



**ORDINARY MEETING OF COUNCIL  
TO BE HELD ON TUESDAY, 19 OCTOBER 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](http://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 12 October 2004

Minutes to be circulated separately

## PETITIONS

## GENERAL BUSINESS

- |      |   |          |
|------|---|----------|
| GB.1 | <b>23 Ryde Road, Pymble - Demolition of the Existing Dwelling and the Construction of a Commercial Building</b> | <b>1</b> |
|------|---|----------|

Ward: Gordon  
Applicant: Sheer Development - Martin Mokhtari  
Owner: Sheer Development Pty Ltd

**Recommendation:**

**GB.2 1 Berrillee Street, Turramurra - Detached Double Carport, Additions and Alterations to an Existing Dwelling** **55**

Ward: Wahroonga  
Applicant: J. Willmore  
Owner: D. and S. Farrugia

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**Recommendation:**

Refusal

- GB.3 **6 Eastern Arterial Road, St Ives - Torrens Title Subdivision of the Site into Two Allotments** **70**

File: DA0243/04

Ward: St Ives

Applicant: Mr Ashley Webb C/- Glendinning Minto and Associates

Owner: Mr Wallace Webb and Mrs Margaret Webb

Determination of a Development Application for the subdivision of 6 Eastern Arterial Road, St Ives, to create two (2) torrens title allotments.

**Recommendation:**

Approval

- GB.4 **57 Merrivale Road, Pymble - Option to Renew Lease** **84**

File: P51926

To advise Council of the Playgroup Association of NSW exercising its option to renew the lease for the premises located at 57 Merrivale Road, Pymble to operate the Pymble Playgroup.

**Recommendation:**

That Council authorise the exercise of the option by the Playgroup Association of NSW for the premises at 57 Merrivale Road, Pymble.

- GB.5 **Report on Banning Smoking at Sporting Venues** **87**

File: S03433

To respond to Councillor Malicki's Notice of Motion dated, 31 May 2004, "that a report come to Council as soon as possible outlining steps that Council could take to ban smoking at sporting venues and in public places".

**Recommendation:**

That Council supports initiatives to address concerns about the effects of exposure to second hand smoke, as recommended at the end of this report.

**GB.6 2004 Financial Assistance Grants to Community Groups**

**92**

File: S03000

To advise Council of applications received from community groups for financial assistance in 2004, and to recommend to Council subsequent funding allocations.

**Recommendation:**

That Council approve recommendations A-C at the end of this report

**GB.7 Policy for the Payment of Expenses and Provision of Facilities to Councillors**

**198**

File: S03779

To consider proposed amendments to Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors.

**Recommendation:**

That public notice be given of the proposed amendments for at least 28 days pursuant to Section 253 of the Local Government Act and that the matter be further considered after that period.

**EXTRA REPORTS CIRCULATED AT MEETING**

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

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

**QUESTIONS WITHOUT NOTICE**

**INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS**

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

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

- C.1 **48 St Johns Avenue, Gordon Progress Report**  
(Section 10A(2)(c) - Information that would confer a commercial advantage)

**1**

File: S03423

Report by Director Finance & Business dated 30 September 2004.

Brian Bell  
**General Manager**

**\*\* \*\* \***

**Environmental Planning & Assessment Act 1979  
(as amended)**

**Section 79C**

*1. Matters for consideration - general*

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

*a. The provisions of:*

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

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

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

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## DEVELOPMENT APPLICATION

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### *SUMMARY SHEET*

<b>REPORT TITLE:</b>	23 RYDE ROAD, PYMBLE - DEMOLITION OF THE EXISTING DWELLING AND THE CONSTRUCTION OF A COMMERCIAL BUILDING.
<b>WARD:</b>	Gordon
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	968/03
<b>SUBJECT LAND:</b>	23 Ryde Road, Pymble
<b>APPLICANT:</b>	Sheer Development - Martin Mokhtari
<b>OWNER:</b>	Sheer Development Pty Ltd
<b>DESIGNER:</b>	Krikis Tayler Architects
<b>PRESENT USE:</b>	Single residential dwelling
<b>ZONING:</b>	3(b) (Business - Commercial Services)
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	DCP 14 - Development in Business Zones, DCP 40 - Waste Management, DCP 43 - Car Parking, DCP 31 - Access, DCP 28- Advertising signs
<b>COMPLIANCE WITH CODES/POLICIES:</b>	No
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP No.55 – Remediation of Land SEPP No.64 – Advertising and Signage
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Yes
<b>DATE LODGED:</b>	4 August 2003
<b>40 DAY PERIOD EXPIRED:</b>	13 September 2003
<b>PROPOSAL:</b>	Demolition of the existing dwelling and the construction of a commercial building.
<b>RECOMMENDATION:</b>	Approval.

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<b>DEVELOPMENT APPLICATION N<sup>o</sup></b>	<b>968/03</b>
<b>PREMISES:</b>	<b>23 RYDE ROAD, PYMBLE</b>
<b>PROPOSAL:</b>	<b>DEMOLITION OF THE EXISTING DWELLING AND THE CONSTRUCTION OF A COMMERCIAL BUILDING.</b>
<b>APPLICANT:</b>	<b>SHEER DEVELOPMENT - MARTIN MOKHTARI</b>
<b>OWNER:</b>	<b>SHEER DEVELOPMENT PTY LTD</b>
<b>DESIGNER</b>	<b>KRIKIS TAYLER ARCHITECTS</b>

## PURPOSE FOR REPORT

To determine a development application for the demolition of the existing dwelling and the construction of a commercial building.

## EXECUTIVE SUMMARY

<b>Issues:</b>	Height and car parking.
<b>Submissions</b>	Five submissions received.
<b>Land &amp; Environment Court:</b>	N/A
<b>Recommendation:</b>	Approval

## HISTORY

The site contains a single storey dwelling erected approximately 50 to 60 years ago. There is no other history of the site relevant to the development application.

## THE SITE & SURROUNDING DEVELOPMENT

### The site

Zoning:	3(b) (Business - Commercial Services)
Visual Character Study Category:	Commercial and Business
Lot Number:	4
DP Number:	505176
Area:	2070m <sup>2</sup>
Side of Street:	Western
Cross Fall:	To rear
Stormwater Drainage:	To watercourse at rear of site
Heritage Affected:	No
Required Setback:	8m
Integrated Development:	Yes – Bush fire prone vegetation buffer.
Bush Fire Prone Land:	Yes
Endangered Species:	No
Urban Bushland:	No

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Contaminated Land: No

The site is located on the northern side of Ryde Road, two properties west of West Street, Pymble. The site is irregular in shape with a handle width at the front of 15.55 metres. To the rear, the site has a width of 30.48m and a depth of 77.64 metres. The property falls from the street towards a natural watercourse at the rear of the site.

The existing single storey dwelling is sited within the handle at the front of the property. The rear of the property behind the dwelling is overgrown and stores an array of materials including derelict machinery and parts, building materials and obsolete white goods. A watercourse traverses the rear of the site.

### **Surrounding development**

The surrounding area is predominantly commercial in nature consisting of single to multi-storey buildings. The surrounding buildings include a multi-storey commercial building to the south-west of the site, a service station to the north-east, and several multi-storey commercial buildings to the north and north-east. The architectural style of surrounding commercial buildings is mixed. The development on properties on the southern side of Ryde Road is predominantly detached residential dwellings with a mix of commercial development as Ryde road intersects with the Pacific Highway.

## **THE PROPOSAL**

The proposal is to demolish the existing single storey dwelling and construct a new commercial building. The development will consist of three storeys of commercial space and five basement car parking levels split over three levels. The building has the appearance of three storeys from the main frontage of the property along Ryde Road, however, due to the slope of the land, will appear as a six storey building at the rear.

The proposed development will comprise a total floor space area of 2070m<sup>2</sup> and will have a floor space ratio of 1:1. The development will provide 60 off-street car parking spaces. Access to the site will be from Ryde Road, details of the development are as follows:

### **Basement Floor Level B5**

This level will be at RL 81.9 and will contain 15 car parking spaces. This level is also to contain ramp access up to Level B4. In addition, this level will also contain a lift pit and stair access to Level B4 where lift access is available to the rest of the building.

### **Basement Floor Level B4**

This level will be at RL 83.25 and will contain 12 car parking spaces. This level is also to contain ramp access from Level B5 and up to Level B3. In addition, this level will also contain stair and lift access to the rest of the building.

### **Basement Floor Level B3**



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This level will be at RL 84.6 and will contain 13 car parking spaces. This level is also to contain ramp access from Level B4 up to Level B2.

**Basement Floor Level B2**

This level will be at RL 85.95 and will contain 6 car parking spaces, including one disabled parking space. This level is also to contain ramp access from the Ryde Road entry and up to level B1. In addition, this level will also contain a loading dock, garbage room, lift access, toilet and shower facilities.

**Basement Floor Level B1**

This level will be at 87.3 and will contain 14 car parking spaces. This level is also to contain ramp access from Level B2.

**Ground Floor Level**

This will be at RL 90.00 and will contain 690m<sup>2</sup> of office space with a balcony along the north-west façade, pedestrian access from Ryde road, plant room, toilet facilities, lift access and landscaped garden areas at the front entrance.

**First Floor Level**

This level will be at RL 93.6 and will contain 690m<sup>2</sup> of office space with a balcony along the north-west façade, plant room, toilet facilities and lift access.

**Second Floor Level**

This level will be at RL 97.2 and will contain 690m<sup>2</sup> of office space with a balcony along the north-west façade, plant room, toilet facilities and lift access.

A pylon sign to a height of 5m is proposed at the front of the property, north-east of the driveway. The sign only contains the number "23".

The site will be landscaped including the re-vegetation and stabilisation of the banks of the watercourse.

**CONSULTATION – COMMUNITY**

The proposal was advertised and notified in accordance with the Ku-ring-gai Notification Policy between 20 August 2003 and 19 September 2003.

1. Jason Leong of Kingsmede Pty Ltd - 203 New South Head Road, Edgecliff
2. Mal Brown of Storm Consulting - Suite 3, 6 West Street, Pymble
3. Greg Graham of Zieman, Parker and Graham Pty Ltd - PO Box 312, Cremorne
4. Wayne Hann of Corporate Property Pty Ltd - 249 Pitt Street, Sydney

5. W Willis of Willawood Pty Ltd - 4 West Street, Pymble

The submissions raised the following issues:

***Increasing the amount of commercial office space in the area will only add to the congestion and place further strain on the local infrastructure.***

The site is zoned Business (Commercial Services) under the KPSO. Commercial buildings are permitted within this zone. The floor space proposed complies with the KPSO and DCP 14 – Development in Business Zones. Council’s Development Engineers and the Roads and Traffic Authority (RTA) raise no concerns in terms of traffic impacts. The RTA has provided 5 mandatory conditions to form part of any consent granted. **(Refer to condition nos 51, 52, 110 to 112)**

***The siting of the proposed development is within 7 metres of the building at No.6 West Street. This does not comply with the requirements within DCP 14 – Business Centres.***

Clause 14.3(c) of DCP 14 – Development in Business Zones requires sites with street frontages of 20 metres or more within the Business Zone B1, to have a 7 metre setback from buildings on the same or adjoining land. The subject site has a street frontage of less than 20 metres at 15.55 metres, therefore the buildings may have a setback from adjoining buildings of less than 7m. There is no requirement in DCP 14 for minimum separation distances from adjoining buildings on sites with a frontage of less than 20 metres.

***Development consent was granted to install four windows along the southern wall of the building at No.6 West Street. The proposed development will eliminate an unreasonable amount of natural light from these windows.***

Development consent No.1431/99 was granted for the refurbishment of the commercial building including the installation of windows along the southern elevation at No 6 West Street. The windows have not been constructed and the consent expired on 13 December 2001.

The windows will not receive direct light as they are located on the southern side of a building. The proposed development will not result in the further shading of the existing building at No.6 West Street as the building of 6 West Street is north of the proposed building.

***A zero setback is shown on the ground floor of the western elevation but is not indicated on the site plan. This zero setback is unacceptable as it will compromise access to natural light.***

Whilst, the level does have a zero metre setback, the building above ground does not extend to the boundary. A retaining wall proposed in the north-eastern corner of the site extends to the boundary. The retaining wall will be adjacent the north-western wall of No 4 West Street. The retaining wall will be approximately 6m from the objector’s building at No 6 West Street. The retaining wall adjoins an existing retaining wall along the northern and eastern boundaries and will allow for the filling of the site to ensure site levels are consistent with the site levels of the adjoining properties at No 21 Ryde Road and No 4 West Street.

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***The proposed driveway is too narrow to allow vehicles to safely enter the property. There is also a storm-water pit situated on the boundary of 23 and 25 Ryde Road that is in the path of the proposed driveway.***

The minimum width of 6m for the driveway is required by the RTA, splaying out to 7m at the kerbline of Ryde Road. A condition of consent will be imposed to ensure this is achieved (**refer to Condition No 51**).

***The Statement of Environmental Effects is inconsistent with the plans.***

The inconsistencies between the original Statement of Environmental Effects with the architectural plans have been rectified. The inconsistencies related to setbacks along the northern boundary. The confirmed setbacks along the northern boundary are 1m to the stairwell and 3.5m to the building.

***The proposed building is clearly a six storey building in an area zoned for three storeys.***

It is acknowledged that the proposed building contains six storeys. The appearance of the building from the main frontage of the site along Ryde Road will be three storeys. The height of the building is consistent with the height of adjoining buildings, particularly the adjoining Harper-Collins building at No 25 Ryde Road. The building has been designed to accommodate the slope of the site at the rear. The topography of the land can accommodate an increased building height without causing an unreasonable impact on adjoining properties. Clause 30A(3) of the KPSO allows for the three storey height control to be exceeded if the Council is satisfied that the existing topography of the site will permit the additional height and that the additional height is consistent with the objectives of Clause 30A(1) of the KPSO. The additional height is consistent with the objectives of the control and the additional height is only possible due to the change in topography across the site.

