



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 14 SEPTEMBER 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 September 2004

Minutes numbered 434 to 455

MINUTES FROM THE MAYOR

MM.1 Branding Campaign

1

File: S02154

Councillors, you will recall that at our meeting in July we discussed some opportunities to enhance the image of our area. These opportunities were generally supported and included an initiative to adopt a new logo and slogan for use, among other things, on our suburb, street and park signage and our street furniture.

Following the gazettal of LEP 194 and with the revitalisation of the commercial areas planned for Stage 2 of our residential strategy, we are about to embark on a new era for Ku-ring-gai.

I urge that we take this opportunity to revitalise the image and identity of the community we love and I therefore seek the formal support of Council, this evening, to embark on a campaign to achieve this for Ku-ring-gai.

Branding has traditionally been associated with the world of commerce but increasingly local government organisations, among others, are adopting similar ideas in order to inspire a greater sense of pride and belonging for residents and other stakeholders.

A positive brand will help to enhance the sense of identity we, as residents, already feel about Ku-ring-gai and the value we already place on it; a sense that will extend to those who become residents in the future and to all those who visit us.

To some, the concept of marketing, or 'branding', a council may seem unusual, but we are a service provider playing a vital role in our local community and it is therefore imperative that we continually seek ways in which we can enrich the spirit and well-being of all those we serve.

I encourage us all to establish a brand that reflects what is both unique and distinctive about Ku-ring-gai: an image that reflects this Council's commitment to maintaining the intrinsic character of Ku-ring-gai together with our new approach to governance through the initiation and development of constructive relationships with all those whose lives we touch.

Working hand-in-hand with our community, I am confident that we can develop a new brand that will spearhead us into the future and reflect the true qualities of Ku-ring-gai.

Once this has been established we can then move forward on these initiatives.

PETITIONS

REPORTS FROM COMMITTEES

- 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.*

File: DA1459/03

Ward: Gordon
Applicant: F & D Dickinson
Owner: Myola Properties Pty Ltd

To determine Development Application No. 1459/03, which seeks consent for demolition of the existing single dwelling and construction of an attached dual occupancy.

Recommendation:

Approval

File: DA 307/04

Ward: Gordon
Applicant: A Nesseim
Owner: E & D Nesseim

To determine Development Application No.307/04, which seeks consent for demolition of the existing single dwelling and construction of a two storey brick and tile attached dual occupancy.

Recommendation:

Approval

File: 795/02

Ward: St Ives
Applicant: Mr S Rahmani
Owner: Mr S Rahmani

To determine a Section 82A Review of Development Application No. 0795/02, in which the Council refused an application for the demolition of the existing dwelling and construction of a detached dual occupancy.

Recommendation:

Refusal

GB.4 Ku-ring-gai Access Advisory Committee 127

File: S02116

To provide Council with the Minutes of the Ku-ring-gai Access Advisory Committee of 22 July 2004.

Recommendation:

That the Minutes of the Ku-ring-gai Access Advisory Committee of 22 July 2004 be received and noted.

GB.5 Heritage Advisory Committee 134

File: S02152

For Councillors to determine a new Deputy Chairperson for the Heritage Advisory Committee; Membership of the Committee; Meeting dates for the Committee.

Recommendation:

That a new Deputy Chairperson be elected. That community representatives be selected and that the meeting date be the fourth Monday of the month, with meetings being held in October, February, April, June and August.

GB.6 Meeting Cycle - September and October 2004 142

File: S02355

To consider amending the meeting cycle for the remainder of September and October 2004 because of the school holidays.

Recommendation:

That Council's meeting cycle for the remainder of September and October 2004 be amended.

File: S03484

Section 333 of the Local Government Act 1993 requires that Council re-determine its organisation structure within 12 months of its election.

Recommendation:

- A. That the existing directorate structure remain as is, noting that the functional responsibilities of the former Senior Manager Corporate and Communications are transferred to the General Manager, the Director Finance and Business and the Director Community Services as noted in this report.
- B. That the title of the Director Environment and Regulatory Services be changed to Director Development and Regulation.

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

NM.1 **Recycling in Local Schools**

150

File: S02227

Notice of Motion from Councillor E Malicki dated 7 September 2004.

I move:

That a report be brought to Council suggesting ways Council can encourage local schools to recycle their paper, plastics, aluminium cans and other recyclables.

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

QUESTIONS WITHOUT NOTICE

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

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

*** ** ** ** **

Environmental Planning & Assessment Act 1979
(as amended)

Section 79C

1. Matters for consideration - general

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

a. The provisions of:

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

that apply to the land to which the development application relates,

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

MAYORAL MINUTE

BRANDING CAMPAIGN

Councillors, you will recall that at our meeting in July we discussed some opportunities to enhance the image of our area. These opportunities were generally supported and included an initiative to adopt a new logo and slogan for use, among other things, on our suburb, street and park signage and our street furniture.

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RECOMMENDATION

That Council:

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S02154
7 September 2004

- A. Adopt a 'branding' Ku-ring-gai campaign comprising two main initiatives:
 - (i) The design of a new Ku-ring-gai logo, and
 - (ii) The development of a Ku-ring-gai slogan.
- B. Call for 'expressions of interest' from design companies in relation to the logo design.
- C. Involve the community, through competition, in developing a council slogan that reflects the essence of Ku-ring-gai.
- D. That the General Manager provides a report to Council on the methods, costs, initiatives and timeframes required to achieve this outcome.

Cr Adrienne Ryan
Mayor

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	17 DE BURGH ROAD, KILLARA - DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF AN ATTACHED DUAL OCCUPANCY DEVELOPMENT
WARD:	Gordon
DEVELOPMENT APPLICATION N^o:	1459/03
SUBJECT LAND:	17 De Burgh Road, Killara
APPLICANT:	F & D Dickinson
OWNER:	Myola Properties Pty Ltd
DESIGNER:	Design Confidential
PRESENT USE:	Single Dwelling House
ZONING:	Residential 2(b)
HERITAGE:	No
PERMISSIBLE UNDER:	State Environmental Planning Policy No 53
COUNCIL'S POLICIES APPLICABLE:	Ku-ring-gai Planning Scheme Ordinance, Dual Occupancy Code, Development Control Plan 40 - Waste Management, Development Control Plan 43 - Car Parking, Development Control Plan 47 - Water Management
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy No 53, SEPP 55 - Remediation of Land
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	10 November 2003
40 DAY PERIOD EXPIRED:	20 December 2003
PROPOSAL:	Demolition of existing dwelling and construction of an attached dual occupancy development
RECOMMENDATION:	Approval

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DEVELOPMENT APPLICATION N^o	1459/03
PREMISES:	17 DE BURGH ROAD, KILLARA
PROPOSAL:	DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF AN ATTACHED DUAL OCCUPANCY DEVELOPMENT
APPLICANT:	F & D DICKINSON
OWNER:	MYOLA PROPERTIES PTY LTD
DESIGNER	DESIGN CONFIDENTIAL

PURPOSE FOR REPORT

To determine Development Application No. 1459/03, which seeks consent for demolition of the existing single dwelling and construction of an attached dual occupancy.

EXECUTIVE SUMMARY

Issues:	FSR of first floor of Dwelling 1, height of acoustic wall, front fence.
Submissions:	5 submissions received.
Land & Environment Court Appeal:	Class 1 Deemed Refusal appeal lodged on 3 August 2004 (first call over 14 September 2004).
Recommendation:	Approval.

HISTORY

Property History:

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

Development Application History:

There is no DA history relevant to the proposed development proposal.

THE SITE AND SURROUNDING DEVELOPMENT

Zoning:	Residential 2(b)
Visual Character Study Category:	1945-1968
Lot Number:	20
DP Number:	22975
Area:	939.9m ²
Side of Street:	East
Cross Fall:	To the north

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Stormwater Drainage:	To De Burgh Road
Heritage Affected:	No
Required Setback:	12 metres
Integrated Development:	No
Bush Fire Prone Land:	Yes - Bushfire prone vegetation buffer
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The Site

The site is located on the corner of De Burgh Road and Lady Game Drive. The street frontage is approximately 79.65m in length and the property has a total area of 939.9m². The site falls gently to the north with an existing building platform cut into the site for the footprint of the dwelling and immediately surrounding area, including the driveway.

The site is irregular in shape, with a curved boundary along the northern corner that meets both Lady Game Drive and De Burgh Road. Several large trees are located on the site, specifically along this section of the street boundary. The road reserve also has several significant trees located at the junction of Lady Game Drive and De Burgh Road. These trees provide good screening of the existing dwelling when approaching the site from the north-western end of Lady Game Drive and have been retained within the design of the development.

Existing improvements to the site consist of a single storey brick and tile dwelling with a single garage beneath. The existing dwelling is located towards the southern adjoining boundary of 15 De Burgh Road. A rendered brick fence runs along the entire street frontage of De Burgh Road and Lady Game Drive, varying in height between 600mm to 1.8m. The site is also afforded dual vehicular access off Lady Game Drive and De Burgh Road.

The combination of the slope of the land to the north, its irregular shape and dual street frontage results in a relatively constrained site in terms of planning.

Surrounding Area

The surrounding built environment varies substantially from Lady Game Drive to De Burgh Road. The western side of Lady Game Drive, to the south of the site, is characterised by two storey dwellings. The two storey dwellings located closest to the subject site along Lady Game Drive dominate the streetscape in terms of bulk and scale and provide little if no substantial landscape screening.

De Burgh Road consists of single storey brick and tile dwellings constructed around the 60s-70s. The streetscape along De Burgh Road is made up of low fencing and open front setbacks with informal landscape settings. The dwellings are generally well set back from the street frontage and consequently do not dominate the streetscape.

THE PROPOSAL

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The proposal is to demolish the existing single dwelling and construct a two storey attached dual occupancy. Details of the proposed development are as follows:

Dwelling 1:

Dwelling 1 is located on the eastern side of the property, facing Lady Game Drive. The ground floor of the dwelling consists of a double garage with internal access, lounge room, kitchen, dining room, laundry and powder room. Outdoor entertaining areas are located off the lounge room to the north in the form of a small covered patio, and to the east of the dining room with a covered entrance and pergola.

The upper floor consists of four (4) bedrooms (one with ensuite), main bathroom and study. A small balcony is located off the northern end of the main bedroom.

Private open space is located to the immediate north and east of the dwelling and gently slopes to the north-north-east.

Dwelling 2:

Dwelling 2 is located on the western side of the property facing De Burgh Road. The ground floor consists of a media room, double garage, kitchen, laundry, powder room, dining room and lounge room, with the living area orientated towards the north and west. The living room has a partially covered patio located to the immediate north and a verandah and pergola are also proposed along the western elevation of the dining and lounge room.

The first floor has four (4) bedrooms (one with ensuite) and main bathroom. The main bedroom has a small balcony off the northern elevation.

The private open space is located to the north and north-west of the dwelling and is separated from Dwelling 1 by 1.8m high timber fencing running almost due north/south from the dividing wall of the attached dwellings.

Amended Plans dated 2 August 2004

Following assessment of the proposal, several amendments have been made. The final amendments dated 2 August 2004 have resulted in the following changes;

- Reduction in setback of Dwelling 1 by 1.08m from the northern boundary for both the ground floor and first floor;
- Reconfiguration of Dwelling 1 to relocate the study to the ground floor and reduce the size of the balcony off Bedroom 1;
- Reduction in the height of the acoustic wall to the immediate north of the patio of Dwelling 1 to a maximum of 1.8m;
- Extension of the kitchen of Dwelling 1 to the north by 1.68m; and
- Deletion of timber infill panels to the existing rendered brick fence (a separate application for a building certificate is to be submitted to Council regarding this).

CONSULTATION - COMMUNITY

Item 1

In accordance with Council's Notifications DCP, owners of surrounding properties were given notice of the application on 24 November 2004.

In response, submissions from the following were received:

Original scheme dated 8.9.2003

1. A Bowden - 11 De Burgh Road, Killara
2. M Robinson - 36 Lady Game Drive, Killara
3. P & S Shephard - 31 Beaumont Road, Killara
4. J O'Toole - 29 Albert Drive, Killara
5. A Stretton - 17 Blaxland Road, Killara

The submissions raised the following issues:

Vehicular access to De Burgh Road - vehicles should exit in a forward direction

Council's Development Engineer has reviewed the proposed development and advised that the amended plans, which set back the garage to Dwelling 2 some 50 metres from De Burgh Road, improve the sight distance available for drivers. As De Burgh Road is not a main road a turning area is not required for Dwelling 2. Given the width of the road reserve at the point of the driveway, a vehicle reversing from the garage of Dwelling 2 onto De Burgh Road, would be able to exist with a reasonable sight distance to both the north and south.

Visual bulk of development from Lady Game Drive

The amended plans ensure suitable articulation of the building to Lady Game Drive. This ensures that the proposed development is not out of character with the bulk and scale of existing development within the immediate locality. The preservation of existing vegetation, including canopy trees, will also assist in providing immediate screening of the development. The bulk of the development when viewed from Lady Game Drive is comparable to that of a single detached dwelling and the bulk and scale of other developments within the street. The further amendments made by the applicants including the reduction of wall length facing Lady Game Drive and the reduction of the first floor balcony appropriately respond to the context of the site and its locality.

A footpath should be constructed along the length of De Burgh Road to ensure pedestrian safety

An inspection of De Burgh Road shows that the eastern side towards to northern end of the street has very steep road reserves and in some instances vegetation is too thick to allow pedestrian access. The road reserve along the boundary of 17 De Burgh Road falls away to the north, however, extensive works would be required to construct a suitable pedestrian pathway along this section. The applicant has shown on the site plan the construction of a pedestrian pathway from the boundary between 44 Lady Game Drive approximately 25 metres in length. Further details have not been provided at this stage and would be required to be submitted to Council prior to the issue of the Construction Certificate (**refer to Condition No 49**).

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Colorbond roofing is not sympathetic to the streetscape or locality

The proposal incorporates colorbond roofing in 'Surf Mist'. As noted by the concerned resident, colorbond is not extensively used within the locality, with the majority of housing being terracotta tile roofing. While the use of colorbond is not in itself considered to cause an inconsistent presence to the streetscape, the proposed colour 'Surf Mist' is not considered in keeping with the more natural earthy tones present in the street. It is suggested that the roof colour be conditioned to a darker, more sympathetic, shade (**refer to Condition 48**).

The proposed development does not provide sufficient privacy and open space to its occupants

Assessment of the private open space areas of each of the dwellings has been made against both the requirements of SEPP 53 and Council's Dual Occupancy Code. The minimum required private open space under Council's control is 100m². The proposed dwellings have 149.01m² and 132.62m² of private open space, respectively. The private open space of each of the dwellings is orientated to the north and meets the aims of the control.

With the orientation of the site to the north, the private open space of Dwelling 1 overlooks Lady Game Drive. The applicant has addressed any potential privacy issues through the provision of screen planting around the main outdoor entertaining area, which is accessed directly off the lounge room. The screen planting is also supplemented with the construction of a low acoustic wall immediately in front of the screen planting facing the patio area. The height of this wall varies from 1.3m - 1.8m and will be 900mm high from the ground level of the patio area. The remaining area of the site will be sufficiently screened with existing vegetation to limit overlooking to the private open space of Dwelling 1.

The private open space of Dwelling 2 is located along the De Burgh Road side of the property and, as with Dwelling 1, has the private open space areas orientated towards the north. With the inclusion of suitable screen planting around the patio area, additional planting along the western boundary of the property and the retention of the existing vegetation, the private open space of Dwelling 2 is considered to be afforded a reasonable level of privacy and is supported in its present form.

Sets a benchmark for development which is unreasonable in the area

The proposed development is considered to be generally in keeping with both the bulk and scale of other single dwellings within the immediate vicinity. The development has been appropriately designed so that each residence faces a different street and extensive modulation and articulation has been provided to the facades. The materials proposed are also of a high quality in order to further enhance the design of the development. The proposed dual occupancy does not have an undesirable impact on the streetscape, as it allows for the retention of all significant vegetation on site and retains significant areas along the street frontage to allow for future planting.

Proposal places additional pressure on all services and utilities in the area (water and sewerage systems)

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Council's Engineers have reviewed the proposed plans and have raised no issue in regard to the above concerns.

Insufficient retention and control of stormwater

Council's Development Engineer has reviewed the proposed concept stormwater plan and has advised that it is acceptable, subject to conditions (**refer to Conditions Nos 37,38, 39, 40, 41, 42, 57, 58, 59, 60, 61, 62, 70, 71, 72, 73, 74 and 75**). The stormwater will drain to the northern corner of the property and out to the street. With the inclusion of appropriate works, the stormwater for the site shall be improved from the existing situation.

Impact on natural environment (flora and fauna) by reducing opportunities for existing fauna

The proposed development does not result in the removal of any significant vegetation from the site and will introduce additional planting. The proposed development will not have a significant impact on either the local flora or fauna.

Setback to Lady Game Drive and De Burgh Road

The setbacks to Lady Game Drive and De Burgh Road are generally in keeping with the existing dwellings along these road frontages. The setback to Lady Game Drive is approximately 11.0m-13.16m, with the north-eastern most corner of the development (Dwelling 1) having a setback of 7.8m. As the site is burdened with a large sweeping street frontage some of the development will encroach into the setbacks set by other development in the both streets. The proposed setback to De Burgh Road is in keeping with the line of the existing dwelling and will still allow for the retention and planting of vegetation along the street frontage.

The plans have been further amended to set back the north-eastern most corner of Dwelling 1 by a further 1.08m from Lady Game Drive (setback proposed 12.0m). This setback to Lady Game Drive has excellent modulation and any bulk has been minimised by the inclusion of the open pergola and verandah on the ground floor. All significant vegetation is to be retained along this street frontage.

Retaining walls along the driveway off De Burgh Road

The proposed driveway access off De Burgh Road requires the construction of some retaining walls. These retaining walls are required due to the proposed design which cuts the development into the site in order to keep a low scale. The construction of retaining walls for the access of the driveway is suitable due to the slope of the land at this point. Pedestrian access across this section of the driveway is able to be maintained by the construction of steps into the side of the retaining wall. These details would, however, need to be approved by Council prior to construction. A condition has been included requiring detailed plans to be approved by Council prior to the issue of the Construction Certificate (**refer Condition 57**).

Amended plans dated 31 March 2004

The amended plans were not notified as the amendments resulted in a reduced bulk of the development when viewed from De Burgh Road.

