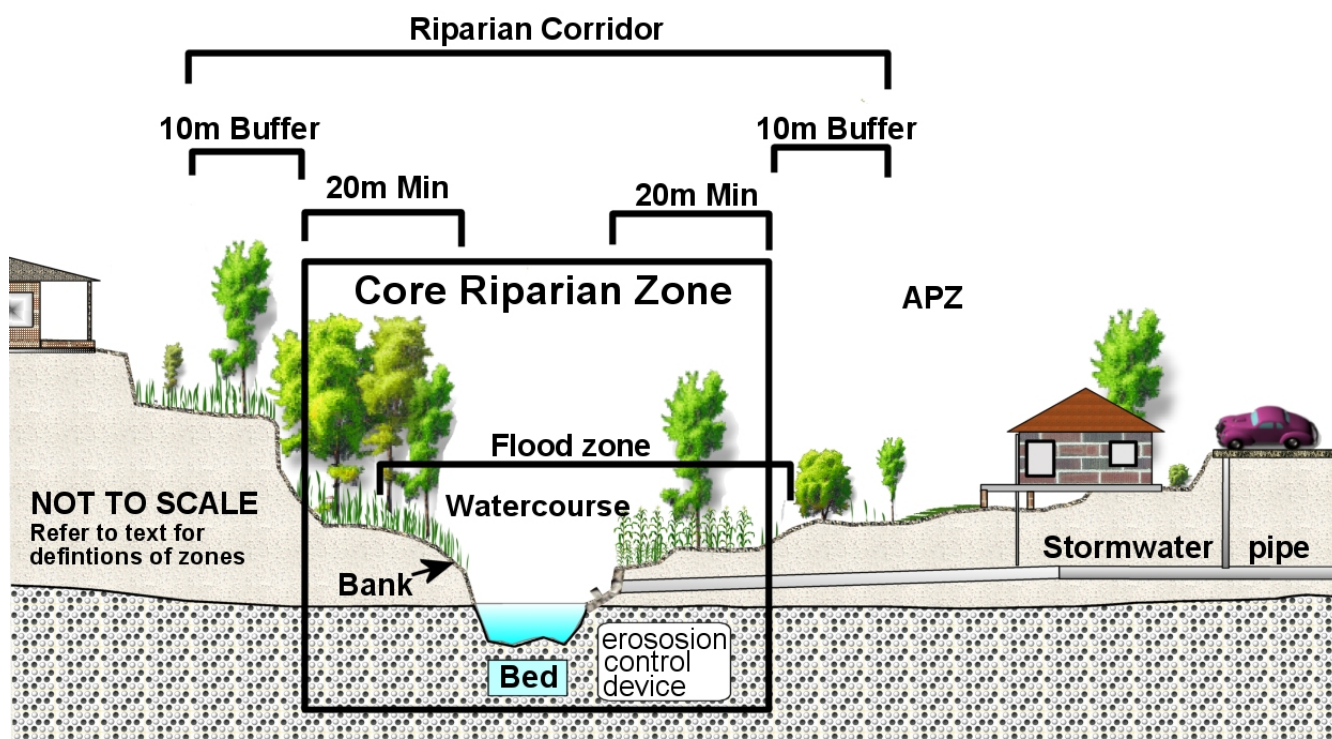


Category 2 Terrestrial and aquatic habitat

Riparian zones in this category would contain useful basic habitat and preserve the natural features of a watercourse.

The size and condition of these riparian zones and buffers is less than category I but fluvial geomorphic processes can still occur, they have good habitat quality (but lesser wildlife movement value) and will be useful for water quality maintenance. This is illustrated in Figure 2.

Figure 2 Terrestrial and aquatic habitat corridor



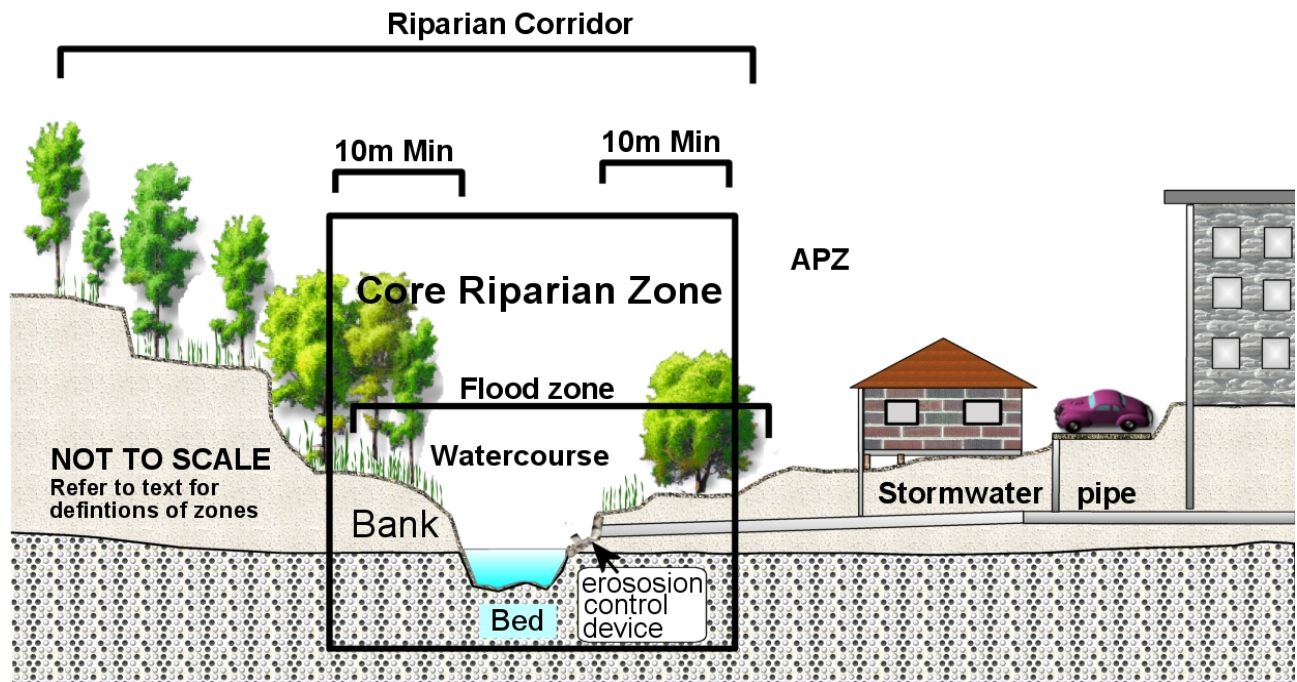
Category 3 Bed and bank stability/water quality

Riparian zones in this category would provide limited habitat value but provide an important contribution to the overall health of the catchment.

Typically these would be narrow zones along highly modified streams that may have no indigenous vegetation. These streams would be difficult, and in some cases not possible, to rehabilitate to a natural state.(refer to Figure 4). However, these areas will still contribute significantly to downstream water quality maintenance, and if piped or lined with concrete, would cause increased flooding and erosion potential.

Many of the riparian environments that fall into this category are on private property with the streams forming part of the landscape character of the garden. As a consequence the longer-term management of these systems will rely on strong partnerships with private property owners and the community.

Figure 3 Bed and bank stability and water quality riparian corridor



MANAGEMENT OF RIPARIAN LANDS

The management of riparian areas must reflect on multiple objectives, values and expectations of the community, environment and resources needed to undertake and sustain programs in the long term. In this respect there is a need to consider not only many stakeholders but the professions and interests they represent. The management principles described below are designed to guide integrated decision making that recognises that prescriptive rules do not always apply to environmental and ecosystem management.

Planning

- Adequate setbacks between riparian land and new development are to be provided
- Subdivisions (via perimeter roads) and new developments should front onto riparian land and not back onto it
- Services should be located on the outer edges of the riparian zone
- Limit crossings of the riparian corridor to maximise connectivity and where necessary use non-destructive techniques such as direct drilling for piped and piered crossing for roadways

Access

- Access to the watercourse should be located at strategic locations where the ecological integrity of the existing riparian vegetation and stream bed and bank stability is not compromised
- Walking and bike tracks should not compromise the integrity of the riparian corridor
- Opportunities for the community to connect with and explore creeks should be provided where appropriate

Fire

- The bushfire buffer zone is to be located within the defined limits for the development site and not located in the core riparian zone

Flooding

- Reduce the impact of flooding and flood liability
- Rehabilitation must be integrated into flood management studies
- Locate new stormwater infrastructure outside CRZ (and treat before discharge)
- No further piping, straightening or channelising open stream channels

Restoration and rehabilitation

- Stream bank stabilisation works should be where possible of a 'soft engineering' design or vegetation
- Locally native vegetation assemblages should be used that is capable of supporting the long term ecological function of the site
- Runoff should be treated to provide water quality at standard that supports riparian systems
- Water quality and quantity treatments should not compromise the core riparian objectives
- Channel forming flows should be managed to mimic the pre-development water cycle
- Retain and regenerate revegetation at key locations (such as confluences and 20 metres from top of bank)
- Prioritise works to improve connectivity and continuity of riparian vegetation

Category 1 - Environmental Corridor

The objective of this category is to maximise the protection of terrestrial and aquatic habitat by:

- providing a continuous corridor for the movement of flora and fauna species through the catchment and beyond the catchment
- providing extensive habitat (and connectivity between habitat nodes) for terrestrial and aquatic fauna
- maintaining the viability of native riparian vegetation
- protecting in-stream aquatic vegetation
- providing watercourse bed and bank stability
- avoiding problems from contamination, salinity or acid sulphate soils
- protecting water quality generally
- facilitating the dispersal of genetic material and hence maintenance of biodiversity
- managing edge effects at the riparian/urban interface.

This is achieved by providing a continuous riparian corridor that:

- provides linkages to stands of remnant vegetation where applicable
- provides a "core riparian zone" (CRZ) wider than 40 metres from the top of the bank
- provides sufficient (additional) riparian corridor width based on geomorphological and ecological considerations
- provides a suitable environmental protection zoning for riparian land that recognises its environmental significance
- restores and rehabilitates the riparian zone with local provenance native vegetation
- ensures vegetation in the CRZ is at a density, species richness and of community characteristics that would occur naturally
- manages the edge effects at the riparian/urban interface

- locates new services (power, water, sewerage, and water quality treatment ponds) outside of the CRZ (encroachment into the non core riparian area may be possible if its integrity is maintained and the impact on riparian functions is minimal)
- provides a suitable interface between the riparian area and urban development (roads, playing fields, open space) to minimise edge effects
- minimises the number of road crossings
- maintains riparian connectivity by using pierced crossings and not pipes or culverts
- minimises the impact of walkways, cycleways and general access points by using ecologically informed design principles
- locates flood compatible activities (playing fields) outside of the CRZ (encroachment into the non core riparian area may be possible if its integrity is maintained and the impact on riparian functions is minimal)
- manages urban development to avoid increasing the impact of salinity on the landscape and watercourse
- provides lateral connectivity for in-stream function.
- ensuring channel stability
- protects the natural values within the channel
- ensures all stormwater discharge is treated outside of before it enters the CRZ
- ensures that the requirements of any Contamination Management Plan, Salinity Management Plan or Acid Sulphate Soils Management Plan are strictly adhered to.

Category 2 - Terrestrial and Aquatic Habitat

The objective of this category is to maintain and restore the natural functions of a stream and its aquatic and terrestrial values by:

- preserving the viability of native riparian vegetation
- providing suitable habitat for terrestrial and aquatic fauna
- managing the impacts from saline affectation
- providing bank and bed stability
- protecting water quality
- protecting in-stream aquatic vegetation.

This is achieved by

- providing a 'core riparian zone' (CRZ) with a width greater than 20 m from the top of the bank
- providing, wherever possible, sufficient (additional) riparian corridor width based on geomorphological and environmental considerations
- restoring/rehabilitating the riparian area with local provenance native vegetation
- ensuring vegetation in the CRZ is at a density that would occur naturally
- providing, whenever possible, appropriate zoning that recognises the environmental significance of the riparian land
- minimising the number of road crossings
- ensure road crossings are designed to maintain riparian connectivity
- providing a suitable interface between the riparian area and urban development (roads, playing fields, open space) to minimise edge affects
- minimising the extent of open parkland adjacent to a stream
- locating services (power, water, and sewerage water quality treatment ponds) outside of the CRZ. Encroachment into the riparian area may be possible if the impact on riparian functions is minimised
- managing urban development to avoid increasing the impact of salinity on the landscape and watercourse.
- providing lateral connectivity for in-stream function.
- ensuring channel stability

- protecting the natural values within the channel
- ensuring all stormwater discharge is treated before it enters the stream.

Category 3 -Bank Stability and Water Quality

The objectives of this category is to maintain and restore as much as possible the natural functions of a stream though:

- providing bank and bed stability
- protecting water quality
- protecting native vegetation
- protecting in-stream aquatic vegetation.

This is achieved by:

- emulating wherever possible a naturally functioning stream
- ensuring channel stability
- protecting the natural values within the channel
- providing lateral connectivity for in-stream function
- using pipes or other engineering devices as a last resort
- ensuring all stormwater discharge is treated before it enters the stream.

Policy and planning

The three categories of riparian areas and their associated widths across the local government area include: environmental corridor; terrestrial and aquatic habitat, and bank stability and water quality.

The location of these areas is shown in Appendix 4, Map of Riparian Systems in the Ku-ring-gai Local Government Area

Under planning legislation, it is intended that the Map of Riparian Systems and this policy will be referenced in the following planning instruments:

Ku-ring-gai Planning Scheme Ordinance

Development Control Plans

- 38 Residential Development
- 47 Water Management
- 55 Ku-ring-gai Multi Unit Housing

From a development control perspective, the defining of the riparian zones as shown in the Map of Riparian Systems in the Ku-ring-gai Local Government Area, assessment of development within these areas would be considered as Integrated Development, pursuant to the *Environmental Planning and Assessment Act 1979*. This would entail concurrent approval from the appropriate consent authority, in this case the Department of Infrastructure, Planning and Natural Resources. This would enable an expansion of the existing riparian systems as recognised and defined under the *Water Management Act, 2000* and the *Rivers and Foreshores Improvement Act 1947* and their associated Regulations.

GLOSSARY

Catchment¹ is the land area that drains into a stream; an area of land that contributes water runoff to one specific delivery point.

Channelise², Channelised - refers to the deliberate modification of natural watercourses typically widening and deepening the stream. In this process streams may be modified by changing the direction or straightening the channel's course and are often paved with concrete or other hard surfaces.

Edge effects - in this case refers to the processes that occur at or near the interface between urban areas and natural reserves, such as bushland. Edge effects caused by urban areas generally have negative impacts upon natural systems resulting in a degraded zone between the urban area and the core of the reserve. The processes and factors that impact upon natural systems include; pollution such as fertilisers and pesticides, invasion by introduced plants, predation by domestic animals, changes to natural water flows, accelerated erosion and human encroachment. Edge effects can reduce the effective size and habitat value of natural areas.

Floodplain³ - A flat tract of land that regularly floods bordering a river, mainly in its lower reaches, and consisting of alluvium (sediment) deposited by the river." (Whitten & Brooks, 1986)

Fluvial - The processes and artefacts of waterbodies such as rivers or pertaining to creeks streams or rivers or flowing water, Or of or pertaining to streams; produced by stream action.

Geomorphology² - The study of physical landscapes (landforms) and the processes that create and mould them.

Instream - refers to features or processes that occur within a stream, IE between its banks.

Remnant vegetation - is patches of naturally occurring plant communities that have survived clearing. The structure of these remnants may or may not have all the original plant layers present.

Restoration Restoring disturbed land to the conditions which existed at the site before any disturbance occurred.

Rehabilitation restore to good condition or capacity. Not necessarily to original condition

Riparian vegetation – *plants and plant communities associated with riparian zones.*

Riparian zone is the area of land that forms the banks of a waterbody and the adjacent land it directly affects, including the vegetation.

Riparian corridor is the area of land including the riparian zone and associated buffers zone (see table 1). It would include surrounding reserves of bushland or remnant plant communities that may not be considered as typical riparian vegetation but are important buffers to the core riparian zone.

Watercourse (including a **river, stream or creek**) is any natural drainage line that flows constantly or occasionally within a definable channel or system of discontinuous channels (eg "chain-of-ponds") or watercourse/wetland systems, or any watercourse that was once natural and has been modified or diverted.

Waterbody is a natural lake, pond, wetland, swamp, saltmarsh, watercourse (as defined above), river, stream, creek, lagoon or estuary that may be modified by human activities.

¹ *From United States Geological Survey website glossary*

www.usgs.gov

² *From United States Environmental Protection Agency, Watershed Academy website glossary*

<http://www.epa.gov/owow/watershed/wacademy/wam/glossary.html>

³ *Whitten, D.G.A and Brooks, J.R.V (1986) The Penguin Dictionary of Geology*

APPENDICES

Appendix 1 Discussion of Key Terms

Given the difficulty in applying the definitions of the key terms affecting the management of riparian systems, this section seeks to provide further discussion to enable some clarity as to when and where the key terms apply in the modified landscape. As with the terms creeks, rivers or streams, riparian zones, riparian lands, riparian systems and riparian corridors are to be treated as interchangeable unless otherwise stated.

The starting point for a discussion on managing water needs to clearly establish what physical processes determine if the flow of water is behaving as a river and secondly when these processes are sufficient evidence to give a stream legal status.

From a geomorphological perspective a river must have a well-defined bed and banks and lay down water-deposited material (Erskine 2001). Within and adjacent to this will be a riparian zone that will have a number of geomorphic and ecological features and functions such as a refugia for flora and fauna communities, providing stable stream banks, and facilitating exchanges of materials between the stream and floodplain during floods.

The flow of water within a river can also be used to assist the classification. Typically flow is defined in the geomorphological literature as perennial, intermittent or ephemeral. These flow types incorporate the following features.

Perennial streams flow throughout the year. For most of the time the flow would be in the form of base flow or delayed flow except for quick flows following rainstorms.

Intermittent streams flow seasonally or when the water table is at a maximum level. The flow may occur for several months each year but will seldom occur when the water table is lowered during the dry season.

Ephemeral streams are transitory and flow for only a short time during and immediately after a rainstorm. Ephemeral streams generally make up the largest proportion of the length of natural stream networks and perform unique functions that are essential to the ecological health of downstream reaches and waterbodies.

These subtle but clear differences are needed in order to determine whether the stream in question has legal or other status.

Schedule 3 of the Environmental Planning and Assessment Regulation (2000) defines a **river** or **stream** to be a water body 'whether permanent or intermittent, flowing in a natural channel with an established bed or in a natural channel artificially modifying the course of a stream'. This is consistent with *section 77A of the Environmental Planning and Assessment Act 1979* that makes reference to only permanent or intermittent streams in respect to whether the development is designated and therefore relevant environmental planning instruments or regulations.

The *Water Management Act 2000* defines a river to include:

- any watercourse, whether perennial or intermittent and whether comprising a natural channel or a natural channel artificially improved, and
- any tributary, branch or other watercourse into or from which a watercourse referred to in paragraph (a) flows, and
- anything declared by the regulations to be a river,
- whether or not it also forms part of a lake or estuary, but does not include anything declared by the regulation not to be a river.

The obvious gap between legislation and science is the lack of recognition of ephemeral streams. While this stream type may exhibit one or many of the prerequisite geomorphological features it nevertheless forgoes many of the legal protections that are otherwise afforded to perennial and intermittent streams.

In an urban context, many of these lower order streams have been substantially modified if not entirely replaced by engineered drainage systems. With this has been the consequent loss of the riparian zone. Coupled to this modification in the urban landscape, the natural flow regime has been substantially altered such that peak flows are much greater and base flows can be all but non-existent. This can effectively shift many streams from intermittent to ephemeral in classification thereby losing not only their ecological and geomorphological functions but also some degree of legal recognition.

Riparian Zones

Lovett and Price (1999) defined a **riparian zone** as 'any land which adjoins, directly influences, or is influenced by a body of water.' Expanding on this Tubman and Price (1999) defined riparian zones as land which adjoins or directly influences a body of water, including:

land immediately alongside creeks and rivers including the banks;
ephemeral gullies and depressions
areas surrounding lakes; and
wetlands on river floodplains which interact with the river in times of flood

Other researchers have included a broader environmental definition to include other biological and physical factors whereby it encapsulates a 'three-dimensional ephemeral of interactions that include terrestrial and aquatic ecosystems extending into groundwater, above the canopy and across the floodplain' (Very and Palik 2000).

A **riparian corridor** in this context is considered to be the core riparian zone plus any associated buffer zone. While the **buffer zone** is the area adjacent to the riparian zone that is required to protect the riparian zone to ensure its long-term viability. Within modified environments, the width of the buffer zone can relate to the objectives that are sought for the stream be they environmental, social, economic or combinations thereof. The process of setting corridor widths in this document relate primarily to protect, restore or enhance the environmental values, that also gives consideration to economic viability (that may be expressed as developable land value) and social values (that may express the intrinsic value of the landscape sought by the community).

The definition of the **stream bank** or **highest bank** (being the commencement point for the riparian zone) is also poorly defined in legislation and is complicated in modified environments. The highest bank is often associated to the bank full flow that corresponds to discharges with a recurrence interval of approximately 1 to 2 years or the flows that do most of the 'geomorphic work' (sediment transportation, erosion and deposition) (Knighton 1998). However in urban environments the peak flows resulting from the 1 to 2 year recurrent storms are much greater than in natural systems, development in the flood plain that has modified natural benches and the engineering of stream banks all contribute to a blurring of where the bank was, is or should be. For the **purpose of this policy** the stream bank or highest bank shall be determined as the intersection of the bank full condition with the floodplain.

Appendix 2 Setting riparian zones and buffer widths¹

This has been sourced from DIPNR (2004).

The management recommendations for Washington USA riparian habitats developed by the Washington Department of Fish and Wildlife (Knutson and Naef, 1997) represents one of the most comprehensive reviews available of riparian corridor dimensions required to maintain a range of ecological processes. Over 1500 references dealing with riparian corridors and buffer zones were reviewed in the process of developing these recommendations. While some of the riparian buffer requirements for wildlife are specific to North American species, suggested widths for processes such as temperature regulation, generation of large woody debris, sediment and pollution filtration transcend national boundaries. Table 1 provides a summary of the buffer widths from the top of bank required on each side of the stream channel for maintenance of a range of riparian zone functions.

Table 1 Range and average widths from top of bank required to maintain a range of riparian zone functions

Riparian Habitat Function	Range of reported widths in metres	Average of reported widths in metres
Temperature control	11 – 46	27
Large woody debris	30 – 61	45
Sediment filtration	8 – 91	42
Pollution filtration	4 – 183	24
Erosion control	30 – 38	34
Microclimate maintenance	61 – 160	126
Wildlife habitat	8 – 300	188

(source Knutson and Naef, 1997)

Table 2 is a comparison of suggested riparian widths from a range of sources from the US and Australia. The data for North America was compiled by Ward *et al*, 2002 and the following should be noted:

Key points for US data include:

- The riparian widths for northern America are subject to snow and ice, and large mammals (bear and deer) amongst the wildlife.
- The widths adopted by Washington State are designed first to retain riparian function to maintain in-stream habitat for fish and aquatic wildlife and secondly to provide sufficient riparian habitat for terrestrial species.
- The adopted widths are measured from the top of each bank. Where the 100 year floodplain exceeds these widths, the riparian width extends to the outer edge of the 100 year floodplain.
- Larger widths may be required where priority species occur.
- Add 30 m to the outer edge on the windward side of riparian areas with high blowdown potential.

¹ DIPNR (2004) Riparian Corridor Management Study : Covering all of the Wollongong Local Government Area and Calderwood Valley in the Shellharbour Local Government Area. Prepared for Wollongong City Council by Department of Infrastructure Planning and Natural Resources, March 2004. pp 11-14

- Extend widths at least to the outer edge of unstable slopes along waters in soils of high mass wasting potential.

Key points for Australian data include:

- The DIPNR minimum riparian width consists of a core riparian zone (either 20 m or 40 m depending on objective), measured from the top of each bank, plus a 10 m vegetated buffer zone. Larger widths may be required depending on local geomorphology or ecology.
- A (bushfire) asset protection zone is not included in these widths.
- The wildlife corridor of 150 m is from a discussion paper only, prepared for Wollondilly Shire Council.
- What is noteworthy from Table 1 is that the DIPNR study (2003) has adopted possibly the absolute minimum width to cater for the effective functioning required to achieve the objectives.

Table 2: Recommended riparian widths from a variety of sources in the US and Australia

Function	Study	Details	Width (m)	Average	DIPNR RCMS
Riparian Habitat Area	Washington State (2001)	Based on nearly 1500 reviews	46 – 76 or 100 yr floodplain	61	50
	Wollondilly Shire Council (1998)	Maintenance of ecological values	50 - 100	75	
	DIPNR (2003)	Environmental corridor Category 1 stream	40 plus 10 vegetated buffer		
Wildlife Protection	Rabeni (1991)	Fish, amphibians, birds	8 – 61		50
	Cross (1985)	Small mammals	9 - 18	62	
	Brown et al (1990)	Provision of food, water, cover	91 – 183		
	Wollondilly Shire Council (1998)	Wildlife corridor	100 - 200	150	
Water Quality	DIPNR (2003)	Environmental corridor Category 1 stream	40 plus 10 vegetated buffer		10
	Ahola (1990)	General improvements	49		
	Pinay & Decamp (1988)	As above	1 – 2	33	
	Correll & Weller (1989)	Nitrate control	18		
	DIPNR (2003)	Nutrient control Category 3 stream	10 no buffer		
	NSW Native Vegetation Reform Implementation Group (Wentworth Group) (2003)	Major rivers	50 – 100	75	
		Creeks	20 – 50	35	
		Streams	10 - 20	15	
Sediment control	Peterjohn & Correll (1984)	Nutrient control	18		10
	DIPNR (2003)	Category 3 stream	10		
Bank Stabilization	Ontario Ministry Agriculture (1998)	Agricultural ditch bank stabilization	3		

Function	Study	Details	Width (m)	Average	DIPNR RCMS
	DIPNR (2003)	Category 3 stream	10		10
Urban stream buffer	Schueler (1995)	Survey of 36 buffer programs	6 – 61	33	30
	DUAP (1999)	Vegetated buffer from urban development	100 existing bushland 40 elsewhere	40	
	Illawarra Commission of Inquiry (1999)	Vegetated buffer from urban development	40		
	Wollongong City Council (2000)	DCP No 99/7 vegetated buffer from urban development	40		
	DIPNR	Terrestrial habitat Category 2 stream	20 plus 10 vegetated buffer		
Native Vegetation Conservation	Benson & Howell (1993)	Conservation of native riparian vegetation	50		

Appendix 3 Methodology

This section provides an outline of the process and techniques employed to map and categorise the streams in Ku-ring-gai LGA using the categories set out above.

Categorisation process

Stage 1

There was recognition of the need to have clear definitions and management guidelines for the protection of creeks and riparian zones. Preliminary mapping of creeks had been carried out previously for other purposes including the Ku-ring-gai Council Environmentally Sensitive Areas (ESA) study.

Stage 2

This entailed a preliminary desktop study and workshop involving Council's Open Space and Technical Services staff, DIPNR and Macquarie University. Streams and their riparian corridors were classified into the three categories based on:

- the connectivity and continuity of riparian corridors and natural bushland (for example linking Council bushland reserves and adjoining National Parks)
- the continuity of open / natural stream channels,
- relative length and location sequence of piped sections,
- current and likely future housing and other development
- potential for riparian corridor maintenance, re-instatement or restoration
- land uses zoning
- aquatic ecosystem condition
- native vegetation condition, as reflected by the presence and density of weeds
- habitat value
- presence of threatened species, populations or plant communities.

When assigning categories, consideration was given to potential for establishing environmental corridors in particular to maintain and if possible re-create bio-links between bushland remnants including Lane Cove, Garrigal and Ku-ring-gai Chase National Parks and other key bushland areas such as Sheldon Forest and Dalrymple Hay Nature within the urban area.

Data used in the determination included aerial photographs; maps of streams, 10m contours, pipes, local flooding, easements, threatened communities and species and their habitat. Classifications were then transferred to Council's GIS.

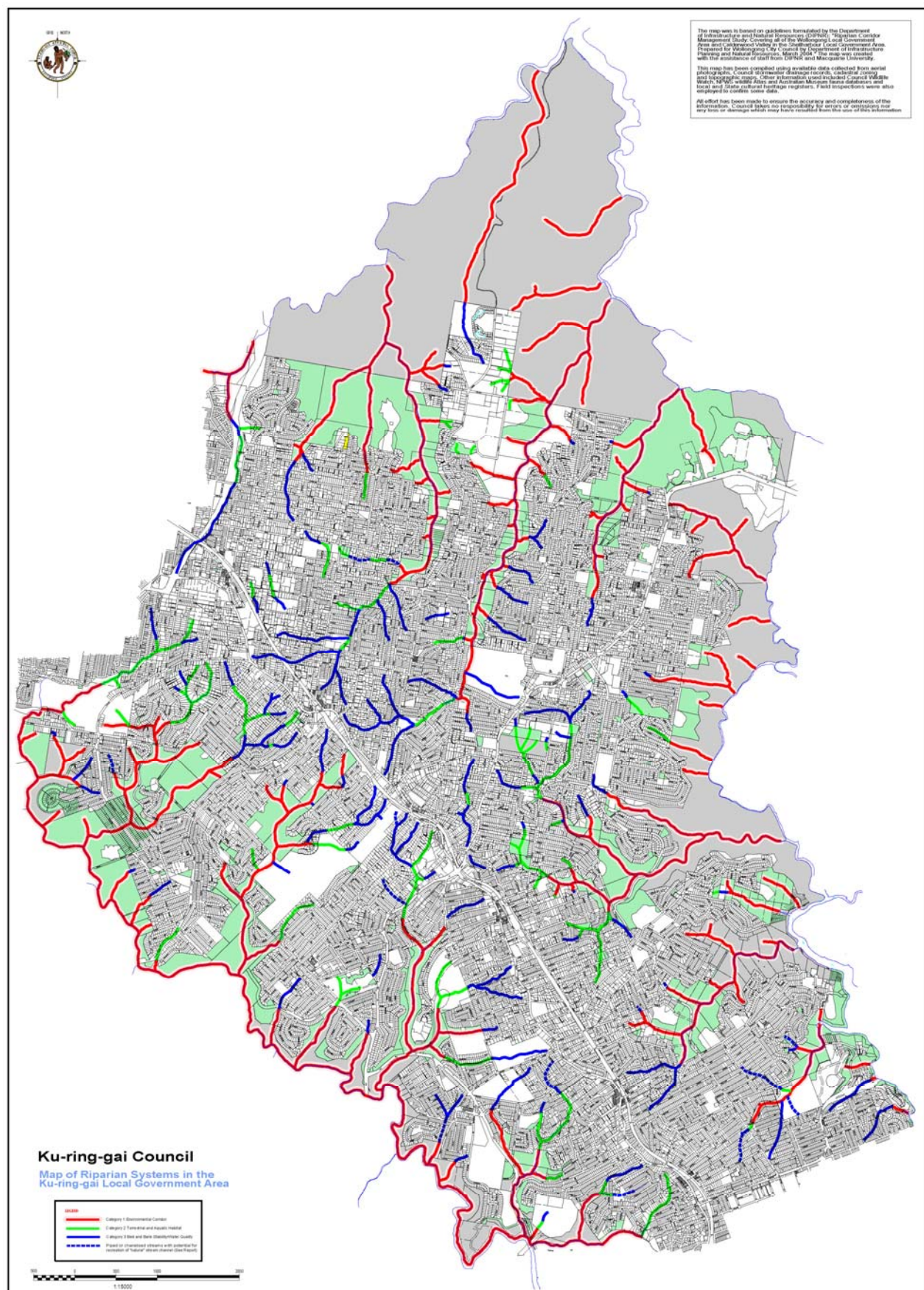
Stage 3

Field investigations were undertaken to verify the information from the desktop mapping process. This stage was also used to confirm or change the category of several streams and riparian zones that could not be confidently assessed in the desktop study. All changes identified were then mapped as a new layer on the GIS system for comparison and documentation of the whole process.

Stage 4

This involved an analysis of the drainage network including flooding data that was further verified by field inspections. Known piped sections that have no potential for riparian reinstatement were removed. Sections of pipes that have a reasonable potential for re-instatement to a semi-natural open channel were also identified and added to the third GIS layer as dotted blue lines.

Appendix 4 Map of Riparian Systems in the Ku-ring-gai local government area



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1 BERRILLEE STREET, TURRAMURRA - SUPPLEMENTARY REPORT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To address matters raised at the site inspection of 30 October 2004 and for Council to determine a development application for a detached double carport, front fence and additions and alterations to an existing dwelling.
BACKGROUND:	Council at its meeting of 19 October 2004, deferred consideration of the application pending a site inspection.
COMMENTS:	The matters raised at the site inspection are addressed in this report.
RECOMMENDATION:	That the additional information be noted, and that the application be refused.

PURPOSE OF REPORT

To address matters raised at the site inspection of 30 October 2004 and for Council to determine a development application for a detached double carport, front fence and, additions and alterations to an existing dwelling.

BACKGROUND

An assessment report was prepared and considered by Council on 19 October 2004, recommending refusal of the application. Council resolved to defer determination pending a site inspection. The site inspection was carried out on Saturday, 30 October 2004. The following matters were raised at the site inspection and are addressed accordingly:

1. Fencing - front and side

Subsequent to the applicant indicating on site that they wished to make amendments to front and side fencing, Councillors requested further information regarding the proposed front fence design and the design of the side fence along the common boundary with 3 Berrillee Street.