***The height of the building exceeds 12 metres. A SEPP1 objection should not be granted for anything greater than 10% exceedance.***

SEPP 1 provides for the variation of development standards to ensure that development is not hindered for unnecessary or unreasonable numerical controls. Acceptable variation limits are not provided for in SEPP 1. The approval of the SEPP 1 objection will be based on the necessity or reason for the development standard and whether or not the co-ordination and economic use of the site will be hindered. As discussed under the KPSO, a variation to the height control is supported.

***The total floor space identified as 2,070m<sup>2</sup> is actually 2,400m<sup>2</sup> and exceeds the floor space ratio limits prescribed in DCP 14.***

The total floor space calculation of 2070m<sup>2</sup> has been reviewed and is accurate. The calculation of total floor space does not include car parking, lift shafts, balconies and plant rooms. The total floor space calculation also excludes public arcades and thoroughfares. A condition of consent will be imposed to ensure compliance with the proposed floor space area (**Refer to Condition No 146**).

***The provision of 60 car parking spaces is well below the prescribed minimum.***

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DCP 43 – Car Parking, requires a minimum of 63 car parking spaces based on a total floor area of 2070m<sup>2</sup>. The proposed development has a shortfall of 3 car spaces. Council's Development Engineer's are satisfied with the shortfall. The number of spaces proposed complies with the RTA guidelines for car parking for commercial buildings. Furthermore, the minor non-compliance will not result in any adverse impacts upon the surrounding developments or result in any adverse impacts on available on-street parking in the surrounding street network.

*Concerns are raised about noise levels that may generate from the plant room.*

A condition of consent will be imposed to ensure noise levels from plant does not exceed the maximum levels prescribed by EPA guidelines (**Refer to Condition No 157**).

## CONSULTATION - WITHIN COUNCIL

### Council's Heritage and Urban Adviser

Original plans lodged 4/8/04

Council's Heritage and Urban Design Adviser supports the proposal in principle subject to the following modifications being made to the original design:

- Provide additional articulation to the southern façade.
- Reduce the height of the pylon sign at the front of the property.
- Submit details of materials and colours.
- Provide information regarding the energy efficiency of the building.
- Increase the outdoor open space area.
- Install a dual sided lift capable of accessing all levels.

Revised plans were received and supported by Council's Heritage and Urban Design adviser on the condition that glazing will be tinted and heat absorbent. Glazing will be required to be tinted and of a heat absorbing type (**Refer to condition no.120**).

### Landscape Development Officer

The Landscape Development Officer supports the proposal subject to the following conditions being applied to a consent:

- The preservation of the *Angophora costata* in the north eastern corner of the site (**refer to Conditions No 39 and 138**).
- Amend the landscape plan to be drawn at 1:100 and to include the amended building envelope (**refer to Condition No 37**).
- Amend the landscape plan so it is consistent with the architectural plans (**refer to Condition No 37**).
- The amended landscape plan is to include 3 endemic trees within the front setback that will attain a height of 13m (**refer to Condition No 37**).
- Removal of the noxious plants on site (**refer to Condition No 42**).

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- The payment of a landscape establishment and tree protection bond (**refer to Conditions No 128 and 129**)

**Development Engineer**

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

*The applicant has submitted amended architectural plans with the columns rearranged to provide 5.5 metres clear width at the driveways.*

*There remains a parking shortfall of 3 spaces under DCP 43.*

*The parking layout now complies with AS2890.1:2004.*

*The Roads and Traffic Authority has issued a number of conditions which have been incorporated into the recommended engineering conditions. (Refer to conditions 51, 52, 110 to 112)*

*Waste collection will be internal. Sufficient space is available in the garbage room for the required number of containers. An easement for access by Council's collection vehicles will be required.*

*The application is supported subject to conditions.*

**CONSULTATION – OUTSIDE COUNCIL**

**Department of Infrastructure Planning and Natural Resources**

The proposed development will be within 40 metres of a watercourse. The application has been submitted to DIPNR for assessment. The General Terms of Approval have been issued by DIPNR (**refer to Conditions No 53 to 109**).

**Roads and Traffic Authority**

The application was referred to the Roads and Traffic Authority seeking its concurrence under s138(2) of the Roads Act. The proposal is supported subject to the provision of the following mandatory conditions:

- A. Provide a deceleration lane to reduce the impact on traffic flow. If this is not achievable due to the limited frontage of the site, The RTA would consider a widened driveway with a minimum width of 6 metres for a distance of 6 metres, splaying out to approximately 7 metres at the kerbline on Ryde Road.
- B. Implement a full time "No Stopping " parking restriction along the road frontage of the subject site.

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- C. The design and construction of the gutter crossing in Ryde Road is to be in accordance with RTA requirements.
- D. The vehicular access to the site shall be restricted to left in and left out only.
- E. All works/regulatory sign posting with the development shall be at no cost to the RTA.

The above conditions have been incorporated into the recommended engineering conditions. **(Refer to conditions 51, 52, 110 to 112).**

**NSW Police Service**

The NSW Police Service raises no objections to the proposal however they request that a condition be placed on the consent addressing the following:

*“During the demolition and construction, an accredited traffic control person to assist pedestrians crossing the driveway and construction vehicles to enter and leave the site. Also consideration to be given to the temporary placement of ‘No Stopping’ signs on Ryde Road in the vicinity of this development, so that the area is free of parked vehicles.”*

A condition will be included in the consent addressing the above issue **(Refer to conditions 35 and 111).**

**NSW Rural Fire Service**

The NSW Rural Fire Service raises no concerns or special considerations in relation to bushfire matters.

**POLICY PROVISIONS**

**State Environmental Planning Policy No.55**

A consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. A review of Council records has revealed that the land is not contaminated.

The proposed demolition of the existing building will not cause contamination of the development site. The demolition is to be carried out in accordance with Australian Standard 2601.1991: The Demolition of Structures **(refer to Condition No 18).**

**State Environmental Planning Policy No.64**

The proposed sign will be for business and property identification only and meets the aims and objectives of SEPP 64

**Ku-ring-gai Planning Scheme Ordinance**

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**Permissibility**

The proposal is permissible within the Business 3(b) (B1 – Commercial Services) zone.

**Aims and Objectives for the Business 3(b) – (B1) Commercial Services Zones**

The development satisfies the objectives of the zone.

<b>COMPLIANCE TABLE</b>		
<b>Development Standard</b>	<b>Proposals Numeric Compliance</b>	<b>Complies</b>
<b>Site Area:</b> 2070m <sup>2</sup>		
<b>Height of Buildings</b>		
• Building Height: 12m	12.8m to 20m	<b>NO</b>
<b>FSR</b> 1:1 (max)	1:1	<b>YES</b>

**Height of Buildings (cl.30A)**

The height of the building exceeds the 12m height limit. The applicant has submitted an objection pursuant to clause 6 of SEPP 1, to vary clauses 30A(2)(a) of the Ku-ring-gai Planning Scheme Ordinance (KPSO) in relation to maximum heights of commercial buildings within Zone No.3(b) (Business – Commercial Services).

The applicant's grounds of objection to the height standard are as follows:

*The proposal is considered to be an appropriate response to the topography of the site with the landform at the rear falling steeply towards the existing creek line. The proposed building relates consistently to the adjoining development, with a three storey frontage to Ryde road and six (6) levels at the rear. As indicated, the proposed development exceeds the 12m height limit under KPSO and LEP 1992 however, it relates comparatively to the bulk and scale of the existing multi-storey building at No.25 Ryde Road. In addition it is considered that the proposal provides adequate landscaped open space, car parking and access for a building of this type and scale. Furthermore, the front, rear and side setbacks of the proposal are also considered appropriate in this instance being generally consistent with setbacks within surrounding properties.*

*The topography of the subject site elevates it slightly above adjoining properties, however, the overall height of the proposal is comparable with surrounding development as it is three (3) storeys at the front and six (6) at the rear which includes three (3) levels of exposed basement parking. It is therefore considered that the proposal meets the objectives of the height development standard under Council's [policy for the application of SEPP No.1]*

*In respect of objective (a), the proposal is considered to be consistent with the height of development in proximity to the site, which comprises commercial buildings. The proposed building will replace an existing dwelling house on the site with an appropriate infill development. As indicated, the slight height increase in relation to the adjacent building is due to the topographic elevation of the site. Shadow diagrams indicate that the proposal will result in a minor amount of additional shadows to the adjoining property at No.25 Ryde*

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*Road, however this overshadowing would be limited to the front of the building without affecting solar access currently enjoyed within the open space balconies at the rear of the development. Accordingly it is considered that the proposed building will retain the apparent height of surrounding development and enhance the commercial streetscape character of the area.*

*In terms of objective (b), the proposal is not in the immediate vicinity of any non-business development and is therefore unlikely to cause any overlooking or overshadowing of any non-business development. Notwithstanding this, the proposed building incorporates design elements to minimise any detrimental impact. These include; locating balconies used for open space areas to the rear of the development and incorporating the use of glass bricks along adjoining boundaries to ensure privacy is retained. Accordingly, the proposed development is considered to be consistent with this objective.*

*With respect to objective (c), the proposed development is of a size and consistent with the adjoining commercial development. As the site is located within a commercial area, it is unlikely that any detrimental visual effect will result. Accordingly the proposed development is considered to be consistent with this objective.*

*In the circumstances of this particular case, the SEPP No.1 Objection for the non-compliance with the height control is considered to be well founded.*

The objectives of Clause 30A(1) of the KPSO are:

- a. To retain consistency in the apparent height of buildings when viewed from main streets of each business centre, being generally 2 storeys (with the exception of land within floor space zone B1 where apparent height is 3 storeys);
- b. to minimise the potential for the overlooking and overshadowing of non business development by business development; and
- c. to promote a size of building which does not have an avoidable detrimental visual effect on adjacent residential development.

Compliance with clause 30A(2)(a) of the KPSO is considered unnecessary and unreasonable in the circumstances of the case because the proposal addresses the specific objectives of Clause 30A(1) in that the height will be consistent with surrounding commercial buildings, particularly, the adjoining multi-storey building at No.25 Ryde Road when viewed from Ryde Road. Furthermore the height of the building when viewed from Ryde Road will be 3 storeys.

Clause 30A(3) may allow a building to exceed the height prescribed in Clause 30A(2)(a), but only if the Council is satisfied that:

- a. The existing topography of the site will permit additional height that is consistent with the objectives of this clause; or
- b. Attic space is contained within a pitched roof and the character of the building (including any attic windows) is not adversely affected and consistent with the objectives of this clause.



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In conclusion, the objection under the provisions of State Environmental Planning Policy No.1 is supported.

## Development in Business Zones – DCP 14

COMPLIANCE TABLE		
Development Control	Proposals Numeric Compliance	Complies
<b>Site Characteristics</b>		
Site Area = 2070m <sup>2</sup>		
<b>Controls</b>		
<b>Height of Buildings (Part 12)</b>		
• Building Height: 12m	12.8m to 20m	NO
<b>FSR (Part 13)</b>		
• Max FSR: 1:1	1:1	YES
<b>Building Setbacks (Part 14)</b>		
• Building Line: 3m (min)	16.6m	YES
• Building Line: 8m(Ave)	16.6m (Min) & 20.5m (ave)	YES
• Setback to adjoining buildings: 7m(min)	1m from stairwell	N/A
	3.5m from northern wall	
	3.0m from southern wall	
• Building Line: Prevailing	Min 5m, Max 9m	YES
<b>Car Parking (Part 18)</b>		
• No. of parking spaces: 63	60	NO

## Building setbacks (Part 14)

The site is irregular in shape and has a narrow street frontage of 15.55m. Building setbacks to side boundaries and to adjoining buildings only applies to sites with street frontages greater than 20m. The building setbacks comply with DCP 14. A merits based assessment will apply to the proposed setbacks. The setbacks of 1m and 3.5m to the northern boundary are reasonable as the buildings at Nos. 4 and 6 West Street have been constructed at or near the rear boundary with no windows along this elevation. Glass blocks are proposed along this elevation to allow for light and to prevent visual impact upon the properties at Nos. 4 and 6 West Street.

The average front building setback is 20.5 to the multi-storey portion of the building. An entrance canopy is located forward of the main portion of the building and is setback approximately 16.5m from the front boundary. The proposed building at No.23 Ryde Road will be setback 16.5m behind the building line of No.25 Ryde Road. The increased setback will make the building's appearance less prominent when viewed from Ryde Road.

## Landscaping (Part 15)

The landscape design is supported by Council's Landscape Development Officer subject to conditions. DIPNR have provided conditions relating to the re-vegetation and management of the riparian zone. **(Refer to conditions 37, 53 to 109)**

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**Vehicular access and circulation (Part 17)**

Vehicular access and circulation is supported by Council's Development Control Engineers and the RTA.

**Car parking (Part 18)**

The car parking numbers proposed are 3 less than the numbers required in accordance with DCP 43. The shortfall of 3 spaces is supported by Council's Development Engineers and the RTA. The proposed numbers comply with the RTA guidelines for car parking.

**Developer contributions (Part 19)**

Developer contributions apply at a rate of \$23.50 per additional square metre. There is no existing commercial/office space on the site, so therefore the contribution will be calculated on the proposed total floor area. The contribution amount will be \$48,668.50.

**Urban design (Part 21)**

The design of the building is supported by Council's Heritage and Urban Design Adviser. The design of the proposed building will be consistent with that of adjoining commercial buildings in Ryde Road.

The development will provide recreation areas at each level and will receive reasonable levels of solar access. The use of glass as an external cladding material will result in a condition being applied to limit the reflectivity index of the glass to 20% (**refer to Condition No 120**).

**Colour (Part 22)**

A major portion of the building will be glazed which is consistent with the multi-storey buildings in the near vicinity of the site. In combination with colours such as beige, grey and terracotta, the colours of the building are consistent with the colours of surrounding developments.

**Signs & advertising structures (Part 23)**

A pylon sign is proposed at the front of the property to identify the address of the property. Full details of the sign and colours will be required prior to the release of the Construction Certificate (**refer to Condition No 135**). The size of the pylon sign at 5m complies with the maximum height of 6m specified in DCP28 – Advertising Signs. The sign will be used for business and property identification and not advertising

**Plant (Part 24)**

The plant room is located on the roof of the building and is setback 10.5m from the front of the building and 36m from the front of the property. The plant room is not prominent and forms a design feature of the building.