Amended plans dated 2 August 2004

Final amended plans were received by Council on 4 August 2004 dated 2 August 2004. These plans were again not notified as they further reduced the bulk and scale of the development when viewed from Lady Game Drive with the reduction of the first floor of dwelling 1 and the lowering of the acoustic wall to the immediate north of the lounge room of Dwelling 1. The proposed infill timber panels to the existing brick rendered fence were also deleted as the fence was found to not have been granted development consent. The fence shall now be dealt with by Council through the submission of a Building Certificate (**refer Condition No 46**).

CONSULTATION - WITHIN COUNCIL

Landscaping

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

"An inspection of the property was conducted on 7th January 2003. The Landscape Section will support the application subject to the following conditions.

Tree removal

No trees will require removal.

Impact on trees

The proposed driveway and turning bay to Dwelling 1 will wrap around 2 sides of a Eucalyptus piperita (Sydney Peppermint) however, as it will not encroach much beyond the existing driveway the impact on the tree will be minimal.

Landscape proposal

The landscape plan is conceptual only and a detailed landscape plan should have been submitted with the application.

A detailed landscape plan will be required prior to the release of the Construction Certificate.

Visual impact

There is sufficient space for screen planting on all boundaries."

These specific conditions have been included in the recommendation (**refer Conditions Nos 28, 29, 30, 31, 50, 51, 52, 53, 54, 55, 56, 64, 65, 66 and 69**).

Engineering

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

"The applicant has submitted amended drawings which show more clearly the works required to provide vehicular access to proposed Dwelling 2. The garage level has been raised and the setback

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increased. The regrading in the nature strip area will improve sight distance for vehicles using the garage, and the proposal is now supported subject to the engineering conditions given below:

The application is assessed under Council's Stormwater Management Manual 1993."

These specific conditions have been included in the recommendation (refer **Conditions Nos 37, 38, 39, 40, 41, 42, 57, 58, 59, 60, 61, 62, 70, 71, 72, 73, 74 and 75**).

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:

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

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

The NSW Rural Fire Service is satisfied that this development proposal conforms to the specifications and requirements of Planning for Bushfire Protection 2001 as required under section 79BA of the Environmental Planning and Assessment Act 1979 No. 203."

These specific conditions have been included in the recommendation (refer **Condition No 32, 33, 34, 35 and 36**).

PROVISIONS OF RELEVANT LEGISLATION

The Environmental Planning & Assessment Amendment Act 1979 Section 79C

1. Environmental Planning Instruments

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) 	939.3m ²	YES
Floor space ratio (cl.19(1)(b)) <ul style="list-style-type: none"> 0.5:1 (max) 	0.41:1 (385.54m ²)	YES
Car parking (cl.20) <ul style="list-style-type: none"> Dwelling 1: 2 car spaces (min) Dwelling 2: 2 car spaces (min) 	Dwelling 1: 2 car spaces Dwelling 2: 2 car spaces	YES YES

Streetscape (cl.32(a)):

The proposed development site is situated on a corner with street frontages to both Lady Game Drive and De Burgh Road. The design of the development has allowed for each dwelling to have its main entrance off each of the roads and for the proposed attached dual occupancy to be viewed as a single dwelling from both De Burgh Road and Lady Game Drive, respectively.

The site has a number of trees around it's perimeter which are to be retained within the proposed development. The retention of these trees ensures that the proposed development is well integrated with regard to the immediate locality. An additional two deciduous trees are to be provided along the boundary facing De Burgh Road to ensure that Dwelling 2 is adequately screened in the summer months from the afternoon, western, sun and to allow sunlight through during the winter months.

The existing streetscape along both Lady Game Drive and De Burgh Roads consist of a number of large dwellings of modern design. The proposed development complements the character of the locality by providing a design that incorporates a high level of articulation facing both street frontages and through the use of lightweight materials.

Visual privacy (cl.32(b)):

The proposed development provides a reasonable level of visual privacy to the adjoining neighbours by the creation of a minimum 3m setback to the southern boundary (adjoining 44 Lady Game Drive). The attached dual occupancy further reduces any impact on the adjoining neighbours by being cut into the site. A cut along the southern boundary will be up to approximately 1.6m in height which enables both the potential loss of privacy and bulk of the development to be minimised when viewed from No 15 De Burgh Road.

The ground floor of the development has also been consciously designed to orientate the living areas of both dwellings to the north and minimise where possible any windows or openings along the southern boundary. The southern boundary of the development includes

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the double garages for both dwellings with a media room in-between. Minimal windows have been included in the walls of the garages, first floor bedrooms and a single access door has been provided from the ground floor media room of Dwelling 2.

The proposed layout of the development, along with the inclusion of appropriate landscaping along the southern boundary provides suitable level of visual privacy for the adjoining neighbour.

Acoustic privacy (cl.32(b)):

As discussed above, the proposed development has been designed with the living areas of the dwelling orientated towards the northern side of the property. With the location of the living areas of the proposed dwellings to the north and the orientation of the existing dwelling at 44 Lady Game Drive away from the subject site, any noise generated by the attached dwellings will not be out of character with that of a single dwelling on the site.

The designer has consciously attempted to minimise, where possible, any adverse impacts on the neighbours to the immediate south.

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): No overshadowing to occur.

12.00 noon (June 22): No overshadowing to living areas or windows of No 15 De Burgh Road.

3.00pm (June 22): No overshadowing to living areas or windows of No 15 De Burgh Road.

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 and thereby complies with the control.

Stormwater (cl.32(d)):

The site drains naturally to the north, to the corner of De Burgh Roads and Lady Game Drive. The Stormwater Management Concept Plan prepared by Complete Consultants shows a stormwater detention tank being installed beneath the patio area of each of the dwellings. The drainage line from Dwelling 1, however, shows that the pipe will pass very close to the tree noted on the Landscape Concept plan. A final stormwater plan should address the issue of the retention of the tree and an amended path for the pipe should be sought. It is considered that this may be appropriately dealt with by way of a condition prior to issue of construction certificate (**refer to Condition 56**).

Crime prevention (cl.32(e)):

The proposed dwellings have been designed to allow for a good level of general observation from the front entry and also from the other living areas on the ground floor. The approach to the front door of Dwelling 2 allows for full visual surveillance from the boundary of the driveway facing Lady Game Drive from the windows along the eastern elevation of the dining/entry and lounge area.

Dwelling 2 has also been similarly designed to ensure that the front entry allows a full view with the use of doors along the western elevation of the dining room. The design of the development therefore provides a high level of personal security to the occupier and is supported in this instance.

Accessibility (cl.32(f)):

The site plan shows the construction of a 1.0 metre wide pedestrian footpath, some 24m in length along the De Burgh Road side of the site. The remaining road reserve surrounding 17 De Burgh Road is wide and considered to allow an appropriate level of safe pedestrian access to and from the site.

Calculation of the levels of the driveway from Dwelling 1 indicates that the grade from the front boundary to the front verandah is approximately 1:13. This meets the requirements of AS1428 which allows a maximum gradient of 1:14 for people with a disability to access the dwelling and, once inside, also allows access to the outdoor entertaining area located to the immediate north. This is considered reasonable in terms of potential future occupants of the development

Visual bulk (cl.32(h)):

Following an inspection of the site and surrounding developments it was concluded that the proposed development was generally in keeping with the scale of other dwellings in the locality. However, concern was raised in relation to the bulk of the first floor of Dwelling 1 (facing Lady Game Drive).

Following a meeting attended by the applicant's designers and planning consultant, amended plans were submitted. These amended plans have further reduced the eastern wall of Dwelling 1 when viewed from Lady Game Drive by 1.08m, with internal reconfiguration of the dwelling and a small increase in the floor space of the ground floor. The balcony off the main bedroom of the dwelling has also been significantly reduced in size in order to set the entire development back a further 2.0 metres from the front boundary.

The amended plans have also reduced the height of the acoustic wall surrounding the patio area of Dwelling 1 from a maximum height of 2.4m to 1.8m (with an average height not exceeding 1.6m at natural ground level). With the provision of the landscaping as detailed in the Landscape Concept Plan (Drg No. 08, Issue B, dated 2.8.04) growing to a height of 2.0

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metres, the acoustic wall will not be visible from the street and shall still provide the occupants with a sufficient level of privacy from Lady Game Drive.

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: 6.3m Dwelling 2: 6.4m The following information is not a statutory control. This information is provided for the benefit of the Councillors: Height to roof ridge - Dwelling 1: 8.2m Height to roof ridge - Dwelling 2: 8.2m Height to eaves line – Dwelling 1: 6.3m Height to eaves line – Dwelling 2: 6.4m	YES YES
Built-upon area 60% (max)	39.1%	YES
Notional built-upon area	Dwelling 1: 38.0% Dwelling 2: 40.0%	YES YES

2. POLICY PROVISIONS

Development Control Plan 40 - Waste Management

This proposal shall comply with DCP 40 in regard to the provision of appropriate management of construction and waste on the site by way of conditions in the recommended development consent.

Development Control Plan No 43 – Car Parking

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

Council's Dual Occupancy Development Control Code

COMPLIANCE TABLE		
Development control	Proposed	Complies

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4.2 Streetscape:		
Roof pitch <ul style="list-style-type: none"> 3m roof height-2 storey (max) Roof pitch 35⁰ (max) 	Dwelling 1: 2m Dwelling 2: 2m Dwelling 1: 30 ⁰ Dwelling 2: 30 ⁰	YES YES YES YES
Fences <ul style="list-style-type: none"> Height:900mm (solid fence) (max) Height:1.2m (transparent fence) (max) 	Not proposed Not Proposed	N/A N/A
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 (Bedroom 4, 1st floor) : 1.7m high sill Dwelling 2 (Media Room ground floor): 3.5m (Bedroom 4, 1 st floor): 1.7m high sill	YES NO YES
Acoustic privacy <ul style="list-style-type: none"> Pool pumps/air conditioning units – noise generation < 5dBA (max) 		N/A
4.4 Solar access and design for climate:		
Solar access <ul style="list-style-type: none"> Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min) Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min) 	Dwelling 1: 6 hours solar access received Dwelling 2: 5 hours solar access received All neighbouring properties receive 3+ hours solar access	YES YES YES
Energy efficiency <ul style="list-style-type: none"> 3.5 star NatHERS Rating (min) 	Dwelling 1: min 3.5 stars Dwelling 2: min 3.5 stars	YES YES
4.7 Accessibility:		
Vehicular access and car parking dimensions <ul style="list-style-type: none"> Garage – 3.1m x 5.4m (min) 	Dwelling 1: 5.9m x 5.6m Dwelling 2: 5.9m x 6.1m	YES YES
4.9 Visual bulk:		
Building setbacks		

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<ul style="list-style-type: none"> Corner site street Frontage setback: 7m (min) with 50% of façade at 5m Side setback: Ground floor: 2.7m (min) 1st floor: 4.5m (min) Rear setback: 3.4m (min) 	<p>Dwelling 1: 7.0m-13.1m Dwelling 2: 5.08m</p> <p>Dwelling 1: Ground Floor: 3m (S) Dwelling 1: 1st Floor: 3m-5.3m</p> <p>Dwelling 2: Ground Floor: 3m (S) Dwelling 2: 1st Floor: 4.9m-7.5m Dwelling 1: 3.0-4.0m Dwelling 2: 3.0m-5.2m</p>	<p>YES YES</p> <p>YES NO</p> <p>YES YES N/A N/A</p>
<ul style="list-style-type: none"> No garages, tennis courts, swimming pools, courtyard walls and other major built elements forward of the building line. 	1.8m high acoustic wall to Dwelling 1	NO
<p>Building form</p> <ul style="list-style-type: none"> Unrelieved wall length: 8m (max) Total building length: 24m (max) 	<p>Dwelling 1: 6.4m Dwelling 2: 6.2m</p> <p>Dwelling 1: 19.3m Dwelling 2: 17.0m</p>	<p>YES YES</p> <p>YES YES</p>
<p>Built-upon area</p> <ul style="list-style-type: none"> Total built upon area (max): 40% Notional built-upon area 	<p>39.1%</p> <p>Dwelling 1: 38.0% Dwelling 2: 40.0%</p>	<p>YES</p> <p>YES YES</p>
<p>Floor space ratio</p> <ul style="list-style-type: none"> FSR (max): 0.5:1 1st floor – 40% 	<p>0.41:1</p> <p>Dwelling 1: 52% Dwelling 2: 56%</p>	<p>YES NO NO</p>
<p>Height of buildings</p> <ul style="list-style-type: none"> Attached dual occ: 8m (max) Building envelope: 45⁰ from horizontal at any point 3m above boundary 	<p>6.4m</p> <p>Dwelling 1 South boundary: 0m</p> <p>Dwelling 2 South boundary: 0m</p>	<p>YES</p> <p>YES</p> <p>YES</p>
<p>Cut and fill (building works)</p> <ul style="list-style-type: none"> Cut & fill: 900mm & Total 1800mm (max) 	<p>Dwelling 1: 1.5m (cut) & 800m (fill) Dwelling 2: 1.4m (cut) & 1m (fill)</p>	<p>NO NO</p>
Section 5: Landscaping & Open Space		

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Total soft landscaping : 60% (min)	60.9%	YES
Notional soft landscaping:	Dwelling 1: 62.0% Dwelling 2: 60.0%	YES YES
Tree retention and refurbishment • No. of Trees: 5 (min)	5 Trees	YES
Cut & fill (landscaping) • Cut & Fill: 900mm & Total 1800mm	900mm (cut) located southern side of driveway off Dwelling 2 900mm (fill) located immediate north of living area of Dwelling 1	YES YES
Open space provisions • Area: 100m ² or 2 x 75m ² areas (min) • Min dimension 5m x 5m (min) • Grade: 1 in 8 (max) • 50% receives 3+ hours solar access (min)	Dwelling 1: 149.01m ² Dwelling 2: 132.62m ² Dwelling 1: 42.5m Dwelling 2: 81.0m Dwelling 1: 1:7 Dwelling 2: 1:10 Dwelling 1: Open space receives 6 hours solar access Dwelling 2: Open space receives 5-6 hours solar access	YES YES YES YES YES YES YES

Visual and acoustic privacy

The proposed media room to Dwelling 2 is to be set back 5.4m from the existing dwelling at 44 Lady Game Drive. While this fails to meet the numerical required setback of 9m as required by Council's code, the inclusion of the proposed landscaping along the boundary and the adjoining dwelling's orientation to the east-west will ensure that minimal privacy impacts occur to the adjoining dwelling.

Visual bulk – side setbacks

As the site is a corner allotment, the setback to the side boundary has been taken to be the setback facing the southern boundary. The setback to the first floor of Dwelling 2 varies between 3.0m-5.3m. A corner of Bedroom 4 is within the minimum 4.5m setback to the boundary, however, this does not have an adverse visual impact on the neighbouring dwelling. The development has been set lower into the site than the adjoining dwelling at 44 Lady Game Drive and the walls have been staggered to allow a suitable level of articulation when viewed from the neighbouring property. The southern elevation has been designed to be sympathetic to the neighbouring dwelling and, with the inclusion of landscaping along this setback, will have minimal impact on the streetscape and neighbouring property.

The proposal also requires the construction of an acoustic wall to the immediate north of the outdoor living area of Dwelling 1. Amendments made by the applicant have reduced the wall

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in height from 2.4 m to 1.8m at its highest point. The acoustic wall has been requested by the applicant in order to provide a suitable level of privacy from Lady Game Drive. The acoustic wall will be a maximum of 1.0m in height from the ground level of the patio of Dwelling 1 and is also proposed to be extensively landscaped along the lower (northern) side. This landscaping will ensure that the wall will not be visible from Lady Game Drive and will provide the occupants of the dwelling with added acoustic and visual privacy from the street. The variation to a structure within the building line is supported with the inclusion of the landscaping as shown in the Landscape Concept Plan submitted by the applicant.

Floor space ratio (first floor)

The amended plans (Issue B) submitted have reduced the floor space of the first floor of Dwelling 1 by removing the study on the first floor and replacing it in the southern corner of the living area and reducing the upper floor by 1.08m in depth. The amended FSR for the upper floor is 52% of the total floor space for Dwelling 1. This is a variation of 24.3m² over the maximum of 40% required by the Code. While this may be considered a substantial variation to the control, when assessed against the aims of the control it is considered to be a reasonable outcome.

The aim of the FSR control is to ensure that development relates well to the local area and does not dominate the street or landscape. As discussed earlier in this report, the development has been designed to minimise impact on the streetscape by providing an articulated layout and design with the use of balconies, verandahs and pergolas. The first floor of Dwelling 1 has also been offset over the ground floor (garage area) to minimise areas of extensive walls that could result in adverse bulk to the streetscape.

Dwelling 2 has a similar numerical non-compliance with regard to the first floor FSR. As with Dwelling 1, Dwelling 2 will also have extensive articulation through use of softening features such as the proposed pergola, balcony and veranda. Again the development is considered to have minimal impact on the streetscape with regard to bulk and will be visually softened by the inclusion of suitable landscaping as detailed in the concept landscape plan.

The development will also preserve the significant vegetation along Lady Game Drive, including the large *Eucalyptus piperita* (Sydney Peppermint) tree, and shall provide additional canopy planting along De Burgh Road. The variation to the first floor FSR will have a minimal impact on the streetscape and will still allow the development to be in keeping with the scale of many of the surrounding two storey residences.

Cut and fill

The proposed development requires cut and fill due to the sloping nature of the site to the north. This enables the development to be set into the site and minimises its height from the street and neighbouring properties. Up to 1.5 metres of cut is proposed along the southern boundary. No trees are affected.

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Fill up to 1.0m is proposed to the northern end of the development in order to provide a level outdoor entertaining area. The fill is outside the dripline of any significant trees on the site and is not excessive.

The proposed development meets the aims of the control as it has no impact on existing trees. The cut and fill will not have a significant impact on the development when viewed from the street, nor shall it restrict the site's ability to sustain canopy trees and significant vegetation.

Open space provision

The private open space for the two dwellings is located on land that slopes gently away to the north. The private open space of each dwelling has been broken up into two main areas. Immediately adjoining the living rooms, are level areas designed for the use of more formal recreation such as entertaining. These areas are surrounded by low walls to provide acoustic protection to the occupants. From these areas, the private open spaces of each of the dwellings have been left in their existing state.

3. Section 94 Plan

The development attracts a section 94 contribution of \$33,057.22, which is required to be paid by **Condition No 47**

4. Likely Impacts

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

5. Suitability of The Site

The site is suitable for the proposed development.

6. Any Submissions

Matters raised in submissions have been considered and discussed in this report.

7. Public Interest

The public interest is served by the orderly development of the land in a form which is sympathetic to its constraints of being a corner site. The development will be consistent with other development within the locality. It is considered that the proposed development, as amended, is satisfactory.