The applicant has submitted amended plans dated November 2004 and referenced DA1 A – DA5 A, prepared by Jo Wilmore Designs. It is now proposed to construct a front fence with a height of 1.4m to 1.7m, comprising rendered masonry piers, with 800mm powder coated metal palisade infill panels. The front pedestrian entry and driveway gate will comprise the same metal infill panels to a height of 1.3m.

The front fence, as originally proposed, comprised 1.4m to 1.7m high, rendered masonry piers, with timber picket infills and gates. The timber pickets had an arched alignment, whereas the metal palisade infills as now proposed, have a level alignment.

The original proposal did not indicate any side fencing between 1 and 3 Berrillee Street. The amended plans indicate that a 1.2m high, metal fence, matching the front fence, is now proposed along that part of the boundary between the subject dwelling and front boundary.

The proposed fencing detail for both the front (southern) boundary and the side (western) boundary is appropriate when viewed within the context of the wider streetscape. Fencing design and height vary within Berrillee Street, with the majority of properties having solid fencing with approximate heights of 1.8m to 2.4m. Several sites have low level or no fencing, including the subject site.

Several properties to the west have fences recessed from the front boundary to accommodate low level landscaping along the frontage. Subject to a setback of 600mm from the front boundary of the subject site to accommodate low level landscaping, the proposed fencing as amended, is appropriate within the context of existing fence detail within the street.

CONCLUSION

The proposed amendments do not alter the non-complying aspect of the proposal in relation to the location of car parking forward of the building line and the subsequent undue impact on streetscape amenity. Accordingly, having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be unsatisfactory. Therefore, it is recommended that the application be refused.

RECOMMENDATION

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

THAT Council, as the consent authority, refuse development consent to Development Application No. 0535/04 for a detached dual carport and additions and alterations to an existing dwelling on land at 1 Berrillee Street, Turramurra, as shown on plans referenced Drawing No. DA1 A to DA5 A, dated November 2004, drawn by Jo Willmore Designs for the following reason:

Streetscape

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

Particulars

- (i) The proposed carport being located 9.4m from the street fails to comply with the minimum front setback requirement of 12m as prescribed by clause 5.1.3 of DCP 38.
- (ii) The proposed carport fails to comply with clause 5.5.3 of DCP 38 in that it provides carparking forward of the building line where it is possible to provide parking behind the building line.

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development & Regulation

Attachments: **Council report 19 October 2004**

COUNCIL ADOPTION OF KU-RING-GAI MULTI-UNIT HOUSING DEVELOPMENT CONTROL PLAN NO 55 - PACIFIC HIGHWAY / RAILWAY CORRIDOR AND ST IVES CENTRE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To report to Council on the public exhibition and consultation of Draft Ku-ring-gai Multi-Unit Housing Development Control Plan (DCP) No 55 - Pacific Highway / Railway Corridor and St Ives Centre and to present a final amended DCP to Council for consideration for adoption.
BACKGROUND:	Draft DCP 55 was placed on public exhibition from 4 August 2004 until 17 September 2004. During the exhibition there were a number of significant issues raised with elements of the Draft DCP. Following a report to Council on 23 November 2004, Council endorsed, in principle, a number of key amendments to the draft DCP.
COMMENTS:	<p>The proposed amendments to the draft DCP that Council endorsed "in principle" at its meeting on 23 November 2004 have been incorporated into the DCP. There have also been several other amendments to the draft DCP, addressing other issues raised during the exhibition and consultation which were not included in the previous report to Council.</p> <p>It is proposed that a comprehensive review of the DCP be conducted after 6 months of implementation to identify any issues arising and any relevant future amendments.</p>
RECOMMENDATION:	That Council adopt the recommendations A to D as outlined in this report for "Ku-ring-gai Multi-Unit Housing Development Control Plan No 55 - Pacific Highway / Railway Corridor and St Ives Centre", as included in Attachment A" to this report.

PURPOSE OF REPORT

To report to Council on the public exhibition and consultation of Draft Ku-ring-gai Multi-Unit Housing Development Control Plan (DCP) No 55 - Pacific Highway / Railway Corridor and St Ives Centre and to present a final amended DCP to Council for consideration for adoption.

BACKGROUND

On 27 July 2004 Council adopted the revised Draft Ku-ring-gai Multi-Unit Housing Development Control Plan No 55 for public exhibition. Draft DCP55 had been reviewed and significantly revised to provide consistency with the gazetted LEP 194 and the design quality principles of SEPP 65.

The Draft DCP 55 was placed on public exhibition from 4 August 2004 until 17 September 2004. During the exhibition period extensive consultation was undertaken including community and developer forums. Approximately 140 written submissions were received. A summary of the issues raised in the submissions and comments on the issues is included as **Attachment B** to this report.

During the exhibition there were a number of significant issues raised with elements of the Draft DCP. Following a report to Council on 23 November 2004, Council endorsed, in principle, the following key amendments to the draft DCP:

Issue: Development in Urban Conservations Areas (UCAs).

The section be re-written to make it clear that the information on UCAs is included to define existing and desire of future character of an area and to provide clearer performance standards related to character which includes reference to built form character and landscape character.

Issue: Building envelopes and 75% FSR limitation.

Removal of the building envelope and 75% FSR control contained in Section 3.3 to be replaced with:

- i. *appropriate controls for building articulation and building design and minimum balcony sizes:*
- ii. *reference to relevant standards for other internal circulation elements specified in the NSW Residential Flat Design Code.*

Issue: Setbacks.

- i. *The following objectives be adopted for building setbacks:*
 - *To provide space between sites that enable effective landscaping, tree planting between buildings, separation of buildings for privacy and views from the street to rear landscaping.*
 - *To achieve a high level of residential amenity with adequate separation between buildings on different sites for privacy, sun access, acoustic control and natural ventilation.*
 - *To create a consistent urban form providing definition of the street edge*

- ii. *The following setback controls be adopted*

- *The building must be setback the following distances from the boundary.*
 - a) *Side boundary setback: 6m;*
 - b) *Street boundary setback where street width is greater than 12m: Setback zone between 10-12m from boundary, no more than 40% of this zone may be occupied by building footprint;*
 - c) *Street boundary setback where street width is less than 12m should be reduced;*
- *The setback extends both above and below ground and includes car parking, storage, detention tanks, or the like.*
- *Design guidelines be provided for driveways into car parks so as to maintain space for deep soil planting in setbacks.*

In relation to the proposed setback controls, Council also resolve:

“That sites on streets where a 35% building footprint is achievable with setbacks greater than 12 metres and where the site can support a building zone large enough to enable good design the setbacks be increased to 13 – 15 metres.

That the draft DCP identify locations where this control will be applied”

Issue: Private Open Space in front setback.

That the following controls be implemented in relation to private courtyards within the front setback:

- i. *ground floor private terraces/courtyards must be setback 8m from the street boundary to allow for deep soil planting within common area.*
- ii. *No more than 15% of the front setback zone is to be occupied by private terraces/courtyards.*

Issue: Top floor design and 35 degree control

That the 35 degree top floor control contained in Section 3.1.1 be deleted and replaced with the following control:

- *The top storey of a residential flat building of 3 storeys or more must be setback from the floors below to reduce visual bulk, promote articulation and prevent any increased overshadowing.*

Issue: Building Length

That the maximum 36m building length control contained in Section 3.2 of the draft DCP be supplemented with the following:

- *To provide an articulated façade, a single wall plane shall not exceed 81 sqm in area. Adjacent plane must steep a minimum of 600mm.*

That an appropriate diagram be inserted to explain the control.

Issue: Balcony sizes

That the following controls be adopted to apply to private open space provision:

- *Units are to include at least one outdoor living space such as a balcony, deck or terrace in accordance with the following rates:*
 - *1 Bedroom: 10sqm minimum*
 - *2 Bedroom: 12sqm minimum*
 - *3 + Bedroom 15sqm minimum*
- *At least 10sqm of the required outdoor living space should be directly accessible from the main living areas. This space should have a minimum dimension of 2.4m*
- *Ground level apartments are to have terrace or private courtyard areas totally 25sqm.*

Issue: Projection of Basement car parking beyond building footprint

That the control in Section 4.1 that limits the projection of basement car parking to no more than 10% of the building footprint be deleted.

Issue: Limit of 50% of visitor parking outside Basement

That the control in Section 4.1 that requires that at least 50% of visitor parking be provided within the basement be deleted.

That a clause be included in the DCP to indicate that visitor parking provided at ground level not be counted as deep soil planting area.

Issue: Requirement for 70% of apartment to be visitable

Introduce an additional control in Section 3.8.1 that requires ground floor apartments in residential flat buildings without lifts to have a visitability rate equivalent to that for wheelchair accessibility for self contained dwellings under SEPP (Seniors Living) 2004.

In addition to the above amendments to the draft DCP, Council also resolved on 23 November :

- C. *That when DCP 55 is returned to Council for adoption, the report and the draft include recommendations for appropriate FSR's for development in the residential 2d3 zone.*
- D. *That development adjacent to heritage items remain as in Draft DCP 55.*

COMMENTS

The proposed changes to the draft DCP endorsed by Council on 23 November 2004 have been included in the final version of the DCP contained in **Attachment A**. These amendments have been subject to the following consideration.

Increased Front Setbacks for Nominated Streets

Additional site testing has been undertaken to identify appropriate sites that could support a building zone large enough to enable the setbacks to be increased to 13 – 15 metres, in accordance

Item 22

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with Council's resolution. This testing concluded that the additional setbacks could only be efficiently achieved on sites with a width of at least 35 metres and a depth of over 45 metres and still achieve 35% building footprint and building depths of no greater than 20m. However, it was also demonstrated that sites with a depth of between 55 and 70 metres, would find these setback problematic, as they may require the development of a second building at the rear of the site if they were to comply with the desirable building depths, and provide appropriate separation between these buildings.

There are many factors that need to be taken into consideration when assessing whether the setback is appropriate:

- a) The nature of the street. When considering the size of the dominant setback, the future development potential of a particular street must be taken into consideration. The increased setbacks are most desirable in those streets which the 2 (d3) zone has an interface with the existing detached dwelling zones, either adjacent or across the street. It is important to reinforce the existing landscaped character of those streets.
- b) Consistency with setbacks in the remainder of the street. The desirable urban design objective is to create a streetscape where the setback of new buildings is generally consistent and where the quality and standard of landscaping in the front setback is of similar quality and size. The setbacks should not 'wave' along a street to create averages or 'mesh' between single dwellings and apartment buildings. While council may be able to impose a control for greater setbacks for sites in particular streets above certain dimensions, it is not in a position to require all site amalgamations within a particular street to achieve these minimum dimensions and thus ensure the whole street would have a consistent set back.
- c) Location of existing vegetation, in particular canopy trees. It is preferable to retain existing vegetation over achievement of greater setbacks.
- d) Ability to achieve separation between buildings on the same sites. Larger sites may require more than one building to be created. Adequate separation of more than 12 metres would be desirable.

Considering all these factors, it is proposed that the following control be added to the setback controls:

Where the existing dominant street setback is greater than that stated in C-1, and the site has a depth more than 45metres and a width more than 35m, a front setback zone of 13 to 15 metres from the boundary will apply, unless it can be demonstrated that:

- i. the increased setback will result in the loss of significant vegetation; and,*
- ii. other standards contained within the DCP and the KPSO will be compromised.*

This control does not apply to sites fronting the Pacific Highway, Mona Vale Road, Link Road (St Ives) or Boundary Street (Roseville),

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6 December 2004**Appropriate FSR Controls**

Council's resolution seeks to replace the building envelope and 75% FSR control with a numerical FSR. The concern with the control as it was presented in draft DCP 55 was that the numerical 75% FSR control of the NSW Residential Flat Design Code (on which the Draft DCP control was based) relies upon a different floor space definition to that of LEP 194 and DCP55.

Some of the area within the building envelopes will be occupied by non-floor space generating items. These items are determined through the definition of Gross floor area. Under the definition of gross floor area under LEP 194 and the DCP, these items are: external walls, balconies, lift shafts and car park entries. From extensive previous studies and calculations, it is possible to express each of these items as a percentage of the building footprint. These are as follows:

External walls	7%
Balconies	12%
Lift core	1%
Car park access	2%
TOTAL	22%

Applying this, it can be seen that only 78% of the volume of a building defined by the maximum no. of storeys and the building footprint area can actually be counted as gross floor space. This figure has subsequently been applied to calculate maximum FSR under LEP 194. The resultant recommended FSRs are then:

Development type	Site Area (sqm)	Maximum Floor Space Ratio
Residential Flat Building	2400+	1.25:1
	1800 - 2399	0.98:1
	<1800	0.7:1
Townhouses	1200 +	0.8:1
Villas	1200 +	0.4:1

It is recommended that these FSR controls be incorporated into the DCP. The DCP should also include the clarification, that FSR should not be the sole determinant of built form and density; it should be linked with all other design and site constraint considerations. Also, the stated FSR controls should be an absolute maximum, which may not be wholly achievable on all sites due to urban design and site constraint considerations.

Development Adjacent to a Heritage Item

On 23 November 2004 Council resolved to retain setback requirements for development adjacent to a heritage item. These setbacks have been retained in the draft. However, staff do not recommend that these be retained and recommend that the approach suggested in the report on 23 November, ie that reference be made to the relevant clause in the KPSO. This text is also included in the draft DCP.

Other Amendments to the draft DCP

There are a number of other proposed amendments to the draft DCP that were not included in the report to Council on 23 November. These proposed amendments generally relate to the structure and wording of the DCP and do not have significant policy implications in terms of the objectives Council seeks to achieve through the DCP. These amendments include:

DCP structure and format

The following amendments to the structure and format of the DCP have been made:

- A new explanatory section on ‘good design principles’ has been included.
- The design principles and controls have been reordered to reflect the prominence of the landscaping objectives in LEP 194.
- Each section has been reformatted to more clearly distinguish explanatory information from objectives and controls.
- Deleted diagrams and photos that did not necessarily represent examples of design that is in keeping with the DCP’s objectives.
- Deleted repetitive and unnecessary information and that information readily available from other sources, such as re-quoting the SEPP 65 design quality principles.
- Reworded objectives to be more outcome focused. The intention of the objectives have not been changed nor new objectives added, other than where specified below.
- Rewording several controls to clarify interpretation. The intention of controls have not been changed or new controls added, other than where specified below.
- Presenting relevant LEP 194 development standards in the explanatory information rather than including them as DCP controls.

1.6 General Aims of the Plan

- The aim relating to landscape design has been reworded and placed higher up the list of aims in order to emphasise the need to complement the existing landscape character of Ku-ring-gai. This provides more consistency with the prominent landscape objectives of LEP 194. The new aim will be to:

“b) achieve a landscape setting for residential flat buildings that replenishes the tree canopy, retains the landscape character of Ku-ring-gai through the selection of appropriate species and provides a high level of aesthetic quality and amenity for both occupants and the adjoining public domain.

1.8 Scope of the DCP

This section has been deleted as it adds little to the table of contents. The headings and subheadings in the table of contents make it clear how the DCP is structured and what information is contained in each section.

1.9 Key Planning and Urban Design Principles.

This section is to be titled “Relationship to SEPP 65 and NSW Residential Flat Design Code” and reworded to more clearly articulate the relationship between the DCP and SEPP 65 and RFDC. The position promoted is that where there is any inconsistency between the DCP and the RFDC, the

DCP will prevail. However, the principles and controls contained in the RFDC will apply to design issues not specifically covered within the DCP.

1.12 How to use the DCP Design Objectives and Controls

'Objectives' and 'controls' have been renamed 'design objectives' and 'design controls' to more closely reflect their intension. The section also provides a clearer explanation of what the intention of the design controls are and how they should be applied in designing residential flat buildings; ie. That the purpose of the numerical design controls contained in the DCP is to establish minimum design standards that should be met in order to achieve the objectives contained in the DCP and LEP. It is acknowledged that it may be appropriate to vary these minimum standards in response to context issues and site constraints and still achieve the stated objectives, however, the onus will be on the applicant to demonstrate this.

1.13 Definitions

- Definitions for terms not used in DCP or that are unnecessary have been deleted, including: "basement", "building line", "hard/soft landscape area", "landscaped area", "perimeter ceiling height" and "objective".
- Definitions have been reworded where there is an inconsistency with other related definitions or overriding definitions in relevant Environmental Planning Instruments. These include: "living room", "private open space", "storey".
- Additional definitions have been added for: "Blue gum High Forrest (BGHF)", Sydney Turpentine Iron Bark Forrest (STIF)", "heritage building", "heritage garden"

Section 2 – Context

This section has been reworded and reformatted in accordance with the recommendations to Council on 23 November 2004.

Draft DCP Section 3.1- Scale

This section is to be titled "Setbacks" rather than "Scale". The section contains revised setback objectives and controls in accordance with recommendations to Council on 23 November 2004 and as outlined above.

Draft DCP Section 3.2 – Built form

- This section is to be titled "Built Form and Articulation" and incorporates the articulation controls endorsed by Council on 23 November 2004.
- In response to comments made at the community and developers forums on 18 November 2004, an additional control will be added to this section, requiring that, in circumstances where a building length greater than 36m is justified, that portion of a building in excess of 36 m needs to be sufficiently recessed and/or articulated so as to present to the street as a separate building
- The control prohibiting single aspect apartments orientated towards side boundaries has been deleted as it may be appropriate in the case of north facing apartments. However, there are restrictions on south and west facing single aspect apartments, elsewhere in the DCP.

- The controls relating to common corridors have been moved to the section on internal amenity.

Draft DCP Section 3.3 – Density and Building Envelopes

- This section is titled “Density” with the building envelope controls deleted in accordance with recommendations to Council on 23 November 2004.
- A revised building footprint illustration and gross floor area illustration have been included.
- Numerical FSR controls have been included, as discussed above.

Draft DCP Section 3.4 – Resource Energy and Water Efficiency

- *Design for climate and energy conservation:* This section is basically unaltered, apart from minor typographical and grammatical changes, as this section will be redundant when BASIX comes into effect for flat buildings in May 2005. There were several submissions which claimed that the 90%, 4.5 star NatHERS rating requirement was excessive. Such claims are not supported as well designed buildings can achieve this and are likely to require at least this level of performance under BASIX.
- *Building materials and finishes:* The objective of this section have been reworded to also emphasis the health issues associated with building materials.
- *Biodiversity, topography and soils:* Notes have been included in this section to emphasis the important relationship between landscape design and its need to be integrated with adjacent bushland, particularly BGHF and STIF.

Draft DCP Section 3.5 - Landscape Design

- Rewording of control C-1 to provide for minimum deep soil zone to be provided towards the rear of sites in accordance with recommendations to Council on 23 November 2004.
- The requirement for all balconies to require a planter box has been deleted.

Draft DCP Section 3.6 - Residential amenity

- The section on ‘Sunlight and daylight access’ has been retitled “Solar access”. The control limiting single aspect south facing apartments has been deleted. It has been replaced controls requiring no south facing single aspect units and limiting single aspect units with a western orientation to 15%. This places the emphasis back onto the applicant to justify any design resulting in south facing single aspect units.
- *Visual Privacy:*
 - The control limiting building lengths along side boundaries to 30m has been deleted. This has been replaced by a control in the ‘Built Form’ section which limits building length along side boundaries in order to create mid block view corridors.
 - The building separation controls have been amended to be consistent with the RFDC. This includes increased separation for fifth floor units.

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- *Acoustic Privacy*: The numerical acoustic privacy controls have been replaced with a reference to the relevant standards contained in the Building Code of Australia.
- *Internal Amenity*: The common corridor controls that were in the built form section have been included in this section. The number of units serviced from a corridor has been increased from 6 to 8 to be consistent with the RFDC. The minimum width of corridors has been reduced from 1.8m to 1.5m, however, the 1.8m width has been retained within lift lobbies.
- *Outdoor living*: The controls relating to balcony size have been amended in accordance with recommendations to Council on 23 November 2004.

Draft DCP Section 3.7- Social dimensions

- An additional objective has been added to this section relating to visitability.
- The visitability requirements for residential flat been billings without lifts have been incorporated in accordance with recommendations to Council on 23 November 2004.
- In response to concerns raised by Council's Access Committee, an additional control has been included requiring corners in access paths and ramps to be of sufficient dimension to allow ease of movement for mobility scooters as well as wheelchairs.

Section 4 Parking and vehicular access

- The controls relating to the protrusion of basement car parking and the restriction on above ground visitor car parking have been deleted in accordance with recommendations to Council on 23 November 2004.
- An additional objective has been added relating to the access requirements for service and utilities vehicles. These issues were already covered by controls.

Section 5 Consideration of Isolated sites

There are no proposed amendments to this section. While there was a number of objections raised to the inclusion of this section in the DCP, it is considered that this section is consistent with the interpretation and application of LEP 194.

Section 6 – Specific Controls for nominated areas.

This section will be subject to a supplementary report.

Appendix D – Blue Gum High Forest Map

This map has been replaced with a more recent version that shows the extent of remnant Blue Gum High Forest and Sydney Turpentine Iron Bark Forest. It will also be provided in a format in the electronic version of the DCP that will allow users of the DCP to zoom in and accurately determine the extent of BGHF.

Appendix E - Suitable Tree Canopy Species.

The table of suitable canopy tree species has been amended to correct some classification inaccuracies. The *angophora bakei* (Narrow leafed Apple) has been deleted from the list as it is not considered a canopy species.

Appendix F – Adaptable Housing

This Appendix has been amended to make it consistent with the requirements of SEPP (Seniors Living) 2004, as apposed to SEPP 5, which is now repealed.

CONSULTATION

The Draft DCP 55 was placed on public exhibition from 4 August 2004 until 17 September 2004. During the exhibition period extensive consultation was undertaken. This included conducting a general community and individual forums with residents of potentially affected by the specific controls for the nominated areas in Roseville, Wahroonga and St Ives. A forum was also conducted with developers, planners architect and building designers.

Approximately 140 written submissions were received as a result of the exhibition and consultation

A second community forum and developers, architects and designers forum was also conducted on 18 November 2004 to present the proposed solutions reported to Council on 23 November 2004.

FINANCIAL CONSIDERATIONS

Nil

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Ongoing consultation has been conducted with relevant officers from Development and Regulation, Technical Services, Open Space and Community Services. Consultation on the draft DCP was also conducted with Council's Access Committee.

SUMMARY

There have been numerous amendments made to the exhibited version of Draft DCP 55 as a result of the exhibition and consultation process. The most significant of these amendments where adopted by Council at its meeting of 23 November 2004. The draft DCP has been amended in accordance with Council's resolution.

Although numerous , the nature of the amendments to the draft DCP do not prevent future development from achieving the development standards contained LEP 194 on sites where site constraints would not otherwise prohibit it. As a result, the proposed amendments to DCP are not considered significant enough to warrant re-exhibition of the DCP at this stage.

It is, however, recommended that an adopted DCP be reviewed after six months to assess its effectiveness and identify any issues that have arisen from its implementation. This review would need to include appropriate consultation with the community and developers, architects and building designers.

RECOMMENDATION

- A. That Council adopt “Ku-ring-gai Multi-Unit Housing Development Control Plan No 55 – Pacific Highway / Railway Corridor and St Ives Centre” as included in “**Attachment A**” to this report.
- B. That the Development Control Plan take effect upon notice of its adoption by Council appearing in the local newspaper.
- C. That those people who made a submission on the Draft DCP be advised of Council’s decision.
- D. That a comprehensive review of the implementation of the DCP be conducted after 6 months.

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**Director
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Attachments: **Attachment A - Draft Development Control Plan No. 55 (as amended)
(Circulated separately).**

Attachment B - Summary of Submissions (Circulated separately).

DRAFT DEVELOPMENT CONTROL PLAN FOR CHILD CARE CENTRES

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To have Council consider and adopt for public exhibition a new Draft Development Control Plan for Child Care Centres.
BACKGROUND:	The new DCP, when formally adopted, will replace Council's current Policy on Child Care Centres adopted in 1988 as it is inconsistent with existing Regulations and is inadequate in dealing with the range of issues that relate to the provision of Child Care Centres. The need to review the Policy has also been identified in Council's current Management Plan 2004-2008.
COMMENTS:	The preparation of the Draft DCP has involved extensive field work and review of relevant literature in order to provide development controls that promote high quality child care centres that respond to the expectations of the community and are based on best practice guidelines.
RECOMMENDATION:	That Council adopt the Draft Development Control Plan for Child Care Centres for exhibition.

PURPOSE OF REPORT

To have Council consider and adopt for public exhibition a new Draft Development Control Plan for Child Care Centres.

BACKGROUND

In September 2004, *The Children's Services Regulation 2004* came into effect, replacing the *Centre Based and Mobile Child Care Regulation No (2) 1996*. The new regulations prescribe several requirements that are inconsistent with Council's current *Policy on Child Care Centres* adopted in 1998.

The current Policy provides limited provisions for the design of child care centres and Council's staff consider it inadequate to deal with the range of issues that need to be addressed in the assessment of development proposals for child care centres.

Council's *Management Plan 2004-2008*, adopted on 22nd June, 2004 also identified the need to address the issue of "the demand for increased child care services" and that the existing Policy needs to be reviewed.

Relevant Legislation

The following legislation applies to the establishment and operation of child care centres in Ku-ring-gai:

1. Environmental Planning and Assessment Act 1979
2. Environmental Planning and Assessment Regulation 2000
3. The Ku-ring-gai Planning Scheme Ordinance (KPSO)
4. Children (Care and Protection) Act 1987
5. Children's Services Regulation 2004

COMMENTS

The preparation of Draft 'DCP Child Care Centres' included a comprehensive literature review which investigated:

- (a) the regulatory instruments applicable to the development and licensing of child care centres;
- (b) the theory of child care centre design; and
- (c) Child Care Centre DCPs of other Councils within Sydney.

The findings of the literature review informed the drafting of provisions for the Draft DCP. Fieldwork was undertaken which included visits to a variety public and privately owned child care centres within Ku-ring-gai and neighbouring local government areas.

The NSW Department of Community Services (DoCS) is responsible for the licensing of Child Care Centres. The recently introduced regulations contain the requirements for the licensing of child

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care centres and include provisions relating to facilities, equipment, administrative, operational and spatial requirements. Where appropriate, the non-statutory “Best Practice Guidelines in Early Childhood Physical Environments” (Walsh & the NSW Department of Community Services, 1996) were incorporated into the DCP in order to expand on the regulatory requirements. The provisions of the Building Code of Australia (BCA) were also considered.

The Draft DCP encourages the provision of high quality child care centres which are functional and economically viable, attractive and meet the needs of the children cared for. The Draft DCP also puts forward controls to minimise the adverse impact on surrounding properties through positive design controls, noise and privacy abatement measures and the consideration of traffic impacts.

Information boxes have been placed in the body of the Draft DCP that highlight best practice design and locational guidelines that are encouraged by Council and should be taken into account when planning for a new child care centre.

The draft DCP has been prepared in order to be consistent with Council’s existing codes and policies, where they are applicable.

Structure of the DCP

The DCP is structured into three parts:

Part One

Outlines the objectives of the Draft DCP and includes information about:

- the commencement of the DCP;
- the type of children services (child care centres) that the DCP applies to;
- the role of Council and other regulatory bodies;
- the process for applicants to follow in obtaining Council consent and licensing from DoCS;
- where to obtain further information regarding DoCS requirements; and
- the definitions of the DCP.

Part Two

Outlines the planning and design criteria for child care centres that are discussed further under the title ‘Controls of the Draft DCP’ of this report.

Part Three

Outlines additional ‘General Considerations’ that may impact on the establishment of a child care centre, including:

- the impact of child care centres on Heritage Items;
- child care centres located in business zones;
- the conversion of existing buildings into child care centres; and
- information on how to lodge an application for the development of a child care centre with Council.

Controls of the Draft DCP

Location

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The location of child care centres is to take into account any environmental health hazards originating from sources such as transmitters of high levels of radio frequency electromagnetic Radiation (RF EMR), the vehicle emissions and impacts of major roadways etc. This has become common practice within the DCPs of Sydney Councils in order to ensure the health and safety of the facilities users are not put at risk through observation of the "Precautionary Principle".

Child care centres must not cause significant disruption to the traffic movement of the adjoining road networks. In terms of on-site locational criteria, the centre is to effectively integrate with its surrounds giving particular consideration to the amenity of residential areas.

Car Parking

Sufficient car parking spaces are to be provided in accordance with the provisions of DCP47- Car Parking and access is to be designed to maximise the safety of the centres users, particularly small children and to minimise the negative impacts on amenity within the surrounding streets.

Maximum and Minimum Capacities

The Draft DCP encourages child care centres to be of a manageable size in terms of the number of children a centre caters for and by having regard to the manner in which the centre will be able to successfully integrate with its surrounds, particularly in residential areas.

Indoor Environment/ Back-up Facilities/ Staff and Parent Accessible Areas

The controls relating to the elements of the indoor environment, back-up facilities and staff and parent accessible areas use the best practice guidelines as a basis for expanding on the regulatory requirements and the BCA.

Outdoor Play Spaces

The controls relating to outdoor play spaces, particularly their design, demarcation and educational value have been based upon the best practice guidelines.

Shading provisions conform to the regulations that require these areas to be shaded in accordance with the *NSW Cancer Council's Shade Care for Children's Services*.

Council's existing policy prescribes an outdoor play space requirement of 11.5 square meters per child attending the centre; however, this is not consistent with the regulations. Therefore, this control has been altered to 7 square meters per child to ensure consistency and to ensure that the requirement is not so onerous that it would discourage the establishment of new child care centres.

Transition Areas

The inclusion of the requirement of a transition area is based upon best practice guidelines. These areas allow the centres users to have access to a functional outdoor area in all weather conditions.

Fencing/Planting

Fencing and planting provisions have been designed to ensure the centre can successfully integrate into its surrounds while ensure the safety and welfare of the children. These provisions expand upon the requirements of the regulations and are consistent with current Council codes and policies where applicable, including DCP38- The Ku-ring-gai Residential Design Manual.

Dual Use Facilities

A Dual Use Facility is child care centres located on the same site as a residential dwelling, usually within the one building. Controls relating to Dual Use Facilities aim to ensure that the site of the child care centre does not appear to be overdeveloped whilst maintaining adequate separation between the centre and the residential component where they co-exist. The residential component is to be supplied with facilities for the exclusive use of the residents including a bathroom, kitchen and outdoor living area.

CONSULTATION

Consultation was undertaken with staff of private and publicly owned child care centres within Kuring-gai and the surrounding Local Government Areas. Consultation was also carried out with the planning staff of several Sydney Council areas.

FINANCIAL CONSIDERATIONS

Council costs have primarily related to the staff time required in the preparation of the Draft DCP. If adopted for exhibition, advertising and other associated costs will be met by the existing budget of the Department of Planning and Environment.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The development of the Draft Child Care Centre DCP has been a collaborative effort between Council's Planning and Environment, Community Services and Technical Services Department.

SUMMARY

The Draft DCP will replace Council's existing *Policy on Child Care Centres 1988*. The document aims to encourage the provision of high quality child care centres which are functional, attractive, economically viable and capable of meeting the needs of the children.

The Draft DCP has been designed to ensure consistency with all relevant legislation.

RECOMMENDATION

- A. That Council adopt the Draft Development Control Plan – Child Care Centres for exhibition.
- B. That the Draft Development Control Plan be exhibited and notified in accordance with the provisions of the Environmental Planning and Assessment Act, allowing an extended exhibition period of three (3) months in order to give consideration to the school holiday period.

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- C. That the relevant child care providers and the NSW Department of Community Services be notified of the Draft Development Control Plan.
- D. That a report be brought back to Council at the end of the exhibition period.

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Antony Fabbro
Manager Urban Planning

Leta Webb
Director Planning & Environment

Danny Houseas
Manager Community Development

Janice Bevan
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Attachments: Draft Development Control Plan - Child Care Centres.

STATE ENVIRONMENTAL PLANNING POLICY NO 65 - DESIGN REVIEW PANEL

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To allow Council to consider establishing a State Environmental Planning Policy (SEPP) No. 65 - Design Review Panel to assist in promoting the design quality of residential flat developments in Ku-ring-gai.
BACKGROUND:	SEPP 65 – Design Quality of Residential Flat Development was gazetted on 26 July 2002. Environmental Planning & Assessment Amendment (SEPP65) Regulation 2002 was gazetted concurrently to facilitate the introduction of the SEPP.
COMMENTS:	SEPP65 allows the Minister for Planning to establish Design Review Panels, comprising experts in architecture, urban design, landscape and related fields.
RECOMMENDATION:	That Council establishes a SEPP 65 Design Review Panel.

PURPOSE OF REPORT

To allow Council to consider establishing a State Environmental Planning Policy (SEPP) No. 65 - Design Review Panel to assist in promoting the design quality of residential flat developments in Ku-ring-gai.

BACKGROUND

SEPP No. 65 – Design Quality of Residential Flat Development was gazetted on 26 July 2002. Environmental Planning and Assessment Amendment (SEPP No. 65) Regulation 2002 was gazetted concurrently to facilitate the introduction of the SEPP.

SEPP 65 aims to improve the design quality of residential flat development throughout NSW. It recognises that the design quality of residential flats is of state significance due to the economic, environmental, cultural and social benefits of high quality design.

The Design Quality Program, originally implemented by former Urban Design Advisory Service, aims to improve the design of quality residential flats through five key actions;

- SEPP No. 65 and Regulation - a State policy for improving residential flat development;
- Residential Flat Design Pattern Book - a design resource of case studies of good flat development;
- Residential Flat Design Code - a tool for improving the design of residential flats; and
- An education program about principles of architecture and good design.
- Design Review Panels - qualified architects and urban designers to advise councils and to assist councils improve their planning controls;

SEPP 65 aims to ensure that residential flat developments:

- are a long-term asset to their neighbourhood, by benefiting local communities and the environment
- are better designed to improve the way they look, and improve the streetscapes and public spaces they are near
- achieve the urban planning policies for their locality and region
- are socially and environmentally sustainable, by minimising the consumption of energy from non-renewable resources, preserving the environment and reducing greenhouse gas emissions
- offer their occupants the greatest comfort possible
- are in adequate supply to satisfy increasing demand, the changing social and demographic profile of the community, and the needs of people from childhood to old age, including people with disabilities.