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**Open space and pedestrian access (Part 25)**

The proposed building has a well defined entrance for pedestrian access with a major portion of the front of the site to be landscaped and paved. The commercial levels have balconies facing north that will receive direct solar access. The balconies will overlook the re-vegetated areas of the watercourse at the rear of the property. Awnings are provided over the balconies to provide weather protection.

The amount of open space proposed is reasonable.

**Solar access (Part 26)**

The open space areas of the proposed development will receive direct solar access. The building on the southern side at No 25 Ryde Road will not be adversely overshadowed as its open space areas extend further north than the proposed building. The solar access to existing balcony levels at No 25 Ryde Road will not be impeded by the proposed development.

**Facilities for the disabled and the elderly (Part 27)**

Direct access to the building is available from the street. The entrance path has a gradient of less than 1:14 which complies with AS2890 – Design for Access and Mobility. The disabled parking space is located close to the lift. A condition will be imposed to ensure all access areas comply with AS 2890 – Design for Access and Mobility (**refer to Condition No 119**).

**Facilities for cyclists (Part 28)**

No separate parking area for cyclists is provided. This is not a mandatory requirement.

**Community facilities (Part 29)**

Community facilities are not provided. This not a mandatory requirement.

**Services (Part 30)**

Services are available.

**Stormwater drainage (Part 31)**

Council's Development Engineer's are satisfied with the stormwater management of the site and raise no concerns.

**Controls during construction (Part 32)**

An appropriate site management plan for demolition, traffic and storage of materials will be required as a condition of consent (**refer to Conditions No 140, 17-34, 43 & 44**).

## **DCP 28 – Advertising Signs**

A pylon sign is proposed at the front of the property to identify the address of the property. Full details of the sign including font, wording and colours will be required as a condition of consent (**Refer to Condition No 135**). The size of the pylon sign at 5m complies with the maximum height of 6m specified in DCP28 – Advertising Signs. The sign will be used for business and property identification and is consistent with the aims and objectives of SEPP 64 – Advertising and Signage.

## **DCP 31 – Access**

DCP 31 requires all new commercial buildings to provide access to areas where there is a reasonable expectation of access by any owner, occupier, employee or visitor. This can be achieved by access to the entrance floor and access to any other floor to which vertical access by way of a ramp, step ramp, kerb ramp or passenger lift . The proposal provides direct pedestrian access for the public from the street at a gradient of less than 1:14. Lifts are to be provided to enable vertical access to each storey. In addition a condition of consent will be imposed to ensure that all access and facilities comply with AS 1428 – Design for Access and Mobility (**refer to Condition No 119**).

## **DCP 40 – Waste Management**

A waste management plan has not been submitted however the management of waste as a result of demolition and construction can be addressed by way of conditions (**refer to Condition No 135**).

## **DCP 43 – Car parking**

The required number of car parking spaces required is 63. The proposal offers 60 car parking spaces. The deficiency of 3 car parking spaces is considered reasonable by Council's Development Engineer's and the RTA. The proposal complies with RTA guidelines for car parking numbers.

## **SECTION 94 CONTRIBUTION**

Developer contributions apply at a rate of \$23.50 per additional square metre. There is no existing commercial/office space on the site, so therefore the contribution will be calculated on the proposed total floor area. The contribution amount will be \$48,645.00. (**Refer to condition no.124**)

## **LIKELY IMPACTS**

The proposal is unlikely to have any significant impact on the environment, landscape or scenic quality of the locality, threatened species, populations or ecological communities or their habitats or any other protected fauna or protected native plants.

The site is not within a wilderness area nor an area of critical habit.

The site can be adequately landscaped and conditions relating to soil erosion can be imposed. There is unlikely to be any significant impact on the existing or likely future amenity of the neighbourhood.

The likely impacts of the development have been discussed previously in this report.

## **SUITABILITY OF THE SITE**

The full development potential of the site is constrained by its irregular shape, slope and watercourse at the rear. The building has been designed with consideration of the constraints of the site. The site is suitable for the erection of a multi-storey commercial building.

## **ANY SUBMISSIONS**

The submissions have been discussed previously in this report.

## **PUBLIC INTEREST**

There are no issues relating to public interest.

## **CONCLUSION**

Having regard to the provisions of s79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be satisfactory. Therefore, it is recommended that the application be approved.

## **RECOMMENDATION**

THAT the Council, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No. 1 – Development Standards* to Clause 30A(2) of the Ku-ring-gai Planning Scheme Ordinance and LEP 100 is well founded. The Council is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as the topography of the land will accommodate a building of a height greater than 12m and that building will be consistent with the established building heights of the area.

**AND**

THAT the Council, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that the granting of consent to DA 968/03 is consistent with the aims of the Policy, grant development consent to DA 968/03 for a six storey commercial building on land at 23 Ryde Road, subject to the relevant standard conditions and the following special conditions:

## **GENERAL CONDITIONS**

1. The development to be in accordance with Development Application No 968/03 and Development Application plans prepared by Krikis Tayler Architects & Site Image Landscape Architects, reference number DA-01-D, DA-02-F, DA-03-F, DA-04-F, DA-05-E, DA-06-E and DA-07-E, dated 9 January 2003 and lodged with Council on 11 February 2004 and 15 May 2004.

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

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

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

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breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:

- a. The type and size of machinery proposed.
- b. The routes of all trucks to convey material to and from the site.
- c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.

12. With regard to the proposed rock breaking the following conditions are to be observed:

- a. The Geotechnical Engineer shall supervise the works in progress.
- b. A dilapidation report on adjoining or nearby properties shall be prepared prior to any excavation, rock breaking, or associated work commencing and shall be submitted to the Principal Certifying Authority.
- c. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.
- d. All material removed from or imported to the site shall be loaded, unloaded or conveyed in such a manner that will minimise nuisance. Trucks shall be covered and site controls shall include shaker grids at the exits of the site. All materials falling to any part of the road or footpath or any public place shall be immediately cleaned up.

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

14. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

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

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

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

15. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

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16. Compliance with the general terms of approval issued by Department of Infrastructure, Planning and Natural Resources.
17. If the work involved in the erection or demolition of a building:
  - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

18. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
19. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
20. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
21. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
22. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.
23. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
24. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.



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- a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
    - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
    - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
    - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
  - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
25. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
  26. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
  27. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
  28. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
  29. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
  30. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
  31. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
  32. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
  33. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - a. stating that unauthorised entry to the work site is prohibited, and

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

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
  - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
34. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
35. During demolition and construction, an accredited traffic control person is to assist pedestrians crossing the driveway & traffic when vehicles and heavy machinery are entering and leaving the site.
36. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

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

37. Landscape works shall be carried out in accordance with Landscape Drawing No LP101 prepared by Site Image Pty Ltd and dated 27 February 2003 submitted with the Development Application, except as amended by the following:
- Amend building footprint to be consistent with architectural drawings
  - Landscape plan to be drawn at minimum 1:100 scale
  - Details of retaining walls including top of wall levels
  - Existing and proposed levels to be shown
  - Details of planting on slab
  - Correct north point
  - *Cedrus deodara* (Himalayan Cedar)/street frontage - to be removed
  - Minimum 3no endemic trees that can attain 13m height to be located in front setback
  - 4no endemic trees located at the north east corner of the site to be retained and protected.
38. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting

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agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

39. No mechanical excavation of the proposed structure shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning by hand along the perimeter line of such works is completed:

Tree/Location	Radius From Trunk
<i>Angophora costata</i> (Sydney Red Gum) southern boundary, front setback, adjoining property	7m

40. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
41. On completion of the landscaped works, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
42. The following noxious and/or undesirable plant species shall be removed from the property prior to completion of the proposed building works. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to the release of the final Compliance Certificate:

Plant Species

*Ageratina adenophora* (Crofton Weed)  
*Ipomoea indica* (Morning Glory)  
*Ligustrum lucidum* (Large-leaved Privet)  
*Ligustrum sinense* (Small-leaved Privet)  
*Lonicera japonica* (Honeysuckle)

43. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.
44. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

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45. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
46. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 “Off-Street car parking”.
47. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
48. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage area, no doors or gates shall be provided in the access driveways to the basement carpark which would prevent this service.
49. Stormwater runoff from all hard surfaces, or landscaped areas that are not at natural ground level, shall be piped to the watercourse within the site. A headwall and energy dissipater structure shall be constructed at the discharge point. Unless specified by plans approved with the Development Consent or other Conditions of this Consent, this structure is to be solidly constructed from mortared sandstone bushrock so that it has a low impact on local landscape and vegetation. It must not impede flows along the watercourse nor or lead to ongoing erosion of the watercourse.
50. To maintain capacity of the public drainage system, an on-site stormwater detention system must be provided in accordance with Council’s Stormwater Management Manual, and generally in accordance with the indicative concept plan 3528 by Mepstead & Associates. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

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

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

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

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

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

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

NOTE 6: Earth mounding and/or timber log walls will not be accepted as a storage area perimeter wall. Any perimeter wall shall be constructed in either brick/masonry on a reinforced footing.

51. The vehicular crossing is to be 6 metres wide splaying out to 7 metres wide at the kerbline in Ryde Road.
52. All works/regulatory sign posting associated with the development is to be at no cost to Council or the Roads and Traffic Authority.
53. Any work which requires a permit under Part 3A of the Rivers and Foreshores Improvement Act 1948 ("Part 3A permit") is not to commence until such time as a Part 3A permit has been applied for, and subsequently issued by DIPNR. Any work the subject of a Part 3A permit must be carried out in accordance with drawings and any other documents required by these conditions, and which are approved by DIPNR, and which will accompany the Part 3A permit.
54. All works proposed must be designed, constructed and operated so that they result in NIL or minimal harm to aquatic and riparian environments and do not cause erosion, sedimentation, or increase flood levels of protected waters. Works that result in net positive outcomes for aquatic and riparian environments are encouraged.
55. All activities at the Site are to be undertaken by persons suitably experienced in that aspect of the work they are doing, and such persons must be under the direction and supervision of a person with knowledge, qualifications and experience to industry standards in the relevant aspect of the operations being undertaken.
56. If, in the opinion of a DIPNR officer, any work is being carried out in such a manner that it may damage or detrimentally affect protected waters or protected land, or damage or interfere

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in any way with any work, such work shall cease immediately upon oral or written direction of such officer.

57. Should any of the conditions of the Part 3A permit not be complied with, DIPNR may issue a Stop Order on Part 3A permit related operations at the Site until the conditions have been complied with.
58. If requested by DIPNR, work as executed survey plans of a professional standard, and including information required by DIPNR, shall be forwarded to DIPNR within 14 calendar days of such request.
59. The Part 3A permit holder shall carry out any instructions given by DIPNR with a view to preventing damage to the environment of protected waters or protected land.
60. If any Part 3A permit condition is breached, the permit holder shall follow DIPNR directions to address the breach and shall rehabilitate the Site as directed by, and to the satisfaction of, DIPNR. If any breach of the permit conditions requires a special site inspection by DIPNR, then the permit holder shall pay a supplementary permit fee for this inspection and for each and every subsequent inspection until the breach has been rectified.
61. Any vegetation or other material removed from the area of operations shall be disposed of lawfully to an appropriate site where the debris cannot be swept into protected waters during a flood. Burning must not be carried out unless an approval has been obtained from the relevant authority(ies).
62. Detailed designs of any stormwater outlets and any necessary scour protection works within the riparian zone or any protected waters are to be prepared by a person with relevant knowledge, qualifications and experience to industry standards, and to the satisfaction of Council and DIPNR, and approved by DIPNR, **prior to the issue of the Part 3A Permit**. The designs must include one or more representative surveyed cross sections and a long section showing existing and proposed bed and bank profiles and water levels at the outlet point. The sections are to extend beyond the structure for a distance of 5m for the cross section, and for the long section, 5m beyond the landward extent of the riparian zone and 5m from the toe of the bank of the receiving protected waters. Any proposed stormwater outlets are to be designed in accordance with the DIPNR guideline: *Stormwater Outlet Structures to Streams (For pipes, culverts, drains and spiliways - Version J)* (Attachment A).
63. Stormwater outlets must be designed, located and constructed to minimise any erosion or scour of riparian zones or the bed or banks of any protected waters. The construction methods adopted must ensure that disturbance to soil and vegetation in these areas is kept to an absolute minimum.
64. Construction of stormwater outlets is to be undertaken by persons suitably experienced in such work and they must be under the supervision of a person with relevant qualifications, knowledge and experience to industry standards in such work.

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65. Points of constriction or any other places where scour is likely within or near any protected waters or any part of the riparian zones on the Site, are to be suitably protected against scour. Designs, based on predicted velocities and scour potential, are to be prepared by, and implemented under the supervision of, a person with relevant knowledge, qualifications and experience to industry standards, and to the satisfaction of Council and DIPNR, and approved by DIPNR.
66. All permanent rock scour protection must consist of hard and durable run-of-quarry rock, sized to resist predicted scour velocities. Rock must be angular and blocky rather than flat, to ensure a good “bind” and to resist negative hydraulic pressure. Rock is to be placed over a 200mm deep layer of 140mm median size angular cobbles over geotextile to prevent erosion of underlying fine bed sediments and to facilitate placement.
67. All finished rock rip-rap surfaces are to be rough, and evenly aligned with the adjoining bed, bank and floodplain profile and must not reduce the capacity of protected waters in any way.
68. All rock and cobbles installed for scour protection are to be packed with topsoil and the crevasses in the rip-rap planted with local native sedges and rushes, to further stabilise the works and to increase riparian zone values and functions.
69. Wire mesh structures and concrete grouting are not permitted for use with rip rap scour protection unless shown on plans approved by DIPNR.
70. All works within protected waters are to be monitored after each major storm event for the duration of any Part 3A permit issued by DIPNR. Stabilisation works consisting of soft-engineered designs are to be undertaken as required, after seeking advice and approval from DIPNR, if there are signs of erosion or instability of protected waters.
71. All works within protected waters must be consistent with the requirements of NSW Fisheries.
72. Riparian zones, consisting of local native plant species, shall be established and maintained along all edges of all protected waters, including beneath bridges, for their entirety within the Site.  
  