Any other Relevant Matters Considerations Not Already Addressed

There are no other matters for discussion.

UNAUTHORISED WORKS

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The Development Application in its original form proposed timber infill panels to the existing rendered brick fence, which has already been constructed. Following a search of Council's file no consent can be found for these works. The applicant has therefore agreed to delete this portion of works from the proposed development application and shall submit an application for a Building Certificate.

With the proposed works to the boundary fencing being deleted from this application and subject to the submission of a Building Certificate, no further action is required. A condition requiring the submission of a Building Certificate for the existing fencing to be lodged to Council prior to the issue of the Construction Certificate has been included in the recommended development consent (**refer Condition No 46**).

CONCLUSION

While the proposed development fails to meet the numerical requirement for FSR for the first floor it does not have any resultant detrimental impact on either the streetscape or the amenity of adjoining owners.

Concerns raised by local residents have been addressed. Amendments have been made in order to ensure that the proposed dual occupancy is complementary to the existing character of the area and immediate streetscape.

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be acceptable.

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 1459/03 for demolition of the existing dwelling and construction of an attached dual occupancy on land at 17 De Burgh Road, Killara, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No 1459/03 and Development Application plans prepared by Design Confidential, reference number 01, 02, 03, 04, 05, 06 and 08 job number 347 (Issue B), dated 2 August 2004 and lodged with Council on 5 August 2004.
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.

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

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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. The fence and footings shall be constructed entirely within the boundaries of the property.
16. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
17. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
18. 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.
19. 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.
20. 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.
21. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
22. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
 - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
 - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.

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- b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
23. 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.
24. 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.
25. The applicant's attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owner/s which may arise from this application and it is advised that enquiries in this regard may be made at the nearest Local Court.
26. The buildings are not to be used or occupied until an Occupation Certificate has been issued.
27. No work is to occur to the boundary fence without development consent from Council.
28. 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.

29. 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.
30. 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>Eucalyptus piperita</i> (Sydney Peppermint)	3 metres
Eastern boundary adjacent to driveway	

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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
Eucalyptus piperita (Sydney Peppermint)	3 metres
Eastern boundary adjacent to driveway	

32. Construction shall comply with AS3959 – 199 level 3 ‘Construction of Buildings in bushfire prone areas’.
33. Roofing shall be gutterless or have leafless guttering and valleys are to be screened to prevent the build up of flammable material.
34. Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the structure.
35. The entire property shall be managed as an ‘Inner Protection Area’ as outlined within section 4.2.2. in Planning for Bushfire Protection 2001.
36. All fencing shall be constructed from non-combustible materials.
37. 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.
38. To maintain capacity of the Public drainage system, an On-site Stormwater Detention System must be provided in accordance with Council’s Stormwater Management Manual. Unless otherwise approved, separate detention systems are to be provided for each residence. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

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

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

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- NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.
- NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.
- NOTE 4: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.
- NOTE 5: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings. This is available from Council upon request.

39. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of AUS-SPEC.

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

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

40. 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.
41. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard AS 2890.1 – "Off-Street car parking".
42. 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

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“e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

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

43. To ensure structural stability, engineer's details (in duplicate) of retaining walls, prepared by a qualified practising structural engineer, shall be submitted to the Principal Certifying Authority for consideration prior to the issue of the Construction Certificate.
44. To protect the amenity of the adjoining property, all fill under the slab is to be contained by dropped edge beams. Engineers details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.
45. Prior to the issue of a Construction Certificate, the compliance certificate obtained under Section 73 of the Water Board (Corporatisation) Act, must be submitted for verification by the Principal Certifying Authority (PCA).
46. Prior to the issue of the Construction Certificate an application for a Building Certificate is to be submitted to Council for the existing rendered brick boundary fencing along De Burgh Road and Lady Game Drive.
47. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

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

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

1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New child care centre (including land acquisition and construction of facility)	\$252.13
4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93

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7.	Acquisition of Open Space - Killara	\$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

48. Amended roofing colour details are to be submitted prior to the issue of construction certificate. The roof colour is to be dark and earthy in tone.

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

Footpath and driveway levels at the property boundary/road alignment are to be obtained from Council's Technical services Department prior to release of the Construction Certificate. All footpaths and driveways are to be constructed strictly in accordance with Council's specifications, "Construction of Gutter Crossings and Footpath Crossings" which is issued with alignment levels after payment of the appropriate fee.

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

Note: 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.

50. A plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works. A Landscape Assessment fee of \$120.00 will be payable on lodgement of the required landscape plan, in accordance with the following schedule.

Landscape Plan Certification Fees

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

51. To reduce the visual impact of the dwellings on the streetscape and adjoining properties the landscape plan shall include screen planting along all boundaries. At least 50% of the shrubs shall be locally occurring species.
52. 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.
53. 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.
54. A CASH BOND/BANK GUARANTEE of \$4,000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

55. A CASH BOND/BANK GUARANTEE of \$1,000.00 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

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during the construction period, Council will have the option to demand the whole or part therefore of the bond.

Tree/Location

Eucalyptus piperita (Sydney Peppermint)

Eastern boundary adjacent to driveway

Cupressus macrocarpa (Monterey Cypress)

Northern boundary adjacent to Dwelling 2

56. To preserve the following trees amended hydraulic plans shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate. The plan shall note that the stormwater trenches shall be hand dug and roots greater than 50mm in diameter left intact within the specified distance of the tree's trunks.

Tree/Location

Eucalyptus piperita (Sydney Peppermint)

Eastern boundary adjacent to driveway

Radius from Trunk

3 metres

Cupressus macrocarpa (Monterey Cypress)

Northern boundary adjacent to Dwelling 2

3 metres

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

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

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

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

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

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58. Regrading works are to be carried out in Council's nature strip to provide adequate vehicular access to Garage 2.

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

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

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

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

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

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

59. 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.
60. 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)

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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.

61. Provision of on-site stormwater retention trenches and/or rainwater tanks which are to be designed to have a void-space and/or tank-space available volume which is sufficient to capture and retain the first 10mm of rainfall from the total subject property after which the trenches/tanks are to be designed to bypass and divert to the main drainage system. Appropriate sediment and litter arrestor pits/provisions are to be provided upstream from these trenches/tanks. Any rainwater tanks are to be located so that they may be readily used for landscaping watering purposes. 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: Retention trenches may be achieved by the use of a separate low-level outlets from pits located on the main drainage system.

NOTE 2: Where practicable, runoff from driveway and landscaped areas is to be directed to retention trenches in preference to roof runoff.

NOTE 3: Trenches shall be 700mm wide x 700mm deep and fitted with half round PVC (450mm radius) dome sections backfilled with crushed or round river gravel to within 150mm of surface level, surrounded with suitable geofabric and finished with topsoil.

NOTE 4: Trenches are to be at least 5 metres from private property boundaries and 3 metres from the footings of any structure.

NOTE 5: A suitably designed litter and coarse sediment 450mm square grated arrestor pit is to be provided immediately upstream of trenches.

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NOTE 6: Trenches are not to require excavation underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 7: Maximum capacity of an individual rainwater tank to be 3000 litres.

NOTE 8: If abutting a wall of the dwelling, rainwater tanks must be below the eaves line.

NOTE 9: Rainwater tanks must not be located on the front facade of a dwelling.

NOTE 10: If rainwater tanks are 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 11: Maximum height of a rainwater tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.

NOTE 12: Rainwater tanks to be commercially manufactured tanks designed for the use of water supply and to be installed in accordance with manufacturers specifications.

NOTE 13: Rainwater tanks to be located above an available landscaped area so that the tank may be readily used for watering purposes.

NOTE 14: Rainwater tanks 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 15: Rainwater tanks to be fitted with measures to prevent mosquito breeding.

NOTE 16: This requirement is to promote water sensitive urban design and does not apply where the applicant considers installation to be impractical.

62. 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.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

63. 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.
64. 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>Eucalyptus piperita</i> (Sydney Peppermint) Eastern boundary adjacent to driveway	2 metres
<i>Cupressus macrocarpa</i> (Monterey Cypress) Northern boundary adjacent to Dwelling 2	3 metres
<i>Eucalyptus</i> sp (Eucalypt) Northern boundary	3 metres
<i>Liquidambar styraciflua</i> (Liquidambar) South western corner	4 metres

65. 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.
66. 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

67. 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.
68. 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.
69. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
70. Prior to issue of the Final Occupation Certificate, all disused driveway crossings, pipe crossing and/or kerb laybacks are to be reinstated as footway and kerb and/or gutter to the satisfaction of Council's Development Engineer. Reinstatement works to generally match surrounding infrastructure. Any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer, at the Applicants cost.

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71. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to issue of the Occupation Certificate. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council.

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

72. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to issue of the Occupation Certificate.
73. The Section 73 Sydney Water compliance certificate must be obtained and submitted prior to issue of the Occupation Certificate.
74. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to issue of the Final Compliance 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:

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- 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)

75. 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 issue of the Final Compliance Certificate, that:

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

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

BUILDING CONDITIONS

76. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
- b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
- c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
- d. Retaining walls and associated drainage.
- e. Wet area waterproofing details complying with the Building Code of Australia.
- f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
- g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

77. 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

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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.

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

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

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

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

79. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
80. 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).
81. 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.
82. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any

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

83. 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.

84. To ensure compliance with the requirements of the Building Code of Australia the construction of walls separating units shall have a Sound Transmission Classification of 45 in accordance with the requirements of Part 3.8.6 of the Building Code of Australia Housing Provisions. Details of the proposed method of compliance are to be submitted.
85. So as to ensure adequate fire separation, walls and floors separating occupancies are to be constructed in accordance with the requirements of Part 3.7.1 of the Building Code of Australia Housing Provisions. Details of the proposed method of compliance are to be submitted.
86. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
 - b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
 - ii. are connected to the mains and have a standby power supply; and
 - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

To ensure compliance with this condition, a Compliance Certificate or documentary evidence from a suitably qualified person is to be submitted to the Principal Certifying Authority.

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

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

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Where a monolithic slab is used as part of a termite barrier system, the slab shall be constructed in accordance with Australian Standard 2870.1 or as designed by a structural engineer but in either case shall be vibrated to achieve maximum compaction.

To ensure compliance with this condition, a Compliance Certificate or documentary evidence from a suitably qualified person is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

88. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Wet area waterproofing details complying with the Building Code of Australia.
 - b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.
 - c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - d. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
 - e. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.

C Otto
Executive Planner

S Cox
Acting Team Leader, Gordon Ward

M Prendergast
**Manager – Development Assessment
Services**

M Miocic
**Director – Environment & Regulatory
Services**

Attachments:

- Architectural Plans**
- Landscape Concept**
- Survey Plan**
- Stormwater Management Concept Plan**
- Locality Plan**

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	50 KULGOA ROAD, PYMBLE - DEMOLITION OF THE EXISTING SINGLE DWELLING AND CONSTRUCTION OF AN ATTACHED TWO STOREY BRICK AND TILE DUAL OCCUPANCY
WARD:	Gordon
DEVELOPMENT APPLICATION N^o:	307/04
SUBJECT LAND:	50 Kulgoa Road, Pymble
APPLICANT:	A Nesseim
OWNER:	E & D Nesseim
DESIGNER:	Dialla Design & Drafting Pty Ltd
PRESENT USE:	Single Residential Dwelling
ZONING:	Residential 2(c)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Dual Occupancy Code, Development Control Plan No.43 - Carparking, Development Control Plan No.47 - Water Management
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy No.53, SEPP 55 Remediation of Land
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	29 March 2004 15 July 2004 (Amended Plans received)
40 DAY PERIOD EXPIRED:	4 August 2004
PROPOSAL:	Demolition of the existing single dwelling and construction of an attached two storey brick and tile dual occupancy
RECOMMENDATION:	Approval

DEVELOPMENT APPLICATION N^o	307/04
PREMISES:	50 KULGOA ROAD, PYMBLE
PROPOSAL:	DEMOLITION OF THE EXISTING SINGLE DWELLING AND CONSTRUCTION OF AN ATTACHED TWO STOREY BRICK AND TILE DUAL OCCUPANCY
APPLICANT:	A NESSEIM
OWNER:	E & D NESSEIM
DESIGNER	DIALLA DESIGN & DRAFTING PTY LTD

PURPOSE FOR REPORT

To determine Development Application No.307/04, which seeks consent for demolition of the existing single dwelling and construction of a two storey brick and tile attached dual occupancy.

EXECUTIVE SUMMARY

Issues:	Front building line, side boundary setbacks, building envelope, built upon area
Submissions:	No submissions received
Land & Environment Court Appeal:	No
Recommendation:	Approval

HISTORY

Property 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 1108/03

Development Application No.1108/03, lodged on 3 September 2003 for an attached dual occupancy, was withdrawn on 30 January 2004 after Council raised the following issues:

- Impact of double garages facing the street on streetscape;
- Solar access to southern dwelling;
- Shading structures to the west facing windows;
- Submission of a suitable landscape plan;
- Insufficient information regarding the front fencing and retaining walls; and
- Relocation for OSD tanks to beneath the driveway.

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THE SITE & SURROUNDING DEVELOPMENT

Zoning:	Residential 2(c)
Visual Character Study Category:	1945-1968
Lot Number:	111
DP Number:	556467
Area:	1010m ²
Side of Street:	Western
Cross Fall:	To the north
Stormwater Drainage:	Kulgoa Road
Heritage Affected:	No
Required Setback:	12 metres
Integrated Development:	Yes
Bush Fire Prone Land:	Yes - Category 2 (Bushfire prone vegetation buffer)
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The site has a grade of approximately 8° and falls away to the north. The development has been stepped in design down the site so as to minimise cut and fill where possible and not adversely impact on the two significant *Eucalyptus saligna* (Blue Gum) trees located at the rear of the site.

THE PROPOSAL

The proposal is to demolish the existing single brick and tile dwelling and construct a two storey attached brick and tile dual occupancy. Details of the proposed development are as follows:

Dwelling 1

Dwelling 1 is located on the southern side of the site. The ground floor consists of a double garage with internal access at right angles to the street. The double garage is accessed by a single driveway crossing located in the centre of the street frontage. A dining/games rooms, study and powder room are all positioned towards the front (east) and side (south) of the dwelling and open plan family/lounge area and kitchen to the rear (west) of the dwelling. The rear living areas open out onto two small outdoor entertaining areas to the immediate south and west.

The first floor of the dwelling is made up of three (3) bedrooms, ensuite to Bedroom 1, main bathroom and storage.

The private open space is dominated by a large *Eucalyptus saligna* (Blue Gum) tree located approximately 6.5m from the rear wall of the dwelling.

Dwelling 2

A double garage faces the street and is accessed off the same driveway as Dwelling 1, with internal access to the dwelling. A lounge room faces the street with windows also along the northern elevation. Directly behind this is a small study and powder room and laundry. At the rear of the

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dwelling is an open plan family/meals area including a kitchen. The entertaining area has direct access to the small outdoor paved area and through to the private open space of the rear yard.

A large *Eucalyptus saligna* (Blue Gum) is located in the far north-western corner of the site. It is proposed to retain this tree as a landscape feature.

CONSULTATION - COMMUNITY

The application was notified in accordance with Council's Notifications Policy. No submissions have been received.

Amended Plans dated 1/06/04

Amended plans were submitted by the applicant to address the impact on the Blue Gums at the rear of the site and discrepancy of the level differences between the two garages. The amended plans were not notified as the amendments did not result in any greater impacts from the original plans and only reduced and further clarified issues for Council.

CONSULTATION - WITHIN COUNCIL

Landscaping

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

"It is proposed to demolish the existing dwelling and construct an attached dual occupancy on the existing single allotment of 1,010sqm, with vehicular access from Kulgoa Rd. The site is dominated by two mature Eucalyptus saligna (Bluegum) approximately 30.0m high located at the rear of the property. The remainder of the site is predominantly grassed and clear of vegetation with sporadic planting around the perimeter boundaries. The site frontage is dominated by a mature Jacaranda mimosifolia (Jacaranda) centrally located adjacent to the site frontage.

The proposed development will result in the removal of two trees and two palms. The trees to be removed include a healthy Citharexylum spinosum (Fiddlewood) approximately 7.0m high with a 7.0m canopy spread. The two palms to be removed are Arecastrum romanzoffianum (Cocco's Palm) approximately 7.0m high. The second tree to be removed is an exempt species. There is no objection to the removal of the trees mentioned above.

*Previous concerns regarding the Eucalyptus saligna (Bluegum) x 2 located in the rear garden have been addressed. It will be conditioned that no level grade changes occur within a 5.5m radius of both tree (**Refer Condition No.50**).*

*The submitted landscape plan (Rev B) can be supported subject to some minor changes that can be conditioned (**Refer Condition No.50**).*

Engineering

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

"From an engineering viewpoint, this development is not much different to the previous. Comments as before apply, viz:

The proposed development is an attached dual occupancy, on a site which is towards a sag in Kulgoa Road, where the trunk drainage system from Mona Vale Road and Macquarie Road passes under the road. The property is separated from the drainage reserve at the low point by the driveway to No. 50a Kulgoa Road. Given the level of the road at the sag and the proposed floor levels for the lower dwelling, it is considered that a flood study is not required for this development.

The property benefits from a drainage easement through the driveway of No. 50a, however the stormwater concept plan submitted does not make use of this easement, since gravity drainage to the street gutter is available. The stormwater plan submitted, MSP Consulting Drawings 122/04-1A2 and 2A2, dated 07/04/04, is satisfactory but should not be stamped with the DA plans because it is a concept plan".

Condition No's **61, 62, 63, 64, 65, 66, 67, 93, 94, 95, 96, 97, 98** have been imposed to ensure compliance with Council's relevant controls.

CONSULTATION – OUTSIDE COUNCIL

Department of Infrastructure Planning and Natural Resources

Under the provisions of section 91 of the Environmental Planning and Assessment Act 1979, the proposal is Integrated Development on the basis that it requires development consent from Ku-ring-gai Council as well as a Part 3A permit from the Department of Infrastructure Planning and Natural Resources under the Rivers and Foreshores Improvement Act 1948, due to it involving excavation within 40 metres of a water course.

Accordingly, the development has been referred to the Department of Infrastructure Planning and Natural Resource for comment. Their response is as follows:

"The Department of Infrastructure, Planning and Natural Resources have reviewed the subject development application for works within 40 metres of a watercourse or foreshore and propose to provide General Terms of Approval for the Development as presented."

The General Terms of Approval have been included as conditions of the recommended development consent. See Condition Nos **15, 16, 17, 18, 19, 20, 21 and 22**.