COMMENTS

Design Review Panels- role and function

SEPP No.65 allows the Minister for Planning to establish Design Review Panels, comprising experts in architecture, urban design, landscape and related fields.

They are to advise Councils on development applications for residential flat development, residential flat development proposals, planning policies and controls (LEPs & DCPs) and other initiatives for improving the design quality of residential flat development. It is intended that Design Review Panels may be established for a region or for one or more local government areas. The panels will operate under procedures established by DIPNR in consultation with participating consent authorities

If established the Design Review Panel would provide advice to Council on any residential flat building comprising three or more above ground storeys, and containing four or more self contained dwelling units.

In providing such advice, the Panel must consider the ten “design quality principles” set out in the SEPP. The principles include context, scale, built form, density, energy efficiency, landscape, amenity, safety and security, social dimensions and aesthetics.

SEPP No. 65 states that at least one of the members of a Design Review Panel should have an appreciation of the design issues of the region or area for which the Panel is constituted. However, to ensure that the Panels are independent of consent authorities, the SEPP precludes Councillors and employees of a Council from being appointed as members of a Design Review Panel.

Council would remain the consent authority for any development application.

The Design Review Panel chair would provide council with the endorsed minutes of the Panel and these comments would be included and considered in the Officer’s report to Council. Written advice from the Panel is to be in accordance with a standard format, however, advice may contain sketches, drawings or diagrams.

The Regulation provides that an additional fee, not exceeding \$600.00, is payable in respect of a residential flat development that is referred to a Design Review Panel. In this respect, it is intended that the Panels be self-funded. Each member appointed to a Design Review Panel is paid an honorarium as determined by the Minister. However, discussion with other Councils indicates the set fee is not sufficient to cover costs of the Committee.

CONSULTATION

Design Review Panels – Sydney Councils

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In the preparation of this report, Council officers discussed SEPP 65 Design Review Panels with several Sydney councils and relevant officers from DIPNR.

Council Officers met with staff at Randwick City Council to discuss their approach to establishing a SEPP 65 Panel and also see the Design Review Panel in operation.

Randwick City Council operates a joint Panel with Waverley Council and has been in place since early 2004. The Panel has 5 suitably qualified members in architecture, urban design, heritage, planning and landscape architecture. A staff member from the Council is present at the meetings and they are responsible for facilitating the Panel's operation and general liaison with applicants. Site inspections are conducted on a single day for all Panel members visiting the sites in private bus.

The Parramatta City Council Design Review Panel was endorsed by DIPNR in May 2004 and is in the initial stages of operation. When Parramatta Council resolved to establish the Panel, it also resolved to extend its terms of reference to include commercial buildings and large townhouse developments. This option would also be available to Ku-ring-gai for the stage 2 of the RDS.

Gosford (in conjunction with Wyong Council) has established a joint Design Review Panel. Participation of Panel members is required for a full day, including site inspections in the beginning of the day, followed by the Panel meeting.

Hornsby Council has recently resolved not establish a Design Review Panel on the basis that the provisions of SEPP No.65, The Residential Flat Design Pattern Book and The Residential Flat Design Code, in conjunction with their DCP for multi unit housing and their Hornsby CBD Steering Committee, provide adequate advice on the design quality of multi unit housing in Hornsby.

Pittwater Council operates an Urban Design Advisory Panel, which was established prior to the SEPP No. 65 legislation. The Urban Design Advisory Panel formulates policy and comments on draft plans, but does not advise on individual development applications.

Warringah Council operates an Independent Hearing and Assessment Panel (IHAP), similar to that of some other Sydney Councils. However, the Panel is primarily a dispute resolution body and the assessment of design quality is not one of it's primary functions. Development applications are referred to the IHAP where two or more objections have been raised and can not be resolved through Council's standard development assessment procedures.

SEPP No. 65 requires Council to ensure that any draft LEP, draft DCP or masterplan involving residential flat development includes provisions to address design quality (i.e. encompasses the design quality principles outlined in the SEPP).

If a Design Review Panel is established, Council would be required to refer any development application, masterplan or planning instrument involving residential flat development to the Panel for comment. However, Council would ultimately remain responsible for determining development applications and progressing planning instruments.

If a Design Review Panel is established then Council would be required to refer all development applications for residential flat buildings to the Panel for comment. The referral of development

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applications is not discretionary. It should be noted this would constitute an additional step in the development assessment process.

Overall, the Design Review Panels are considered to be useful and can be of assistance in promoting improved design quality of residential flat buildings.

With the Gazettal of LEP 194, development applications are now being received for residential flat buildings of up to five storeys in height. Independent advice from a Design Review Panel would be of assistance in the assessment process.

Proposed Membership

It is proposed that for Ku-ring-gai Council a three member full time Panel be established, consisting of;

- (1) member with experience as an Urban Designer
- (1) member with experience in Architecture and
- (1) member with experience in Landscape Architecture and
- (1) member as alternative if a core member is not available.

In addition a part time member on an as needs basis also be on the Panel to cover heritage matters.

In establishing the Panel, reference is made to guidelines from DIPNR (attached)

- Whilst the request to the Minister to appoint a Panel follows a formal decision by one or more Councils, the nomination of preferred panellists or discussions with the Department leading to an agreed list of Panel members can be informally undertaken.
- A check will be made by the Department to ensure that the nominated Panel members are willing to sit on a particular Panel.
- Design Review Panel members are appointed initially for three years. Members may be appointed by the Minister for additional terms.
- The Minister may terminate a Design Review Panel or individual members of a Design Review Panel at the Minister's discretion.

FINANCIAL CONSIDERATIONS

The Department Planning and Environment budget 2004/2005 has allocated \$30,000 to establish a Design Review Panel. Council's staff time and resources would be required in the administration of the Panel.

In addition, the Regulation 2002 and Council's Fees and Charges 2004/2005 provide a additional fee, not exceeding \$600.00, which is payable in respect of a residential flat development that is referred to a Design Review Panel.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Council officers with the Development and Regulation Department have been consulted in preparation of this report.

SUMMARY

With the Gazettal of LEP 194 development applications are now being received for residential flat buildings up to five storeys. Independent advice from a Design Review Panel would be of assistance in the assessment process. The establishment of a Panel would also permit Council to utilise the fees and charges made under the Regulation to facilitate the implementation and operation of a Design Review Panel. However, Council would need to subsidise the costs of the Panel, based on experience in other Council's.

RECOMMENDATION

- A. That Council write to the Minister for Infrastructure Planning & Natural Resources of Council's intention to establish a Design Review Panel under SEPP65 and request that the Minister appoint a SEPP65 Design Review Panel for Ku-ring-gai Council.
- B. That Council put forward to the Minister the preferred members of the Design Review Panel for a Ku-ring-gai panel.
- C. That in the interim until a Panel is established Council engages the services of an Urban Designer (to be paid out of Planning and Environment budget for Design Review Panels) to assist in the assessment of Residential Flat Building development.

Antony Fabbro
Manager Urban Planning

Leta Webb
Director Planning &
Environment

Michael Miocic
Director Development &
Regulation

Attachments: Department of Planning Infrastructure and Natural Resources Design Review Panel Guidelines November 2004.

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	39 TODMAN AVENUE, WEST PYMBLE - ATTACHED DUAL OCCUPANCY
WARD:	Comenarra
DEVELOPMENT APPLICATION N^o:	1295/03
SUBJECT LAND:	39 Todman Avenue, West Pymble
APPLICANT:	T & A Tran, c/- Glendinning Minto & Associates Pty Ltd
OWNER:	T & A Tran
DESIGNER:	Hans Waldmann & Associates
PRESENT USE:	Residential dwelling house
ZONING:	Residential 2C
HERITAGE:	No
PERMISSIBLE UNDER:	SEPP 53
COUNCIL'S POLICIES APPLICABLE:	KPSO Dual Occupancy Code DCP 31 - Access DCP 40 - Waste Management DCP 43 - Car Parking DCP 47 - Water Management
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	SEPP 53 AND SEPP 55
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	9/10/03
40 DAY PERIOD EXPIRED:	18 November 2003
PROPOSAL:	Attached dual occupancy
RECOMMENDATION:	Approval

DEVELOPMENT APPLICATION N^o	1295/03
PREMISES:	39 TODMAN AVENUE, WEST PYMBLE
PROPOSAL:	ATTACHED DUAL OCCUPANCY
APPLICANT:	T & A TRAN, C/- GLENDINNING MINTO & ASSOCIATES PTY LTD
OWNER:	T & A TRAN
DESIGNER	HANS WALDMANN & ASSOCIATES

PURPOSE FOR REPORT

To determine development application No. 1295/03, which seeks consent for the demolition of the existing dwelling and the construction of an attached dual occupancy development.

EXECUTIVE SUMMARY

Issues:	<ul style="list-style-type: none">• Setbacks from Todman Avenue; and• Bulk and scale
Submissions:	One submission received
Land & Environment Court Appeal:	No appeal to the Land and Environment Court has been lodged
Recommendation:	Approval

HISTORY

Site history:

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

Development application history:

DA 1295/03

In response to initial concerns raised by Council staff, the applicant on 20 April 2004, amended their application, in the following way:

- Courtyard walls reduced to 1.2 metres in height;
- The first floor bay window to the games room of Dwelling 2 has been deleted;
- The length of the games room of Dwelling 1 has been reduced by 1.5m;
- A shade structure has been provided to the windows on the southern elevation; and
- The FSR has been reduced from 0.46:1 to 0.44:1.

THE SITE AND SURROUNDING AREA

The site

Visual character study category:	1945-68
Lot number:	Lot 20
DP number:	DP 210053
Heritage affected:	No
Bush fire prone land:	Yes
Endangered species:	No
Urban bushland:	No
Contaminated land:	No

The subject site comprises Lot 20 in DP 210053, is irregular in shape and has a total area of 929.6m². The site is located on the northern side of Todman Avenue on a bend within the street. Existing on the site is a two storey dwelling house, double carport and in-ground swimming pool. The subject site has a 56.7m frontage to Todman Avenue, with side boundary lengths of 32.6m to No. 37 Todman Avenue and 37.8m to No. 41 Todman Avenue.

The subject site has a cross fall to the street of about 6m and contains ten trees mainly located in the front yard. Vehicle access to the site is off Todman Avenue.

Surrounding development:

Development within the area comprises residential housing, generally of one and two storeys in height and of varying architectural styles.

THE PROPOSAL

The proposal is to demolish the existing house, carport and in-ground pool and erect an attached dual occupancy upon the site. Details of the proposed development are as follows:

Dwelling 1:

Dwelling 1 is the western-most of the attached dwellings. At ground level this dwelling has a single bedroom, double garage with access of Todman Avenue and living and family areas facing the north and south. At first floor level, three additional bedrooms, ensuite and bathroom are provided.

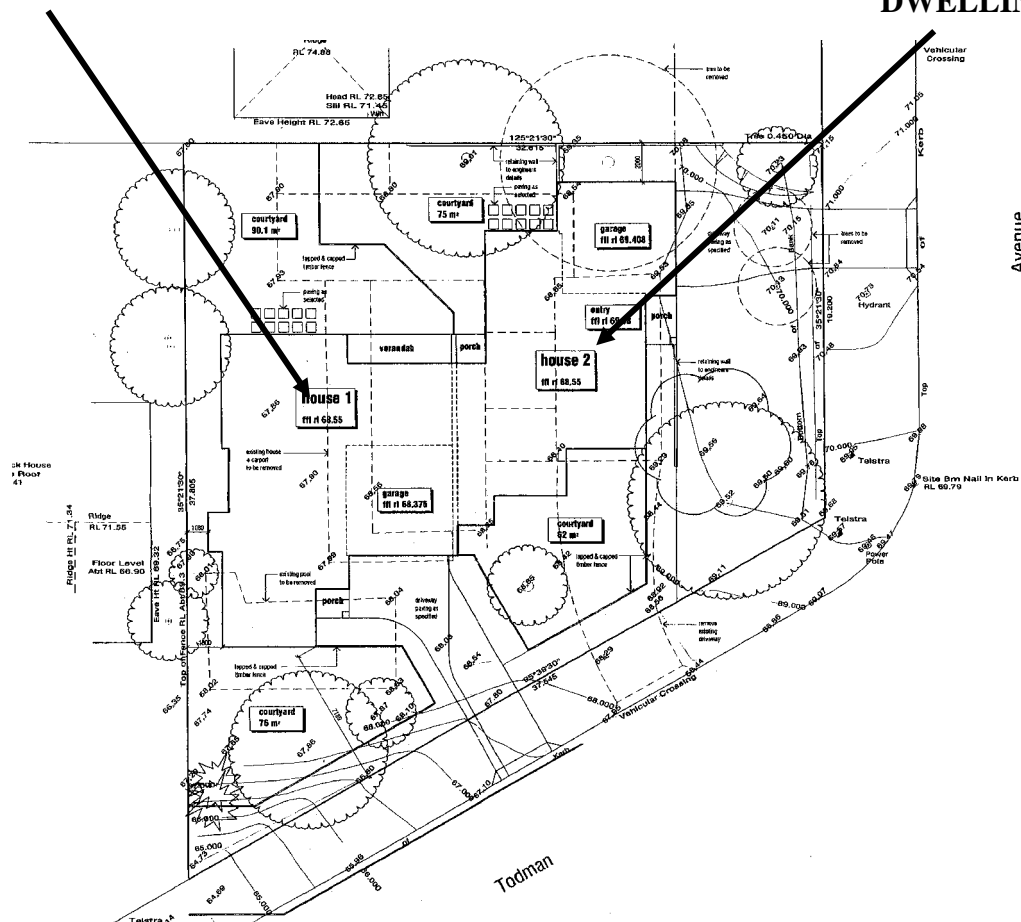
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Dwelling 2:

Dwelling 2 is the eastern-most of the attached dwellings. At ground level, this dwelling has a single bedroom, double garage with access of Todman Avenue and living and family areas facing the north and south. At first floor level, three additional bedrooms, a games room, ensuite and bathroom are provided.

DWELLING 1

DWELLING 2



CONSULTATION - COMMUNITY

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

Original scheme dated 9 October 2003

1. J. Bignall of 11A Salmon Loop. P.O. Box 696 Exmouth Western Australia 6707 (owner of 41 Todman Avenue, West Pymble)

The submission raised the following issues:

The development, due to its height and setback from the street, will impact upon the streetscape.

The height and setback of the development are commensurate with other developments within Todman Avenue. Due to the change in topography and the modulation provided within the development, the attached dual occupancy will provide an appropriate response to the awkward shape of the site and will not dominate or detract from the Todman Avenue streetscape.

The development will have a detrimental affect on property values.

This is not a relevant matter for consideration under the provisions of the Environmental Planning and Assessment Act 1979.

The development can only be achieved through the removal of most of the trees upon the site.

Council's Landscape Development Officer has advised that, whilst four trees are to be removed, the development is still satisfactory. It is a recommendation of this report to provide additional planting to the Todman Avenue frontage (**Refer Condition No. 35**).

The development is a commercial venture and not representative of surrounding residential development.

Development for the purposes of a dual occupancy development is permissible on the site under the provisions of State Environmental Planning Policy No. 53. Whether commercial ventures or not, all such applications must be assessed on their planning merits.

Amended plans dated 20 April 2004

The amended plans were not re-notified as do not result in any different or greater amenity impacts upon the adjoining residents.

CONSULTATION - WITHIN COUNCIL

Landscaping

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

The amendments to the proposal are in accordance with my previous recommendations and are considered satisfactory.

Tree removal

No objection is raised to the removal of the following trees.

- 2 x Archontophoenix cunninghamiana (Bangalow Palm)*
- 1 x Liquidambar styraciflua (Liquidambar) 13 metres high in good condition.*
- 1 x Eucalyptus haemastoma (Scribbly Gum) 10 metres high in fair condition.*

Stormwater

No amended stormwater plans have been provided therefore conditions will be imposed to preserve existing trees on the site in particular a Cedrus deodara (Himalayan Cedar) and a Jacaranda mimosifolia (Jacaranda) located on the south western boundary (Refer Condition No. 34).

*The Landscape Section will support the amended plans subject to **Condition Nos. 33, 34, 46-52, 58-59 and 66.***

Engineering

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

The proposal is for a dual occupancy development. The existing dwelling is to be demolished and an attached dual occupancy is to be constructed.

The existing public roads will satisfactorily handle the increase in traffic resulting from the development.

*The land drains to the street. The increased stormwater runoff will be dealt with by the construction of a proposed stormwater detention system for each of the two dwellings. The applicant has provided engineering plans for drainage. They are acceptable as a concept however they must be refined at the Construction Certificate stage. The application has been conditioned accordingly (**Refer Conditions Nos. 23, 24, 42 and 43**).*

There are no engineering objections to the proposal. The engineering works to be constructed in relation to this development are: -

*On site detention for the two new dwellings (**Refer Conditions Nos. 24, 43 and 44**);
Drainage from the development to be connected to the existing street kerb and guttering (**Refer Conditions Nos. 23, 24, 42 and 43**);
Construction of two new concrete kerb and footway crossings (**Refer Condition No. 41**).*

CONSULTATION – OUTSIDE COUNCIL

Rural Fire Services

In accordance with the provisions of section 79BA of the Environmental Planning and Assessment Act 1979, Council has consulted with the Commissioner of the NSW Rural Fire Service, concerning measures to be taken with respect to the protection of persons, property and the environment from danger that may arise from a bush fire. The comments provided by the Rural Fire Service are as follows (NB. The RFS did not request the imposition of any conditions of consent):

“Having considered the proposal, the NSW Rural Fire Service raises no concerns or special considerations in relation to bushfire matters.”

STATUTORY PROVISIONS**State Environmental Planning Policy No. 53**

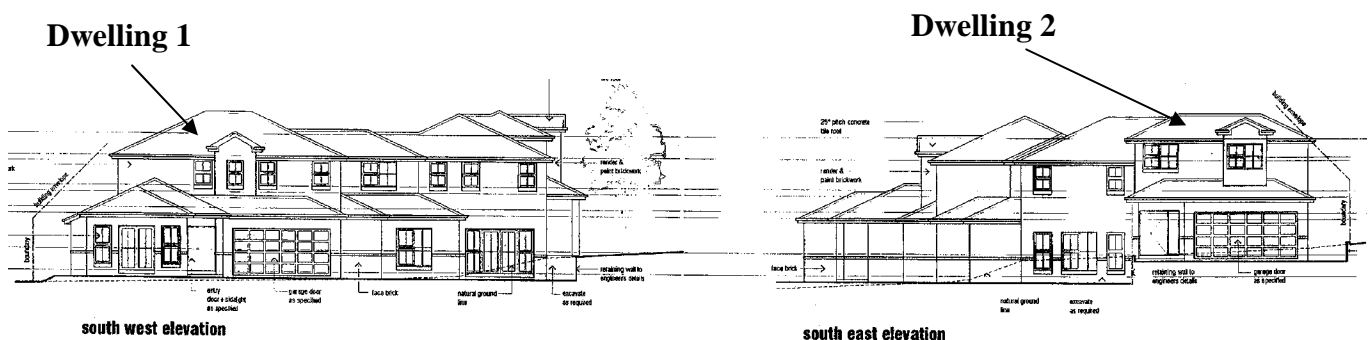
COMPLIANCE TABLE		
Development standards	Proposed	Complies
Allotment size (cl.19(1)(a)) <ul style="list-style-type: none"> 400m² attached dual occ (min) 	929.6m ²	YES
Floor space ratio (cl.19(1)(b)) <ul style="list-style-type: none"> 0.5:1 (max) 	0.44:1:1	YES
Car parking (cl.20) <ul style="list-style-type: none"> Dwelling 1: 2 car spaces (min) Dwelling 2: 2 car spaces (min) 	Dwelling 1: 2 car spaces Dwelling 2: 2 car spaces	YES YES

Site analysis (cl.31):

A site analysis plan, accompanied by a written statement, has been provided. This information is satisfactory having regard to the requirements of SEPP 53.

Streetscape (cl.32(a)):

Due to the nature of the site and its location on a bend in Todman Avenue, the applicant has appropriately designed the development to address Todman Avenue as two distinct dwellings each having their own independent street identity. This is most noticeably evident, due to the fact that at no time are the front facades of each dwelling read together within the streetscape, rather each dwelling will be read independently with the other dwelling being read as a secondary element in the backdrop.



Due to being positioned across the full frontage of Todman Avenue, the proposal will have a bulk and scale larger than surrounding developments. However, the scale of the development is in accordance with that envisaged by both the State and Council's own legislative requirements. Due to the modulated façade treatment, the development, despite its massing, addresses the bend in Todman Avenue, and will not dominate the streetscape.

Furthermore, to ensure that the development reads as being set within a landscaped setting, it is proposed that the front setback, between the boundary of the site and the proposed courtyard fencing, be heavily landscaped with vegetation achieving a height between 3 to 6 metres. (**Refer Condition No. 35**).

Visual and acoustic privacy (cl.32(b)):

The design of the development is such that good separation is provided from the ground floor habitable rooms to the boundaries of the properties. At the first floor level, only bedroom windows provide opportunity for viewing into the neighbouring property (No 41). The impact of the first floor bedroom windows on the neighbouring properties is minimal and not inconsistent with existing levels of amenity available to two storey developments within residential areas.

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

Solar access to adjoining properties

Due to the orientation of the site, the development will not cast any significant shadow onto the adjoining properties during the winter solstice. Surrounding developments will receive in excess of 3 hours of solar access during the winter solstice.

Solar access to the proposed development

The proposed development receives 3⁺ hours solar access to its internal living areas and private open space areas during the winter solstice. This is compliant with the requirements of SEPP 53 and Council's Dual Occupancy Development Code.

Stormwater (cl.32(d)):

Council's Development Engineer has advised that the land drains to the street and increased stormwater runoff will be adequately dealt with by the construction of a proposed stormwater detention system for each of the two dwellings (**Refer Conditions Nos. 24, 43 and 44**).

Crime prevention (cl.32(e)):

Both dwellings are provided natural surveillance of any persons approaching their sites.

Accessibility (cl.32(f)):

Both dwellings have adequate access arrangements.

Waste management (cl.32(g)):

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

Visual bulk (cl.32(h)):

Due to the design response to the shape and frontage of the site, in plan view, the development appears to have a large footprint. However, the positive aspects of the development, including the visual separation of the two dwellings when read in the streetscape in conjunction with the stepped nature of the design to address the angle of Todman Avenue, allows for the development to appropriately respond to its site constraints and to provide a built form that will sympathise with the surrounding development. The development will have a ridge height 4.5 metres and 1.1m higher than Nos. 41 and 37 Todman Avenue, respectively. However, due to the variance in the roof form and the modulation provided, the development will not dominate these buildings.

State Environmental Planning Policy No. 55 – Remediation of Land

The land is currently used for residential purposes. There is no evidence to suggest that the land has been used for any non-residential purposes in relatively recent years. Consequently, the possibility of the land being contaminated is substantially reduced. Therefore, it is extremely unlikely that the land is contaminated, such that, remediation would be required.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Building height 8m (max)	Dwelling 1: 5.9m Dwelling 2: 5.7m The following information is not a statutory control. This information is provided for the benefit of the Councillors: Height to roof ridge - Dwelling 1: 8m Height to roof ridge - Dwelling 2: 7.8m Height to eaves line – Dwelling 1: 6m Height to eaves line – Dwelling 2: 5.8m	YES YES
Built-upon area 60% (max)	40.4%	YES
Notional built-upon area	Dwelling 1: 43.7% Dwelling 2: 37.4%	

Aims and objectives for residential zones:

The development: (i) provides satisfactory levels of solar access & privacy to surrounding properties; (ii) is of a bulk, scale and design, characteristic of the area; (iii) maintains adequate levels of soft landscaping; (iv) provides suitable egress/ingress for vehicles; and (v) maintains the landscape quality of the municipality. Consequently, the aims and objectives for residential development as outlined by Schedule 9 have been satisfied.

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

COMPLIANCE TABLE		
Development control	Proposed	Complies
4.2 Streetscape:		
Roof pitch		
<ul style="list-style-type: none"> 3m roof height-2 storey (max) 	Dwelling 1: 2.1m Dwelling 2: 2.1m	YES YES
<ul style="list-style-type: none"> Roof pitch 35⁰ (max) 	Dwelling 1: <35 ⁰ Dwelling 2: <35 ⁰	YES YES
Fences		
<ul style="list-style-type: none"> Height:900mm (solid fence) (max) 	No fence to Todman Avenue proposed. 1.2m high lapped and capped fence to courtyards	YES
4.3 Visual and acoustic privacy:		
Visual privacy		
<ul style="list-style-type: none"> Windows to habitable rooms set back 9m from neighbouring windows (min) 	Dwelling 1 (family room) : 9.7m to No. 37 Todman Dwelling 2(family room): 7.6m to No. 37 Todman	YES NO
4.4 Solar access and design for climate:		
Solar access		
<ul style="list-style-type: none"> Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min) 	Dwelling 1: 3+ hours solar access received Dwelling 2: 3+ hours solar access received	YES YES
<ul style="list-style-type: none"> Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min) 	All neighbouring properties receive 3+ hours solar access	YES
Energy efficiency		
<ul style="list-style-type: none"> 3.5 star NatHERS Rating (min) 	Dwelling 1: To be conditioned (Refer No. 53) Dwelling 2: To be conditioned (Refer No. 53)	YES YES
4.7 Accessibility:		
Vehicular access and car parking dimensions		

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<ul style="list-style-type: none"> Garage 6.2m x 5.4m (min double) 	Dwelling 1: 5.8m x 5.7m Dwelling 2: 5.8m x 6m	NO NO
4.9 Visual bulk:		
Building setbacks <ul style="list-style-type: none"> Front building line: Minimum setback: 12m Side setback: Ground floor: 3.9m (min) 1st floor: 4.9m (min) Ground floor: 2m (min) 1st floor: 2.5m (min) Rear setback: 5.7m (min) 	Dwelling 1: 7-7.5m Dwelling 2: 7.5-9m Dwelling 1: Ground floor: 3m Dwelling 1: 1 st floor: 3m Dwelling 2: Ground floor: 2m Dwelling 2: 1 st floor: 2m Dwelling 1: 8.4m	NO NO NO NO YES YES YES
Building form <ul style="list-style-type: none"> Unrelieved wall length: 8m (max) Total building length: 24m (max) 	11.6m (north western wall to Dwelling 1) 20.5m	NO YES
Built-upon area <ul style="list-style-type: none"> Total built upon area (max): 40% Notional built-upon area 	40.4% Dwelling 1: 43.7% Dwelling 2: 37.4%	NO
Floor space ratio <ul style="list-style-type: none"> FSR (max): 0.5:1 1st floor – 40% 	0.44:1 Dwelling 1: 44% Dwelling 2: 52%	YES NO NO
Height of buildings <ul style="list-style-type: none"> Attached dual occ: 8m (max) Building envelope: 45⁰ from horizontal at any point 3m above boundary 	5.9m Dwelling 1: complies Dwelling 2: complies	YES YES YES
Cut and fill (building works)		

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<ul style="list-style-type: none"> Cut & fill: 900mm & Total 1800mm (max) 	Dwelling 1: 1.2m (cut) & 300mm (fill) Dwelling 2: 1.3m (cut) & 300mm (fill)	YES YES
Section 5: Landscaping & open space		
Total soft landscaping : 60% (min)	59.6%	NO
Notional soft landscaping:	Dwelling 1: 56.3% Dwelling 1: 62.6%	
Tree retention and refurbishment <ul style="list-style-type: none"> No. of Trees: 5(min) 	6 trees	YES
Open space provisions <ul style="list-style-type: none"> Area: 100m² or 2 x 75m² areas (min) Min dimension 5m x 5m (min) Grade: 1 in 8 (max) 50% receives 3+ hours solar access (min) 	Dwelling 1: 2 separate areas: 87m ² & 76m ² Dwelling 2: 2 separate areas: 75m ² & 62m ² Dwelling 1: 5x5m Dwelling 2: 5x5m Dwelling 1: <1:8 Dwelling 2: <1:8 Dwelling 1: Open space receives 3+ hours solar access Dwelling 2: Open space receives 3+ hours solar access	YES NO YES YES YES YES YES YES

Part 4.3 Visual and acoustic privacy:

The design of the development is such that good separation is provided from the ground floor habitable rooms to the boundaries of the properties and, at the first floor level, only bedroom windows allow opportunity to view into the neighbouring property. The impact of the first floor bedroom windows on the neighbouring properties is minimal and not inconsistent with development in a residential area. Dwelling 2 does have a minimal non-compliance with the setback from the adjoining development at No. 37 Todman Avenue. The extent of the non-compliance (1.4m) only occurs to the ground floor family room of Dwelling 2 and, due to the orientation of this room, no amenity impact upon the occupants of the neighbouring dwellings will occur.

Part 4.7 Accessibility

The non-compliance with the dimension requirements for the garages to both Dwelling 1 & 2 are not such to prevent their use for the accommodation of two cars. The dimensions proposed are in accordance with the Australian standard.

Part 4.9 Visual bulk:

The development fails to satisfy the minimum requirement of a 12 metres front setback. Given the nature of the site, should strict compliance with this control be sought, it would effectively mean that the development would be directed towards to the northern corner of the site. Development in this area would have a more detrimental impact upon the adjoining buildings.

As proposed, the development has responded to the changing angle of Todman Avenue which, in turn, has allowed for good separation to the adjoining properties. In respect of the impact on the streetscape of Todman Avenue, the introduction of landscaping forward of the courtyard fencing will ensure the development is set within a landscaped setting (**refer Condition No. 35**).

The primary frontage of Dwelling 2 to Todman Avenue is located 700mm behind the existing carport development upon the site and, with the exception of its living area, Dwelling 1 is also located with a similar setback to the existing house upon the site.

Despite having non-compliances with the side setback control for Dwelling 1 to its north-western boundary, the development still achieves adequate separation from the boundary in which a landscaped buffer can be provided (**refer Condition No. 36**). In addition to the side setback non-compliance, the north-western wall to Dwelling 1 also exceeds the minimum unrelieved wall length requirement. In order to soften this impact, landscaping achieving a height of 3m to the boundary must be provided (**Refer Condition No. 36**).

The non-compliance with the built-upon area, is very minor. The development still provides a very good relationship between building and site area such that the development can still be read in the streetscape as being set within a landscape curtilage.

In respect of the non-compliance with the proportion of first floor gross floor area to the overall development, the proposal has been appropriately designed and the first floor level does not detract or add unnecessary perceivable bulk to the street or adjoining properties.

Part 5 Landscaping and open space:

The minor non-compliance with the soft landscaping control (0.4% or 37m²) does not result in an overdevelopment of the site. The development appropriately responds to an awkwardly shaped site. The proportion of soft landscaping to site area is sufficient to allow for useable open space, tree retention and suitable new landscaping as well as on-site water absorption.

The minor non-compliance with the open space requirement for Dwelling 2 is not such as to detrimentally affect the amenity afforded to the occupants of the dwelling. The provision of two well proportioned areas for private open space responds to the internal design layout of the house and will encourage full utilisation of the site rather than constraining future occupants into one specific area of the site for entertainment and recreational pursuits.

Development Control Plan 31 – Access

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

Development Control Plan 40 – Construction and Demolition Waste Management

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

Development Control Plan No. 43 – Car Parking

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

Development Control Plan 47 – Water Management

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against SEPP 53 and the proposal is satisfactory in this regard.

Section 94 Plan

The development attracts a section 94 contribution of \$12,459.72, which is required to be paid by **Condition No.40**.

LIKELY IMPACTS

All likely impacts of the development have been considered in the assessment of the development application.

SUITABILITY OF THE SITE

The site is suitable for the erection of an attached dual occupancy development.

ANY SUBMISSIONS

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

PUBLIC INTEREST

Approval of the application is considered to be in the public interest.

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for discussion.

CONCLUSION

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

RECOMMENDATION:

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

THAT the Council, as the consent authority, grant development consent to DA 1295/03 for demolition of the existing house and the erection of an attached dual occupancy on land at 39 Todman Avenue, West Pymble, for a period of two (2) years from the date of the Notice of Determination subject to the following conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No 1295/03 lodged with Council on 9 October 2003 and Development Application plans prepared by Hans Waldmann and Associates, Drawing Nos. 790-01-03, 790-02-03 and 790-03-03 dated 16 April 2004.
2. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
3. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
4. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

5. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
6. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
7. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

8. To maintain existing ground levels all excavated material shall be removed from the site.
9. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
10. If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

11. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
12. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
13. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
14. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.
15. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
16. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.

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

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
22. All building works shall comply with the Building Code of Australia.

23. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the street drainage system. Drainage line connections to the kerb shall conform and comply with the detailed requirements contained within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe"). Drainage crossings of the footway area shall be a single 100mm diameter sewer grade uPVC pipe with kerb adaptor, where the total design flows from the property are within the capacity of such a pipe, otherwise suitably sized galvanised RHS shall be used. To ensure compliance with this condition, a Certificate from the installer is to be submitted to the Principal Certifying Authority prior to issue of the Final Compliance Certificate.
24. To maintain capacity of the Public drainage system, an On-site Stormwater Detention System must be provided for the proposed residence in accordance with Council's Stormwater Plan DCP47. Separate detention systems are to be provided for each residence. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

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

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

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

NOTE 3: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Plan DCP47, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

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

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

NOTE 6: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings. This is available in Council's Stormwater Plan DCP47.