The extent of the riparian zones, unless otherwise approved by DIPNR, shall be:
  - a. Of an average width of 10m measured horizontally from the top of the bank and at right angles to the alignment of the bank.
73. Following the completion of bulk earthworks at the Site, a registered surveyor must undertake a “peg out survey”. The survey must clearly show on the ground the location and extent of the riparian zones described in these conditions. DIPNR must inspect and approve the “peg out survey” prior to the release of any cash bond or bank guarantee associated with the earthworks or structures at the Site.
74. Site rehabilitation must protect any remnant local native riparian vegetation at the Site and restore any riparian zones, including within protected waters, disturbed or otherwise affected

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by the development to a state that is reasonably representative of the natural ecotone of the protected waters system and as required in a Vegetation Management Plan (VMP).

75. The VMP is to be prepared by a person with professional qualifications, knowledge and experience in bushland rehabilitation practices and in the preparation of such plans, in consultation with, and with the approval of, DIPNR prior to the issue of **the Part 3A Permit**. The VMP is to be in accordance with, but not limited to, the guideline: *"How to Prepare a Vegetation Management Plan — Version 4"* (Attachment B).
76. The VMP is to fully address all issues relating to the protection, establishment and maintenance of the riparian zone. The VMP is to include drawings that clearly show the approved extent of the riparian zones. The VMP is to clearly state planting densities and the species mix for all areas to be rehabilitated.
77. The riparian zones are to consist of a diverse range of native plant species local to the area and fully structured (ie trees, shrubs and groundcovers). The plant species used are to consist of species and communities that emulate the original situation. Planting densities are to be as follows:
  - a. At least 1 tree or 1 shrub (in approximately equal numbers) alternately planted at 1 plant per square metre and in addition, groundcover plants at 4 plants per square metre, unless otherwise specified in the VMP.
  - b. The riparian zones may be rehabilitated using a combination of methods, such as natural bush regeneration, brush matting, hydro-seeding, direct seeding or tubestock planting, provided the required densities are achieved by the end of the maintenance period. The methods and performance standards necessary to achieve the above are to be identified in the VMP.
  - c. Revegetation must be carried out over all areas in the riparian zone affected by the works, including all areas that are temporarily occupied by soil and water management controls, once those controls have been decommissioned and the ground surfaces restored to the correct profile and stabilised.
78. Bush regeneration, for weed control and to promote natural regeneration, is to be undertaken for a minimum distance of 10 metres beyond any disturbed areas in the riparian zones. Revegetation, in accordance with the standards required by these conditions, is to be undertaken in this 10 metre wide area if it is significantly degraded or is likely to give rise to weed invasion due to lack of native vegetation cover before or after weed control.
79. The VMP is to be implemented by persons suitably experienced in such work and they must be under the supervision of a person with professional qualifications, knowledge and experience in bushland rehabilitation practices.
80. DIPNR is to be advised of the person responsible for any seed propagation prior to the commencement of propagation.
81. The person responsible for implementing the VMP must certify in writing to DIPNR that plantings (including follow-up plantings) have been carried out using stock propagated from seed or plant material collected only from native plants from the local botanical provenance.



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This certification is to be provided with the first 6 monthly monitoring report and with the next monitoring report thereafter for any supplementary plantings.

82. Rehabilitated riparian zones must be maintained and monitored for a period of at least two years after final planting. Maintenance must include sediment and erosion control, watering, weed control, replacement of plant losses, disease and insect control, mulching and any other requirements necessary for achieving successful vegetation establishment.
83. A brief and concise report addressing the performance criteria as specified in the VMP and any problems implementing the VMP, as well as means to overcome these, shall be forwarded to DIPNR every six months for the duration of the maintenance period. The report must also comment on the stability and condition of any associated stream works.
84. No exotic plant species, other than temporary sterile cover crops, are to be planted within, or within 10 metres of, the riparian zones on the Site, unless otherwise approved by DIPNR.
85. Only certified weed free and contaminant free mulch is to be used on the Site. This is because mulch products imported onto the Site may contain weed seeds and viable vegetative matter and other contaminants, which could impact adversely on the vegetation, soil, water quality or ecology of the Site.
86. Works and activities at the Site must not compromise the implementation of the VMP in any way.
87. Riparian zones are to function as ecological systems and as such, all works, access routes, roads, recreational areas, service easements and any other non-ecologically functioning work or activity are to be located beyond riparian zones, unless detailed on plans approved by DIPNR, prior to the issue of a Part 3A permit.
88. All accessways, being cycleways, pedestrian pathways or other non-vehicular form of accessway that may be proposed for the Site, are to be located preferably beyond the riparian zones. Any accessways that may be required to intrude into a riparian zone must be elevated with a minimum underside clearance of 300mm and with a natural ground surface beneath, and must have a grated or slatted deck sufficient to allow the growth of groundcover vegetation beneath the structure. The width of any accessway is to be kept to an absolute minimum should it intrude into a riparian zone.
89. Any accessway proposed to be located within any riparian zone or protected waters is not to be constructed without consultation with, and prior approval of, DIPNR.
90. Any requirements for bushfire asset protection zones are not to compromise in any way the extent, form or function of the riparian zones.
91. The development is to satisfy all requirements of Council in relation to flooding issues, but in so doing, must not compromise in any way the form and function of the works and riparian zones required by these conditions.

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92. The development is to satisfy all requirements of Council in relation to drainage issues, but in so doing, must not compromise in any way the form and function of the works and riparian zones required by these conditions.
93. Wherever possible, riparian zone soils should be those naturally occurring at the Site. In the event that importation of soil material into the riparian zone is unavoidable, such soil is to be weed free and similar to that which occurs naturally in local riparian areas. Any soil selected for importation must be suitable for the establishment and on-going viability of riparian vegetation. Such soil must be tested and certified by a NATA registered soils laboratory to be:
- i) similar to the naturally occurring local soil,
  - ii) suitable for the establishment and on-going viability of riparian vegetation,
  - iii) free of any weed propagules, and, iv) free of any contaminants.

Documentation arising from this testing and certification must be provided to DIPNR prior to the placement of any soil.

94. Any fill material placed in a riparian zone that is inconsistent with the requirements of the previous condition must be removed and relocated beyond the riparian zone or taken off-Site and disposed of in a lawful manner.
95. The structure of the soils in the riparian zones must be suitable for the vegetative rehabilitation of the Site and are therefore not to be proof rolled or subjected to other unsuitable compaction unless otherwise approved by DIPNR.
96. The Applicant must ensure that the amount of dirty water and sediment from the Site that enters protected waters or that is exposed to the flow of protected waters, or that is likely to detrimentally affect water quality, riparian vegetation or habitat or the environment, is minimised in a manner acceptable to DIPNR.
97. The Applicant must submit a Soil and Water Management Plan (SWMP) indicating how the works at the Site will achieve the outcome required in the previous condition. The SWMP must be prepared by a person, with professional qualifications, knowledge and experience to industry standards, and to the satisfaction of Council and DIPNR, and approved by DIPNR, prior to the issue of the Part 3A permit. The SWMP must cover all works on protected land and in protected waters, and staging and maintenance requirements. The SWMP must meet the requirements outlined in the NSW Department of Housing's publication *Managing Urban Stormwater: Soils and Construction* (3rd Ed.)(1998). The SWMP is also to meet any EPA licence requirements.
98. All works and activities at the Site are to satisfy all requirements of Council in relation to water pollution issues. Oils and greases, or any other contaminants, must not be permitted to pass to protected waters.
99. All relevant Site drainage and sediment and erosion control works and measures, and any other pollution controls, as required by these conditions, shall be implemented prior to commencement of any other works at the Site.

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100. All erosion and sediment control measures at the Site are to be inspected and maintained as required on a weekly basis and immediately following any rainfall events to ensure the efficient operation of these devices. This obligation remains until the Site has been fully stabilised.
101. Decommissioning of all sediment and erosion controls and any water diversion structures must be documented in detail to the satisfaction of DIPNR. Decommissioning must meet the requirements outlined in the NSW Department of Housing's publication *Managing Urban Stormwater: Soils and Construction* (3rd Ed.)(1998). The timeframes for decommissioning are to be cross-referenced to the implementation of any riparian zone plantings. Decommissioning of sediment and erosion controls is not to detrimentally affect the implementation of the VMP.
102. A costing based on current industry rates is to be provided for all works and activities that are associated with the DA and that are subject to these conditions. The costing is to identify each type of work or activity and is to present the costing in a break-down format that covers each aspect of that work or activity. Costings are to cover labour, equipment and materials and maintenance and reporting where these tasks are relevant. The costing is to cover, but may not be limited to, the following works and activities:
  - a) construction of any stormwater outlets and their revegetation as described in the VMP
  - b) construction of any scour protection works and their revegetation as described in the VMP
  - c) implementation of the VMP, including monitoring, reporting and maintenance for a period of not less than two years after the date of final planting
  - d) construction of any accessways in any riparian zones
  - e) decommissioning of any temporary works in any protected waters or any riparian zone, including sediment and erosion controls, or other pollution controls, and water diversion structures.
103. The applicant for a Part 3A permit will be required, as a pre-condition to the granting of the Part 3A permit, to provide a cash bond or bank guarantee, prior to the issue of any Part 3A permit, for the amount required to cover the cost of completing the works and activities listed in the previous condition and in accordance with the conditions of the Part 3A permit.
104. Any bank guarantee is to be provided from a bank licensed pursuant to the Banking Act 1959 (Cth) and is to be provided in favour of DIPNR and it must be in the format provided in **Attachment C**.
105. Any cash or bank guarantee will be held until such time as the works and activities the subject of the cash bond or bank guarantee have been satisfactorily completed in accordance with the conditions of the Part 3A permit.
106. The sum held may be reduced on application to DIPNR, subject to the satisfactory completion of stages of works or activities required by the Part 3A permit.
107. DIPNR may at any time, and more than once and without notice to the Part 3A permit holder, utilise any cash provided or demand all or part of the moneys available under a bank

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guarantee, if in its opinion, the Part 3A permit holder has failed at any time to satisfactorily complete the works or activities in accordance with the requirements of the Part 3A permit.

108. In the event that there is any inconsistency between the drawings, other documentation and the conditions herein, the interpretation that will result in the best outcome for the stabilisation of the Site and the subsequent rehabilitation and maintenance of the Site and protected land and protected waters is to prevail. Such interpretation is to be applied in consultation with, and with the approval of, DIPNR.
109. Any Part 3A permit issued for works proposed under the DA, and as required by these conditions, must be kept current by payment of the appropriate fee until such time as the Site has been fully stabilised and rehabilitated, and any required maintenance satisfactorily completed and reported on, in accordance with these conditions. Any application for renewal is to be lodged at least 1 month prior to the expiry date of the Part 3A permit.
110. The design and construction of the gutter crossing in Ryde Road is to be in accordance with RTA requirements. A detail of this requirement is to be obtained from RTA's Project Services Manager, Traffic Projects Section on Phone: (02) 8814 2331 for "Works Instruction".
111. If not in place full time "No Stopping" parking restriction is to be implemented along the Ryde Road frontage of the subject property.  
  
Prior to installation of "No Stopping" parking restriction the applicant is to contact the RTA's Traffic Management Services on 8814 2331 for a "Work Instructions".
112. It is noted that the vehicular access to the subject site off Ryde Road shall be restricted to left in and left out only.
113. All works including regulatory sign posting associated with the development shall be at no cost to the RTA.
114. Any redundant driveway along Ryde Road is to be removed and replaced with kerb and gutter (Type SA) to match existing.
115. Layout of the basement car Park including ramp grades, aisle widths, turning path, sight distances and parking bay dimensions should be in accordance with AS 2890.1-1993.
116. Suitable provision should be made on site for all construction vehicles to alleviate any need to park on the Ryde Road.
117. All vehicles should be able to enter and exit the subject site in a forward direction.
118. Stormwater run-off from the subject site onto Ryde Road, as a result of the proposed development is not to exceed the existing level of run-off from the subject site.
119. The building is to be designed to comply with AS2890 – Design for Access and Mobility in order to facilitate access for the disabled.

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120. The reflectivity index of any external glass used in the design of the building shall not exceed 20%

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

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

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

122. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
123. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
  - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
  - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
  - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
124. The payment to Council of a contribution for Child Care Facilities in accordance with the provisions of Section 94 of the Environmental Planning and Assessment Act 1979 and Kuring-gai Municipal Council's Section 94 Contributions Plan No 1. Such contribution is calculated as \$48,645.00 and is to be paid prior to the issue of a Construction Certificate. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section

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94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index. The levy is based on:

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

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

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

126. A plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works.
127. The property shall support a minimum number of 15 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commence of work.
128. A CASH BOND/BANK GUARANTEE of \$3,000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.
- Fifty percent (50%) of the this bond will be refunded upon issue of the final Certificate of Compliance, where landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after issue of the building certificate, where landscape works has been satisfactorily established and maintained.
- It is the responsibility of the applicant to notify Council in relation to the refunding of the bond at the end of the 3 year period. Where a change of ownership occurs during this period it is the responsibility of the applicant to make all arrangements regarding transference of the bond and to notify Council of such.
129. A CASH BOND/BANK GUARANTEE of \$2,000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

*Angophora costata* (Sydney Red Gum)  
Southern boundary, front setback, adjoining property

*Angophora costata* (Sydney Red Gum)  
North east corner of site, good condition, 400DBH

130. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater – Soils and Construction" (1998). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).
131. Full design drawings of the proposed method of achieving the requirements for on site stormwater detention and all supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council requirements. These must be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
132. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.

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

NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.