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

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environment from danger that may arise from a bush fire. The comments provided by the Rural Fire Service are as follows:

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

- *Construction shall comply with AS3959-1999 level 3 ‘Construction of Buildings in bushfire prone areas.*
- *Roofing shall be gutterless or have leafless guttering and valleys are to be screened to prevent build up of flammable material.*
- *Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the structure.*
- *The entire property shall be managed as an ‘Inner Protection Area’ as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.*
- *All fencing shall be constructed from non-combustible materials.”*

These conditions have been included in the recommended development consent. See Condition Nos **68, 69, 70, 71 and 72.**

PROVISIONS OF RELEVANT LEGISLATION

1. Environmental Planning Instruments

STATE ENVIRONMENTAL PLANNING POLICY NO. 53

COMPLIANCE TABLE		
Development standards	Proposed	Complies
Allotment size (cl.19(1)(a))		
• 400m ² attached dual occ (min)	1010m ²	YES
Floor space ratio (cl.19(1)(b))		
• 0.5:1 (max)	0.437:1 (432.9m ²)	YES
Car parking (cl.20)		
• Dwelling 1: 2 car spaces (min)	Dwelling 1: 2 car spaces	YES
• Dwelling 2: 2 car spaces (min)	Dwelling 2: 2 car spaces	YES

Streetscape (cl.32(a))

The proposed development shall present to the street as two dwellings stepping down the site. The proposed attached dual occupancy has a shared driveway access across the middle of the site. The location of the driveway ensures that ample area remains on either side to provide suitable landscaping to the development. The garage for Dwelling 1 faces the north so that the street is not dominated by driveway and the appearance of two garages. By turning the garage access for

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dwelling 1 away from the street frontage and to the north, the street facing wall is then able to be landscaped and the impact on the streetscape is minimised.

The proposed development also includes the construction of a front fence. The front fence is proposed to be rendered brick base and piers and metal railing fence in-fill with a finished height of 1.2m. The existing streetscape is varied with a number of dwellings having open landscaping within the front boundary and no fencing and other dwellings having a mix of fencing styles in varying heights from a low 600mm brick fence, timber picket fencing approximately 1.0m in height and solid brick fencing up to 2.0m in height.

The proposed fencing is not consistent with the fencing described in the Visual Character Study provided in DCP 38 which states that the visual character has an absence of front fences except in noisy or busy streets but often with low herbaceous borders. However, the proposed front boundary fencing is suitable in terms of complementing the existing character of the neighbourhood which is generally low scale open fencing or open landscape settings and shall retain the open feel of the street while providing additional privacy and sense of place for the occupants of the dwellings.

With the inclusion of appropriate landscaping such as low scale plantings and the retention of the existing Jacaranda the proposed development contributes to the character of the streetscape.

Visual privacy (cl.32(b))

The proposed design of the development provides a suitable level of visual privacy between the proposed dwellings and the adjoining properties. The design of the attached dual occupancy has minimised where possible the impact of overlooking by orientating the outdoor living areas to the rear of the site and allowing substantial areas to provide landscaping screening to the neighbouring properties. The locations of the dwellings on the adjoining sites to both the north and south have been taken into consideration in the design of the development.

Acoustic privacy (cl.32(b))

The development does not include any air conditioning or other noise generating works. The setback of the development to adjoining residences allows for a suitable level of spatial separation. With the inclusion of appropriate landscaping (**refer Condition No.50**) the proposed development would be acceptable in regard to acoustic privacy.

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 at 9am will cover the entire northern elevation of the existing carport to No.48 Kulgoa Road.

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12.00 noon (June 22): Overshadowing occurs to the wall along the northern boundary, along the western end of the dwelling and completely overshadows the northern elevation of the carport on the boundary.

3.00pm (June 22): Due to the slope of the land, the overshadowing occurs over half the existing northern elevation of the carport. This is well within the standards set by the SEPP and is considered acceptable.

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 meets the minimum requirements required by the SEPP and reasonable given the east-west orientation of the property.

Crime prevention (cl.32(e))

The proposed dwellings have been designed so that each affords visibility of the street from the living room and study to enable the occupants of each of the dwellings to have good views of any persons approaching the dwellings. The design of the driveway also provides pedestrian access to the front door and ensures that future landscaping will not block the visibility of the occupant from the dwelling to the street boundary.

Accessibility (cl.32(f))

The proposed development has reasonable level of accessibility. Dwelling 2 (to the north) is most suitable in terms of its potential to provide disabled access.

Due to the layout of the garage and driveway design, parking for visitors would be along Kulgoa Road. On-site visitor carparking for this site is not suitable given the slope of the land and if provided, would preclude a suitable level of landscaping to the street frontage.

Visual bulk (cl.32(h))

The development proposed ridge levels that are consistent with the adjoining dwellings and the fall of the land. The adjoining dwelling to the south at 48 Kulgoa Road has an RL to the ridgeline of 125.52 AHD. The highest point of the proposed development has an RL of 124.681 AHD and steps down to RL 124.03 for the northern side. The bulk of the development is similar in scale to that of other single dwellings within the street and is not overly dominating with regard to height.

The existing dwelling has a setback of approximately 8m to the front boundary. The development has been set back a minimum of 9.2m to the garage of Dwelling 1 and an average of 14m to the remainder of the street frontage. The proposed setback will not have a negative impact on the existing streetscape and will allow for suitable levels of landscaping.

The development has been stepped down the site, with the dwellings sitting at different levels to ensure that the built form is in keeping with the natural features of the land. This design has also minimised the need for excessive cut and fill to the site.

The setbacks to the neighbouring dwellings do not meet the minimum numerical standards required by Council's Dual Occupancy Code. The setbacks to the side boundaries vary between 1.1m - 3.0m to the southern boundary and 1.1m - 2.0m to the northern boundary. With the fall of the land towards the north, the setback to the southern boundary as described above allows for sufficient landscaping to effectively break up the bulk of the dwelling when viewed from 48 Kulgoa Road. The length of wall along this boundary has also been staggered to allow deeper planting setbacks along the dining/games room. Planting to an approximate height of 5.0m along this setback will achieve a reasonable level of screening to alleviate any impacts of bulk when viewed from the street and adjoining property at 48 Kulgoa Road (**refer to Condition No.73**).

The setback to the northern elevation varies from 1.1m - 2.0m. The northern boundary adjoins an access handle for 50A Kulgoa Road which is partially vegetated and has a single access driveway. Given the adequate spatial separation between the site and the closest dwelling to the north, along with the inclusions of landscaping, the setback variation will not result in an adverse bulk impact to adjoining properties. With the inclusion of suitable landscaping along the side boundaries, the development will not dominate the streetscape and shall be in keeping with the general bulk and scale of the locality.

The development is consistent with the height and bulk of other developments in the locality and will conform to the character of the streetscape.

STATE ENVIRONMENTAL PLANNING POLICY NO 55 - REMEDIATION OF LAND

The site, due to its residential history, is unlikely to be contaminated.

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: 6.5m Dwelling 2: 6.3m The following information is not a statutory control. This information is provided for the benefit of the Councillors: Height to roof ridge - Dwelling 1: 8.0 m Height to roof ridge - Dwelling 2: 8.4 m Height to eaves line – Dwelling 1: 6.5 m Height to eaves line – Dwelling 2: 6.3 m	YES YES
Built-upon area 60% (max)	44.1%	YES
Notional built-upon area	Dwelling 1: 47.8% Dwelling 2: 41.4 %	YES YES

2. POLICY PROVISIONS

Development Control Plan 40 - Waste Management

The proposed development is capable of complying with this DCP subject to conditions. (See Condition Nos **23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42 and 43**)

Development Control Plan No 43 - Car Parking

The proposal provides four carparking spaces and complies with DCP 43.

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: 2.0m Dwelling 2: 2.8m	YES YES
• Roof pitch 35 ⁰ (max)	Dwelling 1: 25 ⁰ Dwelling 2: 25 ⁰	YES YES
Fences		
• Height: 1.2m (transparent fence) (max)	1.2m (fence to Kulgoa Road)	YES
4.3 Visual and acoustic privacy:		
Visual privacy		

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<ul style="list-style-type: none"> Windows to habitable rooms set back 9m from neighbouring windows (min) 	Dwelling 1 (Dining/Lounge) : 12.2m Dwelling 2(Lounge/Study): 13m	YES YES
Acoustic privacy <ul style="list-style-type: none"> Pool pumps/air conditioning units – noise generation < 5dBA (max) 	No air conditioning proposed	N/A N/A
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: 5 hours solar access received Dwelling 2: 8 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: 4 stars Dwelling 2: 4stars	YES YES
4.7 Accessibility:		
Vehicular access and car parking dimensions <ul style="list-style-type: none"> Garage – 5.4m x 5.4m (double) 	Dwelling 1: 6.0m x 6.1m Dwelling 2: 5.9m x 6.0m	YES YES
4.9 Visual bulk:		
Building setbacks <ul style="list-style-type: none"> Front building line: Minimum setback: 12m 	Dwelling 1: 9.2m Dwelling 2: 13.8m	NO YES
Average setback: 12.05m	Dwelling 1: 12.05m Dwelling 2: 14.2m	YES YES
<ul style="list-style-type: none"> Side setback: Ground floor: 2.8m (min) 1st floor: 2.8m (min) 	Dwelling 1: Ground Floor: 1.1m-3.0m Dwelling 1: 1 st Floor: 3.0m	NO YES
	Dwelling 2: Ground Floor: 1.0m-2.0m Dwelling 2: 1 st Floor: 2.0m	NO NO

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<ul style="list-style-type: none"> Rear setback: 6.47m (min) 	Dwelling 1: 12.8m Dwelling 2: 13.0m	YES YES
<ul style="list-style-type: none"> No garages, tennis courts, swimming pools, courtyard walls and other major built elements forward of the building line. 	9.2m for garage of Dwelling 1	NO
Building form <ul style="list-style-type: none"> Unrelieved wall length: 12m (max) Total building length: 24m (max) 	Dwelling 1: 9.8m Dwelling 2: 10.2m Dwelling 1: 22.2m Dwelling 2: 16.2m	YES YES YES YES
Built-upon area <ul style="list-style-type: none"> Total built upon area (max): 40% Notional built-upon area 	44.1% Dwelling 1: 47.8% Dwelling 2: 41.4%	NO
Floor space ratio <ul style="list-style-type: none"> FSR (max): 0.5:1 1st floor – 40% 	0.43:1 Dwelling 1: 22.3% Dwelling 2: 20.7%	YES YES YES
Height of buildings <ul style="list-style-type: none"> Dwelling fronting street: 8.0m (max) Building envelope: 45⁰ from horizontal at any point 3m above boundary 	Dwelling 1: 6.2m Dwelling 2: 6.0m Dwelling 1 South boundary: 300mm Dwelling 2 North boundary: 1.7m	YES YES NO NO
Cut and fill (building works) <ul style="list-style-type: none"> Cut & fill: 900mm & Total 1800mm (max) 	Dwelling 1: 600mm (cut) & 1.0m (fill) Dwelling 2: 700mm (cut) & 700mm (fill)	YES YES
Section 5: Landscaping & Open Space		

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Total soft landscaping : 60% (min)	55.9%	NO
Notional soft landscaping:	Dwelling 1: 52.2% Dwelling 2: 58.6%	NO
Tree retention and refurbishment • No. of Trees: 7 (min)	7 Trees	YES
Cut & fill (landscaping) • Cut & Fill: 900mm & Total 1800mm	0 mm (cut) 0 mm (fill)	YES YES
Open space provisions • Area: 100m ² or 2 x 75m ² areas (min) • Min dimension 5m x 5m (min) • Grade: 1 in 8 (max) • 50% receives 4+ hours solar access (min)	Dwelling 1: 143m ² Dwelling 2: 160.0m ² Dwelling 1: 138m Dwelling 2: 143.7m Dwelling 1: max 1 in 8 Dwelling 2: max 1 in 8 Dwelling 1: Open space receives 6 hours solar access Dwelling 2: Open space receives 6 hours solar access	YES YES YES YES YES YES

Front Setback

The existing dwelling has a setback of approximately 8.0m to Kulgoa Road. The proposed development has minimum setback to Kulgoa Road of 9.2m for the single storey double garage to Dwelling 1 and an average setback of between 12.0m-14m for the remainder of the two storey development. The majority of the development will be set back greater than the required 12.0m and will be in keeping with adjoining development.

The set back of the double garage for Dwelling 1 is also constrained by the location of the large Blue Gum at the rear of the site. Council's Landscape Officer advised that the proposed development is set back at the minimum acceptable distance from the Blue Gum and any setting back of the building footprint further to the rear of the site would have a negative impact on the health of the tree.

The partial projection of the single storey double garage within this setback is considered to be reasonable as the development is low in scale at this point and with the entrance to the garage being turned to the north so that the front of the garage faces away from the street may be appropriately

landscaped and screened from the street. The garage will be set back further than the existing dwelling and will be in keeping with the setback of the existing dwelling and will allow for the retention of the significant Blue Gum.

Side Setback

This issue has been addressed under the provisions of Visual Bulk - of SEPP 53 in the above report.

Setback of Garage to Front Building Line

This issue has been discussed in detail in the above report under the heading 'Front Setback'.

Built Upon Area

The proposed development has a built-upon area of 44.3%. Under the provisions of Council's Dual Occupancy Code a maximum built-upon area of 40% applies to an attached two storey dual occupancy. The proposed variation is equivalent to 41.4m². This calculation includes the areas nominated on the 'Site Set Out' plan as outdoor entertainment areas. These areas are small unroofed paved areas directly accessed from the main living areas of the dwellings. They account for 33.6m² (3.3%) of built upon area. It is considered that these paved areas do not contribute to the bulk and scale of the development and are reasonable in terms of providing an appropriate formal outdoor entertaining area.

The aim of the control is to ensure that the site may appropriately discharge stormwater from the site and provide adequate levels of stormwater infiltration on the site. Council's Development Engineers have reviewed the proposed development and advised that they have no objection to the proposed stormwater arrangements. It is considered that the proposed development meets the aims of the control and that strict compliance is not required in this instance as the site can be drained to either the street and as an alternative the property also benefits from a drainage easement through the driveway of 50A Kulgoa Road to the drainage reserve. Therefore, despite the numerical non-compliance the proposal is not an overdevelopment of the site.

Height of Building - Building Envelope

The proposed eaves of the first floor along the southern side of the development have a minor encroachment of approximately 200mm. This variation is considered to be benign and will not have any adverse impact on the adjoining properties or streetscape and is supported.

The northern side of the development falls outside the building envelope up to 1.3m for the first floor. The aim of the control is to ensure that new development is relative in scale to the surrounding existing dwellings and provides for increased separation between dwellings and minimized overshadowing of public places. As the northern boundary adjoins an access handle for the dwelling at 50A Kulgoa Road and a drainage reserve, the proposed encroachment will not have a negative impact on the nearest adjoining dwelling to the north (52 Kulgoa Rd) and will have no impact on the solar access afforded to the proposed development.

Landscaping

The proposed landscaping requires a cut within the front building line in order to obtain a suitable grade for the new driveway to the site. Council's Landscape Officer has reviewed the amended landscape plan and is satisfied that subject to appropriate conditions the development may be supported (**refer Condition Nos. 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 77, 78, 79, 80, 88, 89, 90, 91 and 92**). The initial scheme proposed retaining walls at the rear of the site in order to divided the two dwellings private open space areas. Following discussions with Council's Landscape Officer, an amended Landscape Plan and floor plan were submitted ensuring that the rear of the site remains at its existing natural grade and the two large Blue Gums remain unaffected.

3. Likely Impacts

All likely impacts of the proposed development have been assessed elsewhere in this report and are considered satisfactory.

4. Suitability of The Site

The site is suitable for the proposed development subject conditions.

5. Any Submissions

No submissions have been received.

6. Public Interest

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

7. Section 94 Plan

The development attracts a Section 94 contribution of \$12,459.72, which is required to be paid by **Condition No.75**.

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for discussion.

CONCLUSION

While the proposed development has several numerical departures from the controls specified in Council's Dual Occupancy Code, the overall impact of the attached dual occupancy will be minimal to both the streetscape and the neighbouring properties. The amenity for the future occupants is also appropriately addressed with regard to reasonable levels of solar access and limiting any opportunity for overlooking to adjoining dwellings.

The development has also been designed to retain the significant Blue Gums at the rear of the site and the Jacaranda on the front boundary. The proposed development is capable of sustaining a

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suitable level of screening along the side boundaries in order to be consistent with existing development within the immediate locality.

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

RECOMMENDATION

THAT the Council, as the consent authority, grant development consent to DA 0307/04 for demolition of the existing dwelling and construction of an attached dual occupancy on land at 50 Kulgoa Road, 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 307/04 and Development Application plans prepared by Dialla Design, reference number 2004-104, dated 1 June 2004 and 21 March 2004 and lodged with Council on 3 June 2004.
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
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:

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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. To maintain existing ground levels all excavated material shall be removed from the site.
12. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
13. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
14. Compliance with the general terms of approval issued by Department of Infrastructure, Planning and Natural Resources.
15. All works proposed must be designed, constructed and operated to minimize sedimentation, erosion and scour of the banks or bed of the watercourse/foreshore and to minimize adverse impacts on aquatic and riparian environments.
16. Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained, for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse/foreshore environment. These control measures are to be in accordance with the requirements of Council or the consent authority and best management practices as outlined in the NSW Department of Housing's "Managing Urban Stormwater : Soils and Construction" Manual (1998) – the 'Blue Book'.
17. The Part 3A Permit from the Department is issued for works on FREEHOLD land only. This Permit is null and void for any works on Crown Land.
18. Rehabilitation of the area in accordance with the 3A Permit Conditions or any direction from the Department is the responsibility of the Permit holder and owner or occupier of the land.

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19. Work as executed survey plans of a professional standard and including information required by the Department shall be provided to the Department on request.
20. If, in the opinion of a Departmental Officer, works are carried out in such a manner that they may damage or adversely affect the watercourse or foreshore environment, the Departmental Officer may issue an oral or written direction to immediately stop all work/s.
21. If any of the Department's Part 3A Permit Conditions are breached, the Permit holder shall restore the site in accordance with these conditions and any other necessary remedial actions as directed by the Department. If any breach of the Part 3A Permit Conditions requires a site inspection by the Department, then the permit holder shall pay a fee prescribed by the Department for this inspection and all subsequent breach inspections.
22. Any plants used for landscaping in the area adjacent to the watercourse and any disturbed areas adjacent the watercourse are to be vegetated using a diverse range of native plant species appropriate to the site and local to the area.
23. 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.