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25. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.
26. For the purpose of any Council inspections, the appropriate fees set out in Councils adopted Schedule of Fees and Charges are payable to Council, prior to the release of the approved plans. A re-inspection fee per visit may be charged where remedial work is unprepared at the requested time of inspection or where remedial work is unsatisfactory and a further inspection is requested. Engineering fees must be paid prior to the final approval of the works.
27. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
28. The relocation or adjustment of any utility service facilities must be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
29. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of Council's Specification for Drainage and Road Works.
30. Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Aust AS1742-3 1996 "*Traffic Control Devices for Work on Roads*".
31. If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.
32. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.

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

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

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

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

Tree/Location	Radius From Trunk
<i>Cedrus deodara</i> (Himalayan Cedar) /South western side of Dwelling 2	5 metres
3 x <i>Grevillea robusta</i> (Silky Oak) /Adjoining property, 41 Todman Ave	5 metres

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

35. In order to soften the appearance of the development within the Todman Avenue streetscape, that area of the site located between the Todman Avenue boundary and the proposed courtyard fencing shall contain vegetation achieving heights between 3-6m and be of an appropriate species to enhance the landscape setting of the site. Details are to the Accredited Certifier prior to the issue of the Construction Certificate.
36. In order to soften the appearance of the unrelieved north-western wall of Dwelling 1, landscaping of an appropriate species consistent with the surrounding natural environment and achieving a height of 3 metres shall be planted along the north-western boundary of the site. Details are to the Accredited Certifier prior to the issue of the Construction Certificate.
37. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate.

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

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38. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
39. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
40. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

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

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

1. Preparation of New Residents Kit	\$10.98
2. New Resident Survey	\$9.87
3. New child care centre (including land acquisition and construction of facility)	\$252.13

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4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Acquisition of Open Space	
-	Roseville	\$3,931.00
-	Lindfield	\$7,851.00
-	Killara	\$7,851.00
-	Gordon	\$7,851.00
-	St Ives	\$7,851.00
-	Pymble	\$1,966.00
-	Turramurra/Warrawee	\$1,966.00
-	Wahroonga	\$7,851.00
8.	Koola Park upgrade and reconfiguration	\$143.09
9.	North Turramurra Sportsfield development	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

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

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

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

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- Note 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.
- Note 2: When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level (if applicable) of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

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

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

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

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

43. In the drainage plan prepared by Nasserri Associates, Job No. D1378, dated 7/8/03, the following issues are to be addressed and submitted to the Principal Certifying Authority for approval, prior to the issue of the Construction Certificate:-

On Site Detention for both houses.

The roof gutter, down pipe and drainage system of the dwelling is to be sized to catch and convey the 50 year ARI storm event to the OSD system. An engineer is to provide certification the Construction Certificate plans, that this has been achieved. Suitable kerbs or other approved "cut off" systems are to be provided in the OSD design to ensure a maximum possible amount of overland flow is directed to the OSD system. These kerbs etc, are to be sized for all storms up to the 50 year ARI storm event. An engineer is to provide certification the Construction Certificate plans, that this has been achieved. Earth mounding or timber retaining walls are not acceptable as the storage perimeter wall. Any perimeter walls must be in masonry on a reinforced concrete footing.

Where OSD storage is by way of underground storage:

- A) Inflow pipes to the storage chamber are to be located below inspection grates.
- B) If soil and turf are to cover the tank, then a minimum depth of soil to be 350mm.

Drainage design details are to be compatible with the landscaping plans.

Councils landscape officer is to consider the final location of all drainage infrastructure including (a) drainage lines, (b) OSD tanks and (c) OSD basin walls. Only after the Council Landscape Officer's approval, can the Construction Certificate be issued.

The access grate above the control chamber is to be a grate of 600mm x 900mm or greater. Apart from the grate above the control chamber, other grates to have the following minimum sizes, depending on the pit depth as follows:-

Depth of Chamber below grate	Min grate and Pit size
Less than 300mm	300square
Less than 450mm	450square
Equal to or Less than 600mm	600square
Greater than 600mm	600 x 900

- 44. Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention and all supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council requirements. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.
- 45. For stormwater retention, provision of a 2000 litre rainwater tank within the subject property designed to capture and retain runoff from at least one roof downpipe after which runoff bypasses the tank and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced civil/hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

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

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

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

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

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

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

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

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

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

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

46. An amended plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works.
47. The property shall support a minimum number of 5 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commence of work.
48. The 2 trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

The 2 additional trees to be planted shall be locally occurring trees such as; *Angophora costata* (Sydney Red Gum), *Corymbia gummifera* (Red Bloodwood), *Eucalyptus haemastoma* (Scribbly Gum), *Eucalyptus sieberi* (Silvertop Ash).

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

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

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

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

50. A CASH BOND/BANK GUARANTEE of \$3,000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

Cedrus deodara (Himalayan Cedar)
/ South western side of Dwelling 2

Jacaranda mimosifolia (Jacaranda)
/ south western side of Dwelling 1

3 x *Grevillea robusta* (Silky Oak)
/ Adjoining property, 41 Todman Ave

51. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

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

To preserve the following tree no excavation is permitted (excluding the approved dwelling) within the specified distance of the tree's trunks. The detention basin for Dwelling 2 shall not be located beneath the canopy of the *Cedrus deodara* (Himalayan Cedar).

Details of the stormwater shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

Tree/Location

Cedrus deodara (Himalayan Cedar)

Radius from Trunk

4 metres

52. To preserve the following tree/s, footings of the proposed north western side of Dwelling 1 and south western side of Dwelling 2 shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 50mm shall be severed or injured in the process of any site works during the construction period. The beam shall be located on or above existing soil levels.

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

Tree/Location	Radius in Metres
<i>Cedrus deodara</i> (Himalayan Cedar) / South western side of Dwelling 2	5 metres

3 x <i>Grevillea robusta</i> (Silky Oak) / Adjoining property, 41 Todman Ave	5 metres
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53. Certification from an appropriately qualified person stating that the dwellings achieve a 3.5 star NatHERS rating shall be provided to the accredited certifier prior to the issue of the construction certificate.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

54. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
55. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council prior to the commencement of work.
56. A Compliance Certificate pursuant to Section 73 Sydney Water Act 1994, as evidence of compliance with the provisions of Division 9 of that Act, to be obtained from Sydney Water prior to the commencement of any work on the site.
57. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

Application must be made through an authorised Sydney Water Coordinator, for details see Sydney Water web-site www.sydneywater.com.au/customer/urban/index or telephone 13 20 92.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council prior to release of the linen plan/occupation of the development.

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

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Tree/Location	Radius in Metres
<i>Cedrus deodara</i> (Himalayan Cedar) / South western side of Dwelling 2	3 metres
<i>Jacaranda mimosifolia</i> (Jacaranda) / South western side of Dwelling 1	3 metres
<i>Eucalyptus haemastoma</i> (Scribbly Gum) / Southern corner of property	3 metres

59. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.

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

60. Prior to the release of any occupation certificate, a compliance certificate must be obtained from an accredited certifier, certifying that the building works for the building to be occupied comply with the plans and specifications approved by this development consent; and any construction certificate associated with this consent for the buildings to be occupied. If the PCA is not the Council, then this compliance certificate must be submitted to the Council at the same time as the occupation certificate is submitted to the Council in accordance with Clause 151(2) of the E P & A Act regulations.
61. A survey report shall be submitted to the Principal Certifying Authority prior to occupation, which certifies that the development has been constructed in accordance with the terms of this consent in relation to built upon area, building levels and setbacks.
62. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to occupation, or the issue of an Occupation Certificate, or the issue of a Subdivision Certificate. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council.
63. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to occupation, or the issue of an Occupation Certificate or the issue of a Subdivision Certificate.
64. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced civil/hydraulic engineer, prior to

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occupation, or the issue of an Occupation Certificate, or the issue of a Subdivision Certificate, that:

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

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

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

The Certificate is to be with respect to compliance with:

Compatibility of the drainage system with the approved plans

The soundness of the structure.

The adequacy of the outlet control mechanism to achieve the discharge as specified.

The capacity of the detention storage as specified.

The size of the orifice or pipe control fitted.

The maximum depth of storage over the outlet control.

The adequate provision of a debris screen.

The inclusion of weepholes in the base of the outlet control pit.

The provision of an emergency overflow path.

All enclosed floor areas, including habitable and garage floor levels, being safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

invert levels

surface or pavement levels

floor levels including adjacent property floor levels

maximum water surface level to be achieved in the storage zone

dimensions of basin(s), tank(s), pit(s), etc.

location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.

storage volume(s) provided and supporting calculations

size of orifice(s)

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

Matthew Prendergast
Manager
Development Assessment Services

Michael Miocic
Director
Development and Regulation

DRAFT MASTERPLAN FOR CARLOTTA AVENUE DEPOT SITE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To present to Council a Draft Masterplan for the redevelopment of the Carlotta Avenue Depot site for residential purposes.

BACKGROUND:

At the meeting of 10 February 2004 Council resolved to proceed with the sale of the Carlotta Avenue Depot Site on the basis of the site being redeveloped for residential development in accordance with LEP194 and that prior to the sale of the site, a Masterplan be prepared for the site in accordance with the 2(d3) zoning and Division 8 of Draft LEP194.

COMMENTS:

The urban design firm Allen Jack + Cottier and landscape architects OCULUS were engaged to prepare the Draft Masterplan. The Draft Masterplan has been prepared in accordance with the 2(d3) zoning of the site under LEP194 and incorporates a 10% public open space component. The development of the Draft Masterplan has included 2 community workshops with residents in the vicinity of the depot site. It is proposed that the Draft Masterplan be placed on public exhibition until February 2005.

RECOMMENDATION:

That Council adopt the draft Ku-ring-gai Council Depot Site Masterplan as a draft amendment to Development Control Plan No 55 and public exhibition as outlined in Recommendations A - D in this report.

PURPOSE OF REPORT

To present to Council a Draft Masterplan for the redevelopment of the Carlotta Avenue Depot site for residential purposes.

BACKGROUND

At the meeting of 10 February 2004 Council considered the Depot Redevelopment Feasibility Study, prepared by Hill PDA, which examined the financial feasibility of redevelopment of the Carlotta Avenue Depot for the purpose of an aged care facility. Following consideration of the report, Council resolved to proceed with the sale of the Carlotta Avenue Depot on the basis of the site being redeveloped for residential development in accordance with LEP 194 and that prior to the sale of the site, a master plan be prepared for the site in accordance with the then 2(d3) zoning and Division 8 of Draft LEP 194.

Allen Jack + Cottier (architectural and urban design firm) and OCULUS (landscape architects) were engaged to prepare the draft master plan.

An initial community workshop was conducted with surrounding residents on 19 May 2004. The purpose of this workshop was to identify potential issues associated with redevelopment of the site and to establish design principles for the masterplan.

Two masterplan concepts were developed that took into consideration the opportunities and constraints of the site, community feedback and the previously established design principles. These two options were presented to a second community workshop held on 13 October 2004 to obtain additional resident comment and feedback. Following this second workshop, a preferred option was identified and worked up to a detailed draft masterplan for Council consideration and broader community consultation.

COMMENTS

Aim and Purpose of this Masterplan

The draft masterplan provides Council with a mechanism for describing and controlling the potential redevelopment of the works depot site at 1-7 Carlotta Avenue, for residential purposes. It identifies design objectives and includes site specific development controls.

The purpose of the Masterplan is to guide redevelopment of the site as a high quality medium density residential precinct responsive to the significant landscape setting of Gordon.

Relationship to Planning Instruments

The draft masterplan has been prepared in accordance with the 2(d3) zoning of the site under LEP 194 and Draft DCP 55 (as exhibited), however, refines the existing principles and controls embodied in these instruments in response to site specific issues and the identified design principles for the site.

In regard to the development standards contained in LEP 194, the draft masterplan proposes 5 building envelopes to 4.6 storeys in height with a maximum site coverage of 30%. This will permit a potential minimum deep soil zone of 57%.

The masterplan proposes a maximum floor space of 75% of the building envelope, in line with draft DCP 55. This translates to a floor space ratio (FSR) of approximately 1.08:1. This will result in approximately 165 units of varying sizes.

The proposed street setbacks are 12m, with only 2 potential buildings up to 20m wide directly fronting Carlotta Avenue.

The masterplan has been developed on the assumption that the adjoining lots at 1-11 Mount William Street will be rezoned under LEP 200 (and subsequently redeveloped) to 2(d3). The proposed side setbacks to these adjoining properties is 10 to 12m. This is in excess of the setback requirements under draft DCP 55, and provides the potential to establish significant landscape screening.

The masterplan would also need to be read in conjunction with other relevant Environmental Planning Instruments or Policies, which would continue to apply to the site for matters not specifically addressed in the masterplan. These include, but not necessarily limited to, the following:

- SEPP 65 – Design Quality of Residential Flat Development
- LEP 194 and the Ku-ring-gai Planning Scheme Ordinance 1971
- Final version of DCP 55 – Multi-Unit Housing – Railway Corridor and St Ives Centre
- SEPP Building Sustainability Index - BASIX 2004
- DCP 47 - Water Management Development Control Plan
- DCP 43 – Car Parking Development Control Plan

Structure of the Draft Masterplan

This draft masterplan is structured in three sections.

1. *Introduction:* This section includes a description of the local context and existing site and explains the aim and purposes of the Masterplan, its relationship to other planning instruments and the use of the Masterplan. A vision for the site is articulated and supported by objectives and illustrative drawings.
2. *Design Principles:* This section explains the design rationale behind the draft masterplan and the supporting development controls and guidelines. The design principles are intended to

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direct the overall site layout, its relationship to the context, and the resulting built form and landscape intent.

3. *Development Controls and Guidelines:* The development controls and guidelines are divided into two sections:
- i. those that create or define the public domain such as public open space, streetscapes and the building edges; and,
 - ii. those that control the form and resolution of the private domain such as communal and private open spaces, built form, amenity and environmental performance.

Public Open Space

In accordance with Council's previous resolution, the draft masterplan incorporates a 10% public open space component. The open space is to be located in the centre of the site fronting Carlotta Avenue, where it will have a very strong connection with the street in order to maximise potential public use of the space. The public open space will also incorporate the retention of a significant *Angophora constata* (Sydney red gum) that currently exists on the site.

It is proposed that a new one way road be provided around the public open space. This would have the benefits of providing efficient access to the site and help separate the public open space from the private domain.

It is intended that the public open space and new roadway would be dedicated to Council upon completion of the future development.

Traffic Issues

The redevelopment of the Council Depot with medium density residential housing in accordance with the draft Masterplan would generate a relatively small increase in traffic volumes in Carlotta Avenue during the morning peak, compared to the existing land use. There would be a reduction in traffic movements before 7am and during the school afternoon peak. A significant reduction in heavy vehicle traffic volumes in Carlotta Avenue, Pearson Avenue and Park Avenue would also result. Development of the adjoining site at 1-11 Mount William Street to permit medium density residential development would also generate increases in traffic volumes in Carlotta Avenue and Pearson Avenue during the morning peak, compared to the existing land use.

The possible increased traffic generation in Carlotta Avenue as a result of the depot site redevelopment could be offset by improvements to the operation of the left turn slip lane on the Mona Vale Road off-ramp. Therefore, improvements to the left turn slip lane should occur concurrently with medium residential development at the Depot site. This will need to be negotiated with the Roads and Traffic Authority.

To address residents concerns regarding traffic management in the area, potential treatments could be considered at the intersection of Pearson Avenue and Mount William Street to prevent through traffic from using the Carlotta Avenue/Pearson Avenue route. Such treatments would also require RTA support. If the RTA does not agree with improvements to the slip lane or the treatment at the intersection of Pearson Avenue and Mount William Street, potential intensive treatments along the

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Carlotta Avenue/Pearson Avenue route such as road narrowings/median islands and improved linemarking could be considered.

The Masterplan will be incorporated in the contract for sale of the site to ensure that development of the site is in accordance with the Masterplan. This will be in the form of a positive covenant pursuant to s.88D of the Real Property Act 1990 which is registered upon the title of the land.

Council is the authority for the adoption of the Masterplan and the consent authority for a development application relating to the site. Future development applications would need to demonstrate the achievement of the objectives, design principles, development controls and guidelines of the Masterplan.

Incorporation of Masterplan Controls into DCP 55

It is also proposed that the final masterplan be given a level of statutory force in the form of a development control plan under Section 72 of the EP&A Act applying to the site. An appropriate form for such a DCP would be to incorporate the masterplan controls into section 6 of DCP 55, which includes site specific controls for nominated areas.

As noted above, there are inconsistencies between DCP 55 and proposed development controls in the masterplan. However, if the masterplan controls were to be incorporated as part of section 6, it would make provision for the masterplan controls to prevail over the DCP controls to the extent of any inconsistencies.

For Council to incorporate the masterplan controls into Section 6 of DCP 55, it must adopt it as a draft amendment to the DCP and publicly exhibit the masterplan in accordance with the EP&A Regulations 2000.

CONSULTATION

As discussed earlier in the report, the development of the draft masterplan has included 2 community workshops with residents in the vicinity of the depot site. The purpose of the workshops was firstly, to identify potential issues associated with development of the site and to establish design principles for the masterplan, and secondly, to obtain resident comment and feedback on preferred options.

It is now proposed that the draft Masterplan be placed on public exhibition in order to seek broader community input into the plan before Council makes its final determination on the Masterplan. Given the Christmas vacation period, it is proposed that the draft Masterplan be exhibited at the Council Chambers and on Councils web site for a six week period from January 2005 until mid February 2005.

It is also proposed that the traffic management report and proposed solutions be placed on exhibition with the draft Masterplan in order to seek broader public comment and feedback.

FINANCIAL CONSIDERATIONS

The Masterplan has been prepared in accordance with LEP194 and Draft DCP55 to achieve a yield that would be consistent with other developments under LEP194. The sale of the site will be used to fund the construction of a new depot at Suakin Street, Pymble. The likely returns for the sale of the site have been incorporated in the report for the 10 Year Financial Model.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The draft masterplan has been prepared in consultation with staff from Planning and Environment, Technical Services and Open Space.

SUMMARY

The urban design firm Allen Jack + Cottier and landscape architects OCULUS were engaged to prepare the draft masterplan for the Carlotta Avenue Depot site. The draft masterplan has been prepared in accordance with the 2(d3) zoning of the site under LEP 194 and incorporates a 10% public open space component.

A traffic management report has been prepared on the potential traffic issues arising from the redevelopment of the site. This incorporates potential traffic management solutions for the precinct.

The development of the draft masterplan has included 2 community workshops with residents in the vicinity of the depot site. It is proposed that the draft masterplan be placed on public exhibition until February 2005 in order to seek broader community input into the plan.

It is also proposed that the traffic management report and proposed solutions be placed on exhibition with the draft Masterplan in order to seek broader public comment and feedback.

RECOMMENDATION

- A. That Council adopt the draft Ku-ring-gai Council Depot Site Masterplan as a draft amendment to Ku-ring-gai Multi-Unit Housing Development Control Plan No 55 – Pacific Highway / Railway Corridor and St Ives Centre.
- B. That the draft Masterplan be publicly exhibited in accordance with Clause 18 of the Environmental Planning and Assessment Act Regulation 2000.
- C. That the draft Masterplan be placed on public exhibition at the Council Chambers and Council's web site from January until mid February 2005.

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- D. That the traffic management report and proposed solutions be placed on public exhibition with the draft Masterplan for public comment.

Craige Wyse
Senior Urban Planner

Leta Webb
Director Planning & Environment

Joseph Piccoli
Strategic Traffic Engineer

Greg Piconi
Director Technical Services

Attachments: **Attachment 1 - Draft Ku-ring-gai Council Depot Site Masterplan.**
 Attachment 2 - Traffic Management report and recommended solutions.
 Both circulated separately.

REVIEW OF TRIAL NIGHT TIME FIXTURES AT SPORTSGROUNDS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To advise Council of both the communities and sporting user groups response to the trial and to consider an amendment to Council's current policy of no night sporting fixtures at any location.

BACKGROUND:

On the 2 March 2004 Council resolved a 12 month trial be undertaken allowing night games be played at Cliff Avenue (Wahroonga) and Roseville Chase (Roseville) sportsgrounds. In addition on 25 May 2004 Council resolved night games be permitted on Barra Brui sportsground (St Ives) for five Friday nights over a nine week period.

COMMENTS:

There is sufficient information to support a policy change in order to positively respond to the changing and increasing demand for access to Open Space by both the sporting and wider community. A change in policy will afford staff the opportunity to ensure that an appropriate balance between all stakeholders can be monitored and managed.

RECOMMENDATION:

That Council approve a change in policy permitting the playing of night fixtures on a location by location basis for a maximum of one night per week if the criteria and conditions are met as outlined in this report.

PURPOSE OF REPORT

To advise Council of both the communities and sporting user groups response to the trial and to consider an amendment to Council's current policy of no night sporting fixtures at any location.

BACKGROUND

In response to officers being advised that a number of local clubs were in breach of Council's existing policy by playing games under lights at several locations, a number of meetings and negotiations with both Clubs and competition organisers were held following which a report was presented to Council on 2 March 2004 at which Council resolved;

- a. That Council allow use for limited night games at Cliff Oval and Roseville Chase Oval consistent with the conditions outlined in this report for the winter 2004 season as a trial only.*
- b. That a comprehensive report be presented at the close of the trial that considers all relevant information relating to the future of night fixtures on Council Sportsgrounds.*

During these negotiations St Ives Rugby Club requested that Hassell Park be included in the trial. However due to the floodlights not meeting the recommended levels, Council resolved Hassell Park could not be included.

On 25 May 2004, Council resolved to allow St Ives Rugby Club to play five night games over a nine week period at Barra Brui Oval to assist the Club in hosting "home" games.

Following Council's resolution and cognisant that an increase in night use must be well managed so as to not reduce the amenity for surrounding residents, officers worked closely with the clubs and the Metropolitan Northern Zone (MNZ) organiser to develop an Action Plan for the management of night games, to address apparent issues (refer to Attachment 1).

The Action Plan established a set of guidelines that addressed the management of impacts that could arise from night usage on the surrounding community. It further provided a tangible tool that afforded comment and feedback from surrounding residents and a base point from which the plans effectiveness could be readily identifiable by all stakeholders.

Surrounding residents were notified of Council's resolutions to undertake trials at the three locations and the process to evaluate the implementation of the trials prior to reporting back to Council. Residents were invited to provide comment on the draft Action Plan, and the following issues were incorporated- traffic and parking problems, noise, litter, finishing times of training and the responsible service of alcohol.

In addition, at each location a representative of the "home" club and the MNZ were appointed as community liaison representatives with contact details provided to surrounding residents that were to be available during the period that night fixtures were being undertaken.

The three “home” clubs (Wahroonga Tigers, Roseville Juniors and St Ives Rugby Club) and the MNZ representative signed the Action Plan.

On the 27 April 2004, officers, residents and club representatives meet at Cliff Oval to discuss the Action Plan and its implementation throughout the trial.

At the conclusion of the trial winter season, letters were sent to surrounding residents and all winter codes (and Associations) advising the trial had concluded and sought comments in order for a detailed report on the matter be presented to Council for consideration.

COMMENTS

Council’s Strategic Plan for Sportsgrounds/Courts developed in 1997 recommended that Council:

“work with sporting groups to schedule competition games on days and nights other than Saturday mornings and afternoons where possible with Council providing incentives to do this. Ensure sustainability of the surface when allocating additional use of fields.”

When adopted by Council in July 2003 the Sportsground Plan of Management recognised the likely future significance of this issue and recommended further consideration by Council prior to any change in policy.

The first report to Council on this issue in March 2003 recognised that final resolution would require a comprehensive analysis of all relevant matters and identified the key issues as:

- The sporting needs of our community are changing and the times of access to facilities and the facilities required to suit those needs are also changing.
- The impact on surrounding residents and the need to consult locally to ensure their views are considered, impacts to their amenity balanced, including dealing with issues such as traffic, parking, noise and littering.
- The safety and risk management of permitting games to be played under lights and the need for those lights to meet relevant Australian Standards.
- The sustainability and level of use of the fields, i.e. ensuring the fields do not suffer as a result of any increased level of use.
- The demands by all members of the community for open space is increasing and as the density of dwelling in Ku-ring-gai increases it is probable that the demands on our open space will similarly increase. Therefore an important role of Council is to balance access to Open Space, ensuring the increasing demands from both the wider community and those of formal sports are balanced both now and in the future.

In relation to the sporting needs of our community, demand for access to reasonable quality

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sportsgrounds is increasing and is expected to continue. Council's ability to supply new locations to address this need is extremely limited. Improving the quality of existing infrastructure to satisfy a component of that demand including enabling policies will be required. When the issue of night fixtures was discussed at the November meeting of the Park, Sport & Recreation Reference Group it was recommended that:

- a. Council be advised that the shortage of grounds with adequate lighting for night games is acute and is not an option for consideration but essential.*
- b. The existing floodlights on many of Council's fields are inadequate and upgrading these facilities should be given the highest priority.*
- c. Floodlights are required at new locations to accommodate increasing demand for night training as well as night games.*
- d. Priority should be given to associations who can contribute to the cost of upgrade or installation of floodlights that meet the Australian Standards.*

Attitudes to sport and participation including times of play are also changing rapidly. Increased flexibility will be required in use of many Council facilities to support these changes.

St Ives AFL Club, Lindfield Junior Rugby Club and the North Shore District Softball Association have indicated that they would like to be able to host night games if their facilities were of a suitable standard. A further request has been received for Roseville Cricket Club to play a twilight cricket game during daylight saving on a Wednesday evening, with a limited number of over (32).

The impact on surrounding residents and the need to maintain amenity for those residents including undertaking locally based consultation cannot be overemphasized. Considerable effort has been directed toward the undertaking of consultation with surrounding residents during the period and directly after the trial.

Attachment 2 outlines a summary of responses received from the community for each location that was part of the trial. The responses ranged from fully supportive through conditional support to negative responses. It should be noted that many of the matters raised are about issues that occur regardless of when matches occur. In some cases the time of the trial (night) does exacerbate the problem (eg noise) but in many cases it is a consequence of sport being played at that location. Issues raised have generally related to noise, litter, traffic and parking.

In addition Council received a petition signed by 50 residents in Cliff Avenue and surrounding streets in late November detailing these concerns and ongoing meetings and communication between staff, residents and the Rugby Club continue in an attempt to address each stakeholders concerns.

What has become apparent from the trial is that although the issues raised are often similar, a specific approach must be undertaken at every location. Developing a standardised Action Plan which has then been developed for the specific issues at each location involving all stakeholders has assisted enormously during the trial. The input and ownership of an Action Plan by all stakeholders

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has allowed the development of relationships that has progressed, in many cases long standing issues. This will be essential if night fixtures are to continue. Any initiation of night fixtures at new locations or change of circumstance at existing locations should be preceded by a trial period, including the development of an Action Plan and review by all parties at the end of that trial. The Action Plan will need to demonstrate that identified issues can be managed sufficiently to allow the trial to be undertaken. The Action Plan should be reviewed and updated before every new season.

The playing of night fixtures presents two issues of risk management for Council. Australian Standards exist for the conduct of sporting fixtures under lights. To allow any game to proceed without a ground meeting that standard would present risk for Council. Secondly should night fixtures lead to such an increase in wear that playing surface quality is compromised should also be unacceptable to Council. Any change to night fixtures on Council sportsgrounds should have regard to both of these issues.

The remaining point for consideration is that of the broader role within the open space network that sportsfields provide. That is they provide important local open space used for a variety of recreational pursuits. Balancing the sometimes competing demands of unstructured and organised use needs to be balanced so as to not exclude uses other than organised sport. Any increase in allowed formal use should be at least part balanced by new opportunities for access from the general community. This could be achieved by part reductions in other periods of formal use, eg decreasing Sunday availability from 15 Sundays to 8.

Proposed Course of Action

Giving balance to all of the key issues identified that require consideration the following course of action is proposed:

That Council approve a change in policy permitting the playing of night fixtures and training on a location by location basis for a maximum of one night per week if the following criteria and conditions are met

1. The floodlights meet the relevant Australian Standards (AS2560 & AS4282).
2. That development consent for floodlights does not prohibit playing night fixtures or training.
3. That the first 12 months at any location be considered a trial, and reviewed at the conclusion of the initial season.
4. The 'home' clubs at each location agree to sign and abide by an Action Plan developed in consultation with local residents and as part of Council's conditions of hire for booking open space.
5. That residents be provided with the copy of the Action Plan which includes the 'home' clubs community liaison officers contact details at the beginning of the season.
6. That residents be notified before and after the trial season and provided the opportunity to provide input, feedback and comments.

7. That overall use of each ground utilised for night fixtures is managed to ensure no appreciable deterioration in the quality of the playing surface.
8. Where night fixtures are undertaken Sunday use is allowable to a maximum of eight Sundays in any given season.

CONSULTATION

An extensive consultation process was undertaken prior, during and after the conclusion of the trials to ensure a wide range of comments from key stakeholders and residents were received on this issue. Support for night games ranged from fully supportive, to supportive with conditions, to not supportive at all, however, the majority of feedback was not negative and the implementation process using an Action Plan and a Community liaison officer was widely supported.

Residents living in close proximity to Roseville Chase, Cliff Avenue and Barra Brui sportsgrounds received four letters during the course of the trial; the first to advise of Council's resolution of 2 March 2004 and outlining the process being proposed. The second letter advised that the "draft" Action Plan was available to view and third confirming that the final Action Plan (Attachment 1) had been signed by the clubs and a representative from Metropolitan Northern Zone. Residents were advised that a final copy of the plan was available for them to view on request and were provided with contact details of the Community Liaison Representatives for both the "home" clubs (Roseville Junior Rugby Club, Wahroonga Tigers and St Ives Rugby Club) and the MNZ. In addition a letter was sent in October 2004 advising that the trial had concluded and invited residents to provide feedback and comments.

All winter sports clubs were also contacted at the conclusion of the trial and invited to provide feedback and comments.

The range of feedback received has been summarised for each location. Specific comments received relating to each individual location are summarised in tables 1 - 3 in Attachment 2.

In addition the issue of night games was discussed at the November meeting of the Parks, Sport & Recreation Reference Group and firmly recommend and support a permanent change to the policy to allow night training and games at locations which comply with the conditions as outlined in this report.

FINANCIAL CONSIDERATIONS

The financial impacts would be expected to be negligible regardless of whether night fixtures are approved, given that overall use would remain relatively constant. The seasonal fee of \$664.00 for night games for a maximum of 22 nights is included in this year's fees and charges.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

During the winter season Council's regulatory services staff visited a number of sportsground locations on a regular basis and provided information regarding traffic and parking at those sites. Additionally Council's traffic engineers have assisted by recommending the installation of no parking signs on Burraneer Avenue. All of these measures have addressed issues at sites which are not directly related to the playing of night games but have assisted the residents by demonstrating that Council can assist when problems arise.

SUMMARY

Following Council's resolution of 2 March, 2004, a trial of night time fixtures has been undertaken on several of Council's playing fields. Concurrent with the undertaking of that trial has been an extensive process of consultation with impacted local communities.

With regard to proposed permanent changes to Council policy, a number of key issues have been identified. Of greatest importance in these is the need to establish a process of consultation and involvement of the local community in any proposal to introduce night time fixtures.

Given the involvement of all stakeholders in the development of a management plan, as part of the conditions of hire, it is considered that the introduction of night fixtures will assist in addressing some of the critical issues facing community sport and Council's management of its assets.

RECOMMENDATION

- A. That Council approve a change in policy permitting the playing of night fixtures and training on a location by location basis for a maximum of one night per week if the following criteria and conditions are met.
1. The floodlights meet the relevant Australian Standards (AS2560 & AS4282).
 2. That development consent for floodlights does not prohibit playing night fixtures or training.
 3. That the first 12 months at any location be considered a trial, and reviewed at the conclusion of the initial season.
 4. The 'home' clubs at each location agree to sign and abide by an Action Plan developed in consultation with local residents and as part of Council's conditions of hire for booking open space.
 5. That residents be provided with the copy of the Action Plan which includes the 'home' clubs community liaison officers contact details at the beginning of the season.
 6. That residents be notified before and after the trial season and provided the opportunity to provide input, feedback and comments.

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7. That overall use of each ground utilised for night fixtures is managed to ensure no appreciable deterioration in the quality of the playing surface.
8. Where night fixtures are undertaken Sunday use is allowable to a maximum of eight Sundays in any given season.

Morven Cameron
Sport and Recreation Planner

Amanda Colbey
Manager Parks, Sports &
Recreation

Steven Head
Director Open Space

Attachments:

- 1. Standardised Action Plan for Night Games**
- 2. Comments received relating to each individual location (Table 1-3)**

AMENDMENT TO GENERAL BUSINESS ITEM NUMBER 27 AT ORDINARY COUNCIL MEETING 14 DECEMBER 2004 - PREVIEW OF NIGHT TIME FIXTURES AT SPORTSGROUNDS

In response to a request for clarification of the recommendation in the above report the following amended recommendation is offered.

- A. That Council approve a change of policy permitting the playing of night fixtures on Council sportsgrounds on one weekday night per week if the following criteria and conditions are met.
1. Requests are considered for individual sites only.
 2. The floodlights meet the relevant Australian Standards (AS2560 & AS4282).
 3. That development consent for floodlights does not prohibit playing night fixtures or training.
 4. That the first 12 months at any location be considered a trial, and reviewed at the conclusion of the initial season.
 5. The 'home' clubs at each location agree to sign and abide by an Action Plan developed in consultation with local residents and as part of Council's conditions of hire for booking open space.
 6. That residents be provided with the copy of the Action Plan which includes the 'home' clubs community liaison officers contact details at the beginning of the season.
 7. That residents be notified before and after the trial season and provided the opportunity to provide input, feedback and comments.
 8. That overall use of each ground utilised for night fixtures is managed to ensure no appreciable deterioration in the quality of the playing surface.
 9. Where night fixtures are undertaken Sunday use is allowable to a maximum of eight Sundays in any given season.