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NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

133. Prior to issue of the Construction Certificate, submission of details and certification by a qualified civil/traffic engineer, for approval by the Principal Certifying Authority (PCA), that the parking provisions comply with the following standards:

- a. Australian Standard 2890.1 – 2004 “Off-street car parking” and
- b. The 2.5 metres headroom requirement under DCP40 for waste collection trucks.
- c. No doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection from the basement garbage storage area.

134. Prior to issue of the Construction Certificate footpath and driveway levels for the new vehicular crossing between the property boundary and road alignment must be obtained from Council. The footpath crossing is to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings". These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.**

The design and construction of the layback is to be in accordance with RTA requirements. A detail of this requirement is to be obtained from the Roads and Traffic Authority's Project Services Manager, Traffic Projects Section on (02) 8814 2331 for a “Works Instruction”. A copy of this detail should be submitted to Council with the driveway levels application.

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

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

135. Details of the proposed pylon sign are to be submitted to Council for approval prior to the release of the Construction Certificate. The details required include colours, font and wording.



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136. A waste management plan is to be submitted to and approved by the Council prior to the release of the Construction Certificate.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

137. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.

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

Tree/Location	Radius From Trunk
<i>Angophora costata</i> (Sydney Red Gum) southern boundary, front setback, adjoining property	7m

139. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
140. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
141. Prior to the commencement of any works on site and prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Geotechnical/Civil Engineering report which addresses (but is not limited to) the following:
- The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum.
  - The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations shall be discussed and ameliorated.
  - The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site).

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- d. The existing groundwater levels in relation to the basement structure, where influenced.
- e. The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a “dam” for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flowpath is constructed, artificial drains such as perimeter drains and through drainage may be utilised.
- f. Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by a consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting. It is the responsibility of the engaged geotechnical specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report shall contain site specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

NOTE: The design principles for the geotechnical report are as follows:

- No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.
- No changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- No changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- Vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development.
- Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles.
- An adverse impact can be assumed to be crack damage which would be classified as Category 2 or greater damage according to the classification given in Table C1 of AS 2870 – 1996.

142. Prior to the commencement of any works on site and prior to issue of the Construction Certificate the applicant must submit, for review by Council Engineers, a Traffic Control Plan. The plan must be prepared by a qualified civil/traffic engineer in accordance with the

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documents SAA HB81.1 – 1996 – “Field Guide for Traffic Control at Works on Roads – Part 1” and RTA “Traffic Control at Work Sites (1998)”. The following matters must be addressed:

**Heavy vehicle routes**

- a. Safe points of vehicular access to the construction site and details of the proposed route of heavy vehicles servicing the site. Light traffic roads and those subject to a load limit are to be avoided.

**Safe ingress and egress**

- a. How the site will be safely accessed by all vehicles servicing the site including provision for forward ingress and egress and details of traffic control for the site, including provision of a flagperson to control vehicle movements to and from the site.
- b. How safe egress for vehicles will be controlled on those occasions where forward egress is not possible.
- c. How pedestrians will be safely managed across the frontage of the site.

**Parking control**

- a. The provision of on-site parking for employee, tradesperson and construction vehicles.
- b. Establishment of a no-parking zone for the full frontage of the site prohibiting on-street parking during the relevant morning and afternoon peak periods where located on main or arterial roads, or during school peak periods where located near schools or full time where located near shopping centres.

**RTA concurrence**

- a. Evidence of consultation with and concurrence of the RTA for the Traffic Control Plan where the site is located on an arterial road.

**Stages**

- a. The Traffic Control Plan must recognise the different stages of the work, including site establishment, bulk excavation, concrete pours and tradesperson and landscaper access, and specify the traffic management requirements of each stage.

NOTE 1: The Traffic Control Plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained prior to the issue of the Construction Certificate. The Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. Evidence of RTA concurrence, as required above, is to be lodged concurrently with Council.

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NOTE 2: The traffic management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of any works on-site including excavation.

143. A full time "No Stopping" parking restriction is to be implemented along the Ryde Road frontage of the subject property. Prior to installation of the "No Stopping" parking restriction the applicant is to contact the Roads and Traffic Authority's Traffic Management Services on (02) 8814 2331 for a "Works Instruction".

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

144. Prior to the release of any occupation certificate, a compliance certificate must be obtained from an accredited certifier, certifying that the building works for the building to be occupied comply with the plans and specifications approved by this development consent; and any construction certificate associated with this consent for the buildings to be occupied. If the PCA is not the Council, then this compliance certificate must be submitted to the Council at the same time as the occupation certificate is submitted to the Council in accordance with Clause 151(2) of the E P & A Act regulations.
145. To ensure compliance with the consent, a final report from a Registered Surveyor shall be submitted to Council confirming floor/ceiling levels and boundary setbacks prior to occupation.
146. Without further written consent of Council, the development is to comply with the following indices:
- a. Maximum Floor Space area (2070m<sup>2</sup>)

A Surveyor's Certificate is to be submitted to the Principal Certifying Authority confirming compliance with the above indices prior to occupation.

147. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

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

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148. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following must be provided to Council (attention Development Engineer):

- a. A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
- b. A copy of the works-as-executed drawing of the as-built on-site detention/retention system, and
- c. The Engineer's certification of the as-built system.

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

149. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, an easement for waste collection must be provided. This is to permit legal access for Council, and Council's contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection.

150. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).

151. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the as-built on-site detention are to be submitted to the Principal Certifying Authority (PCA) for approval. Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor.

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

- As constructed levels in comparison to design levels
- As built location of all detention devices on the property (plan view) and distances to nearest adjacent boundaries, buildings and easements
- As built locations of all pits and grates in the detention system, including dimensions.
- The size of the orifice or pipe control fitted.
- Dimensions of the discharge control pit and access grates
- The achieved capacity of the detention storage and derivative calculation.
- The maximum depth of storage over the outlet control.
- Top water levels of storage areas and RL's at overflow point(s)

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152. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:

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

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

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

153. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following works must be completed:

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

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

154. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit to the Principal Certifying Authority (PCA) certification from a suitably qualified and experienced traffic/civil engineer, that:

Item 1

- a. The as-constructed carpark complies with the approved Construction Certificate plans, and
- b. The vehicular headroom requirements of:
  - Australian Standard 2890.1 - "Off-street car parking", and
  - 2.44m height clearance for waste collection trucks (DCP 40) are met from the public street into and within the applicable areas of the basement carpark, and
- c. The gradients of the constructed access driveway from the public street to the basement carpark are in accordance with AS2890.1 and will not result in the scraping of the underside of cars.
- d. No doors or gates have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage area.

BUILDING CONDITIONS

Note: If Council is the Principle Certifying Authority, the following building conditions shall form part of this consent.

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

- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.

156. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:

- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
- b. Any pier holes and/or foundation material.
- c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
- d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
- e. Any stormwater drainage works prior to covering.
- f. The completed landscape works in accordance with the approved plans.
- g. The completed structure prior to occupation.

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.

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

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

157. Noise levels from plant used within the building and the plant room are not to exceed environmental noise levels prescribed by the Environmental Protection Authority.

Scott Cox  
**Acting Team Leader,  
Gordon Ward**

Matthew Prendergast  
**Manager,  
Development Assessment**

M Miocic  
**Director  
Development &  
Regulatory Services**

**Attachments:**      **Locality Plan**  
                             **Site Plan**  
                             **Architectural Plans**  
                             **Landscape Plan**  
                             **Shadow Diagram**  
                             **Stream Stabilisation Plan**



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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	1 BERRILLEE STREET, TURRAMURRA - DETACHED DOUBLE CARPORT, ADDITIONS AND ALTERATIONS TO AN EXISTING DWELLING.
<b>WARD:</b>	Wahroonga
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	0535/04
<b>SUBJECT LAND:</b>	1 Berrillee Street, Turramurra
<b>APPLICANT:</b>	J. Willmore
<b>OWNER:</b>	D. and S. Farrugia
<b>DESIGNER:</b>	Jo Willmore Designs
<b>PRESENT USE:</b>	Residential
<b>ZONING:</b>	Residential 2C
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	Ku-ring-gai Planning Scheme Ordinance, Development Control Plan 38
<b>COMPLIANCE WITH CODES/POLICIES:</b>	No
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP 55
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Yes
<b>DATE LODGED:</b>	25 May 2004
<b>40 DAY PERIOD EXPIRED:</b>	4 July 2004
<b>PROPOSAL:</b>	Detached double carport, additions and alterations to an existing dwelling.
<b>RECOMMENDATION:</b>	Refusal

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<b>DEVELOPMENT APPLICATION N<sup>o</sup></b>	<b>0535/04</b>
<b>PREMISES:</b>	<b>1 BERRILLEE STREET, TURRAMURRA</b>
<b>PROPOSAL:</b>	<b>DETACHED DOUBLE CARPORT, ADDITIONS AND ALTERATIONS TO AN EXISTING DWELLING.</b>
<b>APPLICANT:</b>	<b>J. WILLMORE</b>
<b>OWNER:</b>	<b>D. AND S. FARRUGIA</b>
<b>DESIGNER</b>	<b>JO WILLMORE DESIGNS</b>

## PURPOSE FOR REPORT

To determine development application No. 0535/04, which seeks consent for a detached double carport and additions and alterations to an existing dwelling.

This matter has been called to Council by Councillor Hall.

## EXECUTIVE SUMMARY

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

## HISTORY

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

### Development application history:

- Application lodged 25 May 2004.
- Letter of request for additional information relating to stormwater requirements under DCP 47 sent 11 June 2004.
- A response satisfying the request was received 6 July 2004.
- Unsatisfactory proposal letter sent 17 September identifying the following areas of concern:
  - front boundary setback;
  - side boundary setback;
  - carparking forward of the building line; and
  - streetscape amenity and visual character.

## Item 2

**THE SITE & SURROUNDING DEVELOPMENT****The site**

Zoning:	Residential 2C
Visual Character Study Category:	1920-1945
Lot Number:	3
DP Number:	11500
Area:	929m <sup>2</sup>
Side of Street:	Northern
Cross Fall:	South-west to north-east
Stormwater Drainage:	To street
Heritage Affected:	No
Required Setback:	12 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The subject site is legally described as Lot 3 in DP 11500 and known as 1 Berrillee Street, Turramurra. The site has an area of 929m<sup>2</sup> and is located on the northern side of Berrillee Street, a local road running between Bobbin Head Road and Warrangi Street. The site has a cross fall from south-west to north-east so that the site falls from front to rear and from west to east. The site contains a large two storey dwelling, set back approximately 15.3m from the front boundary. A garage accommodating tandem parking is located along the east elevation of the dwelling with a 150mm set back from the side boundary. There is an in-ground swimming pool in the rear yard and the site contains several trees.

**Surrounding development**

The surrounding area is described in the Ku-ring-gai Visual Character Study as being characterised by single dwellings on single lots, with the majority of construction being within the period 1920 to 1945. A mix of architectural styles and periods are evident within the wider streetscape. Surrounding dwellings are predominantly two storey, located on varying lot sizes with varying degrees of landscaping. The building line setback along both sides of Berrillee Street is varied. Setbacks on the southern side are in the order of approximately 2m to 11.5m. Setbacks on the northern side range from approximately 4.5m, for the site fronting Bobbin Head Road, to 16m.

The adjoining site to the west (3 Berrillee Street), has a detached double carport located approximately 8m from the front boundary and along the western side boundary of the subject site. The adjoining sites to the east (nos. 70, 72 & 74 Bobbin Head Road), share common eastern boundaries with the subject site. The site directly opposite the subject site at 6 Berrillee Street, contains a single level dwelling with a low masonry wall and unkept vegetation.

Fencing is varied within the streetscape exhibiting a range of styles and designs. The majority of properties having solid rendered walls with approximate heights of 1.8m to 2.4m. Sites at 4, 6 and 8

Item 2

Berrillee Street have low level fencing and/or hedging. The adjoining site at 70 Bobbin Head Road has a solid timber paling fence 1.8m in height along the Berrillee Street frontage. The adjoining site at 3 Berrillee Street currently has no fencing although approval has been given for a 1m high masonry wall along the frontage (DA1769/99A).

## THE PROPOSAL

Consent is sought to construct a detached double carport within the front yard. The carport will measure 6.5m in length x 5.9m in width and be set back 9.4m from the front boundary and 430mm from the eastern side boundary. Some excavation is proposed to provide a suitable grade for the carport and associated driveway. Excavation at the front boundary will have a maximum depth of approximately 350mm and will require the removal of one tree.

The existing dormer window in the front elevation is also to be removed and replaced with a wider dormer element located 500mm below the apex of the existing dormer. The existing hipped porch roof will be replaced with a dutch gable design. All existing roof tiles are to be replaced.

It is further proposed to construct a front boundary fence where none currently exists. The fence will comprise rendered masonry piers with 1.5m high timber infills. The vehicle and pedestrian gate will match the infill panels. Due to the slope of the front boundary the fence will range in height from 1.4m to 1.7m.

## CONSULTATION - COMMUNITY

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

No submissions in response were received.

## CONSULTATION - WITHIN COUNCIL

### Engineering

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

*The proposed development is for alterations and additions to 1 Berrillee St Turramurra. The site drains to the street. The additions comprise the construction of a new driveway and carport. As the site's built upon area has been calculated to increase by 80m<sup>2</sup> (between 50-100m<sup>2</sup>), a minimum 2000L rainwater tank for garden irrigation only will be required (see Water Management DCP47 – Chapter 6).*

*This DA has been assessed by Development Engineers under Water Management DCP47.*

*A perusal of the submitted plans revealed the following concerns:*

- *The proposed driveway width does not comply with AS/NZS 2890.1 (2004) - "Off-street car parking" and shall be increased to a minimum 3.0m (currently 2.8m).*

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**Landscaping**

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

*No impact on significant trees. Proposed setbacks of drive/carport are less than minimum required for sufficient screen planting. For open sided carport minimum 600mm setback to pavement is recommended.*

**STATUTORY PROVISIONS****State Environmental Planning Policy Number 55 - Remediation**

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

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

<b>COMPLIANCE TABLE</b>		
<b>Development Standard</b>	<b>Proposals Numeric Compliance</b>	<b>Complies</b>
<b>Site Area:</b> 929m <sup>2</sup>		
<b>Building Height</b> 8m (max)	7.7m (existing)	<b>YES</b>
<b>Built-Upon Areas</b> 60%(557.4m <sup>2</sup> )(max)	53.9% (501m <sup>2</sup> )	<b>YES</b>

**Aims and objectives for residential zones**

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

In particular:

- the siting and design of the proposed carport fails to maintain the existing streetscape and visual character of the locality by being located 9.4m metres from the front boundary, 430mm from the eastern side boundary and forward of the existing building line on site. Insufficient provision has been made to accommodate screen planting along the eastern boundary
- The proposal will result in the undue imposition of built form and carparking on the street. With the exception of 3 and 10 Berrillee Street, carparking within the context of the existing streetscape is predominantly in-line with or set behind the building line.