24. The fence and footings shall be constructed entirely within the boundaries of the property.
25. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
26. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
27. 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.
28. 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

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inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.

29. 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.

30. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
31. 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.
32. 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.
33. 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.
34. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
35. 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.

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36. 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.
37. 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.
38. To preserve and enhance the natural environment, sediment removed from erosion and sediment control structures shall be disposed of to an approved sediment dump.
39. For the protection of the health and safety of occupants, workers and the environment, any person renovating or demolishing any building built before the 1970's should be aware that surfaces may be coated with lead-based paint. Lead dust is a hazardous substance. Persons are required to follow the attached recommended guidelines to prevent personal and environmental contamination.
40. 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.
41. 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.
42. 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.
43. 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.
44. The applicant's attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owner/s which may arise from this application and it is advised that enquiries in this regard may be made at the nearest Local Court.
45. The buildings are not to be used or occupied until an Occupation Certificate has been issued.
46. External paved access for vehicles and pedestrians being provided with material which will provide some contrast to the finish of the pavement to the satisfaction of the Principal Certifying Authority.
47. All areas of common property, including visitor car parking spaces and on-site stormwater detention shall be included on the final plans of subdivision.

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48. 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.

49. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
50. Landscape works shall be carried out in accordance with Landscape Drawing No L01/1-R8706 Rev B prepared by Michael Siu and dated 13th July 2004 submitted with the Development Application, except as amended by the following:
- The proposed steps leading from the rear terrace to the rear garden of the dwelling located adjacent to the southern site boundary are to be deleted. No excavation work is permitted within 5.5m of the *Eucalyptus saligna* (Bluegum)
 - The proposed drying areas/clotheslines are to be located a minimum 1.5m from the site boundaries to allow for adequate screen planting.
 - The proposed planting of ASM *Acmena smithii* 'Minor', adjacent to the southern site boundary is to be continued adjacent to the site boundary behind the proposed drying area
 - The proposed planting of MP *Murraya paniculata*, adjacent to the northern site boundary is to be continued adjacent to the site boundary behind the proposed drying area
 - The two *Lophostemon confertus* (Brushbox) are to be replaced with *Angophora costata* (Sydney Redgum) or *Syncarpia glomulifera* (Turpentine) with the same proposed pot size.
51. Tree planting to satisfy tree retention/replenishment requirements shall be completed prior to the issue of the final Certificate of Compliance
52. To preserve the ongoing health and vigour of the two *Eucalyptus saligna* (Bluegum) located in the rear garden existing levels and grades are to be maintained within a 5.5m radius of both trees. No excavation, or the placement of fill is permitted within the specified radius. Documentary evidence of compliance with this condition is required to be submitted to the principal certifying authority prior to the issue of the final certificate of compliance.
53. 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.

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54. 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.
55. 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>Eucalyptus saligna</i> (Bluegum) x 2 In rear garden	6.0 metres
<i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to eastern (front) site boundary	4.0 metres

56. 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 prior to the commencement of demolition works, at the start of construction, at the completion of external construction works and at the completion of all development works. Documentary evidence of compliance with this condition shall be submitted to the principal certifying authority with a copy to council with the final Certificate of Compliance.
57. Paving works within the specified radius of the trunk/s of the following tree/s shall be constructed to ensure that existing water infiltration and gaseous exchange to the tree/s root system is maintained. Details for the paving shall be submitted to the Principal Certifying Authority for approval by a suitably qualified professional prior to the commencement of paving construction:

Tree/Location	Radius From Trunk
<i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to eastern (front) site boundary	5.0 metres

50. 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>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to eastern (front) site boundary	5.0 metres

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58. 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.
59. 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.
60. 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.
61. 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.
62. To maintain capacity of the Public drainage system, an On-site Stormwater Detention System must be provided in accordance with Council's Stormwater Management Manual. Unless otherwise approved, separate detention systems are to be provided for each residence. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

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

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

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

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

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

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

63. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided in front of the garage door and connected to the main stormwater drainage system. The channel drain shall have outlet of minimum diameter 150mm to prevent blockage by debris.
64. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of AUS-SPEC.

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

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

65. 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.
66. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard AS 2890.1 – "Off-Street car parking".
67. 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.

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68. Construction shall comply with AS3959 – 1999 level 3 ‘Construction of Buildings in bushfire prone areas’.
69. Roofing shall be gutterless or have leafless guttering and valleys are to be screened to prevent the build up of flammable material.
70. Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the structure.
71. The entire property shall be managed as an ‘Inner Protection Area’ as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.
72. All fencing shall be constructed from non-combustible materials.
73. A plan detailing screen planting of the entire southern wall of the development 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 metres.

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

74. To protect the amenity of the adjoining property, all fill under the slab is to be contained by dropped edge beams. Engineers details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.
75. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE (1) ADDITIONAL DWELLING IS CURRENTLY \$12,459.72. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council’s Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New child care centre (including land acquisition and construction of facility)	\$252.13
4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41

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5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Acquisition of Open Space - Pymble	\$1,966.00
8.	Koola Park upgrade and reconfiguration	\$143.09
9.	North Turramurra Sportsfield development	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

76. 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.

77. 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.
78. 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.

79. 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.

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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.

80. A CASH BOND/BANK GUARANTEE of \$10 000.00 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

Eucalyptus saligna (Bluegum) x 2 (\$4 500.00 each)
In rear garden

Jacaranda mimosifolia (Jacaranda) (\$1 000.00)
Adjacent to eastern (front) site boundary

81. 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

Jacaranda mimosifolia (Jacaranda)
Adjacent to eastern (front) site boundary

4.0 metres

82. 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.

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

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

- NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).
- NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.
- NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.
- NOTE 4: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.
- NOTE 5: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings. This is available from Council upon request.

84. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided in front of the garage door and connected to the main stormwater drainage system. The channel drain shall have outlet of minimum diameter 150mm to prevent blockage by debris.
85. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of AUS-SPEC.

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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.

86. 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.
87. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard AS 2890.1 – "Off-Street car parking".
88. 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.
89. DRIVEWAYS AND FOOTPATHS: Approval of this Development Application is for works wholly within the property and does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the Application.

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

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

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

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

90. 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.

91. 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.

92. Provision of on-site stormwater retention trenches and/or rainwater tanks which are to be designed to have a void-space and/or tank-space available volume which is sufficient to capture and retain the first 10mm of rainfall from the total subject property after which the trenches/tanks are to be designed to bypass and divert to the main drainage system. Appropriate sediment and litter arrestor pits/provisions are to be provided upstream from these trenches/tanks. Any rainwater tanks are to be located so that they may be readily used for landscaping watering purposes. 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: Retention trenches may be achieved by the use of a separate low-level outlets from pits located on the main drainage system.

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- NOTE 2: Where practicable, runoff from driveway and landscaped areas is to be directed to retention trenches in preference to roof runoff.
- NOTE 3: Trenches shall be 700mm wide x 700mm deep and fitted with half round PVC (450mm radius) dome sections backfilled with crushed or round river gravel to within 150mm of surface level, surrounded with suitable geofabric and finished with topsoil.
- NOTE 4: Trenches are to be at least 5 metres from private property boundaries and 3 metres from the footings of any structure.
- NOTE 5: A suitably designed litter and coarse sediment 450mm square grated arrestor pit is to be provided immediately upstream of trenches.
- NOTE 6: Trenches are not to require excavation underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).
- NOTE 7: Maximum capacity of an individual rainwater tank to be 3000 litres.
- NOTE 8: If abutting a wall of the dwelling, rainwater tanks must be below the eaves line.
- NOTE 9: Rainwater tanks must not be located on the front facade of a dwelling.
- NOTE 10: If rainwater tanks are 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 11: Maximum height of a rainwater tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.
- NOTE 12: Rainwater tanks to be commercially manufactured tanks designed for the use of water supply and to be installed in accordance with manufacturers specifications.
- NOTE 13: Rainwater tanks to be located above an available landscaped area so that the tank may be readily used for watering purposes.
- NOTE 14: Rainwater tanks 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 15: Rainwater tanks to be fitted with measures to prevent mosquito breeding.
- NOTE 16: This requirement is to promote water sensitive urban design and does not apply where the applicant considers installation to be impractical.

93. 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

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

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

94. To preserve and enhance the natural environment, the downslope side of the proposed construction area of the site is to be enclosed with a suitable erosion control barrier (e.g. straw bales or geofabric fence) along contour before any other work on the site commences.
95. 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

Jacaranda mimosifolia (Jacaranda)
Adjacent to eastern (front) site boundary

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

Tree/Location

Radius in Metres

Eucalyptus saligna (Bluegum) x 2
In rear garden

5.0 metres

97. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
98. Upon completion of the installation of the required tree protection measures you are required to contact 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

99. Prior to issue of the Final Occupation Certificate, all disused driveway crossings, pipe crossing and/or kerb laybacks are to be reinstated as footway and kerb and/or gutter to the satisfaction of Council's Development Engineer. Reinstatement works to generally match

surrounding infrastructure. Any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer, at the Applicants cost.

100. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to issue of the Occupation Certificate. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council.

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

101. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to issue of the Occupation Certificate.
102. The Section 73 Sydney Water compliance certificate must be obtained and submitted prior to issue of the Occupation Certificate.
103. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to issue of the Final Compliance Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must to also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

- Compatibility of the drainage system with the approved plans
- The soundness of the structure.
- The adequacy of the outlet control mechanism to achieve the discharge as specified.
- The capacity of the detention storage as specified.
- The size of the orifice or pipe control fitted.
- The maximum depth of storage over the outlet control.
- The adequate provision of a debris screen.
- The inclusion of weepholes in the base of the outlet control pit.
- The provision of an emergency overflow path.

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- 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)

104. 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 issue of the Final Compliance Certificate, that:

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

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

BUILDING CONDITIONS

105. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
- b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
- c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
- d. Retaining walls and associated drainage.
- e. Wet area waterproofing details complying with the Building Code of Australia.
- f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
- g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.

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- h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
106. 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.
107. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any pier holes and/or foundation material.
 - c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
 - d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - e. Any stormwater drainage works prior to covering.
 - f. The completed landscape works in accordance with the approved plans.
 - g. The completed structure prior to occupation.

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

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

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

108. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
109. 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.
110. 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.

111. To ensure compliance with the requirements of the Building Code of Australia the construction of walls separating units shall have a Sound Transmission Classification of 45 in accordance with the requirements of Part 3.8.6 of the Building Code of Australia Housing Provisions. Details of the proposed method of compliance are to be submitted.
112. So as to ensure adequate fire separation, walls and floors separating occupancies are to be constructed in accordance with the requirements of Part 3.7.1 of the Building Code of Australia Housing Provisions. Details of the proposed method of compliance are to be submitted.
113. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
 - a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
 - b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
 - ii. are connected to the mains and have a standby power supply; and
 - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

To ensure compliance with this condition, a Compliance Certificate or documentary evidence from a suitably qualified person is to be submitted to the Principal Certifying Authority.

114. 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.

115. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Wet area waterproofing details complying with the Building Code of Australia.
 - b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.
 - c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - d. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.
 - e. A Compliance Certificate that the solid fuel heater, stove or fireplace complies with Part 3.7.3 of the Building Code of Australia Housing Provisions.

C Otto
Executive Planner

S Cox
Acting Team Leader, Gordon Ward

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Environment & Regulatory Services

Attachments: **Architectural Plans prepared by Diallya Design and Drafting Services**
 Landscape Plan prepared by Michael Siu
 Locality Plan

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	27 RICHMOND AVENUE, ST IVES - SECTION 82A REVIEW: DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF DETACHED DUAL OCCUPANCY
WARD:	St Ives
DEVELOPMENT APPLICATION N^o:	DA 795/02
SUBJECT LAND:	27 Richmond Avenue, St Ives
APPLICANT:	Mr S Rahmani
OWNER:	Mr S Rahmani
DESIGNER:	Unknown
PRESENT USE:	Residential
ZONING:	Residential 2 'C'
HERITAGE:	Yes
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Council's Dual Occupancy Development Policy, DCP 43 - Carparking, DCP 40 - Waste Management
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy No.53
COMPLIANCE WITH GOVERNMENT POLICIES:	No
DATE LODGED:	23 June 2004
40 DAY PERIOD EXPIRED:	2 August 2004
PROPOSAL:	Section 82A Review: Demolition of existing dwelling and construction of a detached dual occupancy
RECOMMENDATION:	Refusal

DEVELOPMENT APPLICATION N^o

PREMISES:

PROPOSAL:

DA 795/02

27 RICHMOND AVENUE, ST IVES

**SECTION 82A REVIEW: DEMOLITION OF
EXISTING DWELLING AND
CONSTRUCTION OF A DETACHED DUAL
OCCUPANCY**

APPLICANT:

MR S RAHMANI

OWNER:

MR S RAHMANI

DESIGNER

UNKNOWN

PURPOSE FOR REPORT

To determine a Section 82A Review of Development Application No. 0795/02, in which the Council refused an application for the demolition of the existing dwelling and construction of a detached dual occupancy.

EXECUTIVE SUMMARY

Issues: Heritage; streetscape; visual and acoustic privacy; solar access; and visual bulk.

Submissions: Seven (7) objections received.

Land and Environment Court: Appeal against Council's refusal of the development application relodged following an initial appeal and withdrawal of that appeal. (New proceedings No. 10721 of 2004).
The appeal is listed for hearing on 27 and 28 September 2004.

Recommendation: Refusal

HISTORY

Development application No. 795/02

Development application No. 795/02 for the demolition of the existing dwelling and construction of a detached dual occupancy was submitted to Council on 14 June 2002. Numerous objections were received in response to the application. An appeal against the deemed refusal of the application was lodged with the Land and Environment Court on 8 October 2002.

The application was refused by Council at its meeting of 24 June 2003, for the following reasons:

1. *Pursuant to Clause 32(a) of SEPP 53, the proposal does not have adequate regard to the streetscape of Richmond Avenue, St Ives.*
2. *Pursuant to Clause 32(b) of SEPP 53, the proposal does not have adequate regard to the visual and acoustic privacy of 29 Richmond Avenue, St Ives.*

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3. *Pursuant to Clause 32(c) of SEPP 53, the proposal does not have adequate regard to the solar access of 29 Richmond Avenue, St Ives.*
4. *Pursuant to Clause 32(a) the proposed development does not have adequate regard to heritage matters given its location within the vicinity of heritage listed items.*
5. *The proposed development does not meet the aims and objectives set out in Schedule 9 of the Ku-ring-gai Planning Scheme Ordinance.*

Land & Environment Court Appeal

The appeal to the Land and Environment Court against Council's deemed refusal of the application was withdrawn by the applicant on 31 July 2003.

On 23 June 2004 the owner re-lodged his appeal to the Land and Environment Court against the refusal of the application and also submitted a section 82A review of DA 795/02 to Council (the s.82A review is the subject of this report).

Council has engaged Deacons to act on it's behalf in its defense of the appeal. It is also advised that Council has engaged Sheridan Burke, Ken Woolley and Robert Moore- to act as expert witnesses in the Land and Environment Court appeal.

Hearing dates have been fixed for 27 and 28 September 2004.

Draft Local Environmental Plan No. 29

Council has been furnished with expert reports identifying the heritage value of the subject house. From the evidence provided, it is clearly apparent that No. 27 Richmond Avenue is a Pettit and Sevitt house designed by the well known architect, Ken Woolley. The design of this particular house "The Gambrel" won the RAIA NSW Chapter Project House design award in 1968.

The potential demolition of No.27 Richmond Avenue raised much interest over the heritage value of the surrounding Pettit and Sevitt group. Several requests by Council to the NSW Heritage Office were made for Interim Heritage Orders and protection under the provisions of the NSW Heritage Act. On 2 June 2004, the NSW Heritage Council considered the matter and made a site visit to inspect the houses. They resolved as follows:

"The group is of heritage significance, but in the absence of any conclusive comparative assessments on a state-wide basis, cannot reach any definitive conclusion that the group is of State Heritage significance."

The NSW Heritage Council were of the opinion that Ku-ring-gai Council should proceed to list the two remaining houses at 27 Richmond Avenue and 400 Mona Vale Road, St Ives as heritage items within the Ku-ring-gai Planning Scheme Ordinance.

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Council's Heritage Advisor also took the advice of the NSW Heritage Council and sought to have the dwelling included within the Pettit and Sevitt Display Village heritage group and listed within Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance. This recommendation was adopted by Council on 24 August 2004 and Council is proceeding with the preparation of a Local Environmental Plan (LEP) to include these properties.

THE SITE AND SURROUNDING DEVELOPMENT

The site

Zoning:	Residential 2 'C'
Visual Character Study Category:	1945-1968
Lot Number:	5
DP Number:	220538
Area:	900.7m ²
Side of Street:	Northern
Cross Fall:	North to south
Stormwater Drainage:	To street
Heritage Affected:	Yes
Required Setback:	9 metres
Integrated Development:	No
Bush Fire Prone Land:	Yes (Bush Fire Prone Vegetation Buffer 100m and 30m)
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The site is located on the northern side of Richmond Avenue, which is accessed on the western side of Mona Vale Road. The site has an area of 900.7m², a frontage of 20.270m and is identified as Lot 5 in DP220538. The property falls towards Richmond Avenue with a fall of approximately 3 metres. Stormwater is directed to Council's street gutter.

The site supports a single storey dwelling known as "Gambrel". Externally, its existing condition is reasonable. Alterations include a garage in front of the house and a 1991 addition, which added a timber framed extension providing a new kitchen and dining room. The extension is clad with a modern composite weatherboard material with aluminum windows. Some of the original cedar timber boards have been painted.

Surrounding development

The surrounding properties are listed within the Council's heritage register as a group of Pettit and Sevitt Project Homes.

THE PROPOSAL

The section 82A development remains unaltered from that previously refused by Council.

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The proposal entails the demolition of the existing structures on site (a garage and single storey dwelling), and the construction of two detached dwellings as a dual occupancy development. The two dwellings are referred to as Dwelling A and Dwelling B.

Dwelling A is proposed at a setback of 9.0 metres to the property boundary adjoining Richmond Avenue and Dwelling B is proposed on the rear of the site. The development proposes one vehicular crossing, which will provide vehicular access to both dwellings adjacent to the eastern boundary of the site.

Dwelling A

Setback to Richmond Avenue: 9.0 metres to garage & 11.0 metres to facade
Setback to western boundary: 1500mm
Setback to eastern boundary: Approx 5850mm

Ground floor: Attached garage for two vehicles, entrance, living room, dining room, kitchen, W.C. and laundry with a total floor area (including garage) of 132.65m².