23 RYDE ROAD, PYMBLE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To address the issues raised at the site inspection of 30 October 2004 and for Council to determine a development application for the demolition of the existing dwelling and the construction of a commercial building.

BACKGROUND:

Council at it's meeting of 19 October 2004 deferred consideration of the application pending a site inspection.

COMMENTS:

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

RECOMMENDATION:

Approval.

PURPOSE OF REPORT

To address the issues raised at the site inspection of 30 October 2004 and for Council to determine a development application for the demolition of the existing dwelling and the construction of a commercial building.

BACKGROUND

An assessment report was prepared and considered by Council on 19 October 2004 where Council resolved to defer determination pending a site inspection. The site inspection was carried out on Saturday, 30 October 2004. The following matters were raised at the site inspection and are addressed as follows:

1. Height of the building

Concern was raised in respect of the number of storeys proposed and the overall height of the development as it presented to the rear. It was requested that staff investigate the proportion of building length that achieved the six storey height and to undertake discussions with the applicant to determine whether the building can be:

- *Reduced in height; and*
- *Incorporate a step so as to reduce the height of the development as it presents to the rear.*

The height of the roof of the proposed development (RL 100.8) will be higher than the adjoining commercial building at 25 Ryde Road (RL 98.85) by 1.95m. The proposed building is expected to be higher than the existing building at 25 Ryde Road as the land at 23 Ryde Road is higher. The building at 25 Ryde Road presents itself as 7 storeys at the rear, while the proposed building will present as 6 storeys at the rear. The proportion of the proposed building that will be 6 storeys above natural ground level is 25%.

Discussions were held with the applicant to determine whether the height of the proposed building could be lowered and a step incorporated into the rear façade to reduce the height of the building from the rear. The applicant identified three measures to reduce the height of the building, but felt the measures would impact on the economic viability and amenity of the project. The three measures proposed include:

A. Deleting one storey from the proposed building

The applicant argued that the deletion of one storey would reduce the economic potential of the development by one third as the constraints of the site dictate the developable envelope. The applicant also argued that the deletion of one storey would result in the top floor of the proposed building being 1.65m below the top floor of the building at 25 Ryde Road, giving the streetscape a “missing tooth” appearance as there would not be the stepping of roof levels from higher properties to lower properties.

B. Sinking the building by one storey

The applicant argued that the sinking of the building would result in office space being below ground level, adversely affecting the amenity for building's occupants.

C. Stepping the building at the rear

The applicant argued that the stepping the top floors of the building would reduce office space and would therefore reduce the economic viability of the development.

The height of the proposed building in relation to the building at 25 Ryde Road is relative to the height difference in ground levels between the two sites. The stepping of the top floor at the rear of the proposed building would reduce the bulk of the building as it presents to the rear and would therefore be consistent with the stepping to the rear that was achieved in the design of 25 Ryde Road.

However, the development potential of 25 Ryde Road was not affected by a narrow street frontage as is the case for 23 Ryde Road. In addition, the proposed front and rear setbacks of the building at 23 Ryde Road are greater than the front and rear setbacks of the building at 25 Ryde Road. The greater setbacks allow for the planting of canopy trees within the front setback and Sydney Blue Gums (*Eucalyptus saligna*) within the rear setback on the northern side of the watercourse. A condition of consent has been imposed for the planting of 5 Sydney Blue Gums to the rear of 23 Ryde Road. (**refer Condition No.37**).

2. Asbestos

It was requested that a condition be imposed with respect to asbestos.

A condition of consent has been imposed with respect of the removal of materials that may contain asbestos (**refer Condition No.22**).

3. Distance from the watercourse

It was requested that staff investigate the distance the proposed development will be from the watercourse and whether there will be an impact on the watercourse.

The north-eastern corner of the proposed building will be approximately 5 metres from the centre of the watercourse (adjacent the stormwater outlet) and the north-western corner will be approximately 14.4 metres from the centre of the watercourse.

The Development Application was referred to the Department of Infrastructure, Planning and Natural Resources (DIPNR) for assessment. DIPNR did not raise any concerns over the impact of the development on the watercourse and issued General Terms of Approval with conditions relating to the rehabilitation and stabilization of the watercourse (**refer Conditions Nos. 53 to 109**).

4. Landscaping

It was requested that the Landscape Officer review the landscape plan and provide information as to the suitability of the landscaping proposed.

Council's Landscape Officer has reviewed the plan and has advised that a landscape plan, incorporating the following amendments, will required to be submitted for approval prior to the release of a construction certificate.

- Amend the building footprint to be consistent with architectural drawings
- Landscape plan to be drawn at a minimum 1:100 scale
- Details of retaining walls including top of wall levels
- Existing and proposed levels to be shown
- Details of planting on slab
- Correct north point
- *Cedrus deodora* ((Himalayan cedar)/street frontage to be retained
- A minimum of 3 endemic canopy trees that will attain a height of 13m to be planted within the front setback.
- To provide appropriate planting along the northern boundary such as *Eleocarpus reticulatus*
- The retention of 4 existing trees in the north eastern corner of the site
- The planting of 5 *Eucalyptus saligna* (Sydney Blue Gum) along the north-western bank of the watercourse.

(refer Condition No.37)

It was requested that the landscaping within the forecourt should include large canopy trees and that a landscape buffer be achieved between the subject site and the service station.

Three large canopy trees will be required to be planted between the building and the front boundary. A landscape buffer will be provided between the subject site and the service station. The plants proposed include sweet viburnum, which has the potential to attain a height of 4m **(refer Condition No.37 and the landscape plan attachment)**.

It was requested that Council's Landscape Officer provide comments on the suitability of landscaping along the northern boundary, given the location and access to sunlight.

The proposed planting of *Acmenii smithii* along the north-eastern boundary is considered suitable by Council's Landscape Officer. However, to improve the landscaping along the north-eastern boundary, the landscape plan is to be amended to include larger plants such as *Eleocarpus reticulatus* **(refer Condition No.37)**.

It was requested that Sydney Blue Gums be planted at the rear of the site.

Council's Landscape Development Officer advises that the north-western side of the watercourse is suitable for the planting of Sydney Blue Gums. The amended landscape plan required as a condition of consent is to provide for the planting of 5 Sydney Blue Gum on the north-western side of the watercourse **(refer Condition No. 37)**.

5 Setbacks to boundaries

Concern was raised in respect of the zero metre setback of the car park to the southern elevation. It was requested that staff investigate whether a setback off the boundary can be achieved and whether adequate landscaping that provides a buffer can be located along the southern boundary.

The applicant has advised that the reason for the location of the ramp on the southern side was because this is the lowest point on the site and provides the best access opportunity to the basement levels. The location of the driveway along the southern boundary does not allow for screen planting to be provided.

The relocation of the driveway ramp and basement car parking levels away from the southern boundary will result in the loss of approximately 7 car parking spaces and affect the location and appearance of the formal entry and proposed landscaping within the front setback of the building. The narrow frontage of the site limits the location of the driveway ramp, formal entry and landscaping areas.

RECOMMENDATION

THAT the Council, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No. 1 – Development Standards* to Clause 30A(2) of the Ku-ring-gai Planning Scheme Ordinance and LEP 100 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 topography of the land will accommodate a building of a height greater than 12m and that building will be consistent with the established building heights of the area.

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 968/03 is consistent with the aims of the Policy, grant development consent to DA 968/03 for a six storey commercial building on land at 23 Ryde Road, subject to the relevant standard conditions and the following special conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No 968/03 and Development Application plans prepared by Krikis Tayler Architects & Site Image Landscape Architects, reference number DA-01-D, DA-02-F, DA-03-F, DA-04-F, DA-05-E, DA-06-E and DA-07-E, dated 9 January 2003 and lodged with Council on 11 February 2004 and 15 May 2004.
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these

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plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.

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

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

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

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- c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.
12. With regard to the proposed rock breaking the following conditions are to be observed:
- a. The Geotechnical Engineer shall supervise the works in progress.
 - b. A dilapidation report on adjoining or nearby properties shall be prepared prior to any excavation, rock breaking, or associated work commencing and shall be submitted to the Principal Certifying Authority.
 - c. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
 - d. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
13. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
14. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- a. must preserve and protect the building from damage, and
 - b. if necessary, must underpin and support the building in an approved manner, and
 - c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

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

15. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
16. Compliance with the general terms of approval issued by Department of Infrastructure, Planning and Natural Resources.
17. If the work involved in the erection or demolition of a building:

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

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

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

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

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

The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.
23. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
24. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
 - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:

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

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
34. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
35. During demolition and construction, an accredited traffic control person is to assist pedestrians crossing the driveway & traffic when vehicles and heavy machinery are entering and leaving the site.
36. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

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

37. Landscape works shall be carried out in accordance with Landscape Drawing No LP101 prepared by Site Image Pty Ltd and dated 27 February 2003 submitted with the Development Application, except as amended by the following:
- Amend building footprint to be consistent with architectural drawings
 - Landscape plan to be drawn at minimum 1:100 scale
 - Details of retaining walls including top of wall levels
 - Existing and proposed levels to be shown
 - Details of planting on slab
 - Correct north point
 - *Cedrus deodara* (Himalayan Cedar)/street frontage - to be removed
 - Minimum 3no endemic trees that can attain 13m height to be located in front setback such as *Syncarpia glomulifera* (Turpentine), *Angophora costata* (Sydney Red Gum), *Eucalyptus paniculata* (Grey Ironbark) and *Eucalyptus resinifera* (Red Mahogany).
 - 4 endemic trees located at the north east corner of the site to be retained and protected.
 - Proposed planting shown along the south eastern boundary are located on the adjoining property (service station), and should be deleted
 - Proposed *Acmena smithii* 'Minor' along the north eastern boundary is to include plantings of *Elaeocarpus reticulatus* to the north of the stairwell
 - 5 *Eucalyptus saligna* (Sydney Blue Gum) are to be planted on the north western bank of the watercourse.

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38. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
39. No mechanical excavation of the proposed structure shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning by hand along the perimeter line of such works is completed:

Tree/Location	Radius From Trunk
<i>Angophora costata</i> (Sydney Red Gum) southern boundary, front setback, adjoining property	7m

40. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
41. On completion of the landscaped works, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
42. The following noxious and/or undesirable plant species shall be removed from the property prior to completion of the proposed building works. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to the release of the final Compliance Certificate:

Plant Species

Ageratina adenophora (Crofton Weed)
Ipomoea indica (Morning Glory)
Ligustrum lucidum (Large-leaved Privet)
Ligustrum sinense (Small-leaved Privet)
Lonicera japonica (Honeysuckle)

43. 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.
44. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "Traffic Control

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

45. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
46. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking".
47. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
48. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage area, no doors or gates shall be provided in the access driveways to the basement carpark which would prevent this service.
49. Stormwater runoff from all hard surfaces, or landscaped areas that are not at natural ground level, shall be piped to the watercourse within the site. A headwall and energy dissipater structure shall be constructed at the discharge point. Unless specified by plans approved with the Development Consent or other Conditions of this Consent, this structure is to be solidly constructed from mortared sandstone bushrock so that it has a low impact on local landscape and vegetation. It must not impede flows along the watercourse nor or lead to ongoing erosion of the watercourse.
50. To maintain capacity of the public drainage system, an on-site stormwater detention system must be provided in accordance with Council's Stormwater Management Manual, and generally in accordance with the indicative concept plan 3528 by Mepstead & Associates. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

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

NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained

unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

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

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

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

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

NOTE 6: Earth mounding and/or timber log walls will not be accepted as a storage area perimeter wall. Any perimeter wall shall be constructed in either brick/masonry on a reinforced footing.

51. The vehicular crossing is to be 6 metres wide splaying out to 7 metres wide at the kerbline in Ryde Road.
52. All works/regulatory sign posting associated with the development is to be at no cost to Council or the Roads and Traffic Authority.
53. Any work which requires a permit under Part 3A of the Rivers and Foreshores Improvement Act 1948 ("Part 3A permit") is not to commence until such time as a Part 3A permit has been applied for, and subsequently issued by DIPNR. Any work the subject of a Part 3A permit must be carried out in accordance with drawings and any other documents required by these conditions, and which are approved by DIPNR, and which will accompany the Part 3A permit.
54. All works proposed must be designed, constructed and operated so that they result in NIL or minimal harm to aquatic and riparian environments and do not cause erosion, sedimentation, or increase flood levels of protected waters. Works that result in net positive outcomes for aquatic and riparian environments are encouraged.
55. All activities at the Site are to be undertaken by persons suitably experienced in that aspect of the work they are doing, and such persons must be under the direction and supervision of a person with knowledge, qualifications and experience to industry standards in the relevant aspect of the operations being undertaken.

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56. If, in the opinion of a DIPNR officer, any work is being carried out in such a manner that it may damage or detrimentally affect protected waters or protected land, or damage or interfere in any way with any work, such work shall cease immediately upon oral or written direction of such officer.
57. Should any of the conditions of the Part 3A permit not be complied with, DIPNR may issue a Stop Order on Part 3A permit related operations at the Site until the conditions have been complied with.
58. If requested by DIPNR, work as executed survey plans of a professional standard, and including information required by DIPNR, shall be forwarded to DIPNR within 14 calendar days of such request.
59. The Part 3A permit holder shall carry out any instructions given by DIPNR with a view to preventing damage to the environment of protected waters or protected land.
60. If any Part 3A permit condition is breached, the permit holder shall follow DIPNR directions to address the breach and shall rehabilitate the Site as directed by, and to the satisfaction of, DIPNR. If any breach of the permit conditions requires a special site inspection by DIPNR, then the permit holder shall pay a supplementary permit fee for this inspection and for each and every subsequent inspection until the breach has been rectified.
61. Any vegetation or other material removed from the area of operations shall be disposed of lawfully to an appropriate site where the debris cannot be swept into protected waters during a flood. Burning must not be carried out unless an approval has been obtained from the relevant authority(ies).
62. Detailed designs of any stormwater outlets and any necessary scour protection works within the riparian zone or any protected waters are to be prepared by a person with relevant knowledge, qualifications and experience to industry standards, and to the satisfaction of Council and DIPNR, and approved by DIPNR, **prior to the issue of the Part 3A Permit**. The designs must include one or more representative surveyed cross sections and a long section showing existing and proposed bed and bank profiles and water levels at the outlet point. The sections are to extend beyond the structure for a distance of 5m for the cross section, and for the long section, 5m beyond the landward extent of the riparian zone and 5m from the toe of the bank of the receiving protected waters. Any proposed stormwater outlets are to be designed in accordance with the DIPNR guideline: *Stormwater Outlet Structures to Streams (For pipes, culverts, drains and spillways - Version I)* (Attachment A).
63. Stormwater outlets must be designed, located and constructed to minimise any erosion or scour of riparian zones or the bed or banks of any protected waters. The construction methods adopted must ensure that disturbance to soil and vegetation in these areas is kept to an absolute minimum.
64. Construction of stormwater outlets is to be undertaken by persons suitably experienced in such work and they must be under the supervision of a person with relevant qualifications, knowledge and experience to industry standards in such work.

65. Points of constriction or any other places where scour is likely within or near any protected waters or any part of the riparian zones on the Site, are to be suitably protected against scour. Designs, based on predicted velocities and scour potential, are to be prepared by, and implemented under the supervision of, a person with relevant knowledge, qualifications and experience to industry standards, and to the satisfaction of Council and DIPNR, and approved by DIPNR.
66. All permanent rock scour protection must consist of hard and durable run-of-quarry rock, sized to resist predicted scour velocities. Rock must be angular and blocky rather than flat, to ensure a good “bind” and to resist negative hydraulic pressure. Rock is to be placed over a 200mm deep layer of 140mm median size angular cobbles over geotextile to prevent erosion of underlying fine bed sediments and to facilitate placement.
67. All finished rock rip-rap surfaces are to be rough, and evenly aligned with the adjoining bed, bank and floodplain profile and must not reduce the capacity of protected waters in any way.
68. All rock and cobbles installed for scour protection are to be packed with topsoil and the crevasses in the rip-rap planted with local native sedges and rushes, to further stabilise the works and to increase riparian zone values and functions.
69. Wire mesh structures and concrete grouting are not permitted for use with rip rap scour protection unless shown on plans approved by DIPNR.
70. All works within protected waters are to be monitored after each major storm event for the duration of any Part 3A permit issued by DIPNR. Stabilisation works consisting of soft-engineered designs are to be undertaken as required, after seeking advice and approval from DIPNR, if there are signs of erosion or instability of protected waters.
71. All works within protected waters must be consistent with the requirements of NSW Fisheries.
72. Riparian zones, consisting of local native plant species, shall be established and maintained along all edges of all protected waters, including beneath bridges, for their entirety within the Site.

The extent of the riparian zones, unless otherwise approved by DIPNR, shall be:

- a. Of an average width of 10m measured horizontally from the top of the bank and at right angles to the alignment of the bank.
73. Following the completion of bulk earthworks at the Site, a registered surveyor must undertake a “peg out survey”. The survey must clearly show on the ground the location and extent of the riparian zones described in these conditions. DIPNR must inspect and approve the “peg out survey” prior to the release of any cash bond or bank guarantee associated with the earthworks or structures at the Site.

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74. Site rehabilitation must protect any remnant local native riparian vegetation at the Site and restore any riparian zones, including within protected waters, disturbed or otherwise affected by the development to a state that is reasonably representative of the natural ecotone of the protected waters system and as required in a Vegetation Management Plan (VMP).
75. The VMP is to be prepared by a person with professional qualifications, knowledge and experience in bushland rehabilitation practices and in the preparation of such plans, in consultation with, and with the approval of, DIPNR prior to the issue of **the Part 3A Permit**. The VMP is to be in accordance with, but not limited to, the guideline: *“How to Prepare a Vegetation Management Plan — Version 4”* (Attachment B).
76. The VMP is to fully address all issues relating to the protection, establishment and maintenance of the riparian zone. The VMP is to include drawings that clearly show the approved extent of the riparian zones. The VMP is to clearly state planting densities and the species mix for all areas to be rehabilitated.
77. The riparian zones are to consist of a diverse range of native plant species local to the area and fully structured (ie trees, shrubs and groundcovers). The plant species used are to consist of species and communities that emulate the original situation. Planting densities are to be as follows:
 - a. At least 1 tree or 1 shrub (in approximately equal numbers) alternately planted at 1 plant per square metre and in addition, groundcover plants at 4 plants per square metre, unless otherwise specified in the VMP.
 - b. The riparian zones may be rehabilitated using a combination of methods, such as natural bush regeneration, brush matting, hydro-seeding, direct seeding or tubestock planting, provided the required densities are achieved by the end of the maintenance period. The methods and performance standards necessary to achieve the above are to be identified in the VMP.
 - c. Revegetation must be carried out over all areas in the riparian zone affected by the works, including all areas that are temporarily occupied by soil and water management controls, once those controls have been decommissioned and the ground surfaces restored to the correct profile and stabilised.
78. Bush regeneration, for weed control and to promote natural regeneration, is to be undertaken for a minimum distance of 10 metres beyond any disturbed areas in the riparian zones. Revegetation, in accordance with the standards required by these conditions, is to be undertaken in this 10 metre wide area if it is significantly degraded or is likely to give rise to weed invasion due to lack of native vegetation cover before or after weed control.
79. The VMP is to be implemented by persons suitably experienced in such work and they must be under the supervision of a person with professional qualifications, knowledge and experience in bushland rehabilitation practices.
80. DIPNR is to be advised of the person responsible for any seed propagation prior to the commencement of propagation.

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81. The person responsible for implementing the VMP must certify in writing to DIPNR that plantings (including follow-up plantings) have been carried out using stock propagated from seed or plant material collected only from native plants from the local botanical provenance. This certification is to be provided with the first 6 monthly monitoring report and with the next monitoring report thereafter for any supplementary plantings.
82. Rehabilitated riparian zones must be maintained and monitored for a period of at least two years after final planting. Maintenance must include sediment and erosion control, watering, weed control, replacement of plant losses, disease and insect control, mulching and any other requirements necessary for achieving successful vegetation establishment.
83. A brief and concise report addressing the performance criteria as specified in the VMP and any problems implementing the VMP, as well as means to overcome these, shall be forwarded to DIPNR every six months for the duration of the maintenance period. The report must also comment on the stability and condition of any associated stream works.
84. No exotic plant species, other than temporary sterile cover crops, are to be planted within, or within 10 metres of, the riparian zones on the Site, unless otherwise approved by DIPNR.
85. Only certified weed free and contaminant free mulch is to be used on the Site. This is because mulch products imported onto the Site may contain weed seeds and viable vegetative matter and other contaminants, which could impact adversely on the vegetation, soil, water quality or ecology of the Site.
86. Works and activities at the Site must not compromise the implementation of the VMP in any way.
87. Riparian zones are to function as ecological systems and as such, all works, access routes, roads, recreational areas, service easements and any other non-ecologically functioning work or activity are to be located beyond riparian zones, unless detailed on plans approved by DIPNR, prior to the issue of a Part 3A permit.
88. All accessways, being cycleways, pedestrian pathways or other non-vehicular form of accessway that may be proposed for the Site, are to be located preferably beyond the riparian zones. Any accessways that may be required to intrude into a riparian zone must be elevated with a minimum underside clearance of 300mm and with a natural ground surface beneath, and must have a grated or slatted deck sufficient to allow the growth of groundcover vegetation beneath the structure. The width of any accessway is to be kept to an absolute minimum should it intrude into a riparian zone.
89. Any accessway proposed to be located within any riparian zone or protected waters is not to be constructed without consultation with, and prior approval of, DIPNR.
90. Any requirements for bushfire asset protection zones are not to compromise in any way the extent, form or function of the riparian zones.

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91. The development is to satisfy all requirements of Council in relation to flooding issues, but in so doing, must not compromise in any way the form and function of the works and riparian zones required by these conditions.
92. The development is to satisfy all requirements of Council in relation to drainage issues, but in so doing, must not compromise in any way the form and function of the works and riparian zones required by these conditions.
93. Wherever possible, riparian zone soils should be those naturally occurring at the Site. In the event that importation of soil material into the riparian zone is unavoidable, such soil is to be weed free and similar to that which occurs naturally in local riparian areas. Any soil selected for importation must be suitable for the establishment and on-going viability of riparian vegetation. Such soil must be tested and certified by a NATA registered soils laboratory to be:
 - i) similar to the naturally occurring local soil,
 - ii) suitable for the establishment and on-going viability of riparian vegetation,
 - iii) free of any weed propagules, and, iv) free of any contaminants.

Documentation arising from this testing and certification must be provided to DIPNR prior to the placement of any soil.

94. Any fill material placed in a riparian zone that is inconsistent with the requirements of the previous condition must be removed and relocated beyond the riparian zone or taken off-Site and disposed of in a lawful manner.
95. The structure of the soils in the riparian zones must be suitable for the vegetative rehabilitation of the Site and are therefore not to be proof rolled or subjected to other unsuitable compaction unless otherwise approved by DIPNR.
96. The Applicant must ensure that the amount of dirty water and sediment from the Site that enters protected waters or that is exposed to the flow of protected waters, or that is likely to detrimentally affect water quality, riparian vegetation or habitat or the environment, is minimised in a manner acceptable to DIPNR.
97. The Applicant must submit a Soil and Water Management Plan (SWMP) indicating how the works at the Site will achieve the outcome required in the previous condition. The SWMP must be prepared by a person, with professional qualifications, knowledge and experience to industry standards, and to the satisfaction of Council and DIPNR, and approved by DIPNR, prior **to the** issue of the Part 3A permit. The SWMP must cover all works on protected land and in protected waters, and staging and maintenance requirements. The SWMP must meet the requirements outlined in the NSW Department of Housing's publication *Managing Urban Stormwater: Soils and Construction* (3rd Ed.)(1998). The SWMP is also to meet any EPA licence requirements.
98. All works and activities at the Site are to satisfy all requirements of Council in relation to water pollution issues. Oils and greases, or any other contaminants, must not be permitted to pass to protected waters.

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99. All relevant Site drainage and sediment and erosion control works and measures, and any other pollution controls, as required by these conditions, shall be implemented prior to commencement of any other works at the Site.
100. All erosion and sediment control measures at the Site are to be inspected and maintained as required on a weekly basis and immediately following any rainfall events to ensure the efficient operation of these devices. This obligation remains until the Site has been fully stabilised.
101. Decommissioning of all sediment and erosion controls and any water diversion structures must be documented in detail to the satisfaction of DIPNR. Decommissioning must meet the requirements outlined in the NSW Department of Housing's publication *Managing Urban Stormwater: Soils and Construction* (3rd Ed.)(1998). The timeframes for decommissioning are to be cross-referenced to the implementation of any riparian zone plantings. Decommissioning of sediment and erosion controls is not to detrimentally affect the implementation of the VMP.
102. A costing based on current industry rates is to be provided for all works and activities that are associated with the DA and that are subject to these conditions. The costing is to identify each type of work or activity and is to present the costing in a break-down format that covers each aspect of that work or activity. Costings are to cover labour, equipment and materials and maintenance and reporting where these tasks are relevant. The costing is to cover, but may not be limited to, the following works and activities:
 - a) construction of any stormwater outlets and their revegetation as described in the VMP
 - b) construction of any scour protection works and their revegetation as described in the VMP
 - c) implementation of the VMP, including monitoring, reporting and maintenance for a period of not less than two years after the date of final planting
 - d) construction of any accessways in any riparian zones
 - e) decommissioning of any temporary works in any protected waters or any riparian zone, including sediment and erosion controls, or other pollution controls, and water diversion structures.
103. The applicant for a Part 3A permit will be required, as a pre-condition to the granting of the Part 3A permit, to provide a cash bond or bank guarantee, prior to the issue of any Part 3A permit, for the amount required to cover the cost of completing the works and activities listed in the previous condition and in accordance with the conditions of the Part 3A permit.
104. Any bank guarantee is to be provided from a bank licensed pursuant to the Banking Act 1959 (Cth) and is to be provided in favour of DIPNR and it must be in the format provided in **Attachment C**.
105. Any cash or bank guarantee will be held until such time as the works and activities the subject of the cash bond or bank guarantee have been satisfactorily completed in accordance with the conditions of the Part 3A permit.

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106. The sum held may be reduced on application to DIPNR, subject to the satisfactory completion of stages of works or activities required by the Part 3A permit.
107. DIPNR may at any time, and more than once and without notice to the Part 3A permit holder, utilise any cash provided or demand all or part of the moneys available under a bank guarantee, if in its opinion, the Part 3A permit holder has failed at any time to satisfactorily complete the works or activities in accordance with the requirements of the Part 3A permit.
108. In the event that there is any inconsistency between the drawings, other documentation and the conditions herein, the interpretation that will result in the best outcome for the stabilisation of the Site and the subsequent rehabilitation and maintenance of the Site and protected land and protected waters is to prevail. Such interpretation is to be applied in consultation with, and with the approval of, DIPNR.
109. Any Part 3A permit issued for works proposed under the DA, and as required by these conditions, must be kept current by payment of the appropriate fee until such time as the Site has been fully stabilised and rehabilitated, and any required maintenance satisfactorily completed and reported on, in accordance with these conditions. Any application for renewal is to be lodged at least 1 month prior to the expiry date of the Part 3A permit.
110. The design and construction of the gutter crossing in Ryde Road is to be in accordance with RTA requirements. A detail of this requirement is to be obtained from RTA's Project Services Manager, Traffic Projects Section on Phone: (02) 8814 2331 for "Works Instruction".
111. If not in place full time "No Stopping" parking restriction is to be implemented along the Ryde Road frontage of the subject property.

Prior to installation of "No Stopping" parking restriction the applicant is to contact the RTA's Traffic Management Services on 8814 2331 for a "Work Instructions".
112. It is noted that the vehicular access to the subject site off Ryde Road shall be restricted to left in and left out only.
113. All works including regulatory sign posting associated with the development shall be at no cost to the RTA.
114. Any redundant driveway along Ryde Road is to be removed and replaced with kerb and gutter (Type SA) to match existing.
115. Layout of the basement car Park including ramp grades, aisle widths, turning path, sight distances and parking bay dimensions should be in accordance with AS 2890.1-1993.
116. Suitable provision should be made on site for all construction vehicles to alleviate any need to park on the Ryde Road.
117. All vehicles should be able to enter and exit the subject site in a forward direction.

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118. Stormwater run-off from the subject site onto Ryde Road, as a result of the proposed development is not to exceed the existing level of run-off from the subject site.
119. The building is to be designed to comply with AS2890 – Design for Access and Mobility in order to facilitate access for the disabled.
120. The reflectivity index of any external glass used in the design of the building shall not exceed 20%

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

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

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

122. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
123. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
 - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.

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124. The payment to Council of a contribution for Child Care Facilities in accordance with the provisions of Section 94 of the Environmental Planning and Assessment Act 1979 and Ku-ring-gai Municipal Council's Section 94 Contributions Plan No 1. Such contribution is calculated as \$48,645.00 and is to be paid prior to the issue of a Construction Certificate. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index. The levy is based on:

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

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

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

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

127. The property shall support a minimum number of 15 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commence of work.

128. A CASH BOND/BANK GUARANTEE of \$3,000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

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

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

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

Tree/Location

Angophora costata (Sydney Red Gum)
Southern boundary, front setback, adjoining property

Angophora costata (Sydney Red Gum)
North east corner of site, good condition, 400DBH

130. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater – Soils and Construction" (1998). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).
131. Full design drawings of the proposed method of achieving the requirements for on site stormwater detention and all supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council requirements. These must be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
132. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.

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

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

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

133. Prior to issue of the Construction Certificate, submission of details and certification by a qualified civil/traffic engineer, for approval by the Principal Certifying Authority (PCA), that the parking provisions comply with the following standards:

- a. Australian Standard 2890.1 – 2004 “Off-street car parking” and
- b. The 2.5 metres headroom requirement under DCP40 for waste collection trucks.
- c. No doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection from the basement garbage storage area.

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

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

The design and construction of the layback is to be in accordance with RTA requirements. A detail of this requirement is to be obtained from the Roads and Traffic Authority's Project Services Manager, Traffic Projects Section on (02) 8814 2331 for a “Works Instruction”. A copy of this detail should be submitted to Council with the driveway levels application.

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

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

135. Details of the proposed pylon sign are to be submitted to Council for approval prior to the release of the Construction Certificate. The details required include colours, font and wording.
136. A waste management plan is to be submitted to and approved by the Council prior to the release of the Construction Certificate.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

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

Tree/Location	Radius From Trunk
<i>Angophora costata</i> (Sydney Red Gum) southern boundary, front setback, adjoining property	7m

139. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
140. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
141. Prior to the commencement of any works on site and prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Geotechnical/Civil Engineering report which addresses (but is not limited to) the following:
 - a. The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum.
 - b. The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation

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- and potential settlements affecting nearby footings/foundations shall be discussed and ameliorated.
- c. The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site).
 - d. The existing groundwater levels in relation to the basement structure, where influenced.
 - e. The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a “dam” for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flowpath is constructed, artificial drains such as perimeter drains and through drainage may be utilised.
 - f. Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by a consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting. It is the responsibility of the engaged geotechnical specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report shall contain site specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

NOTE: The design principles for the geotechnical report are as follows:

- No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.
- No changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- No changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- Vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development.
- Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles.

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- An adverse impact can be assumed to be crack damage which would be classified as Category 2 or greater damage according to the classification given in Table C1 of AS 2870 – 1996.

142. Prior to the commencement of any works on site and prior to issue of the Construction Certificate the applicant must submit, for review by Council Engineers, a Traffic Control Plan. The plan must be prepared by a qualified civil/traffic engineer in accordance with the documents SAA HB81.1 – 1996 – “Field Guide for Traffic Control at Works on Roads – Part 1” and RTA “Traffic Control at Work Sites (1998)”. The following matters must be addressed:

Heavy vehicle routes

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

Safe ingress and egress

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

Parking control

- a. The provision of on-site parking for employee, tradesperson and construction vehicles.
- b. Establishment of a no-parking zone for the full frontage of the site prohibiting on-street parking during the relevant morning and afternoon peak periods where located on main or arterial roads, or during school peak periods where located near schools or full time where located near shopping centres.

RTA concurrence

- a. Evidence of consultation with and concurrence of the RTA for the Traffic Control Plan where the site is located on an arterial road.

Stages

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

NOTE 1: The Traffic Control Plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be

obtained prior to the issue of the Construction Certificate. The Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. Evidence of RTA concurrence, as required above, is to be lodged concurrently with Council.

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

143. A full time "No Stopping" parking restriction is to be implemented along the Ryde Road frontage of the subject property. Prior to installation of the "No Stopping" parking restriction the applicant is to contact the Roads and Traffic Authority's Traffic Management Services on (02) 8814 2331 for a "Works Instruction".