**POLICY PROVISIONS****DCP 38 - Ku-ring-gai Residential Design Manual**

<b>COMPLIANCE TABLE</b>		
<b>Site Area:</b> 929m <sup>2</sup>		
<b>Development Control</b>	<b>Proposals Numeric Compliance</b>	<b>Complies</b>
<b>5.1 Streetscape:</b>		
<b>Building Setbacks (s.5.1.3)</b>		
• Front Setback:		
12m (Ave) -75% front elevation	9.4m	<b>NO</b>
14m (min) – 25% front elevation	14.9m	<b>YES</b>
• Side Setback:		
Ground Floor: 2m(min)	200mm (existing)	<b>NO</b>
1 <sup>st</sup> Floor: 2.5m (min)	4.4m	<b>YES</b>
• Rear Setback: 12m(min)	>12m	<b>YES</b>
<b>Front Fences (s.5.1.5)</b>		
• Height: 1.2m(max)- (Fencing present in street)	1.4m to 1.7m	<b>NO</b>
<b>5.2 Building Form:</b>		
<b>FSR (s.5.2.1)</b> 0.37:1 (max)	0.33:1	<b>YES</b>
<b>Height of Building (s.5.2.2)</b>		
• 2 storey (max) and 7m (site <20° slope)	2 storey & 7.7m (no increase to existing)	<b>N/A</b>
<b>Building Height Plane (s.5.2.3)</b> 45° from horizontal at any point 3m above boundary	complies	<b>YES</b>
<b>First Floor (s.5.2.4)</b>		
• FSR: < 40% total FSR	>40% (no change to existing)	<b>N/A</b>
<b>Roof Line (s.5.2.6)</b>		
• Roof Height		
(5m – single storey)	1.7m	<b>YES</b>
(3m – two <sup>+</sup> storey)	1.4m	<b>YES</b>
• Roof Pitch 35° (max)	<35°	<b>YES</b>
• Dormer Control		
>200mm below main roof ridge	1.6m	<b>YES</b>
Occupies<40% face of gable	<40%	<b>YES</b>
Occupies<20% face of roof or slope	<20%	<b>YES</b>
<b>Built-Up Area (s.5.2.7)</b> 54% (501.7m <sup>2</sup> ) (max)	53.9% (501m <sup>2</sup> )	<b>YES</b>
<b>Cut &amp; Fill (s.5.2.15)</b>		
• max cut 900mm	500mm	<b>YES</b>
• max cut & fill across building area of 1800mm and 900mm	700mm	<b>YES</b>
<b>5.3 Open Space &amp; Landscaping:</b>		
<b>Soft Landscaping Area (5.3.3)</b> 46% (427.3m <sup>2</sup> ) (min)	46.1% (428.3m <sup>2</sup> )	<b>YES</b>

<b>Tree Replenishment (s.5.3.6)</b> 5 Trees Required	6 trees provided	<b>YES</b>
<b>Useable Open Space (s.5.3.8)</b> Min depth 5m and min area 50m <sup>2</sup>	Depth >5m    Area >100m <sup>2</sup>	<b>YES</b>
<b>5.5 Access &amp; Parking:</b>		
<b>No. of Car Parking Spaces (s.5.5.1)</b> 2 spaces behind building line	2 spaces forward of building line	<b>NO</b>
<b>Size of Car Parking Space (s.5.5.2)</b> 5.4m x 5.4m	5.9m x 6.5m	<b>YES</b>
<b>Driveway Width (s.5.5.6)</b> 3.5m	3m	<b>YES</b>
<b>5.7 Ancillary Facilities:</b>		
<b>Outbuildings (s.5.7.3)</b> • Setback from boundary: 2m	450mm (east boundary)	<b>NO</b>

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

The proposed carport will be set back 9.4m from the front boundary and 430mm off the eastern side boundary. The breach of the 12 metre setback and more importantly the provision of a car parking structure forward of the façade of the house results in an unsatisfactory streetscape impact. The main concerns being, that the introduction of a utilitarian structure forward of the house will not only compete with the house as dominant element within the streetscape but will also reduce the dwelling's landscaped garden setting, typical to the streets within Ku-ring-gai.

### Fencing

The subject site is located within an area characterised by dwellings constructed between the period 1920 to 1945. Sites of between 800-1200m<sup>2</sup> are often characterized by low brick, timber or herbaceous front boundary fences. In this instance the subject site is currently unfenced along the front boundary. However, with the exception of 3 Berrillee Street, the remainder of the street displays a range of fencing detail ranging from low masonry walls to solid and/or palisade fencing to a height of approximately 2m. Several fences are recessed to accommodate low level screen planting in front. Subject to a set back of 600mm from the front boundary to accommodate landscaping, the proposed fence is appropriate within the context of existing fencing detail within the street.

### CONCLUSION

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

### RECOMMENDATION

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

THAT Council, as the consent authority, refuse development consent to Development Application No. 0535/04 for a detached dual carport and additions and alterations to an existing dwelling on

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land at 1 Berrillee Street, Turramurra, as shown on plans referenced Drawing No. DA1 to DA7, dated May 2004, drawn by Jo Willmore Designs for the following reasons:

**Streetscape**

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

*Particulars*

- (i) The proposed carport being located 9.4m from the street fails to comply with the minimum front setback requirement of 12m as prescribed by clause 5.1.3 of DCP 38.
- (ii) The proposed carport fails to comply with clause 5.5.3 of DCP 38 in that it provides carparking forward of the building line where it is possible to provide parking behind the building line.

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

M Miocic  
**Director**  
**Development & Regulatory Services**

**Attachments:**      **Location Sketch**  
                             **Site Analysis**  
                             **Elevations**



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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	6 EASTERN ARTERIAL ROAD, ST IVES - TORRENS TITLE SUBDIVISION OF THE SITE INTO TWO ALLOTMENTS
<b>WARD:</b>	St Ives
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	DA0243/04
<b>SUBJECT LAND:</b>	6 Eastern Arterial Road, St Ives
<b>APPLICANT:</b>	Mr Ashley Webb C/- Glendinning Minto and Associates
<b>OWNER:</b>	Mr Wallace Webb and Mrs Margaret Webb
<b>DESIGNER:</b>	Smith And Partners, Consulting Surveyors
<b>PRESENT USE:</b>	Residential
<b>ZONING:</b>	Residential 2C
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	KPSO, Subdivison Code
<b>COMPLIANCE WITH CODES/POLICIES:</b>	Yes
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP 55
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Yes
<b>DATE LODGED:</b>	12 March 2004
<b>40 DAY PERIOD EXPIRED:</b>	21 April 2004
<b>PROPOSAL:</b>	Torrens title subdivision of the site into two allotments.
<b>RECOMMENDATION:</b>	Approval

<b>DEVELOPMENT APPLICATION N<sup>o</sup></b>	<b>DA0243/04</b>
<b>PREMISES:</b>	<b>6 EASTERN ARTERIAL ROAD, ST IVES</b>
<b>PROPOSAL:</b>	<b>TORRENS TITLE SUBDIVISION OF THE SITE INTO TWO ALLOTMENTS</b>
<b>APPLICANT:</b>	<b>MR ASHLEY WEBB C/- GLENDINNING MINTO AND ASSOCIATES</b>
<b>OWNER:</b>	<b>MR WALLACE WEBB AND MRS MARGARET WEBB</b>
<b>DESIGNER</b>	<b>SMITH AND PARTNERS, CONSULTING SURVEYORS</b>

## **PURPOSE FOR REPORT**

Determination of a Development Application for the subdivision of 6 Eastern Arterial Road, St Ives, to create two (2) torrens title allotments.

## **EXECUTIVE SUMMARY**

Issues	None identified.
Submissions	No submissions received
Recommendation:	Approval

## **HISTORY**

There is no history of the site relevant to the subject development application.

## **THE SITE AND SURROUNDING DEVELOPMENT**

### **The site**

Zoning:	Residential 2C
Visual Character Study Category:	1945 to 1968
Lot Number:	2
DP Number:	22344
Area:	3390m <sup>2</sup>
Side of Street:	Southern
Cross Fall:	North-south
Stormwater Drainage:	Via drainage easement
Heritage Affected:	No
Integrated Development:	No
Bush Fire Prone Land:	Yes
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

## Item 3

The subject site is identified as Lot 2 in DP 22344, known as 6 Eastern Arterial Road, St Ives. The property has a total area of 3390 square metres. The site has street frontages to both Eastern Arterial Road and Hunter Avenue. The frontage to Eastern Arterial Road is 46.805m, with the frontage to Hunter Street being 30.48m.

The site is an irregular shaped allotment located on the northern side of Eastern Arterial Road. The property slopes from Eastern Arterial Road towards Hunter Avenue, with a total fall of approximately 6.5 metres.

The site contains a single storey brick dwelling, inground pool, detached brick garage and detached metal garage/carport.

The dwelling is provided with vehicle access from Eastern Arterial Road. A separate gravel driveway located off Hunter Street provides access to the detached metal garage/carport. The existing dwelling is set back approximately 20.5 metres from its Eastern Arterial Road frontage.

The site is also subject to an underground piped trunk drainage system and associated flow depression at the Hunter Avenue frontage of the site. An overland flow conveyance study has been prepared and submitted in association with the application.

### Surrounding development

The surrounding properties consist of a variety of single and two storey dwellings. Most of the surrounding allotments are smaller than the subject property, with none of the surrounding allotments having dual frontages.

The resultant Lot 23 will be comparable in size to the lots immediately to the east and west of the site.

### THE PROPOSAL

The application proposes the torrens title subdivision of the site into two allotments. The allotments are proposed to have the following dimensions:

Proposed Lot 22	Measurement	Proposed Lot 23	Measurement
Northern boundary	30.475m	Northern boundary (Hunter Avenue)	30.48m
Eastern boundary	92.975m	Eastern boundary	36.11m
Southern boundary (Eastern Arterial Way)	46.805m	Southern boundary	30.475m
Western boundary	57.24m	Western boundary	36.11m
AREA	2290m <sup>2</sup>	AREA	1100m <sup>2</sup>

Proposed Lot 22 will retain the existing dwelling, in-ground pool and detached brick garage. The existing vehicular access from Eastern Arterial Way will be retained. The total built upon area for the allotment will be 1043m<sup>2</sup> or 45.5%.

Proposed Lot 23 will have frontage to Hunter Avenue. An easement for water and sewerage (to benefit Lot 22) will be provided adjacent to the eastern boundary. An illustrative building footprint has been provided which illustrates that the new lot is capable of accommodating a dwelling. The existing metal carport and garage, and the driveway accessing them, will be demolished as part of this application.

## CONSULTATION - COMMUNITY

In accordance with Council's notification policy, adjoining owners were given notice of the application on 16<sup>th</sup> March 2004.

No submissions have been received.

## CONSULTATION - WITHIN COUNCIL

### Engineering

Council's Development Control Engineer has commented on the proposal as follows (dated 09/08/04):

*This DA is recommended for Deferred Commencement Approval, subject to the engineering conditions shown.*

*I refer to Mr A. Webb's letter, dated 5 July 2004 regarding the revised building footprint. Development Engineers have no objections to its location as there is adequate setback from the flood zone. A restriction will be placed on the title to prevent the placement of any structures or fill which may impede the overland floodwater (refer condition No.11).*

*It is noted that this property has a depression within the front yard of proposed lot 23. The only means of disposing stormwater from the site is to discharge into the Council easement which traverses the subject and downstream property(s). The applicant has previously been requested to undertake a title search and information submitted reveals that the subject property is not benefiting from, or burdened by, the Council drainage easement. For this application to be supported, the applicant is required to obtain written consent from all downstream owners that are burdened by the Council easement stating agreement to the connection from the subject property, the consequent required extinguishment and creation of drainage easement, as well as to amendment of titles. It is understood that the process is quite time consuming and that a deferred commencement consent is considered appropriate. Further, the necessary approvals may not be readily obtained from the downstream owners and/or Council asset managers responsible for the drainage system.*

*The DA cannot be kept in Council's system while the applicant endeavours to obtain the necessary consents. Further, Council Development Engineers cannot issue a potentially useless consent by incorporating the necessary easement.*

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In order to progress the application, a deferred commencement consent requiring the creation of an easement is recommended.

**Landscape Officer**

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

*I have read Mr A Webb's letter dated July 5<sup>th</sup> 2004 and have reviewed the proposed building footprint with a dwelling retaining both trees #105 and 77. If this is the agreed new building footprint, Landscape Services is willing to support the application subject to Section 88B instruments being placed on both trees (#'s 77 and 105) to the radii specified.*

*Both trees are native endemic species and significant within the broader landscape, and as such have a priority for retention.*

*If the building footprint is proposed as per the letter dated July 5<sup>th</sup>, the application for subdivision can be supported with conditions.*

Conditions as recommended by the Landscape Officer have been included within the recommendation (*refer Conditions Nos 6 and 7*).

**STATUTORY PROVISIONS**

**State Environmental Planning Policy No 55**

SEPP55 aims to set an approach for the remediation of contaminated land. Clause 7 of the SEPP requires Council to consider whether the land is likely to be contaminated prior to the determination of development consent.

There are no records that indicate the site is contaminated nor would this be likely given the long established residential use of the site.

**Ku-ring-gai Planning Scheme Ordinance**

Subdivision within the Residential 2C zone is permissible under Clause 23 of the KPSO.