First floor: Four bedrooms (main with ensuite and walk in robe), W.C, bathroom and TV room with a total floor area of 122.78m².

Total floor area: 255.43m² (Including garage).

Dwelling B

Setback to rear boundary: 5.0 metres to wall of dwelling & approx 3.0m to column of patio
Setback to western boundary: 1500mm
Setback to eastern boundary: 1500mm

Ground floor: Attached garage for two vehicles, entrance, study, W.C, laundry, kitchen, dining room, living room, and bedroom with ensuite and walk in robe with a floor area (including garage) of 160.31 m²

First floor: Three bedrooms (Bedroom 2 with ensuite and walk in robe), W.C, bathroom and TV room with a floor area of 97.31 m².

Total floor area: 257.62 m² (including garage).

Overall development

Total floor space: Dwelling A = 255.43 m² – 31 m² for garage = 224.43 m²
Dwelling B = 257.62 m² – 31 m² for garage = 226.62 m²
Total = 451.05 m²

Floor space ratio: 451.05 m²/900.70 = 0.50:1

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Built upon area: $450.23 \text{ m}^2 = 49.98\%$

There is no street front boundary fencing proposed as part of this development. Although the plans describe the location of a new boundary, the subdivision of this land does not form part of this development.

CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, adjoining owners were given notice of the section 82A review application on 24 June 2004.

Seven (7) submissions have been received, as follows:

1. Larry and Sharon Lockyer - 17 Richmond Avenue
2. Roma de Sanctis and Marie Rampling - 29 Richmond Avenue
3. G and J Chowns - 40 Richmond Avenue
4. Ian and Caroline Houghton - 61 Richmond Avenue
5. Therese Whitmore (Richmond Avenue Action Group) - 59 Richmond Avenue
6. S and P Caganoff - 30 Richmond Avenue
7. Mr C Henery - 22 Richmond Avenue

The following concerns were raised within the submissions:

Setbacks (side boundary setbacks and front boundary setback) appear to have been compromised.

Both Dwelling A and Dwelling B fail to satisfy the side setback requirements prescribed under Council's Dual Occupancy Code (Refer Dual Occupancy Code compliance table for specific details). The reduced side setback of Dwelling A to the western boundary exacerbates the visual bulk of the development when perceived from Richmond Avenue. This impact is increased by the reduced front setback. Furthermore, the non-compliant side setbacks of Dwelling B, contributes to the amenity impacts upon the adjoining properties at Nos. 25 & 29 Richmond Avenue.

Private open space requirement does not appear to have been met.

The development proposes 90m^2 of private open space for Dwelling A and 100m^2 of private open space for Dwelling B. The numeric amounts of private open space proposed will create ample area for private recreation. However, the privacy afforded to the private open space of Dwelling A will be compromised by the upper windows of Unit B.

Streetscape

The development does not observe a building setback consistent with other dwellings in Richmond Avenue

The development has a front setback inconsistent with other development in the street. The reduced setback to Richmond Avenue results in an unsatisfactory streetscape impact (Refer discussion under SEPP 53 – Streetscape).

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Overdevelopment – BUA exceeds 40% - the total built-upon area is 50%.

The development proposes 450.2m² or 49.98% built upon area and a 0.50:1 FSR. The development is consistent with the provisions of SEPP 53 and is compliant with the standards within the KPSO.

Solar access/shadow

‘Overshadowing will greatly affect the solar hot water system on the roof of No.29, as well as the house in general. This will be felt particularly in winter and significantly affect the costs for heating of water and warmth. Overshadowing will also be caused by the development not being setback or in line with the other houses in the street.’

The shadow diagrams indicate that the proposed development will overshadow No. 29 Richmond Avenue during the morning period and No. 25 Richmond Avenue in the afternoon. At noon, the development will cast shadow internally within the site. Both adjoining properties will receive sufficient solar access.

The hot water system on the roof of 29 Richmond Avenue may receive some marginal overshadowing by the proposal during the morning hours on the winter solstice. However, it will still receive solar access from approximately 10am onwards.

Building height envelope appears to have been exceeded.

Dwelling A breaches the building height plane between 100mm to 600mm along the western boundary, adjacent to No. 29. The breach to the building height plane further indicates the unsatisfactory nature of the development upon the site. In addition, this breach further accentuates the built form of the development and its visual bulk as it presents within the streetscape.

Floor height designs would seem unobtainable without exceeding the 1.8m cut/fill height maximum.

Dwelling A has a finished ground level of RL 11.115. This height is at the front of the building approximately 615mm above existing ground level. To the rear the floor level is approximately 885mm below existing ground level.

Dwelling B has a finished ground level of RL 12.315. This height is at the front of the building 200-300mm higher than the existing ground level. To the rear the floor level is approximately 685mm below existing ground level..

Possibility for precedence if one block within the street erects a dual-occupancy.

State Environmental Planning Policy No 53 aims to encourage the provision of housing that will broaden the choice of building types and locations available in the housing market. Dual occupancy developments are permissible on land within Ku-ring-gai where another environmental planning instrument permits the erection of dwelling houses and the development is carried out in accordance with Part 3 and Part 5 of the SEPP. There are many allotments within the Ku-ring-gai area and within the St Ives area that will meet these and other requirements of the SEPP. The

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proposed development does not change the requirements of the SEPP and enable other allotments to be developed. Therefore no precedent is created.

Lack of information

General concern about the lack of information provided with the application – including lack of sufficient site analysis, lack of sketches etc to demonstrate impact upon streetscape, photos showing relationships between dwellings and their neighbouring properties.

As detailed later in this report, the information provided by the applicant does not allow for a complete and thorough assessment of the application.

Heritage

The proposed 2x2 storey dwellings are out of character with the other properties in Richmond Avenue that are listed under the Ku-ring-gai Planning Scheme Ordinance.

The development as proposed is out of character with the heritage value of the site and surrounding buildings.

Amenity

- ***The bulk, scale and siting will have a severe impact on the amenity of homes surrounding the site***
- ***Visual and acoustic privacy will be lost by windows overlooking the dwelling at 25 Richmond Avenue, especially the bedrooms and courtyard which are an extension of the living area.***
- ***Privacy will also be lost from windows of the development looking into the front windows of 29 Richmond Avenue.***

The development has an unsatisfactory impact upon the amenity afforded to Nos 25 & 29 Richmond Avenue.

Visual impact of the exposed plumbing pipes on the western side of the Dwellings A and B.

It is a common result of two storey developments that stack work is visible on the external façade of a dwelling. It is possible to disguise or alternatively locate such stack work in a position so as to not impact the adjoining properties or streetscape. Should the application be approved, a condition of consent could be imposed requiring the plumbing stack work to be disguised through painting it in a similar colour to that of the exterior wall or to locate it so it is not visible from the adjoining properties.

Stormwater currently flows onto 29 Richmond Avenue

Council's Development Control Engineer assessed the proposed development in regard to stormwater and has raised no objection. Conditions of consent could be recommended to ensure the provision of on site detention and the direction of any collected stormwater from the proposed development via the OSD to the street gutter.

Bushfire

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The proposed development is in a bush fire prone area. Any resultant increase in residents will add further burden for evacuation and fire fighting operations in a bushfire emergency. The issue of fire fighting truck access was an essential consideration in the development application refusal.

The street is one way at the southern end, therefore all traffic has to exit at the northern end, in the path of fire, to turn right onto Mona Vale Road. This is difficult at the best of times and even more in times of emergency.

Building design and construction needs to comply with 'Building for Bushfire Protection 2003' and AS3959

Recent particular concern about the lack of water supply has meant that DIPNR is reviewing the Richmond Avenue area, and including a greater portion as a SEPP5 and SEPP53 exclusion area.

In accordance with the requirements of Section 79BA of the Environmental Planning and Assessment Act 1979, consultation with the NSW Rural Fire Services has been carried out in regard to the proposed development. The RFS has advised that they raise no objection to the proposed development, subject to conditions.

Traffic impact

Traffic & collective impact of surrounding developments resulting in dangerous exit to Mona Vale Road plus on street parking

Development will mean more traffic onto Richmond Avenue, where the footpaths are not very wide, so children often play on the street

Recent Land and Environment Court decision on Mona Vale Road (404A-406 Mona Vale Road) in which the judge stated that the intersection at Mona Vale Road/Richmond Avenue would need to be improved upon.

Council's Development Control Engineer has assessed the proposal in regards to traffic and vehicular access and has raised no objection to the proposed development. An additional dwelling will have minimal impact on the local traffic conditions. Traffic volumes within this section of Richmond Avenue are low; therefore the objection in relation to traffic and safety issues cannot be sustained.

The Land and Environment Court decision referred to by the objector, involved a development that involved an application to subdivide three properties into eight lots, which is significantly more intensive than the subject application, which proposes to increase the density of the site by one dwelling.

Impact on natural bush and wildlife

Council's Landscape Development Officer raised no objection to the proposed development in regards to the removal of trees due to the state of the vegetation on the site. The proposed development does not adjoin a National Park or area identified as land supporting critical habitat or part of a wilderness area nor is the land dedicated for the preservation of flora or fauna or State protected land.

Proposed subdivision will burden utility services ie water

The proposed development does not seek consent for the subdivision of the existing allotment. SEPP 53 aims to encourage the provision of housing that will make more efficient use of existing infrastructure and services. Furthermore a condition of consent could be imposed (in the case that the application is approved) requiring a certificate under Section 73 of the Water Board (Corporation) Act 1994 to ensure sufficient services can and will be provided to the site.

CONSULTATION - WITHIN COUNCIL

As the s.82A proposes no change to the application. Refer attached report to Council of 24 June 2003, for details of the internal referral bodies' original comments, which are still relevant.

CONSULTATION - OUTSIDE COUNCIL

New South Wales Rural Fire Service

The NSW RFS in response to the section 82A review, has made the following comment:

“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 (dated 27 July 2004).”

REVIEW AGAINST REASONS FOR REFUSAL

1. *Pursuant to Clause 32(a) of SEPP 53, the proposal does not have adequate regard to the streetscape of Richmond Avenue, St Ives.*

Clause 32(a) requires that the proposed development both contributes to an attractive residential environment with clear character and identity, and that the development takes due regard of nearby heritage conservation areas and any relevant heritage items.

The proposed development achieves neither of these objectives. The application fails to contribute to the distinctive character of the locality and does not take due regard for the nearby heritage items or the heritage item on site.

2. *Pursuant to Clause 32(b) of SEPP 53, the proposal does not have adequate regard to the visual and acoustic privacy of 29 Richmond Avenue, St Ives.*

The proposed development will have an unsatisfactory impact upon the amenity provided to No. 29 Richmond Avenue (Refer discussion under SEPP 53 – visual and acoustic privacy). On this basis, this reason for refusal should stand.

3. *Pursuant to Clause 32(c) of SEPP 53, the proposal does not have adequate regard to the solar access of 29 Richmond Avenue, St Ives.*

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This reason for refusal is not valid. The proposed development provides for ample solar access to number 29 Richmond Avenue, as was shown on the shadow diagrams submitted with the application.

4. *Pursuant to Clause 32(a) the proposed development does not have adequate regard to heritage matters given its location within the vicinity of heritage listed items.*

Council in consideration of the information provided in support of the heritage listing of No. 27 Richmond Avenue, resolved at its meeting 24 August 2004, to prepare a draft Local Environmental Plan to include the subject property at a heritage item within Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance.

Based upon the information provided to Council, the demolition of the subject house will have a detrimental impact upon the heritage value of the Pettit and Sevitt display village at both a local and a state level. Consequently the section 82A should not be supported.

5. *The proposed development does not meet the aims and objectives set out in Schedule 9 of the Ku-ring-gai Planning Scheme Ordinance.*

This reasons for refusal is unnecessarily broad and did not particularise the issues. The non-compliance with Schedule 9 has been accommodated within the new recommended reasons for refusal.

PROVISIONS OF RELEVANT LEGISLATION

Section 82A Review

Section 82A of the Environmental Planning and Assessment Amendment Act 1979, allows for a review of the determination of a development application. The request for a review must be made within 12 months of the determination, and must not be for integrated or designated development (which it is not).

The Council must notify the request for review in accordance with the development control plan (which has been carried out – see above). Consideration must then be given to the submissions received, and an assessment under the provisions of section 79C must be undertaken.

As a consequence of its review, the Council may confirm or change the determination.

Substantially the same development

The development as proposed within the review application is identical to that which was originally assessed and refused. The application is substantially the same development.

State Environmental Planning Policy 53

This policy aims to encourage the provision of housing in metropolitan areas that will:

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- (a) *broaden the housing choice of building types and locations available in the housing market, and*
- (b) *make more efficient use of existing infrastructure and services, and*
- (c) *reduce the consumption of land for housing and associated urban development on the urban fringe, and*
- (d) *be of good design.*

Clause 3 of the SEPP states that these aims will be achieved by:

- (a) *by establishing planning controls that will provide opportunities for a variety of housing types to be developed in areas the councils of which have not adopted development strategies, and*
- (b) *by setting out design principals that, if followed, will achieve built form that responds to the characteristics of its site and location*
- (c) *by encouraging councils to prepare and adopt residential development strategies an supporting local environment plans and policies that will achieve those aims, and by allowing local government areas to be exempted from the whole or parts of this policy when those strategies are in place.*

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

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

Clause	Standard	Proposal	Compliance
Lot size	600 sqm	900.7 sqm	Yes
Floor-space ratio	0.5:1	FSR = 0.50:1	Yes
Car parking	4 car spaces	4 car spaces	Yes

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 applicant provided the anonymous Ground Floor Layout/Site Layout plan of 1st June 2002 for the purposes of a site analysis. This plan does not meet the requirements of Clause 31. Most specifically, the plan fails to provide the following:

- Species and heights of trees to be removed;
- The location of trees and their species and heights on adjoining properties;
- Microclimates;
- The location of the existing dwelling is scarcely discernible;
- No features of the site are noted;
- Views to and from the site are not noted;
- Overshadowing from neighbouring structures are not noted;
- Adjoining private open spaces are not noted;
- Living rooms and other habitable rooms within the neighbouring dwellings and their orientation to the site are not noted; and
- Views and solar access enjoyed by neighbouring properties are not noted.

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Whilst some of these elements are included within the written Statement of Environmental Effects, it is only in diagrammatic form that most of the above are useful to gain a true picture of the opportunities and constraints of the site. The Ground Floor Layout/Site Layout plan is therefore inadequate for use as a site analysis, and fails to comply with the requirements of Clause 31 of SEPP53.

Clause 32 states that consent must not be granted unless Council is satisfied that adequate regard has been given to the following design principals:

a. Streetscape

Clause 3(2)(b) and clause 15 of SEPP53 requires that built form of a proposed development responds to the characteristics of its site and location, and that any development is designed with a full understanding of the opportunities and constraints of a site in mind.

The existing dwelling is set back in excess of 20 metres from the southern boundary, which adjoins Richmond Avenue. Forward of this dwelling is a detached garage, which is set back at approximately 11.6 metres. The property to the east (No. 25) supports a dwelling set back at approximately 17.8 metres with a detached garage set back at 8.4 metres. The property to the west (No.29) is set back at approximately 18 metres.

It is relevant to note that the property in question and the adjoining properties either side have 17 metres front setbacks. Forward of this building line there are only garages. The original design of the dwellings in the Pettit and Sevitt Group was intended to set each of the houses slightly askew to Richmond Avenue. They were orientated to the slope, creating opportunities to 'borrow' views across the adjoining garden landscapes. The initial development was free of fences, providing the sense of a group. To site the building line for dwelling A at 9.0 metres from the front boundary is inappropriate and is not consistent with the pattern of development for dwellings on this uppermost side of Richmond Avenue. This contrast will be exacerbated by the change in levels experienced over the site. As a consequence, Dwelling A will appear as an incongruous element that intrudes into the streetscape and will detract from the visual amenity, character and ambience of the locality.

Comments were provided on the initial application that the design of the dwellings (in particular Dwelling A) had similar fenestration and detailing, sympathetic to the surrounding heritage properties. The elevations provided bear little in the way of any resemblance to, or glean features from, the surrounding properties. Surrounding properties have a number of distinguishing characteristics, including a broken form, contrasting and modulated frontages (flat as well pitched rooves, archways, various sizes and shapes of windows and doors), and contrasting finishes. The proposed dwellings offer no distinctive features that take elements from the surrounding dwellings. They starkly contrast with the sleek frontage designs of the Pettit and Sevitt group.

The failure of the design of the dwellings to address basic contextual responses from the area (such as the house character and the setting or placement of surrounding dwellings) suggests

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that the constraints of the site have not been analysed and understood and that only a cursory examination of the sites constraints and opportunities has been carried out.

Furthermore, the location of Dwelling B introduces an uncharacteristic built form into a location that has consequential adverse impacts upon neighbouring properties. Again, it would appear that the limitations imposed by the surrounding design and orientation of the houses has not been taken into account.

Clause 32(a)(i) of SEPP53 requires that proposed development contributes to an attractive residential environment with clear character and identity. Regardless of the heritage value of these properties, it must be ascertained as to whether the proposed dwellings contribute to a cohesive group. The proposed dual occupancy does not contribute to a cohesive character, the dwellings, as described above, are featureless and of no particular design merit. They fail to contribute to, or maintain, the 1960s visual character of the area.

Clause 32(a)(ii) of SEPP53 requires that the development complements and be in harmony with surrounding heritage items. This is for the benefit of the streetscape, and to ensure that the values of adjoining heritage items are not harmed. For the reasons provided above, inadequate regard has been paid to this Clause. The design of the dwellings is fundamentally different to the stylised 1960s dwellings of the Pettit and Sevitt Group, which were designed with the surrounding landscape in mind and with a strong pattern and design of development.

The application is therefore unsatisfactory with regards to the impact of the development upon the streetscape.

b. Visual and acoustic privacy

Clause 32(b) of SEPP53 and Clause 2(b) of Schedule 9 of the KPSO requires that particular regard is given to the visual and acoustic privacy of neighbouring dwellings and the future occupants of the proposed dwellings.

The siting of the existing residence at No.27 Richmond Avenue in relation to its neighbours at Nos 25 Richmond Avenue and 29 Richmond Avenue, results in good visual and acoustic privacy. The dwellings were sited for this excellent inter-relationship and so as to retain garden settings and provide good view sharing.

The orientation of No.25 Richmond Avenue provides for views over the foreground setback of No.27 Richmond Avenue. This includes a balcony set into first floor level of No.25 Richmond. The proposed development will provide views from No.25 over the vehicle access-ways and garaging of the new houses, and the front entries to both houses. The windows of No.25 Richmond Avenue and the resultant detached dual occupancy are also uncomfortably aligned. The design of the development has not taken the constraints posed by the surrounding properties into consideration.