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

144. Prior to the release of any occupation certificate, a compliance certificate must be obtained from an accredited certifier, certifying that the building works for the building to be occupied comply with the plans and specifications approved by this development consent; and any construction certificate associated with this consent for the buildings to be occupied. If the PCA is not the Council, then this compliance certificate must be submitted to the Council at the same time as the occupation certificate is submitted to the Council in accordance with Clause 151(2) of the E P & A Act regulations.
145. To ensure compliance with the consent, a final report from a Registered Surveyor shall be submitted to Council confirming floor/ceiling levels and boundary setbacks prior to occupation.
146. Without further written consent of Council, the development is to comply with the following indices:
 - a. Maximum Floor Space area (2070m²)

A Surveyor's Certificate is to be submitted to the Principal Certifying Authority confirming compliance with the above indices prior to occupation.
147. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

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

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

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

149. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, an easement for waste collection must be provided. This is to permit legal access for Council, and Council's contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection.
150. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
151. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the as-built on-site detention are to be submitted to the Principal Certifying Authority (PCA) for approval. Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor.

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

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

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- As built locations of all pits and grates in the detention system, including dimensions.
- The size of the orifice or pipe control fitted.
- Dimensions of the discharge control pit and access grates
- The achieved capacity of the detention storage and derivative calculation.
- The maximum depth of storage over the outlet control.
- Top water levels of storage areas and RL's at overflow point(s)

152. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:

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

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

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

153. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following works must be completed:

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

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

154. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit to the Principal Certifying Authority (PCA) certification from a suitably qualified and experienced traffic/civil engineer, that:
- a. The as-constructed carpark complies with the approved Construction Certificate plans, and
 - b. The vehicular headroom requirements of:
 - Australian Standard 2890.1 - "Off-street car parking", and
 - 2.44m height clearance for waste collection trucks (DCP 40) are met from the public street into and within the applicable areas of the basement carpark, and
 - c. The gradients of the constructed access driveway from the public street to the basement carpark are in accordance with AS2890.1 and will not result in the scraping of the underside of cars.
 - d. No doors or gates 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 area.

BUILDING CONDITIONS

Note: If Council is the Principle Certifying Authority, the following building conditions shall form part of this consent.

155. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
156. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any pier holes and/or foundation material.
 - c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
 - d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - e. Any stormwater drainage works prior to covering.
 - f. The completed landscape works in accordance with the approved plans.
 - g. The completed structure prior to occupation.

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

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

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

157. Noise levels from plant used within the building and the plant room are not to exceed environmental noise levels prescribed by the Environmental Protection Authority.

Scott Cox
Team Leader
Development Assessment
Team Central

Matthew Prendergast
Manager,
Development Assessment

M Miocic
Director
Development &
Regulation

Attachments: **Locality Plan**
 Site Plan
 Architectural Plans
 Landscape Plan
 Shadow Diagram
 Stream Stabilisation Plan
 Original report to Council meeting of 19 October 2004

133 COONANBARRA ROAD, WAHROONGA - SUPPLEMENTARY REPORT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To address matters raised at the site inspection of 27 November 2004 and for Council to determine a development application for a detached dual occupancy development, comprising retention of the existing residence and construction of a second dwelling.
BACKGROUND:	Council at it's meeting of 23 November 2004 deferred consideration of the application pending a site inspection.
COMMENTS:	The matters raised at the site inspection are addressed in this report.
RECOMMENDATION:	That the additional information be noted, and that the application be approved, subject to conditions.

PURPOSE OF REPORT

To address matters raised at the site inspection of 27 November 2004 and for Council to determine a Development Application for a detached dual occupancy development, comprising retention of the existing residence and construction of a second dwelling.

BACKGROUND

An assessment report was prepared and considered by Council on 23 November 2004 where Council resolved to defer determination pending a site inspection. The site inspection was carried out on Saturday, 27 November 2004. The following matters were raised at the site inspection and are addressed accordingly:

1. On-site stormwater detention

Councillors expressed concern that no on-site stormwater detention system is shown for Dwelling A (existing dwelling). Councillors requested that Council's Engineer confirm that on-site stormwater detention is required for Dwelling A and specify the capacity requirement of the detention and rain water retention system.

The drainage plans that were submitted in support of this application (refer plans D1 and D2, job 342608 by AFCE, dated June 2004) have been prepared by Applyard Forrest Consulting Engineers in accordance with Ku-ring-gai Council's Water Management Development Control Plan 47, adopted in March 2004.

The existing house (Dwelling A) requires a stormwater retention tank of 5000 litres capacity, in accordance with section 6.4 of Development Control Plan 47. This water is to be made available for garden irrigation only and is shown on the drainage plans referenced in the recommended conditions.

Under Development Control Plan 47, Dwelling B (new dwelling) requires a minimum rainwater tank volume of 5000 litres, with water plumbed back into the dwelling for toilet, laundry and garden irrigation. The applicant is also proposing a retention tank system of 10,000 litres for all the uses described above. In order to promote Water Sensitive Urban design, the adopted Water Management DCP 47 allows for full replacement of on-site detention where the retention/reuse component is large enough. Accordingly, the 10,000 litres retention system proposed by the Applicant for Dwelling B allows the Applicant to deduct in full, the on-site detention component for this particular development.

In summation, the proposal complies with and exceeds the requirements of the Water Management DCP 47 adopted by Council. **Condition 18** requires on-site stormwater detention and/or retention for each dwelling in accordance with DCP 47.

2. Dilapidation report

Councillors expressed concern that the close proximity of the dwellings may result in structural damage to Dwelling A while Dwelling B is under construction. Councillors requested that Council's Engineer confirm whether a dilapidation report would be necessary.

Council's Engineer does not believe that a dilapidation report is required for Dwelling A as minimal excavation is required to construct Dwelling B. Therefore, the potential for structural damage to Dwelling A during construction is extremely low.

In addition, Dwellings A and B are under the same ownership and, therefore, any damage to the existing building through negligence of the builder on this site is a private matter between the owner of the land and the builder and would be addressed in the building contract.

3. Built-upon area

Councillors requested confirmation that the proposed uncovered car parking space associated with Dwelling A, has been included in built-upon area calculations.

A re-calculation of the built-upon area has been undertaken, which resulted in a BUA of approximately 481m² over a site area of 937.7m², or 51%. This indicates that the uncovered car park space may have been excluded in the built-upon area calculation of 48.9% provided by the applicant. However, this anomaly will not result in an adverse impact on stormwater management, landscaping or streetscape amenity. Council's Landscape Officer and Engineer can support the proposal, subject to conditions. Conditions have been recommended to ensure appropriate on-site detention and retention systems are installed for Dwellings A and B (**refer Condition 18**). Landscaping conditions have been recommended to ensure appropriate screen planting, tree protection and planting of trees on site (**refer Conditions 26, 28, 30-33, 42-46**).

As the car park space will be uncovered, comprise a paved area at grade and be located in line with the Carrington Street façade of Dwelling A, there will be no undue impact on streetscape amenity.

4. Front setback

Councillors raised concern in relation to the proposed front setback of Dwelling B in consideration of the design requirements of the Dual Occupancy Code and the existing streetscape.

Dwelling B will have a minimum setback to the Carrington Street frontage of 5.28m and a maximum setback of 9.055m at the ground floor. At ground level, 49.2% of the frontage will be set back 9.055m, 24% of the frontage will be set back 6.365m and 26.8% will be set back 5.28m. The upper level will be set back 5.245m to the front balcony and 6.4m to the main building line.

SEPP 53 does not specify minimum setback requirements, but requires consideration of streetscape amenity (Clause 32(a) and visual bulk (Clause 32(h)). The Ku-ring-gai Dual Occupancy Code

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indicates that, on corner allotments, the second dwelling or dwelling furthest from the primary street frontage (Coonanbarra Road) should have a minimum building line setback of 7 metres. The Dual Occupancy Code also requires that consideration be given to a variation of this requirement by permitting a minimum building line setback of 5m for not more than 50% of the front elevation of the building. This is to achieve a hierarchy or 'staggering' of building lines and to add interest to the streetscape. Any such variation must not adversely affect the adjoining property (25 Carrington Street).

Dwelling B is located approximately 1.2m forward of Dwelling A, in relation to Carrington Street and approximately 6.3m forward of the dwelling at 25 Carrington Street, adjoining the subject site to the east. Building setbacks vary within Carrington Street, with the dwellings at 25 and 27 Carrington Street being set back approximately 11m and 9.5m, respectively. Corner sites at 135 Coonanbarra (opposite the subject site) and 35 Carrington Street have setbacks of 4.3m and 3.5m, respectively. The dwelling at 36 Carrington Street has a setback of approximately 7m. The remainder of dwellings in the street have front setbacks in excess of 7m. However, the proposed setback of Dwelling B is consistent with dwelling location on corner sites within the immediate locality and appropriately addresses the street with regard to building design and proposed landscaping.

In consideration of both SEPP 53 and the Dual Occupancy Code requirements, the proposal is acceptable. Dwelling B will have 50.8% of the ground floor front elevation located within 7m of the front boundary, with a setback of 5.28m to 6.365m. This is a minor and barely perceptible departure from the design requirement of the Dual Occupancy Code. The upper level comprises 62% of the overall street elevation but achieves the intent of the design requirement. The dwelling is well articulated on both levels and utilizes height variation between the upper and lower floor. Further variation in materials and roof pitch also provide visual interest.

Dwelling B is of a modern, two storey, design and, as such, will present as a separate dwelling from Dwelling A, when viewed from the street. Notwithstanding building line setbacks on surrounding properties, the proposal maintains sufficient setback from the street and the dwelling at 25 Carrington Street. The 6m wide road reserve provides further visual depth to the setting of Dwelling B. There is no prevalent architectural style within Carrington Street nor are there any particular heritage values associated with the immediate locality. Accordingly, there will be no undue imposition of built form on the streetscape nor erosion of any established or particular residential character. The retention of a White Mahogany and Sweet Pittosporum within the front setback and three White Mahogany trees adjacent to the eastern boundary will help to screen Dwelling B from the street and maintain a landscaped setting consistent with that of residential development within the locality.

5. Rear setback

Councillors asked whether Dwelling B could be positioned closer to the southern boundary, adjoining 131 Coonanbarra Road, to increase setback from the front boundary.

A reduction in the setback of Dwelling B in relation to the southern boundary would result in adverse impact on the root zone of a Monterey Pine tree located in the rear yard of 131 Coonanbarra Road. Council's Landscape Officer has confirmed that this would be undesirable, noting that further

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encroachment of the canopy spread by the building envelope should also be avoided where possible, in consideration of potential limb failure.

A reduction in building setback from the southern boundary would also reduce solar access to the adjoining property (131 Coonanbarra Avenue) and create additional privacy and visual impact issues.

6. Front fence

Councillors raised concern that the proposed front fence was inappropriate within the existing streetscape due to a prevailing absence of fencing.

The subject site is identified in the Ku-ring-gai Character Study as being within the category of 1945 to 1968. This category is characterised by a general absence of fencing or, where fencing exists, it is low level. Although, fencing along Coonanbarra Road is variable in height and design, there is a prevailing absence of fencing along Carrington Street. Where fencing does exist, it is low level and solid with a height not exceeding 900mm.

The applicant proposes to remove the existing 1.8m solid timber fence along the frontage of Dwelling B and replace it with a 1.5m high, timber picket fence. Picket fencing is also proposed along the Carrington Street frontage for Dwelling A. This is not appropriate within the context of the existing streetscape, where an absence of fencing is predominant. Accordingly, any fencing along the Carrington Street frontage should be deleted (**refer Condition 2**).

There is an existing 1.8m high, lapped and capped, timber fence along the eastern side boundary. This fence extends the length of the common boundary to the Carrington Street frontage. As this is an existing fence and offers a degree of privacy to the adjoining site at 25 Carrington Street, retention of this fence forward of the building line is acceptable.

7. Privacy wall

Councillors raised concern that the proposed privacy wall at the rear of Dwelling B and along the internal boundary, would unduly shade Bedrooms 3 and 4 of Dwelling A, due to solid construction and close proximity.

The applicant proposes to construct a solid boundary wall to a height of 1.7m along the internal boundary between the dwellings. This is to maintain visual privacy for residents of Dwelling A and B and, in particular, to prevent overlooking of the bedrooms of Dwelling A. It is recommended that the proposed privacy wall be reduced in height to 1.5m, with screen planting provided adjacent to the internal boundary within the courtyard of Dwelling B (**refer Conditions 3 & 43**). This will reduce potential building dominance and increase natural daylighting to Bedrooms 3 and 4, albeit filtered through the screen planting.

Subject to the recommended conditions, the proximity of the privacy wall to Bedrooms 3 and 4 is acceptable as the potentially affected rooms are utilised primarily at night and have an additional window in the northern and southern elevation, respectively, for daylight access and ventilation.

RECOMMENDATION

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

THAT the Council, as the consent authority, grant development consent to DA 0639/04 for a new dual occupancy development comprising retention of an existing dwelling and construction of a detached, two-storey dwelling on land at 133 Coonanbarra Road, Wahroonga, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans labeled Job No DA02, DA04 & DA06, dated 11 June 2004, DA03, DA05, DA07 – DA10, dated 15 October 2004, all drawn by VM Design Studio, and endorsed with Council's approval stamp, except where amended by the following conditions:
2. The proposed and existing front fence associated with Dwellings A and B, along Carrington Street, shall be deleted and removed.
3. The proposed privacy wall associated with the rear courtyard of Dwelling B shall have a maximum height of 1.5m.
4. The driveway width for Dwelling B shall not exceed 3.5m.
5. The proposed rainwater tanks for Dwelling A are to be relocated to the southern elevation of Dwelling A.
6. All building works shall comply with the Building Code of Australia.
7. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
8. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
9. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
10. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

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

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

12. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
13. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
14. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
15. Waste storage facilities for Dwelling A and Dwelling B shall be provided in accordance with Council's Waste Management Development Policy.
16. The existing vehicular crossing is to be reconstructed. The crossing and driveway materials are to be specified by a suitably qualified arborist and approved by Council's Landscape Development Officer. The works are to be carried out under the supervision of the arborist.
17. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
18. An on-site stormwater detention and/or retention system(s) must be provided for each dwelling in accordance with Council's requirements described in chapter 6 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website. Separate systems are to be provided for each residence, except where a single combined system may be located in a common location readily accessible by both owners (such as under a shared driveway). In this case appropriate cross burdens are to be created on title(s) as necessary.

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19. For the purpose of any Council inspections, the appropriate fees set out in Councils adopted Schedule of Fees and Charges are payable to Council, prior to the release of the approved plans. A re-inspection fee per visit may be charged where remedial work is unprepared at the requested time of inspection or where remedial work is unsatisfactory and a further inspection is requested. Engineering fees must be paid prior to the final approval of the works.
20. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
21. The relocation or adjustment of any utility service facilities must be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
22. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of Council's Specification for Drainage and Road Works.

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

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

23. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
24. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access, accommodation arrangements and passing opportunities must be designed and constructed to comply with Australian Standard AS 2890.1 – "Off-Street car parking".
25. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy

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spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

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

26. To maintain the treed character of the site tree #8 *Acer palmatum* (Japanese Maple) located adjacent to the northern site boundary of the existing dwelling and #9 *Lagerstroemia indica* (Crepe Myrtle) located on Council's Coonanbarra Rd nature strip, are to be retained.
27. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
28. To preserve the ongoing health and vigour of the two *Eucalyptus acmenoides* (White Mahogany) #'s 30 & 31, the proposed retaining wall is not to encroach within a 3.0m radius of each tree as measured from the base of the tree trunk. Documentary evidence/revised plans showing compliance with this condition is to be submitted to the principal certifying authority prior to the issue of the construction certificate.
29. To preserve landscape and neighbour amenity the proposed timber deck/drying area is to have a minimum setback of 1.5m from the site boundaries to allow for screen planting.
30. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
31. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
#30 Eucalyptus acmenoides (White Mahogany) Adjacent to eastern site boundary	3.0m
#31 Eucalyptus acmenoides (White mahogany) Adjacent to eastern site boundary	3.0m
#27 Eucalyptus acmenoides (White mahogany) Adjacent to northern site boundary/driveway for proposed dwelling	3.0m
#11 Eucalyptus acmenoides (White Mahogany) Carrington Rd nature strip	4.0m

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

Tree/Location	Radius From Trunk
#27 Eucalyptus acmenoides (White mahogany) Adjacent to northern site boundary/driveway for proposed dwelling	4.0m
#11 Eucalyptus acmenoides (White Mahogany) Carrington Rd nature strip	4.0m

33. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
34. On completion of the LANDSCAPE WORKS/TREE PLANTING OR SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
35. 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.

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

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

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

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

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

37. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater detention/retention system. The design shall be generally based on the concept plan 342608 by AFCE Environment + Building, and shall be advanced for construction issue purposes. The storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from a minimum 100m² roof area for each 5000 litres of storage. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer and may be incorporated on the overall site drainage plan.
38. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including garden irrigation, laundry and toilet flushing. The necessary pumping, housing, filtration and delivery plumbing equipment for re-use shall be shown on this design. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. These details may be incorporated on the overall stormwater management plan and design for the retention/detention system.
39. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 - Plumbing and Drainage Code.
40. The Construction Certificate shall not be released until a Site Management Plan is submitted to the Principal Certifying Authority and approved by a suitably qualified professional.

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

41. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council or the PCA prior to the commencement of work.
42. The submitted concept landscape plan is not approved. A detailed plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works.
43. A plan detailing screen planting shall be submitted to Council prior to the release of the Construction Certificate and approved by Council's Landscape Development Officer, prior to completion of building works. The plan is to show:
 - Screen planting of the boundary between Dwelling A and B, forward of the building line, on each side of the proposed fence.
 - Screen planting along the southern boundary behind Dwelling A and B, where building line setback is greater than 1.2m,
 - Screen planting along the eastern boundary,
 - Screen planting capable of attaining a height of 2.5m, along the western (internal) boundary of the rear courtyard of Dwelling B.

The plan shall incorporate species capable of attaining a height of 6.0, 2.5, 3.0, 3.0 and 2.5 metres respectively.

44. The property shall support a minimum number of three trees on each site that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commence of work.
45. The 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.
46. A cash bond/bank guarantee of \$2 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

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

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

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

1.	Preparation of New Residents Kit	\$38.43
2.	New Resident Survey	\$34.55
3.	New child care centre (including land acquisition and construction of facility)	\$882.46
4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$8.44
5.	New Library bookstock	\$62.83
6.	New Public Art	\$10.26
7.	Acquisition of Open Space - Turramurra	\$27,478.50
8.	Koola Park upgrade and reconfiguration	\$500.82
9.	North Turramurra Sportsfield development	\$3,453.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$172.69
11.	Section 94 Officer for period of Plan 2000-2003	\$414.47

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

51. The following are required details and must be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
 - a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
 - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
 - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
 - d. Retaining walls and associated drainage.
 - e. Wet area waterproofing details complying with the Building Code of Australia.

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- f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
 - g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
52. Submission, for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate, of a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater – Soils and Construction" (1998) by a suitably qualified and experienced engineer or surveyor. Such controls should include but not be limited to appropriately sized sediment basins, diversion systems, appropriate controls for each stage of works identified and barrier fencing which maximises and protects areas which are not to be disturbed. The plan must also specify inspection and maintenance regimes and responsibilities and rehabilitation measures. Such provisions recommended within the plan and approved by the PCA shall be implemented prior to the release of the construction certificate.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

53. To preserve the following tree/s, no work shall commence until the trunk/s are protected by the placement of 2.0 metre lengths of 50 x 100mm hardwood timbers spaced at 150mm centres and secured by 2mm wire at 300mm spacings. The trunk protection shall be maintained intact until the completion of all work on site. Any damage to the tree/s shall be treated immediately by an experienced Horticulturist/Arborist, with minimum qualification of Horticulture Certificate or Tree Surgery Certificate and a report detailing the works carried out shall be submitted to the Principal Certifying Authority:

Tree/Location

#11 *Eucalyptus acmenoides* (White Mahogany)

Adjacent to existing driveway crossover/Carrington Rd nature strip

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

Tree/Location

#16 *Pittosporum undulatum* (Sweet Pittosporum)

Adjacent to northern site boundary

Radius in Metres

3.0m

#27 *Eucalyptus acmenoides* (White Mahogany)

Adjacent to northern site boundary

2.0m

#30 *Eucalyptus acmenoides* (White Mahogany)

Adjacent to eastern site boundary

2.5m

#31 *Eucalyptus acmenoides* (White Mahogany)

Adjacent to eastern site boundary

2.5m

#3 <i>Eucalyptus acmenoides</i> (White Mahogany) Adjacent to western site boundary	5.0m
#6 <i>Eucalyptus acmenoides</i> (White mahogany) North west site corner	4.0m
#8 <i>Acer palmatum</i> (Japanese Maple) Northern site boundary	3.0m

55. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
56. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
57. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
58. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
 - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

59. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying

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Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

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

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

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

61. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.
62. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
63. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the installed rainwater retention devices, are to be submitted to the Principal Certifying Authority (PCA). Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor.

The Certificate is to certify:

- Compatibility of the retention system(s) with the approved Construction Certificate plans.
- Compliance with AS 3500.2 & AS3500.3:1998.
- Overflow from the installed retention devices directed to an approved disposal point.
- The capacity of the retention storage as approved.
- Provision of leaf gutter guards to all roof gutters.
- Measures to prevent mosquito breeding nuisance.

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

The Works-as-Executed drawing(s) is to be marked up in red on the approved Construction Certificate design, and shall include:

- As constructed levels in comparison to design levels
 - As built location of all tanks/retention devices on the property and distances to adjacent boundaries, buildings and easements
 - Dimensions of all retention tanks/devices
 - Top water levels of storage areas and RL’s at overflow point(s)
 - Storage volume(s) provided and supporting calculations/documentation.
64. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:
- a. Construction of the stormwater drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and
 - b. The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500,.3.2, and

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

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

- a. As built reduced surface and invert levels for all drainage pits and connection points.
 - b. As built reduced level(s) at the approved point of discharge to the public drainage system.
 - c. Gradients of drainage lines, materials and dimensions.
65. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to occupation, or the issue of an Occupation Certificate, or the issue of a Subdivision Certificate. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council.

BUILDING CONDITIONS

66. Any mechanical ventilation installed in a dwelling shall comply with the requirements of Part 3.8.5.0 of the Building Code of Australia Housing Provisions. Documentary evidence of compliance is to be obtained from a suitably qualified person and submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
67. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any pier holes and/or foundation material.
 - c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
 - d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - e. Any stormwater drainage works prior to covering.
 - f. The completed landscape works in accordance with the approved plans.
 - g. The completed structure prior to occupation.

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

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

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

68. All structural timber members subject to weather exposure shall have a durability class rating of 2 or better in accordance with Australian Standard 1684.2-1999 (National Timber Framing Code), or be preservative treated in accordance with Australian Standard 1604-1980 (Preservative Treatment for Sawn Timbers, Veneers and Plywood).
69. A fully detailed first floor joist layout (in duplicate) complying with the National Timber Framing Code or accompanied by a structural engineer's Certificate of Adequacy shall be submitted to and approved by the Principal Certifying Authority.
70. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
71. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

Risers:	Maximum 190mm	Minimum 115mm
Going (Treads):	Maximum 355mm	Minimum 240mm

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

72. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
 - a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
 - b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and

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- ii. are connected to the mains and have a standby power supply; and
- iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

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

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

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

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

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

74. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Wet area waterproofing details complying with the Building Code of Australia.
 - b. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.

M Leotta
Team Leader – Team North

M Prendergast
**Manager Development
Assessment**

M Miocic
**Director Development &
Regulation**

Attachments: **Location Sketch**
 Site Analysis
 Elevations
 Landscape Plan
 Original report to Council meeting of 23 November 2004

DRAFT LOCAL ENVIRONMENTAL PLAN NO 201 - CONSIDERATION OF SUBMISSIONS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To consider the submissions made in respect of the exhibition of Draft Local Environmental Plan No 201 (DLEP 201) and for Council to resolve the manner in which to finalise the Draft Plan.
BACKGROUND:	Council on 16 December 2003 resolved to prepare a Draft Local Environmental Plan for the B2 Road Corridor between The Comenarra Parkway, Wahroonga and Kissing Point Road, South Turramurra. The road corridor was originally proposed to link the F3 Freeway at Wahroonga with the M2 Motorway. In June 1996 the B2 Corridor was abandoned and the part south of Kissing Point Road has since been rezoned. The remaining reservation passes through both residential and bushland areas. Council adopted DLEP201 at its meeting on 24 August 2004 and exhibited the Draft Plan from 6 October 2004 to 5 November 2004 for public information and comment.
COMMENTS:	With the abandonment of the road corridor it is considered appropriate that the reservation be uplifted and replaced with appropriate zonings. The single residential 2(c) and open space 6(a) zonings as proposed by DLEP201 are considered the most logical fit within the context of surrounding development. Thirteen public submissions were received in response to the exhibition of the Plan. It is considered that the Plan is appropriate in the manner exhibited subject to a minor amendment.
RECOMMENDATION:	That Council resolve to adopt the final format of Draft Local Environmental Plan No 201, with minor exclusions, and forward it to the Minister requesting gazettal.

PURPOSE OF REPORT

To consider the submissions made in respect of the exhibition of Draft Local Environmental Plan No 201 (DLEP 201) and for Council to resolve the manner in which to finalise the Draft Plan.

BACKGROUND

Council first received the rezoning application in August 2003. The application was then placed on preliminary public exhibition in accordance with best practice guidelines for information and comment from 10 September 2003 to 10 October 2003.

Council on 16 December 2003 resolved to prepare a Draft Local Environmental Plan for the B2 road corridor between The Comenarra Parkway, Wahroonga and Kissing Point Road, South Turramurra. The existing “proposed county road” reservation of the corridor is obsolete now that the proposed road route has been abandoned.

The rezoning application was submitted on behalf of the Roads and Traffic Authority and NSW Department of Infrastructure, Planning and Natural Resources. Proposed zonings were submitted with the application identifying proposed zonings for the respective precincts of the road corridor.

On 24 August 2004 Council considered the planning report concerning the progress in the preparation of the Draft Local Environmental Plan. This report addressed in detail the appropriate zonings to be provided in each of the 7 identified precincts (**Attachment A**) which comprise the road corridor.

Council resolved on 24 August 2004 (**Attachment B**) the format of the Draft Plan which included the confirmation of certain changes from the original zonings submitted with the rezoning application. Council adopted the Draft Plan (**Attachment C**) and resolved that it be placed on formal public exhibition under the provisions of the Environmental Planning & Assessment Act and Regulations.

COMMENTS

General

It is recommended that Draft LEP201 as prepared and exhibited should be proceeded with. It is appropriate that the abandoned county road reservation be removed and replaced with appropriate local zonings. The 2(c) single residential housing zone and 6(a) open space zone are considered the most suited zones within the context of surrounding development.

RTA Issues

1. One part of the exhibited Draft Plan however requires specific reconsideration. This concerns part of the lands within Precinct 11 (Chisholm Street – Kissing Point Road). Part of this

precinct comprises a strip of land immediately behind Nos 32 and 34 Chisholm Street and Nos 4 and 6 Paroo Place. The RTA owns Lots 21 and 22 DP538546 which are each respectively located behind 32 Chisholm Street and 4 Paroo Place (**Attachment D** illustrates the allotment configuration). The application as first submitted proposed that these 2 lots be zoned 6(a). Council subsequently received the RTA's letter of 27 October 2003 (see **Attachment E**) requesting that these 2 allotments be rezoned 2(c). (The RTA has subsequently advised that an adjoining residential owner was seeking to acquire Lot 21 for residential purposes.) Unfortunately the original letter was not received by the Planning & Environment Department until recently. So that the desire by the RTA that its lands be rezoned 2(c) was not known and has not been incorporated into the drafting of Draft LEP201.

2. It is also relevant that small portions at the rear of the privately owned residential properties, Nos 34 Chisholm Street (35m²) and 6 Paroo Place (75m²), were proposed under the rezoning application to be rezoned as 2(c). **Attachment F** identifies the lands. Council has received recent verbal advice from DIPNR that it is not open to Council to propose a 6(a) zone for private lands. Council is only able to proceed to "reserve" the land for open space purposes. It would then need to be acquired from the owner. This has not yet been confirmed in writing by the Department.
3. Council, when considering Precinct 11 on 24 August 2004, resolved that both the RTA allotments (lots 21 and 22) and the affected portions of 34 Chisholm Street and 6 Paroo Place, be exhibited as a 6(a) open space zoning in Draft LEP201.

These lands had been considered by the Council's Open Space Department as having environmental significance such as to warrant inclusion and be contiguous with the open space areas of the adjoining Auluba Reserve. The situation is therefore now such that Lots 21 and 22 have been exhibited on a basis which has not been sought by the RTA. The RTA has reconfirmed its desire that Lots 21 and 22 be rezoned 2(c). DIPNR have recently advised that Council is not legally able to seek the rezoning of private lands to a 6(a) zone. This zone is only available to public lands. This is relevant to the small portions of 34 Chisholm Street and 6 Paroo Place which are proposed as 6(a). If Council intends that these lands be for open space purposes the land would have to be "reserved" for Open Space (public parks and recreation). Once reserved Council would need to acquire the lands from the private owners. Council would similarly need to acquire Lots 21 and 22 from the RTA whose apparent intention is to realise the sale of these lots.

4. Council's current position is that it cannot legally proceed with the Draft LEP in respect of that part of the Plan relating to 34 Chisholm Street or 6 Paroo Place. Similarly the Plan as prepared in respect of Lots 21 and 22 is inconsistent with the RTA owner's request. Under these circumstances it is considered that the appropriate action is to delete these lands from the Draft Plan for separate future consideration so that the rest of the Plan is not unnecessarily delayed.

Parliamentary Counsel

The Draft LEP has been referred to Parliamentary Counsel (PC) for comment as to whether LEP201 might be legally made. No objection has been raised subject to minor technical revision.

CONSULTATION

Department of Infrastructure Planning & Natural Resources (DIPNR)

Council's resolution of 24 August 2004 (Part 1) required that there be investigation into the potential for future land swap. This related to that area where Council and DIPNR owned lands in the vicinity of the "horse paddock". The Draft LEP proposed that DIPNR's land (being Lot 7 DP 29705) be zoned 6(a) recognising that this bushland is contiguous with the 6(a) zoned lands and bushland associated with Auluba Reserve. (The application sought the rezoning of the land as Residential 2(c).)

Council staff met with DIPNR representatives to discuss a means by which DIPNR could receive an acceptable return for these lands in the event of it being rezoned 6(a) instead of 2(c) as sought. DIPNR has suggested 2 alternatives by which this might be achieved as set out in its letter of 15 November 2004 (see **Attachment G**). The lands in question are illustrated in the Plan (**Attachment H**). There is also an issue to be addressed (Part C.2 of Council's resolution see **Attachment B**) concerning the need for the provision of a wide asset protection zone over certain lands in Precinct 8 (Eurong Street) owned by DIPNR and proposed to be rezoned 2(c). DIPNR has indicated how it would seek to ensure that the necessary asset protection zones would be put in place in association with the re-subdivision of the lands. This outcome would be achieved by establishing 6 residential allotments where now there are 10 by use of a Section 88B instrument which would place on title restrictions as to the location of building development and establish an asset protection zone. This is also discussed in the DIPNR letter.

The DIPNR letter provides a basis that would allow Council's objectives in these 2 areas to be satisfactorily achieved.

B2 / B3 Corridor Lands Consultative Committee

Prior to the preparation of DLEP201 a meeting was held on 21 April 2004 with the B2 / B3 Corridor Lands Consultative Committee. This was reported together with the matters raised, in the planning report of 14 July 2004 and considered by Council on 24 August 2004 when DLEP201 was resolved to be prepared.

Section 62 Consultation

Prior to the exhibition of Draft LEP201 Council consulted with relevant authorities under the provisions of Section 62 of the Environmental Planning & Assessment Act 1979 in respect of the Draft Plan and its provisions. Council consulted with the authorities as listed in **Attachment I**.

In response Council has received 5 responses from authorities as discussed below:-

Sydney Catchment Authority

No comments or objections.

NSW Rural Fire Service

The Service expressed concerns with the proposed residential rezoning of allotments that would adjoin unmanaged bushfire vegetation. Information was provided to the Service addressing the provision of asset protection zones. No further comments have been received back from the Service.

DIPNR

The Department responded to Council's Section 62 Notification by commending Council's work on the Draft Plan and encouraging Council to place the Draft Plan on exhibition.

NSW Heritage Office

The Heritage Office made the observation that the only items of heritage significance affected by the Draft Plan are relics of the Western Arterial Road proposed in 1924 as an alternative route to the Harbour Bridge. The Heritage Office noted that the proposed 6(a) Open Space zoning removes any potential threat posed by residential development to these relics.

The Heritage Office observed that Council needed to be satisfied whether the relics possess sufficient heritage significance to be listed as a heritage item and whether the proposed open space zoning is sufficient protection to facilitate their conservation. There was no further requirement for the referral of the Draft Plan to it during the exhibition.

Hornsby Shire Council

Hornsby Shire Council noted the purpose of the Draft Plan and indicated that it had no comment to make on the matter.

Sydney Water

Sydney Water expressed no "in principal" objection to the Draft Plan. Council's consideration of relevant issues at the building development stage were requested including Section 73 Compliance Certificates, building over / adjacent to pipes and structures, BASIX targets etc.

Public Submissions

Draft Local Environmental Plan No 201 was the subject of public exhibition from 6 October to 5 November 2004. In response to the statutory public notification process Council has received 13 submissions. The submissions received fall into a number of categories

1. Two submissions request the deferment of consideration of LEP201 pending completion of the DIPNR Metropolitan Strategy discussion paper.

Comment: The Metropolitan Strategy is a broad ranging strategy for the greater Sydney region. It is not seen as warranted that this DLEP, which is local in its concerns, should be unnecessarily held over. The B2 corridor has been abandoned since 1996 and its southern

parts have been rezoned and developed. Finalisation of the Draft LEP will allow for certainty in the planning of the area covered which has been in limbo since prior to 1971.