Clause 58A of the KPSO requires that a person shall not subdivide land to which the Ordinance applies except with the consent of Council.

Clause 58B sets out the 'subdivision requirements for dwelling-house lots' and provides the following minimum requirements for Residential 2C subdivisions:

	Proposal	KPSO	Complies
<b>Lot 22</b>			
Area	2290m <sup>2</sup>	929m <sup>2</sup>	YES
Width at 12.2 metres	30.0m	18 metres	YES

## Item 3

Built Upon Area	45.5%	60%	YES
<b>Lot 23</b>			
Area	1100m <sup>2</sup>	929m <sup>2</sup>	YES
Width at 12.2 metres	30.0m	27.4 metres	YES
Built Upon Area	Not applicable- structures to be removed	60%	N/A

Schedule 9 of the KPSO sets out the aims and objectives for residential zones. The following aims and objectives are considered applicable to the subject development:

- *“to maintain and, where appropriate, improve the existing amenity and environmental character of residential zones; and*
- *to permit new residential development only where it is compatible with the existing environmental character of the locality and has a sympathetic and harmonious relationship with adjoining development.*
- *any building or development work shall maintain or encourage replacement of tree-cover whenever possible to ensure the predominant landscape quality of the Municipality is maintained and enhanced;”*

The proposed subdivision creates allotments characteristic of the surrounding area, both in terms of size and configuration. The development will maintain the character of the area and given the size of the allotments will permit residential development that is characteristic with the surrounding development.

Appropriate conditions have been recommended to ensure that significant trees on the site are protected (*refer Condition No.6*).

## POLICY PROVISIONS

### Subdivision Code

Council's Subdivision Code sets out minimum areas and widths for subdivisions. The following table indicates that the proposed subdivision will meet the numerical requirements of the subdivision code:

	Proposal	Subdivision Code	Complies
<b>Lot 22</b>			
Area	2290m <sup>2</sup>	929m <sup>2</sup>	Yes
Width at 12.2 metres	30m	18.29m	Yes
Frontage	46.805m	6.1m,	Yes
<b>Lot 23</b>			
Area	1100m <sup>2</sup>	929m <sup>2</sup>	Yes
Width at 12.2 metres	30m	N/A	N/A
Frontage	30.48m	18.29m	Yes

## Item 3

The proposal complies in all regards to the provisions of the Ku-ring-gai Subdivision Code.

### Development Control Plan 38

As the intent of the proposal is to subdivide the allotment for a new residential dwelling, Council's Development Control Plan (DCP) 38 is relevant as a consideration as it applies to the existing house retained within proposed Lot 22.

Development Control	Proposals Numeric Compliance	Complies
<b>5.1 Streetscape:</b>		
• Rear Setback: 12m(min)	Min 16m	<b>YES</b>
<b>5.2 Building Form:</b>		
<b>Building Height Plane (s.5.2.3)</b> 45° from horizontal at any point 3m above boundary	Complies – existing dwelling single storey only.	<b>YES</b>
<b>Built-Upon Area (s.5.2.7)</b> 50% (max)	45.5%	<b>YES</b>
<b>5.3 Open Space &amp; Landscaping:</b>		
<b>Soft Landscaping Area (5.3.3)</b> 50% (900m <sup>2</sup> ) (min)	Well under 50%	<b>YES</b>
<b>Useable Open Space (s.5.3.8)</b> Min depth 5m and min area 50m <sup>2</sup>	Easily complies	<b>YES</b>

### Section 94 Contributions

The subdivision of the site into two allotments of land generates a Section 94 contribution of \$33,057.22 (*refer Condition No. 9*).

### Likely Impacts

The proposal is unlikely to have any significant impact on the environment, landscape or scenic quality of the locality, threatened species, populations or ecological communities or their habitats or any other protected fauna or protected native plants.

The site is not within a wilderness area nor an area of critical habit.

There is unlikely to be any significant impact on the existing or likely future amenity of the neighbourhood.

### Suitability of The Site

The proposed lot is of sufficient size and shape to accommodate the proposed subdivision. Consideration has been given to the sites' location within an overland flow path, and it is considered that a suitable area can be provided to accommodate a dwelling on the resultant lot. All urban services are available.

### **Any Submissions**

No submissions were received in response to the notification of the application.

### **Public Interest**

The proposal is considered to be in the public interest.

### **Any other Relevant Matters Not Already Addressed**

There are no other matters for assessment.

### **CONCLUSION**

The proposed development seeks to subdivide one allotment into two allotments. The property is suitable for the proposed development, in that it will maintain the character of the locality and result in minimal impact upon the surrounding environment.

The proposal meets with the requirements and objectives of the Ku-ring-gai Planning Scheme Ordinance.

### **RECOMMENDATION**

THAT Development Application No. 0243/04 for the subdivision of the existing allotment to create an additional allotment at Lot 2, DP 22344, being 6 Eastern Arterial Road, St Ives, be approved for two years on a deferred commencement basis, subject to the following conditions:

#### **SCHEDULE A**

1. In order to have the consent activated by Council, the Applicant must obtain Council's approval to extinguish, and then re-create, a new drainage easement over the Council drainage system on all the downstream properties as far the downstream road reserve. This procedure is broadly dependant on demonstrating physical capacity of the system and obtaining approval of all downstream owners to have their title documents amended to show the new benefit for the subject lot and corresponding burden. The procedure to obtain approval must be undertaken in strict accordance with the steps given in appendix 8 of Councils Water Management Development Control Plan 47, adopted March 2004. All documentation outlined in this process must be prepared, submitted and verified by Council. The necessary fees must be paid by the Applicant and the easement, where obtained, is to be created under the Conveyancing Act 1919.

As the procedure is dependant upon obtaining the permission of downstream owners and demonstrating acceptable physical capacity of the Council system to allow further connection, no guarantee can be given as to the success of this process.



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NOTE: The matters referred to in Schedule A must be completed to Council's satisfaction within TWO YEARS from the date of this Deferred Commencement Approval before the Consent operates.

THIS CONSENT will be ISSUED SUBJECT TO CONDITIONS OF APPROVAL as specified hereunder in Schedule B.

This permit shall be read in conjunction with the approved plans and specifications.

The following conditions specified hereunder in Schedule B shall be imposed on the Development Application.

**SCHEDULE B**

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No. 0243/04 and Development Application plans prepared by Degotardi, Smith and Partners, reference number 29806A03.DWG, Revision A, Sheet 1 of 1, dated 16/12/03, and lodged with Council on the 12 March 2004.
2. The works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.
3. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent shall be kept on site at all times.
4. The relocation or adjustment of any utility service facilities must be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
5. 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](http://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.
6. 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.
7. The creation of a Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the area of land beneath the canopy of the following tree/s for a specified radius in metres from the trunk of that tree, the terms of which state that any excavations, soil

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level changes or construction works are prohibited with the exception of any driveway as approved by Council:

Tree numbers refer to Tree Report by Earthscape Horticultural Services dated March 2004.

Tree No	Tree/Location	Radius in Metres
#105	Eucalyptus pilularis (Blackbutt)	7.5m
#77	Angophora costata (Sydney Redgum)	6.0m

8. All new public utility services, or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities. A plan detailing services trenches, which shows distances from proposed and existing trees, shall be submitted to the Principal Certifying Authority and approved prior to the issue of the Construction Certificate.
9. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

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

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

1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New child care centre (including land acquisition and construction of facility)	\$252.13
4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Acquisition of Open Space -Wahroonga	\$7,851.00
8.	Koola Park upgrade and reconfiguration	\$143.09
9.	North Turramurra Sportsfield development	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

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

**OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES**

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

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

10. The appropriate fees set out in Councils adopted Schedule of Fees and Charges is payable to Council, prior to the issue of the Subdivision Certificate.
11. Prior to issue of the Subdivision Certificate, the applicant shall create of a Restriction-on-Use on the title of the subject property. The restriction is to be over the 100 year ARI flood zone identified in the report by AFCE, Job Number 343139, Rev 1.1, dated February 2004 and must prevent the placement of any structures, walls, fences, fill or other items which may impede the 100 year ARI flood, within that zone. Ku-ring-gai Council is to be named as the Authority empowered to release, vary or modify the restriction.
12. For endorsement of the linen plan/issue of the subdivision certificate, the applicant shall submit an original plan of subdivision plus six (6) copies, suitable for endorsement by Council. The following details **must** be submitted with the plan of subdivision and copies:
  - Council's Subdivision Lodgement Form, available from Council's Customer Services.
  - The endorsement fee current at the time of lodgement,
  - The 88B Instruments plus six (6) copies,
  - The Sydney Water Section 73 Compliance Certificate.

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

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

13. For endorsement of the linen plan / issue of the subdivision certificate, the Applicant shall submit an original instrument under Section 88B of the Conveyancing Act with the plan of subdivision, plus six (6) copies. This is to create any required easements, rights-of-carriageway, positive covenants, restrictions-on-use or other burdens/benefits as may be required. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the same.
14. Prior to release of the linen plan/issue of the subdivision certificate, the applicant shall create all burdens including but not limited to drainage easements, easements for services and rights-of-carriageway, as required. A registered surveyor is to certify, prior to release of the linen plan/issue of the subdivision certificate, that all existing interallotment drainage lines, services and/or driveways are fully contained within the proposed burdens and/or that future provision of such are fully covered by the proposed burdens. Alternatively, where the surveyor is of the

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opinion that no interallotment easements or rights-of-carriageway are required, then certification to this effect must be submitted to the Principal Certifying Authority (PCA).

15. Creation of suitable drainage easements with minimum widths in accordance with Council's Water DCP47 over all of the inter-allotment and Council drainage systems.
16. Prior to release of the linen plan/issue of the subdivision certificate, the Section 73 Sydney Water compliance certificate which refers to the subdivision application must be obtained and submitted to the Council.

K. Lithgow  
**Executive Planner**

M. Prendergast  
**Manager  
Development Assessment  
Services**

M. Miocic  
**Director  
Development and Regulation**

**Attachments:      Survey Plan**

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## 57 MERRIVALE ROAD, PYMBLE - OPTION TO RENEW LEASE

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### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	To advise Council of the Playgroup Association of NSW exercising its option to renew the lease for the premises located at 57 Merrivale Road, Pymble to operate the Pymble Playgroup.
<b>BACKGROUND:</b>	The lease for the playgroup expires on 31 October 2004, however, that agreement contains an option to renew for a further 3 years.
<b>COMMENTS:</b>	The Playgroup Association of NSW has exercised their option to renew for another 3 years as per the terms of the lease.
<b>RECOMMENDATION:</b>	That Council authorise the exercise of the option by the Playgroup Association of NSW for the premises at 57 Merrivale Road, Pymble.

## PURPOSE OF REPORT

To advise Council of the Playgroup Association of NSW exercising its option to renew the lease for the premises located at 57 Merrivale Road, Pymble to operate the Pymble Playgroup.

## BACKGROUND

Council is the owner of Lot 2 DP 252197, that is zoned Residential 2(c) and classified as Community Land. The property has heritage status under the Ku-ring-gai Heritage LEP 1.

On 17 September 2002 Council resolved to grant a 2 year lease with a 3 year option to the Playgroup Association of NSW to operate the Pymble Playgroup from the premises located at 57 Merrivale Road, Pymble. The initial 2 year lease commenced on 1 November 2002 and expires on 31 October 2004.

## COMMENTS

The Playgroup Association of NSW has exercised their option to renew for another 3 years as per the terms of the lease.

Pymble Playgroup has operated from these premises since 1973 and provided a playgroup service to primarily non-working parents with children from the age of 18 months to three and a half years. The group has been meeting its responsibilities as a tenant and has complied with the conditions as set out in Council's Policy for Leasing Council Property to Community Organisations. Given this, it is recommended that the Playgroup Association of NSW be granted a renewal of its lease.

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

## CONSULTATION

The Playgroup Association of NSW have exercised their option to renew as per the terms of the lease.

## FINANCIAL CONSIDERATIONS

The current rental being paid by Pymble Playgroup is \$1,706 and is subject to annual CPI adjustments throughout the option period.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not Applicable

## SUMMARY

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

## RECOMMENDATION

- A. That Council receive and note the valid exercise of option and approve the grant of a 3 year lease to the Playgroup Association of NSW over Council premises at 57 Merrivale Road, Pymble.
- B. That the Mayor and General Manager be authorised be authorised to execute all necessary lease documents
- C. That Council authorise the affixing of the common seal of Council to the lease agreement

Stephen Plumb  
COMMUNITY FACILITIES COORDINATOR

Janice Bevan  
DIRECTOR COMMUNITY SERVICES

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## REPORT ON BANNING SMOKING AT SPORTING VENUES

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### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	To respond to Councillor Malicki's Notice of Motion dated, 31 May 2004, "that a report come to Council as soon as possible outlining steps that Council could take to ban smoking at sporting venues and in public places".
<b>BACKGROUND:</b>	Some local Councils have shown support to ban smoking in certain areas in the interest of better community health.
<b>COMMENTS:</b>	Council has a role in advocating better public health for its residents. Existing policies provide for a smoke free environment in Council buildings, for the protection of Council staff and members of the public. Community attitudes are changing and health organisations are urging stronger smoking bans in public places not yet covered by legislation.
<b>RECOMMENDATION:</b>	That Council supports initiatives to address concerns about the effects of exposure to second hand smoke, as recommended at the end of this report.



## PURPOSE OF REPORT

To respond to Councillor Malicki's Notice of Motion dated, 31 May 2004, "that a report come to Council as soon as possible outlining steps that Council could take to ban smoking at sporting venues and in public places".

## BACKGROUND

There can be no argument that smoking is a health hazard. Research demonstrates that passive smoke increases the risk of lung cancer and health disease as well as causing irritation to eyes, nose, throat and lungs. Children are particularly susceptible to the health effects of passive smoking.