It is of particular concern that the proposed development (in particular Dwelling B) will adversely impact upon the privacy enjoyed at the east-facing private rear courtyard of No.29 Richmond Avenue. This private open space is clearly the primary private open space on the

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property, offering abundant sunlight to a courtyard immediately off rooms. The western facing bedrooms on the first floor of Dwelling B will be most apparent from this courtyard. Given the change in levels, that there will also be possibility of overlooking from the other first floor windows of both dwellings. While some screening may be possible through planting along this boundary, the change in levels between properties will render the screening ineffectual.

Proposed Dwelling B is located in such a position as to intrude into the open aspect that is presently experienced from the adjoining properties across their rear gardens. Given the change in levels, the visual impact of the development, when perceived from 25 Richmond Avenue, could not be sufficiently mitigated.

Additionally, the future residents of the proposed development itself will experience detrimental impact upon their visual and acoustic privacy. The proposed small courtyard area for Dwelling A will be overlooked by Dwelling B and is also overlooked by No.25 Richmond Avenue. It is also in close proximity of the outdoor living area for No.29 Richmond Avenue, with consequent impact upon acoustic privacy.

The development results in an unsatisfactory visual and acoustic privacy impacts upon the adjoining dwellings Nos. 25 & 29 Richmond Avenue.

c. Solar access

The subject property is orientated north-south with the rear of the property orientated north. The proposed dwellings have been orientated so the living rooms at the rear will receive good solar access.

The shadow diagrams prepared by Council's Land Information staff indicate that the proposed development will overshadow portions of the adjoining properties either between 9am and noon or between noon and 3pm. The development will still enable the adjoining properties to receive adequate solar access.

Notwithstanding the above however, it is of concern that the greater part of the courtyard to the north of the proposed Dwelling A, which is the principal area of private open space associated with that dwelling, will be in shadow at mid-winter for the greater portion of the 9:00am to 3:00pm period. Given that this is a small private open space area, this is particularly undesirable.

The hot water system on the roof of 29 Richmond Avenue may receive some marginal overshadowing by the proposal during the morning hours on the winter solstice. It will however, receive solar access from approximately 10am onwards, which is considered sufficient.

d. Stormwater

Council's Development Assessment Engineers have indicated that the proposed stormwater disposal method to Richmond Avenue is satisfactory. Conditions of consent could be

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recommended to include the requirement for on site detention and a 'first flush' water quality treatment system.

e. Crime prevention

The proposal offers adequate opportunities to observe people approaching the front door of the dwellings and the site.

f. Accessibility

There is no objection raised to the accessibility of the proposed development. There is convenient, obvious and safe pedestrian links from the site to public transport and local facilities. Convenient parking is provided for residents on site whilst there is sufficient availability for visitor parking on site forward of Dwelling B and off site.

g. Waste management

The proposed development can be provided with standard waste management facilities in accordance with Council's DCP 40 Waste Management requirements.

h. Visual bulk

Clause 32(h) of SEPP53 (Visual bulk) requires the proposed development to provide reasonable neighbour amenity and appropriate residential character. This is achieved through appropriate progressive building setbacks to reduce bulk and overshadowing, through building form and siting that relates to the site's land form, through adopting building heights at the street frontage that are compatible in scale with adjoining development, and through considering (where buildings are located upon the boundary) the impact of boundary walls upon neighbours.

Furthermore, the height, scale, form and siting of both dwellings fail to maintain neighbour amenity and residential character. Due regard has not been paid to the characteristics and design pattern of surrounding development, which is characterised by large front setbacks, broken only by single storey garages.

The impacts associated with the inappropriate height, scale and siting of the proposed development are exacerbated by the inappropriate building form. The dwellings will present as two storey structures with insufficient modulation and articulation to effectively mitigate the adverse visual impacts resulting from the height, scale, form and siting of the dwellings.

The development is not compatible with the existing environmental character of the locality and will not relate sympathetically or harmoniously to adjoining development.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

COMPLIANCE TABLE		
Development standard	Proposed	Complies

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Building height 8m (max)	Dwelling A: 6.5m Dwelling B: 5.9m The following information is not a statutory control. This information is provided for the benefit of the Councillors: Height to roof ridge - Dwelling A: 8.1m Height to roof ridge - Dwelling B: 7.9m Height to eaves line – Dwelling A: 6.7m Height to eaves line – Dwelling B: 6.1m	YES YES
Built-upon area 60% (max)	49.98%	YES
Notional built-upon area	Dwelling A: 48.5 % Dwelling B: 55.4%	YES YES

Building Height (cl.46) & built-upon areas (cl.60(C)):

The development is compliant with the maximum building height and built upon area controls (refer compliance table).

Heritage /Conservation Areas (cl.61D – 61I):

Clause 61E of the KPSO requires Council to assess the effect of the proposed development on the heritage significance of the adjoining heritage items. Within the initial application Council's Conservation Planner and Urban Design and Heritage Consultant had no serious misgivings about the application. However, since these comments were made, a large amount of information has been collected about the significance of the surrounding items, and the significance of the subject site. This significance was recognised on 24 August 2004, when Council resolved to prepare an LEP to include this property and No.400 Mona Vale Road within the Pettit and Sevitt Heritage Group and Schedule 7 of the KPSO.

The design of the dual occupancy has been undertaken with a superficial analysis of the site and its surrounding heritage items. It is clear, when looking at the elevations of the proposed development, that the dwellings are markedly different in style and character from the surrounding heritage items. Their visual bulk and scale will detract from the amenity of the neighbouring homes and the siting of the replacement dwelling would conflict with the site layout developed by Ken Woolley.

The proposed development therefore fails to satisfy the heritage provisions of Ku-ring-gai Planning Scheme Ordinance.

Development Control Plan 43 - Carparking

Development Control Plan 43 requires the following provisions in regards to the proposed dual occupancy:

- Minimum 1 space per dwelling under 125m² in size.

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- Minimum 2 spaces per dwelling that exceeds 125m² in size.

Both Dwelling A & Dwelling B exceed 125sqm and therefore a minimum of 4 car spaces is required for the dual occupancy development. The proposal incorporates two double garages and therefore meets the requirements of Development Control Plan 43.

It was noted by the Development Control Engineer that the driveway between the street boundary and Dwelling A needs to be 2.9 metres wide to comply with the minimum requirements of AS2890.1-1993. Should the review be approved, this width could be ensured through conditions of consent.

The proposed garages also meet the design element requirements of Development Control Plan 43.

Council's Dual Occupancy Development Control Code

The policy sets out standards for dual occupancy development as detailed below:

COMPLIANCE TABLE		
Development control	Proposed	Complies
4.2 Streetscape:		
Roof pitch		
• 3m roof height-2 storey (max)	Dwelling A: 2.3m Dwelling B: 2.0m	YES YES
• Roof pitch 35° (max)	Dwelling A: 20° Dwelling B: 22°	YES YES
4.3 Visual and acoustic privacy:		
Visual privacy		
• Windows to habitable rooms set back 9m from neighbouring windows (min)	8.5 metres between study of Dwelling B and living room of dwelling A 4.0 metres between dining room of Dwelling A and neighbouring dwelling at No. 29 (window location not noted on plan)	NO NO
4.4 Solar access and design for climate:		
Solar access		
• Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min)	Dwelling A: impacted upon by dwelling 2. Less than 3 hours of sunlight received at midwinter Dwelling B: Unless impacted upon by neighbouring properties (not noted on plans) 3 hours will be received	NO YES
• Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min)	All neighbouring properties receive 3+ hours solar access	YES
Energy efficiency		

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<ul style="list-style-type: none"> 3.5 star NatHERS Rating (min) 	No NatHERS report submitted	UNKNOWN
4.7 Accessibility:		
Vehicular access and car parking dimensions <ul style="list-style-type: none"> Garage – 3.1m x 5.4m (min) 	Dwelling A: 6m x 6.1m Dwelling B: 6.2m x 5.5m	YES YES
4.9 Visual bulk:		
Building setbacks <ul style="list-style-type: none"> Front building line: Minimum setback: 12m (high side) Setbacks between buildings -7m or 5m (50% of building) (min) Side setback: Ground floor: 1.8m (min) 1st floor: 3.04m (min – based on site width x 15 %) Rear Dwelling: 3m setbacks at all sides Rear setback: 6.66m (min) 	Dwelling A: 9.0m 7.6m Dwelling A: 1.5m (western boundary) Dwelling B: 1.5m (eastern & western boundaries) Dwelling A: 2.8m (western boundary) Dwelling B: 2.8m (western boundary) Dwelling B: 1.5m (eastern and western boundaries) Dwelling B: 5m	NO YES NO NO NO NO NO
Building form <ul style="list-style-type: none"> Unrelieved wall length: 12m (max) Total building length: 24m (max) 	Dwelling A: 9m Dwelling B: 9.2m Dwelling A: 12.8m Dwelling B: 16.2m	YES YES YES YES
Built-upon area <ul style="list-style-type: none"> Total built upon area (max): 40% 	50% Dwelling A: 48.5% Dwelling B: 55.4 %	NO
Floor space ratio <ul style="list-style-type: none"> FSR (max): 0.5:1 1st floor – 40% 	0.483:1 Dwelling A: 57% Dwelling B: 44%	YES NO NO
Height of buildings <ul style="list-style-type: none"> Dwelling fronting street: 8m (max) Rear dwelling: 3.6m (max), overall height of 7.0m 	Dwelling A: 7.8m Dwelling B: 7.5m	YES NO

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<ul style="list-style-type: none"> Building envelope: 45° from horizontal at any point 3m above boundary 	Dwelling A North boundary: complies South boundary: complies East boundary: complies West boundary: 100-600mm	YES YES YES NO
<ul style="list-style-type: none"> Rear dwellings – measured 450 from horizontal at any point 1.5m above boundary 	Dwelling B North boundary: complies South boundary: complies East boundary: 200mm West boundary: 200mm	YES YES NO NO
Cut and fill (building works) <ul style="list-style-type: none"> Cut & fill: 900mm & Total 1800mm (max) 	Dwelling A: 800mm (cut) Dwelling B: 700mm (cut)	YES YES
Section 5: Landscaping & Open Space		
Total soft landscaping : 60% (min)	50% Dwelling A: 51.5% Dwelling B: 44.6 %	NO
Tree retention and refurbishment <ul style="list-style-type: none"> No. of Trees: (min) 	Tree refurbishment possible	YES
Cut & fill (landscaping) <ul style="list-style-type: none"> Cut & Fill: 900mm & Total 1800mm 	Dwelling A– 885mm (cut) - 615mm (fill) Dwelling B- 200-300mm (fill) - 685mm (cut)	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 A: 90m ² Dwelling B: 100m ² Dwelling A: 10m x 9m Dwelling B: 5m x 20m Dwelling A: compliant Dwelling B: compliant Dwelling 1: Open space receives less than 3 hours Dwelling 2: Open space receives in excess of 3 hours	NO YES YES YES YES YES NO YES

Visual privacy

The application proposes a distance of 8.5 metres between the study room of Dwelling B and the north-facing living room of Dwelling A. This will have consequent impact upon the visual privacy of this main living area of Dwelling A.

The application proposes a distance of 4.0 metres between the dining room of Dwelling A and the neighbouring dwelling at No. 29 Richmond Avenue. Given that fencing could easily assist in the

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retention of visual privacy and that both of the windows are at ground floor, this will not have any impact upon the visual privacy of No. 29 Richmond Avenue.

Accordingly, the proposal is not consistent with the relevant objectives 4.3 of the Dual Occupancy Development Control Code.

Solar access and design for climate

The application proposes a north-facing living room for Dwelling A, which is the main living area to the dwelling. This is impacted upon by the location and higher ground level of Dwelling B. Consequently, the living room will not obtain 3 hours or more sunlight in midwinter. It will only receive late afternoon sun.

The application has not included information with respect to the energy efficiency of either dwelling. It is expected that Dwelling B (being sited north), will obtain sufficient sunlight, although the level of solar access afforded to Dwelling A is not known.

The application has therefore failed to demonstrate compliance with the relevant objectives of 4.4 of the Dual Occupancy Development Control Code.

Visual bulk

The dual occupancy includes non-compliances with building setbacks, built-upon area, floor space ratio (first floor), dwelling height, and building envelope provisions.

The application proposes a front building line setback of 9.0 metres. This is in contrast to the 12m (minimum) required for the site and does not take account of the front setbacks for the properties at either side of the property (which provides a setback of 18.1 metres).

The proposed building setback is inappropriate given that it is located on the high side of the street. It is also inappropriate given the generous setbacks of adjoining properties.

The application also fails to provide an adequate ground floor setback for Dwelling A. 1.5 metres is proposed between the western boundary and the proposed dwelling as opposed to the minimum requirement of 1.8 metres. The lack of space contributes to the visual bulk and dominance of the dwelling when perceived from Richmond Avenue. This is exacerbated by the reduced front setback.

Dwelling B fails to provide setbacks of 3 metres for the southern, eastern, and western boundaries. This has particular impact upon the occupiers at Nos. 29 and 25 Richmond Avenue and also impacts upon the proposed Dwelling A. The resultant dwelling appears cramped and obtrusive. This is exacerbated by the higher levels of this property.

The application provides a rear setback of 5 metres, as opposed to the required 6.66m. This is not considered unsatisfactory as it will still provide a suitable private open space area and neighbouring dwellings are located at an oblique angle to the Dwelling B.

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The application provides for a total built-upon area of 50%, as opposed to the required maximum of 40%. This is not overly problematic given the requirement of the KPSO to not exceed 60% built upon area which overrides the provisions of the Dual Occupancy Code.

The application proposes excessive first floor FSR for both dwellings A (57%) and B (44%). This standard is designed to ensure that the first floor does not result in a box-shaped dwelling, with consequential high visual impact.

The application proposes a rear dwelling height of 7.5m to the roofline, as opposed to the permissible 7.0m. The proposed dwelling also intersects the building height plane on the south, east and western boundaries.

The above non-compliances cumulatively result in a visually bulky development, with inadequate space provided, in particular for Dwelling B. The impact will be felt both on the streetscape in which the development is markedly different as well as by neighbouring property owners and the residents of proposed Dwelling A.

Landscaping and open space

The application provides for 50% landscaped open space, as opposed to a minimum of 60%. No objection is raised to the non-compliance as adequate private areas and soft landscaping are provided within the site.

The application also includes non-compliances for the open space provisions associated with Dwelling A. This dwelling has a 90m² courtyard for open space. No objection is raised to this non-compliance.

Likely Impacts

The proposed development is likely to have a number of impacts. These include impact upon a proposed heritage item (the demolition of the existing dwelling), impact upon the Pettit and Sevitt Display Village Group and impacts arising from the design of the dwellings. These design issues include impact upon the streetscape, the impact arising from the visual bulk of the dwellings and the impact upon the visual and acoustic privacy of the surrounding residents and of the proposed occupiers. Furthermore, the application provides for unsuitable solar access to proposed Dwelling A, with a resultant impact upon the usability of Dwelling A's private open space.

The proposed development also fails to maintain the more significant trees on site. This includes the loss of a Scribbly Gum. The landscaping of these properties and the retention of any noteworthy trees was seen as an integral part of the overall design philosophy for the Pettit and Sevitt Group. The tree replenishment proposed as part of the application does not adequately compensate for this loss.

Suitability of The Site

The site would initially appear appropriate for development as a dual occupancy development under the provisions of State Environmental Planning Policy 53. It is within reasonable distance to

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services and public transport, which provides access to a full range of services and provisions. There are no significant site building hazards such as flooding, nor is the land known to be contaminated.

The site has been identified as having bushfire hazard and in accordance with the provisions of the Environmental Planning & Assessment Act consultation with the NSW Rural Fire Services was carried out during the assessment period. Comments received from the service indicate they have no objection to the proposal, subject to a number of conditions.

However, the site is located within the midst of an architecturally significant group of dwellings, and the site is now identified as being of significant heritage interest itself. This extends to not simply the dwelling but to the setting and landscaped areas. A draft LEP is now in progress to ensure that the building is listed within Council's KPSO.

Any Submissions

Submissions received in response to the proposed development have been discussed previously in this report.

Public Interest

Whilst the proposal would provide housing choice as required under SEPP53, the development fails to accord with the provisions of SEPP53.

The proposed dual occupancy fails to provide for the retention of a draft heritage listed building, for which a great deal of evidence has been provided that clearly substantiates the dwelling's worth. The proposed development also fails with respect to the impact of the dual occupancy on the neighbouring listed group. It has not been designed to respect and accord with the development pattern of the area.

Insufficient details have been provided (in the form of a suitably detailed site analysis) to adequately consider the merits of the proposal. The proposal also fails with regard to the impact upon the streetscape, the impact of the visual bulk, the visual and acoustic privacy impacts upon neighbouring occupiers as well as prospective occupiers of the resultant dwellings, and fails to provide sufficient solar access to the resultant Dwelling A. The proposal also fails to retain trees on site, and includes insufficient landscaping plans that show beyond doubt the impact of the development.

Therefore, the application is not within the public interest.

Any other Relevant Matters Considerations Not Already Addressed

Section 94 contributions are applicable for an increase of one dwelling. In the case that the application was approved a suitable condition of consent would be imposed requiring payment of these contributions prior to the release of a Construction Certificate.

CONCLUSION

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While the proposal aims to make more efficient use of land as envisaged by SEPP53, the application fails to provide for development that takes account of the constraints and opportunities of the area, and the heritage qualities of the area and the site itself.

The application is unsatisfactory having regard to the provisions of s.79C of the Environmental Planning and Assessment Act 1979.