2. A submission supporting the Draft Plan has been received which stated that the sterilization of the lands caused by the reservation can be now uplifted.

Comment: This is considered to be a positive aspect of the Plan in those areas where it is proposed to allow for residential dwelling house development. At the same time bushland areas remaining can now be managed with certainty.

3. One submission observes that the Draft Plan will give rise to increased traffic and population which in turn will give rise to needs for footpath, kerb and gutter, safety road signage.

Comment: Where future development occurs the need for additional road safety and pedestrian facilities will be assessed and provided for in accordance with Council's standards. The increase in traffic movements will be marginal overall with less than 40 additional dwellings being likely to result from the rezoning.

4. A submission has been received on behalf of an owner who resides adjacent to Lot 21 DP538546 which is owned by the RTA and the subject of separate discussion elsewhere. The owner wishes to purchase this land for residential purposes. The rezoning of the land to Residential 2(c) is sought instead of the 6(a) zoning proposed under the Draft Plan.

Comment: The zoning status for this allotment and several adjoining parcels needs to be considered by Council in one line, in light of the RTA submission as elsewhere discussed.

5. Two submissions have been lodged objecting to the Draft Plan on the grounds that there is one exit road from the area in the event of bushfires.

Comment: There are requirements to be met of development when proposed in or adjacent to areas of bushfire hazard. These will apply in this instance and particular measures concerning the need for fire hazard reduction zones have already been discussed with DIPNR whose lands are directly affected. These control measures will be required to be implemented as appropriate and DIPNR is conscious of its requirements in this area, as is evident in its letter to Council (**Attachment G**). It is not reasonably feasible to provide a second separate vehicle entry point to Fox Valley Road at the Wahroonga end of the corridor particularly having regard for topographical constraints. However, the rezoning is not for major residential development densities and only envisages infill residential dwelling-house development. There are 2 road access points at the South Turramurra end of the corridor each provided by Kissing Point Road and Maxwell Street.

6. There were 5 submissions which raised objection to the draft plan on specific environmental grounds. These grounds included the following matters:

- Seek the retention of all intact bushland remnants in the corridor.

Comment: The Draft Plan has retained all bushland areas which are not abutted by existing residential zones as a proposed 6(a) zoning. Those bushland areas of the corridor within bordering residential 2(c) zones have been closely considered. Some of these areas are proposed to be zoned 6(a) whilst others are 2(c). The best areas of bushland are sought to be protected and zoned 6(a). The draft plan has sought to limit residential development to the areas which are most appropriate for such development.

- The proposed 6(a) zoning will not protect bushland as this also allows development consistent with open space eg. playing fields.

Comment: All bushland areas are zoned 6(a) including the national parks. The 6(a) zone is the appropriate zoning in the Ku-ring-gai Planning Scheme Ordinance to apply to bushland areas. There is no available open space zoning which limits permitted use to “bushland” only.

- Southern side of Kerela Avenue should be retained as bushland open space. The asset protection zone will result in a loss of bushland.

Comment: This area adjoins existing residential dwellings fronting The Broadway. As such parts of it should be developed as an asset protection zone for these dwellings as well as any future residential development to the north. Development in this area is proposed to be limited with DIPNR proposing that the existing 10 allotments be reconfigured to establish 6 allotments only. Four of the allotments would accommodate the asset protection zone. There are 3 existing dwellings so that the future potential is envisaged as only 3 new dwellings.

- The area between Canoon Road and Warner Avenue (part of Precinct 10(a)) should be zoned open space.

Comment: It is unrealistic to anticipate that Precinct 10(a), which is bounded by residential development, be quarantined from residential use. Draft LEP201 has sought to retain bushland areas where they abut existing bushland open space. This is not the case in this instance where residential development is adjoining and adjacent.

- Connectivity of bushland communities should be provided by retaining bushland and limiting residential development to the horse paddock within Precinct 10(b) between Warner Avenue and Chisholm Street.

Comment: It is a similar situation with Precinct 10(b) as with Precinct 10(a) previously discussed. This area is centrally positioned within a residential context and would not exist as open space and underdeveloped but for the existence of the country road corridor.

- Proposed 2(c) zoned sections near Chisholm Street in Precinct 11 should be retained as open space.

Comment: This locality on the south-west corner of the Chisholm Street / Hall Street intersection was seen as preferable for residential development compared with the lands opposite which abut the bushland surrounding Auluba Reserve. Council is not in a position to retain all lands within the corridor for bushland. The most suited areas for bushland retention have been proposed in the 6(a) zone.

- Impact of loss of bushland on biodiversity.

Comment: It is not considered that the bushland areas that are proposed for 2(c) rezoning (located within the bounds of the existing residentially zoned lands) will have any significant implications for biodiversity.

- Ecological value of the B2 Corridor has not been determined.

Comment: The information submitted with the application together with Council's assessments do not lead to the conclusion that ecological values of the B2 corridor has an undetermined ecological value. Areas of bushland have been increased in the Draft LEP over what was proposed in the rezoning application to recognise where habitats should be retained.

FINANCIAL CONSIDERATIONS

Work undertaken on the LEP relates to use of staff resources and cost of advertising. These are covered by the rezoning fee.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation was undertaken with Open Space and the Traffic and Transport Section of Technical Services in the preparation of DLEP 201 prior to its consideration by Council on 14 July 2004. This consultation resulted in extension of the areas proposed to be zoned for Open Space after also taking into consideration public submissions made in respect of the preliminary exhibition of the rezoning application undertaken in September / October 2003.

SUMMARY

1. Draft LEP 201 has been publicly exhibited in accordance with statutory requirements. Submissions received have been discussed in this report. It is generally considered that issues raised are not such as to warrant amendment or variation of the Plan. Issues requiring change relate to the areas of the RTA lands being Lots 21 and 22 DP 538546 where the RTA seeks a 2(c) zoning to apply instead of the 6(a) zoning that was exhibited and to DIPNR advice that it is not open to Council to propose a 6(a) zoning for the affected parts of the private lands at 34 Chisholm Street and 6 Paroo Close, South Turrumurra. Council could only proceed to "reserve" the land for open space purposes and would subsequently then have to acquire the land.

2. If Council is to now proceed with the Plan it should exclude of Lots 21 and 22 DP 538546 and the affected parts of 34 Chisholm Street and 6 Paroo Close. These lands should be the subject of separate future consideration.
3. Discussions have been held with DIPNR in respect of the need for the planning of future fire hazard reduction zones on DIPNR lands adjacent to Eurong Street which has been acknowledged. The principle of a land swap between Council and DIPNR was also supported whereby DIPNR lands to be zoned 6(a) could be swapped with Council lands to be zoned 2(c). The suggestion that a "Memorandum of Understanding" be entered into by Council with DIPNR in these terms could be supported.
4. It is recommended that Council adopt Draft LEP 201 as exhibited with the exclusion of Lots 21 and 22 DP538546 and 34 Chisholm Street and 6 Paroo Close, South Turramurra from the Plan.

RECOMMENDATION

- A. That Council adopt Draft Local Environmental Plan No 201 as exhibited with the omission of Lots 21 and 22 DP538546 and the affected parts of 34 Chisholm Street and 6 Paroo Close, South Turramurra from the Plan.
- B. That the Draft Local Environmental Plan No 201 as adopted, the Council Planning report and details of submissions be forwarded to the Department of Infrastructure Planning & Natural Resources in accordance with Section 68(4) of the Environmental Planning & Assessment Act 1979.
- C. That Council request the gazettal of Draft Local Environmental Plan No 201 as adopted (subject only to minor drafting amendments as may be necessary by Parliamentary Counsel which do not affect intent).
- D. That all parties who made submissions and those whose lands are the subject of proposed zoning change under the exhibited Draft Local Environmental Plan No 201 be advised of Council's resolution.
- E. That a report be brought back to Council in respect of Lots 21 and 22 DP538546, 34 Chisholm Street and 6 Paroo Close, South Turramurra for Council's consideration as to their appropriate future zoning.
- F. That the Council enter into discussions on a possible Memorandum of Understanding with the Department of Infrastructure Planning and Natural Resources in the terms as generally set out in the Department's letter of 15 November 2004 to Council and the General Manager bring a report on options.

Rod Starr
Senior Urban Planner

Antony Fabbro
Manager Urban Planning

Leta Webb
Director Planning &
Environment

Attachments:

- A - Precincts of road corridor identified in rezoning application.**
- B - Council's resolution of 24 August 2004.**
- C - Draft LEP201 as publicly exhibited.**
- D - RTA lands (Lots 21 & 22 DP538546) near Chisholm Street / Paroo Close.**
- E - RTA letter dated 27 October 2003.**
- F - Private lands affected by 6(a) zoning.**
- G - DIPNR letter of 15 November 2004.**
- H - Lands discussed by DIPNR letter of 15 November 2004.**
- I - Authorities consulted with under Section 62.**

Ku-ring-gai Local Environmental Plan No. 201

1 Name of this plan

This plan is Ku-ring-gai Local Environmental Plan 201.

2 Aims of this plan

This plan aims to zone the land to which this plan applies (being land now abandoned for county road reservation purposes) to partly Residential “C” and partly Open Space Recreation Existing under the provisions of the *Ku-ring-gai Planning Scheme Ordinance* so as:

- a) to remove from the zoning map supporting the Ordinance the reservation of county road purposes that applies over local roads, and
- b) to provide land for the purpose of residential development consistent with residential development in the locality, and
- c) to provide open space land to ensure the retention, conservation and protection of existing bushland.

3 Land to which this plan applies

This plan applies to land in the local government area of Ku-ring-gai, being land generally between The Comenarra Parkway, Wahroonga and Kissing Point Road, Turramurra, as shown coloured light scarlet with dark red edging and lettered “2(c)” or coloured dark green or light grey on the map marked “Ku-ring-gai Local Environmental Plan No 201” deposited in the office of Ku-ring-gai Council.

4 Amendment of Ku-ring-gai Planning Scheme Ordinance

The *Ku-ring-gai Planning Scheme Ordinance* is amended by inserting in appropriate order in the definition of ***Scheme map*** in clause 4 (1) the following words:

Ku-ring-gai Local Environmental Plan No 201

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	3 TO 5 MERRIWA STREET, GORDON - A 6 STOREY COMMERCIAL BUILDING
WARD:	Gordon
DEVELOPMENT APPLICATION N^o:	DA 271/04
SUBJECT LAND:	3 TO 5 Merriwa Street, Gordon
APPLICANT:	Nettleton Tribe Partnership Pty Ltd
OWNER:	A & G Altomonte
DESIGNER:	Nettleton Tribe Partnership Pty Ltd
PRESENT USE:	Carpark Area
ZONING:	Business Commercial Services 3B Zone
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Ku-ring-gai Planning Scheme Ordinance, Development Control Plan 14, Development Control Plan 43, Development Control Plan 47
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP 1, SEPP 55
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	18 March 2004
40 DAY PERIOD EXPIRED:	27 April 2004
PROPOSAL:	A 6 storey commercial building
RECOMMENDATION:	Approval

DEVELOPMENT APPLICATION N^o	DA 271/04
PREMISES:	3-5 MERRIWA STREET, GORDON
PROPOSAL:	A 6 STOREY COMMERCIAL BUILDING
APPLICANT:	NETTLETON TRIBE PARTNERSHIP PTY LTD
OWNER:	A & G ALTOMONTE
DESIGNER	NETTLETON TRIBE PARTNERSHIP PTY LTD

PURPOSE FOR REPORT

To determine development application no 271/04 which seeks consent for the construction of a 6 storey commercial building with basement parking for 93 cars.

EXECUTIVE SUMMARY

Issues:	SEPP 1 - variation to FSR, building height and encroachment into building height plane. Building design, including design for vehicular access and overshadowing of residential property. Use of the land for development.
Submissions:	10 public submissions and a petition of 13 signatures were received.
Land & Environment Court Appeal:	No appeal has been lodged
Recommendation:	Approval

HISTORY

Site history:

The site is currently used as a carpark and car storage area for the adjacent Volvo car dealership. The site forms part of a land use development consent for a motor showroom and service centre issued in 1966 (**copies of documentation at Annexure E**) which included nearby land fronting the Pacific Highway.

The carpark area of the site is predominantly bitumen, with wire fencing along the Merriwa Street frontage and through the centre of the site. Two street lights are located on the eastern and western corner of the site and no other building structures exist on the site.

DA 1038/04 relating to the subject site

DA 1038/04 was submitted by the applicant in October 2004 at Council's request following uncertainty as to whether the subject site which has been used by the Volvo dealership as additional

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carparking is in fact available for the proposed development. The site had been referred to as required for visitor carparking in the documentation associated with the 1966 development consent.

Currently the carpark provides space for 21 vehicles. Whilst occasionally these spaces are used in association with the Volvo dealership, the land is also used as parking by other commercial uses in the area.

DA1038/04 was lodged for the purpose of removing the surplus carparking provision associated with the Volvo dealership on the subject site.

DA1038/04 has demonstrated that the existing approved use (motor showroom and service centre) which has been in operation since 1966 (DA57/1966) has a total of 188 car spaces. Existing floor space consists of 2460m² of showroom area, and there are also 15 service bays. Twenty-one of the car spaces are on the subject site (Lots 2 and 4). Council's DCP requires only 108 spaces for the Volvo dealership based on 1 space per 200m² of showroom and 6 spaces per service bay. This means that there is an oversupply of 80 car spaces associated with the Volvo dealership.

As such, the existing Volvo dealership comprising a floor area of 2460m² and 15 service bays has been approved with a minimum of 108 spaces (DA1038/04 approved 3 December 2004).

The subject DA has demonstrated that the subject site can be redeveloped separately to the Volvo dealership.

THE SITE AND SURROUNDING AREA

The site

Zoning:	Business Commercial Services 3B Zone
Visual Character Study Category:	Not applicable
Lot Number:	Lot 4 and Lot 2
DP Number:	609007 and 303900 respectively
Area:	2,270m ²
Side of Street:	Eastern
Cross Fall:	North to south
Stormwater Drainage:	Yes
Heritage Affected:	No
Required Setback:	3 metres
Integrated Development:	No
Bush Fire Prone Land:	Not applicable
Endangered Species:	Not applicable
Urban Bushland:	Not applicable
Contaminated Land:	Yes (minor)

The site, located on the corner of Merriwa Street and Fitzsimons Lane, is a triangular block bounded by Merriwa Street to the south and Fitzsimons Lane to the north-east. The area of the site is 2,270m².

The site has a relatively steep slope downward from its north-west corner on Fitzsimon Lane to the south-east corner at Merriwa Street. It falls approximately 10m over a distance of 58.5m, with an average grade of 1 in 6.

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There are a number of retaining walls on the site, including along the Merriwa Street frontage, the western boundary to the neighbouring property No 7-9 Merriwa Street, on the north-west corner along part of the Fitzsimons Lane frontage and through the centre of the site.

The site and its immediate surrounds support a dense band of 48 exotic and native trees along the Merriwa Street frontage and through the centre of the site. The majority are planted or self-sown exotic trees.

Surrounding development:

The site is bound on the northern side by Fitzsimons Lane, which has two way vehicular access and footpath either side of the road. On the opposite side of Fitzsimons Lane to the north-east, is a service centre component of a car dealership that is 2-3 storeys in height with direct work bay access from the lane.

Further along Fitzsimons Lane to the north and west are other motor vehicle workshops and commercial buildings of 4-6 storeys in height.

To the south of the site, on the opposite side of Merriwa Street, are detached brick dwelling houses. These houses are set below street level, with a separate access lane off Merriwa Street. It should be noted that the consolidated site of 4-14 Merriwa Street and 3-11 McIntyre Street is a development site being dealt with by the Minister for Infrastructure, Planning and Natural Resources under State Environmental Planning Policy No. 53 ("targeted" site). A total of 148 dwelling units in two five storey buildings are proposed.

There is a two-storey SEPP5 apartment complex on the opposite side of Merriwa Street, at Nos 26-30.

Merriwa Street extends to the east of the site. Commercial buildings are located on the northern side of the street (ie the same side as the site) and single detached dwellings are located on the south side of the street.

Pacific Highway is located just over 100m further to the east of the site.

To the west of the site is a six storey office building at 7-9 Merriwa Street. The driveway on the adjoining property runs along the boundary of the site to a multi-level car park behind the commercial premises. The car park has access from Fitzsimons Lane and Merriwa Street. Off street parking is also provided in front of the building on the Merriwa Street frontage.

Further west of the site are more low-rise commercial buildings. All the commercial buildings have generous landscaped setbacks.

THE PROPOSAL

The proposal has the following features:

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- Construction of a six level commercial building, incorporating a café at ground level and three basement car parking levels;
- Provision for 93 car parking spaces over the three basement levels, with vehicular access from Merriwa Street;
- Removal of trees and excavation of the site;
- Landscaping; and
- Retention and re-use of roof runoff inside the building together with an on-site detention system for stormwater management.

Amended plans dated 7 October.

The amended plans made significant changes to the plans lodged originally in March 2004. The main changes to the plans were:

- Level 3 of the curved section of the building has been set back by 7.5m from the external wall of the floor immediately below (Level 2) to reduce the scale and bulk of the building as viewed from Merriwa Street;
- The western side of each office level has been extended closer to the boundary;
- The external entry has been widened, and the landscaping design amended to improve the appearance of the main entrance;
- The Café has been relocated into the lobby area leaving more room for landscaping of the setback area to Merriwa Street;
- Additional car parking spaces have been added (increase of 4 spaces to that provided in original plans)
- As part of a redesign of the basement carparking layout, the 2 disabled carspaces have been relocated to improved locations in the south-eastern corners of carpark levels B1 and B2 so as to be more accessible;
- The access stair to the podium from the driveway has been deleted;
- The fire stair has been rotated; and
- The carpark exit has been widened to improve manoeuvrability.

The following is the design statement for the proposed development provided by the architects:

“The proposed office building consists of 3 storeys of office space with 3 levels of half-basement carpark underneath. The building generally reads as a 3-5 storey building on Merriwa Street that steps down towards the corner of Fitzsimons Lane, and as a 3 storey building on Fitzsimons Lane. This is consistent with the building heights in the neighbourhood. The adjacent building is 6 storeys along Merriwa Street, and reduces to 3 storeys from street level at Fitzsimons Lane to reflect the slope of the land.

The form of the building has been designed to take into account the forms of neighbouring buildings, as well as the triangular and sloping shape of the site and the transition to the residential areas. Continuity of streetscape and maximising the Merriwa Street setbacks were the major considerations. On the western side of the site, the building form is a rectangular mass which is consistent with the height and setback of the neighbouring building. On the eastern side of the site, the building is in the form of a circle segment with the curved face

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fronting onto the corner. The adoption of these forms provides the continuity of streetscape, as well as a significant visual address to an important corner on Merriwa Street. In addition, these forms provide useful floor space, whilst at the same time maximising the setback on Merriwa Street to create an appropriate transition from the commercial precinct to the residential areas. Transition to the residential is further aided with a 10m setback at the topmost storey, and with the use of publicly accessible terraces and large, medium and small scale soft landscape planting.

The commercial buildings in the neighbourhood are characterised by buildings with clear horizontal articulation. The proposed building reflects this character with the clear articulation of its podium base, exposed horizontal glazing bars, balconies and sun shading devices. The proposed materials reflect this, and include masonry for the podium/carpark base, composite cladding panels for columns, blade walls, and aluminium-framed glazing.

The proposal incorporates a café that occupies the lobby, and adds to the amenities for the surrounding commercial precinct, as well as for the larger community in the residential neighbourhood. It is proposed that substantial soft landscaping that is consistent with the existing streetscape character will be provided, and this will replace the existing vegetation on site. Merriwa Street and part of Fitzsimons Lane will be lined with new spotted gums which create a continuity of tree canopy and screening of the building. Smaller scale Lilli-Pillies and Gynea Lillies for screening and ground cover at street level.

The overall character of the proposal is consistent with the existing character of the precinct. The design attempts to take into account the constraints of the site levels and shape, the transition between high rise commercial/light industrial precinct and residential precinct, and the predominant natural as well as man made landscape character of the place. The development achieves Council's objective of creating additional commercial development that is respectful to the broader residential community."

CONSULTATION - COMMUNITY

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

Original scheme dated 18 March 2004

1. Urbis JHD on behalf of owners of 4-14 Merriwa Street and 3-11 McIntyre Street
2. G and D Beckley of No 17/26-30 Merriwa Street
3. Mr and Mrs Perera of 1/26-30 Merriwa Street
4. Mr Aynsley of 15/26-30 Merriwa Street
5. Mr and Mrs The of 32 Merriwa Street
6. D and J Luijerink of 11/26-30 Merriwa Street
7. Sarah Treloar and Patricia Culme-Seymour of 7/26-30 Merriwa Street
8. Susan J Miller of 14/26-30 Merriwa Street
9. STRATA PLAN 69123, 26-30 Merriwa Street
10. Mrs Jay Blow of 2/26-30 Merriwa Street

Also a petition with 13 signatures was submitted to Council (lead signatory was Mr Aynsley of 15/26-30 Merriwa Street).

The submissions raised the following issues:

Non-compliance with FSR and height controls

A copy of this objection is provided at Annexure C. The objection relates mainly to the departures of the proposal from Council's planning instrument in terms of FSR and height. These matters are fully addressed further in this report.

The entrance to the development should be from Fitzsimons Lane. The development proposes a vehicular entrance from Merriwa Street which is crowded with an overflow of parked cars from the existing offices adjacent to the proposed building. Cars parked close to our driveway (No. 32 Merriwa Street) create difficulties for us exiting our property with safety.

The applicant was requested to look into this matter. The applicant has provided additional information to explain why an entrance to Fitzsimons Lane is not practical.

The top level of the proposed carpark is over a storey below the level of land in Fitzsimons Lane. A carpark entry/exit ramp to Fitzsimons Lane would be unfeasibly steep if the existing building levels were to be maintained. The building would have to be raised by over 3m in order to achieve a complying ramp. An increase in the proposed building height would bring into question the suitability of the development as compared to adjoining commercial developments and would result in increased impacts in terms of overshadowing and visual privacy to adjoining residences.

The multi-unit housing development at 26-30 Merriwa Street accommodates residents over the age of 55. Concern is expressed about the quality of life for these residents due to the additional heavy vehicles using Merriwa Street to deliver materials and equipment to the subject site during construction and other noise nuisances such as beeping from heavy vehicles reversing into position.

Likely problems arising from construction traffic are short lived compared to the life of the development. Noise related issues are constrained by the hours in which construction can occur.
(Refer to Condition 8)

Concern about shortage of available parking in Merriwa Street due to demand from commercial activities.

The proposed development provides 93 car parking spaces on site to accommodate staff and visitors. The development will be able to accommodate all parking associated with its activity.

Concern about the hours of the proposed café.

This café will mainly be for the use of workers of the building and adjoining commercial area. In the amended plans, the café is located within the front lobby which means that it will have no

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impact on the amenity of adjoining residents. A condition will be imposed to ensure that the café operates within standard business hours ie from 7.30am to 6pm, consistent with the use of the building. (**Refer Condition 70**)

What will be the proposed capacity of the building regarding permanent workers, transient staff/clients and the resultant impact on through traffic and access to the Pacific Highway.

This application was referred to the Roads and Traffic Authority which assessed the traffic generation aspects of the proposal and the capacity of the intersection of Merriwa Street and Pacific Highway. The RTA has advised that the existing road network has the capacity to accommodate the additional traffic generated by the development without the need for works to the road system including the introduction of traffic lights.

Would the maximum number of trees be maintained to ensure the street retains the character of the locality?

All trees on the subject trees will be removed except for a few existing trees on the front property boundary. Additional trees will be planted in the front setback to ensure that the character of the area is maintained. A copy of the landscape plan is attached at **Annexure B**.

Objection to height of building

The height of the building at Merriwa Street varies from 13m to 20m. The building steps down the site and is two storeys in the circular section which is closest to Merriwa Street. The height of the building is an appropriate response to the site and the surrounding built forms.

Concern regarding overshadowing of residential properties in Merriwa Street

There will be minor overshadowing of properties in Merriwa Street (ie Numbers 16- 22) cast by the proposed building during afternoon hours. The extent of shadow cast will not affect the amenity afforded to these properties. In addition, the shadow diagrams indicate that the shadows cast by the building are less in extent than the shadows cast by existing trees in Merriwa Street. Refer copy of shadow diagrams in **Annexure B**.

There will be no adjoining property which receives less than 4 hours of sunlight during the winter solstice. This level of solar access complies with Council's standards for solar access to residences.

Amended plans dated 7 October 2004.

The amended plans were not notified as they reduced the scale and size of the development as it is perceived from Merriwa Street and introduced made a number of internal modifications to the building to improve manoeuvrability of cars and the placement of disabled car spaces.

CONSULTATION - WITHIN COUNCIL

Landscaping

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

Impacts on trees/Trees to be removed

The proposed development will result in the removal of the majority of the existing vegetation on site. A total of forty-eight (48) trees have been identified as being within or associated with the site, of which six (6) are listed as undesirable species (trees numbered 38, 45, 8, 14, 7, 42) and are exempt under councils Tree Preservation Order. Another four (4) trees (Cotoneaster, trees numbered 28, 29, 41, 47)) are undesirable species due to their invasive habit, with two additional trees (trees numbered 6, 32) as being identified as having defects that render them potentially hazardous. It is noted that tree 6 Eucalyptus nicholii (Peppermint) has a very high visual significance as it is a dominant tree on the site.. The tree however is in decline, has suspected termite infestation, is potentially unstable, has evidence of decay and has a life expectancy of less than five (5) years.

The proposed development will necessitate the removal of eighteen (18) trees located within or close to the proposed building footprint (trees numbered 1, 5, 15, 16, 22, 25, 27, 31, 33, 36, 39, 43, 44, 46, 47), a further six (6) are recommended for removal due to their proximity to the proposed works, as works are within their critical root zones (trees numbered 17, 18, 21, 26, 30, 37). Of the remaining trees associated with the site there may be moderate adverse impact on three (3) trees due to excavations/level changes within their primary root zones (trees numbered 24, 34, 49). It is noted by the consulting arborist that these trees can be retained.

Of the remaining five (5) trees (trees numbered 19, 20, 23, 35, 48) there should be no adverse impact, provided adequate tree protection measures are implemented. It is noted that two of these five trees are located on Council's Merriwa Street nature strip. A total of seven trees (trees numbered 19, 20, 23, 24, 35, 48 and 49) are being retained.

Although there is a very high percentage of existing trees being removed from the site, it should be noted that any proposed commercial development of the site would result in the removal of the majority of the existing vegetation, primarily due to the gradient of the site which requires a reasonable extent of cut and fill and associated works to retain the slope and make the site practical for use.

The application can be supported with conditions. (Refer Condition Nos. 47-54, and 99-101).

Engineering

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

Conveyancing matters

It is noted that the development site currently comprises 2 lots (lot 2 of DP 303900 and lot 4 of DP 609007). These 2 lots would need to be consolidated prior to issue of the Occupation

Certificate. (Refer Condition No. 117) It is noted that the Applicant has not applied for any further subdivision on the application form lodged with the DA.

There is an easement for support affecting existing lot 4. The terms of this easement are assumed to benefit Council for the purposes of supporting the Fitzsimons Lane road reserve. It is envisaged that this easement for support may remain during the works, and that the completed perimeter support structure will support the road reserve under the terms of the easement.

I also note that there is an easement for drainage affecting the eastern part of lot 4. Council records indicate that there is in fact no Council drainage infrastructure located within this easement for drainage. The piped system in this location does not traverse the site but extends around the bend on Fitzsimons Lane. There may be some scope for the applicant to extinguish redundant burdens when the lots are consolidated, which is addressed in a condition of consent. (Refer Condition No117)

Vehicle Access and Accommodation

An assessment of the off-street parking facilities has been carried out against Australian Standard 2890.1 (2004) - "Off-street car parking".

The parking layout generally complies with Australian Standard 2890.1 - "Off-street car parking". There are minor shortfalls in the required width dimensions for some of the spaces, however it is felt that these shortfalls can be suitably addressed via appropriate conditions of consent. (Refer Condition Nos. 65 and 87)

Traffic generation

Council Traffic Engineers referred the proposal to RTA under the provisions of SEPP11 (Traffic Generating Developments). The comments received from RTA state that "The RTA has assessed the proposed development and raises no objections to the proposal on traffic efficiency or safety grounds as the traffic impact on the classified road network caused by the proposed development will not be significant.

Accordingly, there are no objections raised by Development Engineers with regard to the impact of the completed development on the road network.

Geotechnical Considerations

The Geotechnical Report relating to the subject site, as well as additional documentation provided by Douglas Partners, project 36791, dated March 2004 has been reviewed.

The sub-surface geotechnical investigations (6 boreholes) and subsequent report are considered appropriate for the scale of development. Further, the report contains geotechnical information and recommendations on excavation and construction techniques. Particular attention is paid in the report to protection of the major excavation face (adjacent to Fitzsimons Lane) and the adjoining commercial property.

The site levels fall approximately to the south east from an approximate reduced level of RL 117 at the north western corner (adjacent to Fitzsimons Lane) down to an approximate level of RL 104 along Merriwa Street. The proposal involves substantial excavation up to 10 metres depth with minimal offset to the Fitzsimons Lane frontage. Excavation ranging from 1 to 2.5 metre depth can be expected below the basement level of the adjoining site at 7 to 9 Merriwa Street, Gordon.

The critical geotechnical issues are as follows:

- Maintaining the structural integrity of Fitzsimons Lane and associated services in the road reserve. Appropriate retention and support of the adjacent excavation faces must occur both during and after construction.*
- Maintaining the structural integrity of the adjoining commercial property at 7 to 9 Merriwa Street, Gordon through appropriate retention and support measures, and suitable excavation and construction techniques.*

Upon investigation, hydrogeological factors (drawdown affecting neighbouring sites) are not considered to be an issue for this site. It is expected that seepage may be handled by the design factors outlined in the report.

Council does not have an in-house specialist geotechnical engineer. Council development engineers are guided by the findings and recommendations of the specialists geotechnical report submitted with the development application. It is noted that Douglas Partners have extensive geotechnical experience and provide comprehensive geotechnical reports where an adequate scope of works is provided, which is the case for this proposal. The purpose of the geotechnical report at the DA stage is for Council assessment officers to get an understanding for whether the proposal can be reasonably engineered from a geotechnical point of view (most importantly in terms of maintaining structural integrity of potentially affected neighbouring property and services). Where satisfied, Development Engineers will impose prudent conditions of consent that the development proceed in accordance with the findings and recommendations of the geotechnical experts.

*Accordingly, Council's development engineers are satisfied with the geotechnical aspects of this development subject to conditions (refer **Condition Nos.56, 94-95 and 114-117**) which ensure that the recommendations of the specialist geotechnical report are complied with. These conditions will require monitoring and geotechnical design input as specified in the report.*

Stormwater drainage

The submitted concept drainage plans and supporting documentation (drawings 820016-D-101B, 102B & 103A) by Cardno MBK, dated February 2004 are satisfactory. They show: A proposed retention tank of 50m³ which will retain roof runoff and reticulate this runoff back to the toilets in the building for flushing, and an on-site detention system which will control the rate of runoff into the Council drainage system.

The proposal to re-use water on site for toilet flushing is to be commended given that the DA was lodged prior to Water Management DCP 47 coming into force.

A minor concern arises with respect to the connection of the site outlet to the street drainage pit as shown. Backflow from the street drainage system must not be able to surcharge within the site at basement level. While reflux valves or one way flap valves can prevent this from occurring in the interim, over the long term they are susceptible to blockage, or wear and tear. What is preferable is a direct connection from the basement sump to an outlet point further downstream (below the HGL of the site invert) in the street drainage system. This is a minor issue and may be conditioned accordingly. (Refer Condition Nos. 55, 58,59).

Suitable engineering conditions of consent are to be applied which will require the submission of a drainage design suitable for construction issue, prior to issue of the Construction Certificate (Refer Condition No 88).

Impacts on Council Infrastructure/ Construction Management

This proposal will involve a substantial level of excavation and removal of spoil from the site. Substantial truck movements will be involved at this excavation stage. The route that these trucks must take between the site and disposal area needs to be considered. It would be highly preferable to have trucks enter left into Merriwa Street from the Pacific Highway, turn around in the site and then back to the Pacific Highway for a left turn. Roads with light load limits must be avoided. Further truck movements will occur as materials are transported to the site.

The application will be conditioned to provide a detailed construction management plan, designed to ameliorate construction related impacts on pedestrian and the local road network (Refer Condition No 84).

An infrastructure bond of \$40,000 will be applied to cover potential rectification of any damage caused to Public land as a result of construction (Refer Condition No 92).

CONSULTATION - OUTSIDE COUNCIL

The application was referred to the Roads and Traffic Authority under the provision of State Environmental Planning Policy No. 11.

The following advice was received:

“The RTA has assessed the proposed development and raises no objection to the proposal on traffic efficiency or safety grounds as the traffic impact on the classified road network by the proposed development will not be significant”.

STATUTORY PROVISIONS

State Environmental Planning Policy No 55 - Remediation of Land

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Clause 7 of this Policy states that in assessing a DA a Council must consider whether the land is contaminated and if so whether the land is suitable or can be remediated and made suitable for the proposed land use before it is so used.

A Contamination Assessment, prepared by Douglas Partners has been provided which concludes that the site is suitable for the proposed commercial use.

In the Contamination Report which was submitted, fibrous cement sheeting was found on the ground surfaces near certain bores (ie bores 7 and 8) but no asbestos fibres were detected in the soil samples analysed. The report was not clear as to whether the fibrous cement sheets contained asbestos or not, but the applicant has since clarified this issue. Douglas Partners have provided a recommendation as to the manner of removal of this fibrous sheeting. This matter does not impact on the conclusions of the above Contamination Assessment by Douglas Partners. **Condition No 71** has been imposed requiring that removal of asbestos be done in accordance with the relevant legislation.

Other SEPPs

SEPP11 - Traffic Generating Development

As detailed earlier in this report, the subject application was referred to the Roads and Traffic Authority. The Roads and Traffic has no objection to the development.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

The development is permissible within the Business Commercial Services 3B zone.

The objectives of the 3B zone are:

- *To identify those business centres the principal functions of which are to provide offices services and employment opportunities within the Municipality*
- *To permit other community facilities, recreation, leisure and convenience services within business centres to meet the needs and demands of employees within the centres, and;*
- *To permit, within the business centres' hierarchy, service industries compatible with the zone.*

The proposed development is consistent with the objectives of the 3B zone as it provides office services and employment opportunities in the area and a café as a convenient and compatible facility for workers on the site and the surrounding properties.

	COMPLIANCE TABLE	
Development Standard	Proposals Numeric Compliance	Complies
Height of Buildings (CI30A(1))		
• Building height: 12m	20m	NO
• Building height Plane: 30° from horizontal at any point 1.5m above	Part of the building along the Merriwa St frontage encroaches into the building height plane by 2.25m.	NO

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boundary of land within a residential zone.		
FSR 1:1 (max)	1.36:1	NO

The following is a detailed discussion of the above relevant matters:

Height of buildings (cl.46)

The proposed development has a varying building height of between 13m and 20m from natural ground level to the topmost office level ceiling on the Merriwa Street frontage, and between 10m and 13m from ground level to the topmost office level ceiling along the Fitzsimons Lane frontage. It therefore exceeds the 12m height limit by up to 8m at its highest point.

A SEPP1 objection accompanies the development application and states that compliance with the height standard is unnecessary and unreasonable in the circumstances. The basis for the SEPP1 is mainly that the proposed development is of consistent height and building form as adjoining commercial development and that the proposed development complies with the objectives of both the zone and the relevant height standard. **The SEPP1 is attached at Annexure C.**

The objectives of the height standard are:

- To retain a consistent scale of buildings when viewed from the main streets of each business centre being generally 2 storeys with the exception of floor space in zone No 3B which is 3 storeys;
- To minimise the potential for overlooking and overshadowing of business development on non-business development; and
- To promote a size of building which does not have an avoidable overbearing visual presence on adjacent residential development.

The proposed development is consistent with the objectives of the height standard because the size and height of the proposed development is the same as the neighbouring commercial building (7-9 Merriwa Street) giving a consistent building height and visual form on the Merriwa Street frontage. The potential for overlooking of surrounding residential development is minimised due to landscaping and tree planting.

The additional height at the Merriwa Street frontage is the result of the steep topography of the site. The site has a steep slope from the north-west corner on Fitzsimons Lane to the south-west corner on Merriwa Street. It falls approximately 10m over a distance of 58.5m with an average grade of 1 in 6. The development generally complies with the height limits on the high point of the site on Fitzsimons Lane.

In particular, the building has been designed so that it steps down towards the Merriwa Street frontage, reducing its bulk and scale as perceived from Merriwa Street.

The proposed development, and in particular the additional height, will not result in any unreasonable overshadowing of any residential property.

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The proposed development is considered consistent with the zone objectives and the objectives of the building height standard.

Furthermore, under Clause 30A(3), a building may exceed the 12m height prescribed in clause 30A(2) of the Ordinance, if Council is satisfied that the existing topography of the site will permit additional height that is consistent with the objectives of this clause. The additional height proposed results in a development consistent with the objectives of the KPSO.

As such, strict compliance with the height standard is unnecessary and unreasonable in the circumstances of this case.

Encroachment into the building height plane - Clause 30A(2)(B)

A SEPP1 objection accompanies the development application and states that compliance with the building height plane control is unnecessary and unreasonable in the circumstances.

Clause 30A(2)(B) specifies that the building shall not exceed a height, at the highest internal point of the ceiling of its topmost storey of 12m, in the subject 3B zone. Also, the building is not to exceed an exterior height determined by a building height plane projected at an angle of 30° from a point 1.5m above ground level located at the boundary of land within a residential or open space zone (clause 30A(2)).

A building may exceed the height prescribed in subclause 30A(2) but only if Council is satisfied that the topography of the site will permit additional height that is consistent with the objectives of this clause (clause 30A(3)).

The site is steep and falls 10m over a distance of 58.5m with an average grade of 1 in 6.

The plans indicate that there will be a minor encroachment into the building height plane for levels 5 and 6 where ceilings extend over the front balcony areas of these office levels. **(refer Cross Section B-B in Annexure B)**. The maximum extent of the encroachment is 2.25m, which is minor in terms of the total development. There is no adverse impact to residential properties opposite as the building will be well screened and the dwellings in Merriwa Street are more than 40m away.

As such, strict compliance with the standard would be unreasonable and unnecessary in the circumstances.

FSR (cl.30B(2))

The objective of this clause is “to establish a hierarchy of business centres for the following purposes:

- (d) in floor space zone B1, the primary commercial office centre within the Municipality, to provide office accommodation and associated services for the wider upper-north-shore locality.”

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A SEPP1 objection accompanies the development application and states that compliance with the FSR standard is unnecessary and unreasonable in the circumstances.

The proposed development is consistent with the objectives of the FSR standard in contributing to the establishment of a hierarchy of business centres, and in particular to the establishment of the 3(b)B1 Zone as the primary commercial office centre in the area.

The departure from the FSR standard is justified on the following grounds:

- The size, bulk and scale of the proposed building, which steps down towards Merriwa Street, is consistent with surrounding development.
- Traffic generated by the proposed development can be accommodated on the existing road network. This has been confirmed by the RTA based on traffic studies submitted with the application by McLaren Traffic Engineering;
- The proposed development is consistent with the zone objectives and the objectives of the FSR standard (stated above);
- The size, bulk and scale of the proposed building has been modelled on and is consistent with the neighbouring commercial building at 7-9 Merriwa. The scale of development is also consistent with other commercial buildings in this commercial zone located between Fitzsimons Lane and Pacific Highway. Furthermore, the southern-most portion, closest to the Merriwa Street frontage, has been stepped down to reduce the height and bulk of the building when viewed from the street. The additional FSR does not increase the bulk and scale of the building to an unacceptable level.

Having regard to the above arguments, the additional floor space of 823m² resulting in a floor space ratio of 1.36:1 results in development consistent with adjoining development.

The additional floorspace will generate additional traffic, but the RTA has confirmed that the existing road system is capable of accommodating the additional traffic without the need for additional works such as traffic lights.

As such, strict compliance with the standard is unreasonable and unnecessary in the circumstances of this case.

POLICY PROVISIONS

Development Control Plan No 14 - Development in Business Zones

COMPLIANCE TABLE		
Development Control	Proposals Numeric Compliance	Complies
Height of Buildings (Part 12)		
• Building Height: 12m	13 - 20m	NO

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<ul style="list-style-type: none"> Building Height Plane: 30° from horizontal at any point 1.5m above boundary to land with a reserve or open space zone Solar Access: 3 hours solar access to adjoining residential properties between 9am and 3pm 	<p>2.25m encroachment of Levels 5 and 6 at the Merriwa Street frontage</p> <p>All residential properties affected by overshadowing receive in excess of 3 hours</p>	<p>NO</p> <p>YES</p>
<p>Floor Space Ratio (Part 13)</p> <ul style="list-style-type: none"> Max FSR 1:1 <p>Building Setbacks(Part 14)</p> <ul style="list-style-type: none"> Building line: 3m (min) <p>Merriwa Street</p> <p>Fitzsimons Lane</p> <ul style="list-style-type: none"> Building Line: 8m (average) <p>Merriwa Street</p> <p>Fitzsimons Lane</p> <ul style="list-style-type: none"> Setback to adjoining buildings: 7m (min) Building Line: Prevailing (range from 9-22m) 	<p>1.36:1</p> <p>Variable, between 5.65 – 18.06m to Merriwa Street</p> <p>Variable between 0.85 – 14m to Fitzsimons Lane</p> <p>12m</p> <p>7.4m</p> <p>5.49 to western property boundary, and 8.79 to adjacent building</p> <p>15m (section closest to 7-9 Merriwa Street)</p>	<p>NO</p> <p>YES</p> <p>NO</p> <p>YES</p> <p>NO</p> <p>YES</p> <p>YES</p>
<p>Car parking (Part 18)</p> <ul style="list-style-type: none"> No. of carparking spaces: 1 space per 33m² GFA plus 1 space for courier + 1 space per 17m² GFA for the retail use (café) <p>Total number required is 97</p>	<p>93 carparking spaces</p>	<p>NO</p>

Building Height (Part 12)

This issue has been discussed earlier in this report.

Floor Space Ratio (Part 13)

This issue has been discussed earlier in this report.

Building Setbacks (Part 14)

The objective of the setback control is:

- to enhance the streetscape character of business centres*
- to provide where appropriate open space at the front of buildings, free of construction, for high quality landscaping and public space;*
- in the commercial services areas, to promote separation between buildings and reduce overlooking, overshadowing and provide a sense of place.*

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The proposed development complies with the minimum building line setbacks in the DCP along the Merriwa Street frontage, but not at Fitzsimons Lane.

Along Fitzsimons Lane, the proposed development encroaches into the minimum building line setbacks specified in DCP14. The proposed building has setbacks from the Lane of 3.4m in part, 0.8m in part, and down to 0.4m on the northernmost corner of the building. These encroachments into the minimum setbacks of Fitzsimons Lane are considered reasonable in the circumstances given that other existing buildings encroach into the minimum setback along Fitzsimons Lane. Furthermore, Fitzsimons Lane is mainly a service road with predominantly the rear service areas of other commercial developments being accessed from the Lane.

The proposal does provide some high quality landscaping along the Lane frontage where possible consistent with the objectives of the setback controls.

Based on the above, it is considered that the reduced setbacks to Fitzsimons Lane are acceptable.

Development Control Plan 43 - Carparking

The proposed development provides 93 carspaces, which is 4 spaces short of the minimum amount required in Council's DCP.

Under Section 3.2 of the DCP, Council can be requested to vary the requirements of this Plan if it can be shown that the objectives of the DCP can be achieved. Any request for variation must be supported by a detailed traffic assessment study. The objective of the control is

“to provide adequate parking for customers, visitors, residents, employees and tradesmen to satisfy the parking demand generated by the proposed development”.

A traffic assessment has been provided by McLaren Traffic Engineering. The report argues that the shortfall of 4 spaces is acceptable in the circumstances because:

- the development is close to public transport services - 800m to train services and 300m to bus services - which should act to reduce the level of parking provided;
- the development meets the parking requirements specified in the RTA Guidelines - this equates to a lesser provision of 77 spaces;
- kerbside parking adjacent to the proposed development provides an additional 5 spaces;
- the proposed café will primarily serve the site users and occupants of adjacent buildings who are easily within walking distance, and it is highly unlikely to generate vehicular traffic or necessitate the 3 additional carspaces required by DCP43;
- 3 carspaces were deleted from the front setback to Merriwa Street at the request of Council planners at pre-DA to maximise the amount of landscaping in the front setback
- the irregular shape of the site constrains the viability of providing more on-site parking.

Having regard to the above, the shortfall in parking is minor given the location of the site close to Gordon Town Centre and public transport facilities.

Development Control Plan 40 - Waste Management

A satisfactory Waste Management Plan has been submitted with the development in accordance with Council's DCP.

Development Control Plan 47 - Water Management

The DA was submitted before DCP47 was adopted. The proposal, however, incorporates a number of water retention and recycling measures currently recommended under the DCP and is supported by Council's Engineers.

LIKELY IMPACTS

There will be significant noise and traffic impacts during construction due to the amount of excavation associated with preparation of such a steep site and due to the demolition of the existing carpark. These impacts will be controlled as part of the Construction Management Plan which must be submitted to and approved by Council prior to works commencing. (**refer Condition No. 97**).

Following completion of the development, the new building will make a positive contribution to the streetscape which is a transition area between the commercial uses and the residential area which extends down Merriwa Street.

There will be some afternoon overshadowing of properties in Merriwa Street ie Nos 16-22 but within the limits of Council's DCP. This means that the affected residents will enjoy at least 4 hours of solar access at the winter solstice.

There will be some overlooking from the upper terrace areas of the building towards residences in Merriwa Street but no loss of privacy to any rear yards due to the orientation of the allotments and the proposed building being located to the north of residential properties.

SUITABILITY OF THE SITE

The site is considered suitable for the proposed development in the following respects:

- It is zoned for commercial office use and has good access to transport and shopping facilities
- The adjoining properties support commercial development of a similar size and scale;
- A range of utility services are available to the site; and
- There are no environmental issues that preclude the approval of the development

ANY SUBMISSIONS

All submissions received have been considered in the assessment of this application.
Conditions Nos. 8 and 70 have been imposed so as to address the concerns of the objectors.

PUBLIC INTEREST

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Approval of the application is considered to be in the in the public interest, as it will complete the development of this part of the commercial precinct bounded by Merriwa Street and Fitzsimons Lane.

CONCLUSION

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

RECOMMENDATION:

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

1. APPROVAL - SEPP 1 REQUIRED

THAT the Council, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No 1 - Development Standards* to Clauses 30B(2) and 30A(2)(a) of the Ku-ring-gai Planning Scheme Ordinance in relation to height, height plane and floor space ratio, is well-founded. The Council is also of the opinion that strict compliance with the specified development standards is unreasonable and unnecessary in the circumstances of this case as the building is proposed on a steep site, and has a proposed scale and bulk which is not considered excessive when compared to existing commercial buildings in the vicinity of the subject site.

AND

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that the granting of consent to DA 271/2004 is consistent with the aims of the Policy, grant development consent to DA 271/2004 for the construction of a six storey commercial building on land at 3-5 Merriwa Street, Gordon, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

Development in Accordance with Plans (New Development)

GENERAL

1. The development must be carried out in accordance with plans numbered 2662_001F, 002E, 004A, 003D, 013H, 011F, 012H, 015.1D, 014G, 016G, 015D, 023E, 021D, 022E, 031E, 024D, 025C, 035D, 032E, 034D, 043D, 036D, 033C, 042C, 044D, 061, 062, dated September 2004, drawn by Nettleton Tribe Partnership P/L, and endorsed with Council's approval stamp, except where amended by the following conditions:
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.

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

Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.
9. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
10. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
11. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
12. To maintain existing ground levels all excavated material shall be removed from the site.
13. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.

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14. With regard to the proposed rock breaking the following conditions are to be observed:
- a. The Geotechnical Engineer shall supervise the works in progress.
 - b. A dilapidation report on adjoining or nearby properties shall be prepared prior to any excavation, rock breaking, or associated work commencing and shall be submitted to the Principal Certifying Authority.
 - c. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
 - d. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.

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

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

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

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

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

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

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

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

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

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

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

21. The developer shall submit to Council a letter from the energy supply authority and either Telstra or Optus, confirming that satisfactory arrangements have been made for the provision of underground telephone and power services, prior to the release of the Subdivision Certificate or Occupation. Application may be made to Energy Australia Phone No. 13 1525 and either Optus, Network Operations, Facsimile No 9837 9060, Phone No 9837 9010, or Telstra Phone No 12 455.
22. The fence and footings shall be constructed entirely within the boundaries of the property.
23. The carpark demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
24. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
25. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

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

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27. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
 - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
 - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
 - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
28. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
29. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
30. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
31. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
32. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
33. A traffic management plan shall be submitted to and approved by the Principal Certifying Authority, where major demolitions are likely to impact on arterial or main roads.
34. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
35. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - a. stating that unauthorised entry to the work site is prohibited, and

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

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
36. All work in relation to construction, fitting out and finish of any food preparation, storage and retail areas is to comply with Council's Code for the Construction and Fitout of Food Premises and the Food Act 1989 including the Food Regulation 2001 with the provisions of the Food Standards Code. Copies of Codes and Policies are available for purchase at Council's Offices.
37. Where any system of mechanical ventilation and/or air conditioning is proposed or installed within the premises such system shall be designed to comply with the Building Code of Australia and Australian Standard, 1668, Part 2 and AS 3666, and shall be subject to approval by the Principal Certifying Authority prior to installation.
38. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
39. Under no circumstances shall building materials, demolition waste, fill, soil or any other material from any source be placed or stored within any public reserve.
40. To preserve and enhance the natural environment, all soil erosion and sediment control structures shall be inspected following each storm event and any necessary maintenance work shall be undertaken to ensure their continued proper operation. Sediment shall be removed from the soil erosion and sediment control structures when no more than forty percent (40%) capacity has been reached. These structures shall continue in proper operation until all development activities have been completed and the site fully stabilised.
41. Sites shall not be re-shaped, re-contoured, excavated nor the levels on any part of the site altered without the Consent of the Council being obtained beforehand.
42. To preserve and enhance the natural environment, sediment removed from erosion and sediment control structures shall be disposed of to an approved sediment dump.
43. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
44. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.

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45. To prevent pollution, any areas cleared of vegetation where there is a flowpath greater than 12.0 metres in length shall have a properly constructed silt fence erected to intercept runoff.
46. To prevent pollution, all disturbed areas which are not to be built upon or otherwise developed within 14 days shall be stabilised with mulch, woodchip or other rehabilitation methods to provide permanent protection from soil erosion.
47. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

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

48. Landscape works shall be carried out in accordance with Landscape Drawing No 03:9:2 L1 Rev B prepared by Wallman Partners and dated 27/09/2004 submitted with the Development Application. The landscape works shall be completed prior to the issue of the Occupation Certificate and be maintained in a satisfactory condition at all times.
49. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
50. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

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

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Adjacent to southern site boundary

51. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the Council shall be required at monthly intervals. Documentary evidence of compliance with this condition shall be submitted to the principal certifying authority prior to the release of the Occupation Certificate.
52. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
53. On completion of the landscape works/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to the issue of the Occupation Certificate.
54. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.
55. Stormwater runoff from new hard surfaces generating runoff, controlled seepage and landscaped areas that are not at natural ground level shall be piped to the in-ground street drainage system in Merriwa Street. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website. Particular attention is to be paid to ensuring there is no surcharge within the site.
56. All geotechnical aspects associated with excavation and construction of the development shall be undertaken under the supervision of a qualified and experienced geotechnical engineer and in accordance with the following documentation submitted in support of the Development Application:
 - "Report on geotechnical investigation for proposed commercial development 1 – 5 Merriwa Street, Gordon" and additional documentation by Douglas Partners, project 36791, dated March 2004.
57. The use of permanent rock anchors under Council land is not permitted. Temporary rock anchors may be permitted, where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment. If temporary rock anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act* 1993. Approval may be granted subject to conditions of consent. Four weeks should be allowed for assessment.

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58. A mandatory rainwater re-use tank system for toilet flushing and an on-site stormwater detention system must be provided for the development. Design volumes for each respective component must be in accordance with the following drainage documentation submitted in support of the Development Application:
- Concept drainage plans and supporting documentation (drawings 820016-D-101B, 102B & 103A) by Cardno MBK, dated February 2004.
59. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided at the base of the ramped driveway and connected to the main stormwater drainage system. The channel drain shall have outlet of minimum diameter 150mm to prevent blockage by leaves and silt.
60. For stormwater control any balconies are to be drained to the main drainage system via outlets fitted with raised leaf guards.
61. A maintenance period of six (6) months shall apply to the work in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
62. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
63. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
64. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

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65. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 “Off-Street car parking”.
66. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
67. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
68. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage area, no doors or gates shall be provided in the access driveways to the basement carpark which would prevent this service.
69. All noise generating equipment used on the site shall not give rise to an offensive noise source as defined in the Protection of the Environment Operations Act 1997. All equipment shall be provided with suitable sound attenuation equipment designed by a suitably qualified practicing Acoustic Engineer so that when in operation the background sound pressure levels are not exceeded when measured at the boundary of the property.
70. The café shall operate within standard business hours between 7.30am and 9pm.
71. As outlined in the letter titled "1-5 Merriwa Street, Gordon" dated 3 December 2004 by Douglas Partners, any fibrous cement fragments shall be removed from site prior to the initial phase of site development. Any works associated with the removal of the fibrous cement fragments shall be carried out by a suitably qualified environmental consultant and in accordance with all relevant NSW EPA and Workcover NSW guidelines. At the completion of contamination remediation, the removal works shall be documented by an occupational health and safety consultant (eg, occupation hygienist) and all relevant documents shall be sent to Council once completed.

PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

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

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

- Floor plans showing the ductwork, registers and all ancillary plant;
- Location of intake and exhaust vents;
- Schedule of air flow rates including fresh air and return air quantities; and
- Sound pressure levels.

73. A report from a suitably qualified Acoustic Engineer providing details of the required performance levels and construction details of the acoustic attenuation to be provided to the individual noise generating plant to ensure when in operation the sound pressure levels do not exceed the background noise levels when measured at the boundary of the property shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.
74. Details of the proposed Fire Safety Measures to be installed in the building in accordance with the requirements of the Building Code of Australia shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.
75. A detailed Site Management Plan incorporating the following shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate:
 - Temporary construction crossings;
 - Sedimentation controls and maintenance procedures;
 - Suppression of dust during construction;
 - Material storage areas away from protected trees;
 - Diversion of clean water run-off around the disturbed area of the site; and
 - Protective fencing preventing access to the site.
76. A Waste Management Plan shall be prepared to determine the extent of waste and recycled materials that will be generated from the use of the building. This plan shall be used to determine the size of the waste/recycling area to be provided. Details of the construction of the waste/recycling area complying with the provisions of Development Control Plan No. 40 shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.
77. Details of the disabled access and facilities in accordance with the provisions of Australian Standard 1428 shall be submitted to the Principal Certifying Authority for approval.
78. Your attention is directed to the operation of the Commonwealth Disability Discrimination Act 1992, which may impose greater obligations on providing access to disabled persons other than compliance with the Building Code of Australia. You are advised to seek advice from the Human Rights and Equal Opportunity Commission (phone (02) 9284 9600) in respect of your application.

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

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

80. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
81. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
82. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.

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

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

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

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

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

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

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completing the necessary application form at Customer Services and payment of the adopted fee.

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

The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

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

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

88. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater detention/retention system. Design volumes for each component must be in accordance with the concept drainage plans and supporting documentation (drawings 820016-D-101B, 102B & 103A) by Cardno MBK, dated February 2004 which . Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer and may be incorporated on the overall site drainage plan. Where advanced for construction issue purposes, the concept Cardno MBK drainage plans and supporting documentation (drawings 820016-D-101B, 102B & 103A), dated February 2004 shall be advanced and amended to address the following:

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

89. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water within the site, including toilet flushing. The necessary pumping, filtration and delivery plumbing equipment for re-use shall be shown on this design to a detail suitable for installation by the plumbing contractors. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. These details may be incorporated on the overall stormwater management plan and design for the retention/detention system.
90. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components to a detail suitable for installation by the plumbing contractors. The property drainage system (including but not limited to gutters, downpipes, subsoil drainage, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 - Plumbing and Drainage Code.
91. The Applicant must carry out the following infrastructure works in the Public Road Reserve:
 - a. Road widening in Merriwa Street, in the vicinity of proposed driveway, by trimming the existing verge area and placement of new road shoulder and kerb and gutter. The new area of road shoulder must drain to the existing sag pit adjacent to the proposed layback. Development Consent under the EP&A Act does NOT give approval to these works on Council property. **THE APPLICANT MUST OBTAIN A SEPARATE APPROVAL UNDER SECTION 138 AND 139 OF THE ROADS ACT 1993** for the works in the Public Road, required by this condition. The Construction Certificate must not be issued, and these works must not proceed, until Council has issued a formal written consent under the *Roads Act 1993*.

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

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

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

92. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$ 40,000 bond or bank guarantee with Council. This is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development or at the end of any maintenance period stipulated by consent conditions upon approval by Council’s Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
 - a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
 - b. The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
93. Prior to the issue of the Construction Certificate, the applicant must submit to the Principal Certifying Authority details of the proposed Vibration Monitoring Program to ensure that vibration created by the method of construction does not adversely impact on the surrounding property and infrastructure. A qualified and practising geotechnical engineer must prepare the Vibration Monitoring Program and undertake all associated investigations. Details to be included in Vibration Monitoring Program to include:
 - a) pre-set acceptable limits for the variation of:
 - settlement
 - deflection or movement of retaining mechanisms such as shoring and bracing and
 - vibration in accordance with AS 2187.2 1993 Appendix J, including acceptable velocity of vibration.
 - b) the location and type of monitoring systems to be used
 - c) recommended hold points to allow for inspection and certification by a geotechnical engineer and
 - d) a contingency plan should the pre-set acceptable limits be exceeded.

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

94. Council property adjoining the construction site must be fully supported at all times during all excavation, demolition and building construction works. Details of shoring, propping and anchoring of works adjoining Council property, prepared by a qualified Structural Engineer or

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Geotechnical Engineer, must be submitted for the approval of the Principal Certifying Authority (PCA), before the commencement of *any* works. Backfilling of excavations adjoining Council property or any void remaining at completion of construction between the building and Council property must be fully compacted prior to the completion of works.

95. Prior to the commencement of *any* works on site and prior to issue of the Construction Certificate, qualified practitioners must undertake a closed circuit television (CCTV) inspection and then report on the existing condition of 375 mm Council drainage pipeline adjacent to the excavation face in Fitzsimons Lane. The report must be provided and approved by Council, attention Development Engineer, prior to issue of the Construction Certificate. The report is to include a copy of the video footage of the pipeline and shall extend 5 metres either side of the boundary. This condition is imposed to provide a benchmark for any lateral movement in the pipe that may be induced during excavation and construction. Any damage to the Council pipe caused as a result of the development shall immediately be repaired at no cost to Council.
96. Prior to the commencement of *any* works on site and prior to issue of the Construction Certificate, the applicant shall submit, for approval to the Principal Certifying Authority (PCA) **and** Council, a full dilapidation report/survey on the visible (including photos) and structural condition of the existing structures at the following locations:
 - a) Fitzsimons Lane along the full length of the subject property boundary
 - b) Neighbouring driveway and adjacent structures at 7 – 9 Mewriwa Street, GordonThe report must be completed by a consulting structural/geotechnical engineer. The lateral extent of the survey must cover the likely “zone of influence” of construction induced vibration or deflection of retaining structures. The survey must be properly documented and ideally agreed to by the property owners. A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council.
97. Prior to the commencement of *any* works on site the applicant must submit, for review by Council Engineers, a Construction Management Plan. The following matters must be specifically addressed in the Plan:
 - a) A plan view of the entire site and frontage roadways indicating:
 - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
 - Turning areas within the site for construction vehicles, allowing a forward egress for all construction vehicles on the site,
 - The locations of proposed Work Zones in the frontage roadways,
 - A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
 - Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - The provision of an on-site parking area for employees, tradesperson and construction vehicles where possible
 - b) All traffic control devices installed in the road reserve must be in accordance with the RTA publication “Traffic Control Worksite Manual” and designed by a person licensed

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to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.

- c) Any likely traffic re-assigning measures required during construction must be specified. Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided. Light traffic roads and those subject to a load or height limit must be avoided at all times. A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.
- d) Appropriate "Trucks Entering" signage at all relevant locations.
- e) Schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- f) Consideration must be given to minimising construction-related traffic movements during school peak periods. For those construction personnel that drive to the site, the Applicant shall provide on-site parking so that their personnel's vehicles do not impact on the current commuter or commercial parking in the area.

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

- 98. Prior to the commencement of any works on site, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install a 'Work Zone' as close as possible to the site. Further, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed and the adopted fee paid prior to commencement of any works on the site. Where such a 'Work Zone' is not considered to be feasible by Council Traffic Engineers, the zone will not be required. This condition is to facilitate a dedicated on-street parking area for construction related vehicles during work hours and reduce impacts on the surrounding road network. A need for a 'Work Zone' arises given the scale of the works, existing on-street parking restrictions around the site and the existing high demand for on-street parking.
- 99. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

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

100. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
101. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

102. Lots 2 and 4 shall be consolidated prior to occupation of the building.
103. Prior to the release of any occupation certificate, a compliance certificate must be obtained from an accredited certifier, certifying that the building works for the building to be occupied comply with the plans and specifications approved by this development consent; and any construction certificate associated with this consent for the buildings to be occupied. If the PCA is not the Council, then this compliance certificate must be submitted to the Council at the same time as the occupation certificate is submitted to the Council in accordance with Clause 151(2) of the E P & A Act regulations.
104. Prior to issue of an Occupation Certificate the following works must be completed:

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

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

105. Prior to issue of an Occupation Certificate the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.
106. Prior to issue of an Occupation Certificate the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.
107. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):
 - a. A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
 - b. A copy of the works-as-executed drawing of the as-built on-site detention/retention system, and

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c. The Engineer's certification of the as-built system.

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

108. Prior to issue of an Occupation Certificate the approved road, footpath and/or drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.
109. Prior to issue of an Occupation Certificate an easement for waste collection must be provided. This is to permit legal access for Council, and Council's contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection.
110. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
111. Prior to issue of an Occupation Certificate, Certification and a Works-as-Executed (WAE) plan in relation to the installed rainwater retention devices are to be submitted to the Principal Certifying Authority (PCA). Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The Certificate is to address:
 - Compatibility of the retention system(s) with the approved Construction Certificate plans.
 - Compliance with AS 3500.2 & AS3500.3:1998.
 - Overflow from the installed retention devices directed to an approved disposal point.
 - The capacity of the retention storage as approved.
 - Provision of leaf gutter guards to all roof gutters.
 - Measures to prevent mosquito breeding nuisance.
 - Provision of a readily maintainable "first flush" system to collect sediment/debris before entering the tank(s).
 - Installation of any proprietary tank products in accordance with manufacturers' specifications.
 - The structural adequacy of tank and supporting structures/slabs.
 - That all toilet flushing water usage for the approved development is sourced from the stormwater retention tank(s).
 - All pumping equipment is readily accessible for maintenance and cleaning purposes and the adequacy of the pumping mechanism to achieve delivery rates as required.
 - An air gap being provided at the top of the tank(s).

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- Mains backflow prevention devices being installed at all relevant locations for reticulated systems
- Sediment sump of 150mm minimum being provided at the base of the tank(s)
- All recycled stormwater outlet points having permanently affixed plaques in readily observable locations which read “Recycled Stormwater – Not For Drinking” or equivalent.
- The provision of water mains back-up system to each collection tank for periods of low rainfall.
- Evidence of Sydney Water approval to the proposed system.
- The provision of filtration devices on each system to ensure no blockage of delivery plumbing systems.
- Compliance with relevant sections of the latest “Plumbing and Drainage Code of Practise” issued by the Committee on Uniformity of Plumbing and Drainage Regulations in NSW.

The Works-as-Executed drawing(s) is to be marked (in red) on the approved Construction Certificate design, and shall include:

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

112. Prior to issue of the Occupation Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the as-built on-site detention system are to be submitted to the Principal Certifying Authority (PCA) for approval. Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certificate is to specifically acknowledge compliance of the on-site detention system with the approved Construction Certificate plans and also compliance with the design requirements of appendix 5 in Councils Water Management DCP 47 - “Design of on-site detention systems”. The Works-as-Executed details shall be marked in red on the approved Construction Certificate design for the on-site detention system, and shall specifically include:

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

113. Prior to issue of an Occupation Certificate (and at the completion of works), a qualified practitioner shall prepare a closed circuit television (CCTV) inspection and report on the post developed condition of 375 mm Council drainage pipeline adjacent to the excavation face in Fitzsimons Lane. The report is to include a copy of the footage of the inside of the pipeline and shall be submitted to Council, attention Development Engineer, for approval prior to issue of the Occupation Certificate. Any damage that has occurred to the pipeline since the

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commencement of construction on the site must be repaired in full to the satisfaction of Council's Development Engineer at no cost to Council.

114. The installed groundwater drainage system must be certified by a qualified geotechnical/hydrogeological engineer and this shall submitted to the Principal Certifying Authority for approval prior to release of the Occupation Certificate.
115. Prior to release of the Occupation Certificate, a record of inspections and monitoring as specified by the Geotechnical Consultants must be submitted in report form to the Principal Certifying Authority for approval. The geotechnical/hydrogeological engineer must also certify that all geotechnical work has been carried out in accordance with the consent conditions and the recommendations of the above report.
116. Prior to issue of an Occupation Certificate a record of inspections and monitoring of vibration in accordance with the approved Vibration Monitoring Program must be submitted in a report form to the Principal Certifying Authority for approval. A qualified and practising geotechnical and/or hydrogeological engineer must prepare the document.
117. Prior to issue of the Occupation Certificate the Applicant shall consolidate lot 2 of DP 303900 and lot 4 of DP 609007. Evidence of lot consolidation, in the form of Land and Property Office registered Title documents (copy) shall be provided to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. At the time of consolidation, consideration may be given to extinguishing redundant burdens, subject to the consent from all interested parties.
118. The following details are required to be submitted to the Principal Certifying Authority upon completion of works. The matters listed below shall have a Certificate attached from a suitably qualified person to the effect that the construction and operation of the works complies with the relevant Standard or code which the Certificate must identify:
 - The mechanical supply and exhaust ventilation systems installed;
 - The Fire Safety Measures and Construction requirements installed in the building;
 - Form 15 Final Fire Safety Certificate;
 - Acoustic report on all noise generating plant; and
 - Garbage/Recycling facilities

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Team Leader, Central Team

Matthew Prendergast
Manager
Development Assessment Services

Michael Miocic
Director
Development and Regulation

- Attachments:**
- 1. Site Plan**
 - 2. Plans of proposed development**
 - 3. SEPP 1 objection**
 - 4. Submission from Urbis**
 - 5. Development Consent from 1966**