RECOMMENDATION

That the Section 82A Review of Development Application 0795/02 for the demolition of the existing dwelling and garage and the construction of a detached dual occupancy dwellings at Lot 5, DP220538, being 27 Richmond Avenue, St Ives, be refused for the following reasons:

Heritage

1. The demolition of No. 27 Richmond Avenue and the erection of the proposed dual occupancy development, results in a detrimental impact upon the heritage value of the Pettit and Sevitt group

Particulars:

- (1) No. 27 Richmond Avenue is the subject of a draft LEP (No. 29) to list it as a heritage item within Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance.
- (2) The development is unsatisfactory having regard to Clause 61E of the KPSO, and pursuant to Clause 32(a)(ii) of SEPP53, in that, the application fails to give adequate regard to the character of the nearby group of heritage listed Pettit and Sevitt Group Project Homes and similar buildings. In particular the:
 - (i) The design of the dual occupancy is significantly different to surrounding development, which are listed within KPSO as heritage items.
 - (ii) The visual bulk and scale of the dwellings contrast against the neighbouring development; and
 - (iii) The placement of the dwellings parallel to the road is not consistent with the pattern of dwellings angled to the street.
- (3) Clause 32(a)(ii) of SEPP53 requires that the proposed development, where possible, retains, complements and is in harmony with any relevant heritage items that are identified within the local environmental plan.
- (4) The proposed development is set among a number of heritage items listed in the KPSO. These items are of a scale and design in complete contrast with the proposed development.
- (5) The development is contrary to Schedule 9 of the KPSO in that the dwellings' form, articulation, size and bulk conflicts with the surrounding Pettit and Sevitt group. This group has been designed so as to be consistent in materials, characteristics, scale and bulk. They were constructed following detailed consideration of design. The merit of this is recognised in the listing of the group. The proposed dwellings do not respond to the design philosophy.

Insufficient Information

2. Pursuant to Clause 31 and Schedule 5 of SEPP53, the application is not supported by an adequate site analysis.

Particulars:

- (1) The 'Ground Floor Layout/Site Layout', accompanied by details within the Statement of Environmental Effects fails to identify:
 - i. species and heights of existing trees;
 - ii. the location of trees and their species and heights on adjoining properties;
 - iii. microclimates (prevailing winds);
 - iv. the location of the existing building is scarcely discernible;
 - v. no features of the site are noted;
 - vi. views to and from the site;
 - vii. overshadowing from neighbouring structures;
 - viii. adjoining private open space;
 - ix. living rooms and other habitable rooms within the neighbouring dwellings and their orientation to the site;
 - x. views and solar access enjoyed by neighbouring properties.

Streetscape

3. Pursuant to Clause 3(2)(b) and the objectives of Clause 15 of SEPP53, the application fails to achieve built form that responds to the characteristics of the site and its location, and has not been designed with a full understanding of the opportunities and constraints of the site. In failing to address these points the proposed development has consequential impact upon the streetscape.

Particulars:

- (1) The design of the proposed dwellings does not suggest the site-and-location responsive built form will be achieved.
- (2) The failure of the design to address basic contextual responses from the area (such as the house character and the setting or placement of surrounding dwellings) suggests that constraints of the site have not been analysed and understood.
- (3) The developments on the north side of Richmond Avenue are generally of single storey form and are set well back in their respective allotments. The front gardens are open in nature with limited front fencing. The proposed development, in particular, proposed Dwelling A, involves a 2 storey structure which is set within 9-11 metres of the street and within that part of the site that provides an important element of the open landscape setting that characterises the site and surrounding development. As a consequence, it will appear as an incongruous element that intrudes into the streetscape and will detract from the visual amenity, character and ambience of the locality.
- (4) The location of Dwelling B introduces an uncharacteristic built form into a location that has consequential adverse impacts on the neighbouring properties.

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4. **Pursuant to Clause 32(a)(i) of SEPP53, the proposed development will result in adverse impact upon the streetscape.**

Particulars:

- (1) Clause 32(a)(i) of SEPP53 requires that the proposed development contributes to an attractive residential environment with clear character and identity. The proposed development does not achieve this.
- (2) The design, scale, and siting of the two dwellings results in a development which is unsympathetic with the surrounding area and fails to create a clear character of identity. This is regardless of the heritage value of the surrounding properties.

Visual bulk

5. **Pursuant to Clause 32(h) of SEPP53, the proposed development will result in significant visual bulk with consequential effect upon the streetscape, adjoining properties and future residents of the proposed dwellings. This is with particular regard to the height, scale, building form and siting of the proposed development.**

Particulars:

- (1) Clause 32(h) of SEPP 53 requires that reasonable neighbour amenity and appropriate residential character is maintained through consideration of the visual bulk of a development. This is separate and distinct from the streetscape provisions of Clause 32(a) of SEPP 53.
- (2) The height, scale, form and sitting of both dwellings fails to maintain neighbour amenity and residential character. Due regard has not been given to the characteristics of surrounding development. The application also fails on a number of counts with the Council's Dual Occupancy Code, including setback, FSR (First Floor Ratio) and height. These non-compliances cumulatively provide a useful indicator of the impact of the proposal.
- (3) The impacts associated with the inappropriate height, scale and siting of the proposed development are exacerbated by inappropriate building form. The dwellings will present as two storey structures with insufficient modulation and articulation to effectively mitigate the adverse visual impacts resulting from the height, scale, form and siting.

Acoustic and visual privacy

6. **The proposal fails to provide for adequate visual and acoustic privacy, particularly having regard to the visual and acoustic privacy impacts on:**
- (a) **25 Richmond Avenue, St Ives**
 - (b) **29 Richmond Avenue, St Ives**
 - (c) **Future residents of the proposed development**

Particulars:

Item 3

- (1) Clause 32(b) of SEPP 53 requires due consideration of the visual and acoustic privacy of surrounding residences. The siting of the existing residence at No.27 Richmond Avenue in relation to its neighbours at Nos. 25 Richmond Avenue and 29 Richmond Avenue results in good visual and acoustic privacy. The dwellings were sited for this purpose, and so as to retain garden settings and provide good view-sharing;
- (2) The orientation of No.25 Richmond Avenue provides for views over the foreground setback of No.27 Richmond Avenue. The proposed development will provide for views over the vehicle access-ways and garaging of the new houses, and the front entries to both houses. The windows of No.25 Richmond Avenue and the resultant detached dual occupancy are aligned and provide for sight lines between the properties. The design of the proposed dwellings has not taken the constraints of the area into account.
- (3) The proposed development (in particular Dwelling B) will adversely impact upon privacy to the east-facing private rear courtyard of No.29 Richmond Avenue,
- (4) There will be the potential for overlooking from the upper level of Dwelling A into the adjoining property at 29 Richmond Avenue.
- (5) Dwelling B is to be located in the rear garden area of the subject site and will intrude into the open aspect that is presently experienced from the adjoining properties across their rear gardens.
- (6) The future residents of the proposed development will experience detrimental impact upon their visual and acoustic privacy. The proposed small courtyard area for Dwelling A is overlooked by Dwelling B and is also overlooked by No.25 Richmond Avenue. It is also in close proximity of the outdoor living area for No.29 Richmond Avenue, with consequent impact upon acoustic privacy. The privacy of the living area within Dwelling A is also jeopardized by the location of windows at close distance in Dwelling B.

Solar Access

- 7. Pursuant to Clause 32(c) of SEPP53, and pursuant to Council's Dual Occupancy Code (Objective 4.4) the proposed development is considered to provide for insufficient solar access to proposed Dwelling A.**

Particulars:

- (1) The greater part of the courtyard to the north of proposed Dwelling A, which is the principal area of private open space associated with that dwelling, will be in shadow at mid-winter for the greater part of the 9:00am to 3:00pm period.
- (2) The proposed living room to Dwelling A will be in shadow at mid-winter for the greater part of the 9:00am to 3:00pm period.
- (3) No information has been submitted demonstrating compliance with Council's Energy Efficiency policies (contained within point 4.4.2 of Council's Dual Occupancy Code).

Loss of vegetation

- 8. Pursuant to Clause 2(c) of Schedule 9 of the KPSO, the application is considered to have unacceptable impact upon the existing vegetation and trees on site, in particular having**

Item 3

regard to the location of the proposed Dwelling B and the proposed excavation adjacent to the Eucalyptus haemastoma (Scribbly Gum).

Particulars:

- (1) The plans provided are unclear as to what trees are to be removed.
- (2) The involvement of landscape architect Bruce Mackenzie in determining the landscape character for the Richmond Avenue group added to the richness of the houses. The retention of trees on the site, such as the scribbly gum, establish the long term character of the properties. The layout of the two dwellings has failed to take the above into account.

K Lithgow
Executive Planner

M Prendergast
**Manager – Development
Assessment**

M Miocic
**Director – Environment &
Regulatory Services**

Attachments: Site Location Plan
 Elevations
 Site Layout
 Section
 Shadow Diagrams
 Landscape Plan

KU-RING-GAI ACCESS ADVISORY COMMITTEE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To provide Council with the Minutes of the Ku-ring-gai Access Advisory Committee of 22 July 2004.
BACKGROUND:	The Ku-ring-gai Access Advisory Committee provides a forum between Ku-ring-gai Council, the community representatives and service providers on access issues in the Ku-ring-gai area. The committee meets every two months.
COMMENTS:	General access issues were discussed during the meeting with a number of actions flowing from the Ku-ring-gai Access Advisory Committee meeting.
RECOMMENDATION:	That the Minutes of the Ku-ring-gai Access Advisory Committee of 22 July 2004 be received and noted.

PURPOSE OF REPORT

To provide Council with the Minutes of the Ku-ring-gai Access Advisory Committee of 22 July 2004.

BACKGROUND

The Ku-ring-gai Access Advisory Committee provides a forum between Ku-ring-gai Council, the community representatives and service providers on access issues in the Ku-ring-gai area. The committee meets every two months.

COMMENTS

General access issues were discussed during the meeting with a number of actions flowing from the Ku-ring-gai Access Advisory Committee meeting.

CONSULTATION

Representatives from all departments of Council have input in agenda items and provide reports to the Committee.

FINANCIAL CONSIDERATIONS

Not applicable

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable

SUMMARY

Not applicable

RECOMMENDATION

That the Minutes of the Ku-ring-gai Access Advisory Committee of 22 July 2004 be received and noted.

Martin Butcher
COMMUNITY DEVELOPMENT OFFICER
AGED & DISABILITY SERVICES

Janice Bevan
DIRECTOR COMMUNITY DEVELOPMENT

Attachments: Minutes of Ku-ring-gai Access Advisory Committee Meeting 28 July 2004

HERITAGE ADVISORY COMMITTEE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Councillors to determine a new Deputy Chairperson for the Heritage Advisory Committee; Membership of the Committee; Meeting dates for the Committee.
BACKGROUND:	The position of Deputy Chairperson is vacant. Nominations have now been received from community members. The date initially decided for meeting creates workload issues in the Planning Department.
COMMENTS:	The former Deputy Chair has been elected as Chair. The terms of reference of the Committee require that Council endorse community representatives on the Committee following receipt of expressions of interest. The meeting date of the Committee was initially set as the third Monday. However, as this is the day before the Planning Committee and both Committees are serviced by the Planning Committee, a new date is sought.
RECOMMENDATION:	That a new Deputy Chairperson be elected. That community representatives be selected and that the meeting date be the fourth Monday of the month, with meetings being held in October, February, April, June and August.

PURPOSE OF REPORT

For Councillors to determine a new Deputy Chairperson for the Heritage Advisory Committee; Membership of the Committee; Meeting dates for the Committee.

BACKGROUND

Deputy Chairperson

An election was held for the position of Chairperson at the Council meeting on 7 September, 2004. Councillor Bennett, who was previously deputy Chairperson of the Committee has been elected as Chairperson. The position of Deputy Chairperson is now vacant.

Membership

The Charter of the Committee (copy attached) sets out membership. In addition to staff and Councillors, there are representatives of nominated groups and community representatives.

In the case of representatives of nominated expert groups, these representatives are determined by the groups themselves who are then required to notify Council. To date written advice has been received from the Historical Society confirming Jennifer Harvey as their representative. Despite phone calls to follow up correspondence, written nominations have not yet been received from the National Trust or the Royal Australian Institute of Architects, although the National Trust verbally indicated that Zeny Edwards will be their nominee. Ian Stutchbury was previously representative of the RAIA and has nominated himself. Council awaits formal notification from National Trust and RAIA.

Selection of community representatives is by way of self nomination following a call for expressions of interest and appointment by Council. Seven nominations have now been received from community members. This includes a nomination from Ian Stutchbury. Nominations have been received from: Ian Stutchbury, Vanessa Mack, Anne Carroll, Roslyn MacDonald, John Guy, Barbara Walker and Janine Kitson. Their nominations are attached. Because the nominations include details that are considered personal information under the Privacy Act, they are attached as confidential for the information of Councillors.

Council must now decide to appoint community representatives from the expressions of interest received. The Charter of Responsibility of the Committee requires a minimum of 2 community representatives, but sets no maximum.

Meeting dates

Because the Committee has community representatives, the meeting time is between 6.30pm and 8.30pm. The date initially decided for meeting when all Committees were considered was proposed to be the third Monday on a bi-monthly basis. This creates workload issues in the Planning Department because the Planning Committee meets the following evening. Staff therefore request that the date be changed. Examination of the corporate calendar reveals that there are no meetings on the fourth Monday of the month.

COMMENTS

Not applicable.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The corporate calendar has been examined to ascertain that there are no other meetings scheduled for the fourth Monday of the month.

SUMMARY

The former Deputy Chair has been elected as Chairperson requiring election of a new Deputy.

The terms of reference of the Committee require that Council appoint community representatives on the Committee following receipt of expressions of interest. Nominations are attached for Council consideration.

The meeting date of the Committee was initially set as the third Monday. However as this is the day before the Planning Committee and both Committees are serviced by the Planning Committee, a new date is sought.

RECOMMENDATION

- A. That a new deputy Chair be elected.
- B. That community representatives be appointed from the nominations received.
- C. That the regular meeting date of the Heritage Advisory Committee be the fourth Monday of the month, with meetings being held in October, February, April, June, August.

Leta Webb
Director
Planning & Environment

Attachments: **Attachment 1 - Heritage Advisory Committee - Charter of Responsibility.**
 Attachment 2 - Nominations - Confidential attachment.

MEETING CYCLE - SEPTEMBER & OCTOBER 2004

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To consider amending the meeting cycle for the remainder of September and October 2004 because of the school holidays.
BACKGROUND:	Council has in the past resolved to amend its meeting cycle to take into account the school holiday break.
COMMENTS:	Option for Council's consideration.
RECOMMENDATION:	That Council's meeting cycle for the remainder of September and October 2004 be amended.

PURPOSE OF REPORT

To consider amending the meeting cycle for the remainder of September and October 2004 because of the school holidays.

BACKGROUND

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

The scheduled meeting cycle for meetings for the remainder of September and the schedule for October 2004 is:

28 September - Ordinary Meeting of Council

12 October - Ordinary Meeting of Council

26 October - Ordinary Meeting of Council

COMMENTS

The next school holiday period is from 27 September to 8 October 2004, inclusive. The scheduled Council meeting for 28 September 2004 falls within this period.

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

Also, the Local Government Association Conference 2004 is to be held from Saturday, 23 October to Wednesday, 27 October 2004 and a number of Councillors are attending, leaving Council without enough Councillors to hold a meeting on 26 October.

Under the circumstances, Council could amend the meeting cycle for late September and October to:

28 September - Cancelled

12 October - Ordinary Meeting of Council

19 October - Ordinary Meeting of Council

26 October - Transferred to 19 October 2004

This would ensure there are sufficient Council meetings to transact Council business.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

That Council amend its meeting cycle for the remainder of September and October 2004, as follows:

28 September - Cancelled

12 October - Ordinary Meeting of Council

19 October - Ordinary Meeting of Council

26 October - Transferred to 19 October 2004

Geoff O'Rourke
SENIOR GOVERNANCE OFFICER

Brian Bell
General Manager

ORGANISATION STRUCTURE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

Section 333 of the *Local Government Act 1993* requires that “The organisation structure may be re-determined by the council from time to time. It must be re-determined within 12 months after any ordinary election of the council.”

RECOMMENDATION:

- A. That the existing directorate structure remain as is, noting that the functional responsibilities of the former Senior Manager Corporate and Communications are transferred to the General Manager, the Director Finance and Business and the Director Community Services as noted in this report.
- B. That the title of the Director Environment and Regulatory Services be changed to Director Development and Regulation.

PURPOSE OF REPORT

Section 333 of the Local Government Act 1993 requires that Council re-determine its organisation structure within 12 months of its election.

BACKGROUND

The current Organisation Structure of Council is shown by Directorate, with attendant responsibilities, in Attachment 1

The resignation of the former Senior Manager Corporate and Communications in 2003 together with the appointment of a Corporate Lawyer in that same year, has led to the General Manager taking the direct line responsibility for media relations matters and the administration of the Corporate Lawyer.

Following the appointment of the former Chief Financial Officer to the position of Director Finance and Business in 2003, the direct line responsibilities for information technology and records management were transferred to that Directorate. These functions had previously been with the Senior Manager Corporate and Communications.

Responsibility for the customer service centre and events management, previously with the Senior Manager Corporate and Communications until her resignation, was transferred to the Director Community Services.

COMMENTS

The General Manager is of the view that the existing directorate structure is operating satisfactorily.

The reallocation of responsibilities noted above, to the General Manager, Director Finance and Business and Director Community Services is working well and should be continued.

The title of the Director Environmental and Regulatory Services is considered to be cumbersome and clashes to an extent with the title of the Director Environment and Planning. It is recommended that the Director title be changed to Director Development and Regulation.

The recommended Organisation Structure is shown in Attachment 2.

CONSULTATION

The General Manager discussed the recommended organisation structure with Councillors at the Policy Review Committee meeting on 16 August 2004.

FINANCIAL CONSIDERATIONS

There are no extra financial considerations resulting from the recommended organisation structure.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

All council directorates have been consulted by the General Manager during his consideration of the organisation structure.

SUMMARY

Section 333 of the Local Government Act 1993 requires Council to re-determine its Organisation Structure within 12 months of its election.

With the resignation of the former Senior Manager Corporate and Communications in 2003 and the appointment of a corporate lawyer, the responsibilities for these functions have been allocated to the General Manager, Director Finance and Business and Director Community Services. These arrangements are working well.

The General Manager has consulted across all council directorates and presented his recommendations to the Policy Review Committee on 16 August 2004.

There are no extra financial considerations for council resulting from the recommended organizational structure.

RECOMMENDATION

- A. That the existing directorate structure remain as is, noting that the functional responsibilities of the former Senior Manager Corporate and Communications are transferred to the General Manager, the Director Finance and Business and the Director Community Services as noted in this report.
- B. That the title of the Director Environment and Regulatory Services be changed to Director Development and Regulation.

Brian Bell
General Manager

Attachments: **1. Current Organisation Structure**
 2. Recommended Organisation Structure

NOTICE OF MOTION

RECYCLING IN LOCAL SCHOOLS

Notice of Motion from Councillor E Malicki dated 7 September 2004.

I move:

That a report be brought to Council suggesting ways Council can encourage local schools to recycle their paper, plastics, aluminum cans and other recyclables.

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Elaine Malicki
Councillor for Comenarra Ward