There is a range of legislation which deals with passive smoking. In September 2000, the NSW Parliament passed the Smoke Free Environment Act, *to regulate smoking in enclosed public places*. In July 2004 the Minister for Health, Craig Knowles announced the next stage of the NSW Government's initiatives against tobacco smoking, launching the NSW Tobacco Action Plan. Key areas targeted for attention in this Action Plan include smoking rates amongst our young people, women and indigenous communities. The Action Plan has six key areas for activity:-

- Raising community awareness;
- Raising quitting rates;
- Reducing tobacco supply;
- Limiting marketing opportunities;
- Increased regulation;
- Reducing exposure to environmental tobacco smoke.

Councils have a role in advocating better public health for their residents. Health organizations, like the Cancer Council NSW, are now urging stronger smoking bans in public places not yet covered by legislation. While second hand smoke is generally not seen as a big concern in outdoor venues, it can still cause health problems for children, pregnant women and other individuals who suffer from allergies or medical conditions like asthma and heart disease.

This matter was highlighted and discussed at the Local Government Association's 2003 Annual Conference. The conference resolved to support the following, "in the interest of children".

1. A ban on smoking within 10 metres of all children's play areas under Council's care.
2. A ban on smoking around all Council playing fields and sporting grounds.
3. The erection of suitable signage highlighting both the adverse environmental and public health issues.
4. Ensuring that events run or sponsored by Council should be smoke free.

Various Councils have recently adopted smoking exclusion zones around playground equipment and Council controlled sporting venues. Others have banned smoking on their beaches. Many

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major sporting venues around Australia, including Stadium Australia, Telstra Dome, the MCG, the WACA and ANZ Stadium have become smoke free in an effort to reduce community exposure to environmental tobacco smoke and to make venues more family-friendly.

It is noted that some councils have decided to work together to develop a regional policy on banning smoking. There are benefits to be gained from this approach, communicating with others to achieve some consistency and a common goal.

Whilst sporting venues and public areas such as playgrounds are easily identifiable, Council would also need to give some consideration to the definition of public places. Areas such as dining areas on Council footpaths, many of the public areas relating to shopping centres and even bus stops may be identified as public places.

### Power to regulate

Formal legal advice has not been sought. Based on advice received from other councils active in this area, Section 632 of the Local Government Act 1993, provides Council with the options to designate an area and erect signs that:

- allocate the area as a smoke free zone and enforcement.
- allocate the area as a smoke free zone to be used as peer and public pressure to deter rather than enforce.

A person who, in a public place within the area of a Council, fails to comply with the terms of a notice erected by the Council is guilty of an offence. An Infringement Notice (on the spot fine) of \$110 can be issued for the offence. The issue of an infringement notice would be quite difficult, as Council's powers to detain a person and request personal details are limited.

### COMMENTS

Community attitudes towards smoking have been changing over a period of time which can, in part, be attributed to the mounting evidence showing the effects of passive smoking. By the mid 1990's, smoke free policies had been introduced extensively throughout both public and private sectors, to address increased community expectation that public areas should be smoke free.

The prohibition of smoking at sporting venues and in public places is extremely difficult to enforce given the limitations of the legislation for Council's regulatory staff (rangers) to detain persons and acquire personal details such as name and address. This limitation effectively means that the erection of signage, whilst acting as a deterrent to responsible minded persons, will have no meaningful effect without publicly evident policing by Council's staff. Furthermore, without meaningful policing, the desired effect of the signs as a deterrent will diminish increasingly in the future. In addition, in order to effectively enforce a no smoking ban in public places, up to three site specific regulatory signs and additional ordinance signs would be required. The erection of signage may have a visually obtrusive impact on Council's public places.

An alternative to the erection of signage is that Council embarks upon a program of community consultation and an education campaign, as well as encouraging sporting organisations to provide designated smoke free zones at their venues. In the long term, a community embraced methodology on the banning of smoking in public places is likely to have greater longevity and more evident results.

## **CONSULTATION**

Any proposed initiative in regards to the banning of smoking at Council venues not addressed by existing State or Commonwealth legislation should be the subject of community consultation.

It is proposed that the issue should be referred to Council's Parks, Sport and Recreation Reference Group to assist Council determining should it wish to prioritise resources to any initiative.

Further, when considering the difficulties in implementing a regulatory approach, it may be beneficial to allow individual groups to undertake a voluntary code supporting a smoke free environment at their respective venues. Community pressure and education may prove far more efficient in deterring smoking within Councils sporting venues.

## **FINANCIAL CONSIDERATION**

Resources required to implement a ban on smoking through a regime of enforcement or encouragement will be considerable. While a detailed analysis of costs have not been undertaken in the preparation of this report signage to enforce a regulation would mean that many hundreds of new signs would be required. Regulatory signs for Council's leash free areas cost approximately \$200 per sign.

Should a voluntary code be promoted either by Council or individual clubs the key driver regarding cost would relate to the impact Council wishes to achieve. The more signs utilised the greater the impact and also the greater the cost.

Council's current Open Space budgets could not adequately provide for this outlay without substantial loss of service elsewhere within the Open Space network.

The costs of enforcing any prohibitive regulation will also need to be considered.

## **SUMMARY**

Advocating better public health is an important element of a Council's role. In relation to smoking, Council's existing policies and legislative requirements provide for a smoke free environment within Council buildings and facilities. Health organisations are urging a stronger stance regarding smoking bans in public places not yet covered by legislation.

This report has not researched local community attitudes to an initiative of this sort or of its priority against other needs, given the considerable resources to implement such a proposal would require.

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**11 October 2004**

Accordingly, this report supports Council adopting a policy position regarding smoking and that appropriate stakeholder groups such as sporting clubs be encouraged to adopt voluntary codes prohibiting smoking within Council Open Space Areas supported and enforced by peer pressure where groups deem this to be desirable. Referring the matter to the Parks Sports and Recreation Group for discussion is appropriate to progress the matter.

Council can further support this initiative by declaring Council run and Council sponsored events as being smoke free and continuing to support regional, state and national initiatives in this regard, should it desire.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

This report contains input from both Open Space and Development and Regulation.

## **RECOMMENDATION**

That Council:

- A. Outline in principle support for a ban of smoking across all areas under Council's care and control.
- B. Supports efforts by individual sporting clubs and associations to implement a voluntary code which bans smoking at their respective locations.
- C. Raises the issue for discussion at the Parks Sport and Recreation Group.
- D. Requires events that are run or sponsored (including events enjoying fee waivers or discounts) to be smoke free.
- E. Places the matter on the NSROC agenda for discussion, comment and identification of future consistent approaches to this issue across the Northern Suburbs region.

Anne Seaton  
Manager Regulation &  
Compliance

Michael Miocic  
Director Development & Regulation

Steven Head  
Director Open Space

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## 2004 FINANCIAL ASSISTANCE GRANTS TO COMMUNITY GROUPS

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### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	To advise Council of applications received from community groups for financial assistance in 2004, and to recommend to Council subsequent funding allocations.
<b>BACKGROUND:</b>	Each year, Council calls for applications for financial assistance from both community and cultural groups that are either based in Ku-ring-gai, or associated with people in the Ku-ring-gai area. Applications totalling approximately \$176,242 have been received from 76 community and cultural groups.
<b>COMMENTS:</b>	Council allocated \$76,300 for the Financial Assistance Grants Program to Community Cultural Groups in the 2004/05 budget.
<b>RECOMMENDATION:</b>	That Council approve recommendations A-C at the end of this report

## PURPOSE OF REPORT

To advise Council of applications received from community groups for financial assistance in 2004, and to recommend to Council subsequent funding allocations.

## BACKGROUND

Each year, Council calls for applications for financial assistance from both community and cultural groups either based in Ku-ring-gai, or whose work benefits the identified needs of people within the Ku-ring-gai area. Applications totalling \$176,242 have been received from 76 community and cultural groups.

Council allocated \$76,300 in its 2004/05 budget for the Financial Assistance Grants Program. This amount consists of \$70,821 for community groups, \$2,772 for the rates and garbage rebate for the Eryldene property and \$2,707 as a contribution to the printing costs for the journal of the Ku-ring-gai Historical Society (OMC 19 February 2003)

## COMMENTS

Relevant Community Services staff have evaluated all applications (**Attachment 2**) for financial assistance according to the criteria outlined in the Financial Assistance to Community Groups Policy (**Attachment 3**). An overview of each application received has also been prepared to assist in the assessment process (**Attachment 1**).

All groups receiving funding this year are required to provide Council with details on grant expenditure by May of the current financial year. In addition to this requirement, some organisations have had specific conditions placed on the recommendation of a grant.

It is regretted that not all the organisations that have applied will be recommended for financial assistance, and in most cases the full amount requested cannot be granted.

To ensure that Council funds a range of groups and services, all applications were categorised in six (6) areas. These areas are:

1. Aged Services
2. Arts/Cultural
3. Children's Services
4. Disability Services
5. Support Services
6. Youth & Leisure Services

The funding distribution pattern across these six areas is outlined in Attachment 4.

## CONSULTATION

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**1 October 2004**

Not applicable.

## FINANCIAL CONSIDERATIONS

The amount of \$76,300 was allocated in the 2004/2005 budget. This amount includes \$2,772 for Eryldene and \$2,707 for the Ku-ring-gai Historical Society.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Where appropriate, advice was sought from relevant Council Departments and those comments have been referred to in the individual assessments.

## SUMMARY

Not applicable.

## RECOMMENDATION

- A. That the community and cultural groups as listed receive financial assistance from Council in 2004.

Community / Cultural Group	Amount Recommended
Catholic Health Care – McQuoin Park Day Therapy Services	\$ 1,000.00
Computer Pals for Senior's Ku-ring-gai	\$ 2,000.00
The Community Friendship Group – 'Cooinda'	\$ 1,000.00
Constant Companion	\$ 1,386.00
Easy Care Gardening Inc	\$ 885.00
Friends of Richard Geeves Centre	\$ 2,000.00
Hornsby & District T.P.I. Welfare Club	\$ 400.00
Northside Christian Life Centre	\$ 770.00
North Sydney Community Services- Hornsby/ Ku-ring-gai	
Migrant Settlement Project	\$ 750.00
Mirrabooka Singers	\$ 300.00
SydneySiders Express Inc.	\$ 300.00
Ku-ring-gai Male Choir Inc.	\$ 300.00
Ku-ring-gai Historical Society	\$ 1,965.00
Ku-ring-gai Philharmonic Orchestra	\$ 4,000.00
The Cavalcade of History & Fashion Inc.	\$ 700.00
Eryldene Trust	\$ 650.00
Western Youth Orchestra Association Inc.	\$ 380.00
R.A.P.A.	\$ 2,870.00
The Local Handcraft Association	\$ 600.00
Fusion Australia Ltd	\$ 2,000.00
KU Wahroonga Pre-school	\$ 650.00
Roseville P&C Kids Care Association	\$ 780.00
Montessori Excelsior School	\$ 650.00

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Bradfield Park Child Care Centre	\$ 700.00
Beaumont Road Public School P&C After School Care Inc	\$ 650.00
Ku-ring-gai Community After School Care	\$ 665.00
Lindfield Montessori Society Incorporated	\$ 650.00
KU Saddington Street Pre School	\$ 800.00
South Turramurra Pre-school	\$ 650.00
St Ives North Public School P&C Association Inc After School Care	\$ 662.00
Lindfield East Before & After School Care	\$ 650.00
Christ Church St Ives Pre-School	\$ 660.00
East Lindfield Community Pre-School Association	\$ 650.00
Pymble Turramurra Kindergarten	\$ 650.00
Aunties and Uncles Co-operative Family Project Ltd	\$ 650.00
KU Killara Park Pre-school	\$ 500.00
Wahroonga After School Care	\$ 650.00
Gordon East OOSH	\$ 650.00
KU St Ives Barra Brui Pre-school	\$ 700.00
St Ives Pre-school Kindergarten	\$ 650.00
Ku-ring-gai Zone Playgroups	\$ 1,000.00
Centacare Broken Bay - Boonah Creative Arts Centre	\$ 900.00
Cromehurst Special School P&C	\$ 1,000.00
Disabled Alternative Road Transport Service	\$ 1,000.00
Hornsby Ku-ring-gai Association for Mental Illness	\$ 1,200.00
Life Start	\$ 1,000.00
Parkinson's Association – Ku-ring-gai/Hornsby Support Group	\$ 1,200.00
Recreation Rendezvous Inc	\$ 1,000.00
Royal Blind Society of NSW	\$ 1,000.00
St Edmund's Special School	\$ 1,000.00
Self Help for the Hard of Hearing (SHHH)	\$ 500.00
Studio Arts Northside Inc.	\$ 1,000.00
Technical Aid for the Disabled	\$ 1,000.00
Gordon Baptist Church Cross Cultural Friendship Centre	\$ 870.00
Winchester & Lyle Community Fire Unit	\$ 2,175.00
Dial-A-Mum	\$ 1,000.00
Community Fire Unit 89	\$ 2,100.00
2NSB FM North Shore Broadcasting	\$ 500.00
Ku-ring-gai Family Support (Ryde Family Support)	\$ 1,700.00
Hornsby Ku-ring-gai Lifeline and Community Aid	\$ 1,400.00
Ku-ring-gai Neighbourhood Centre	\$ 1,650.00
South Turramurra Community Fire Unit MHP-39	\$ 999.00
Hornsby Ku-ring-gai Domestic Violence Network	\$ 1,000.00
Hornsby Ku-ring-gai Hills Multiple Birth Assoc.	\$ 1,000.00
1 <sup>st</sup> North Turramurra Scout Group	\$ 1,000.00
1 <sup>st</sup> Middle Harbour Sea Scout Group	\$ 1,100.00
1 <sup>st</sup> Lindfield Scout Group	\$ 1,000.00
Ku-ring-gai Little Athletics Centre Inc (KLAC)	\$ 1,000.00
1 <sup>st</sup> Turramurra Scout Group	\$ 1,000.00
Killara High School	\$ 963.00
<b>TOTAL</b>	<b>\$70,780.00</b>
Eryldene Rates/Garbage Charge 2003/04)	\$ 2,772.00
Historical Society (Annual journal printing cost)	\$ 2,707.00
<b>GRAND TOTAL</b>	<b>\$76,259.00</b>

- B. That all groups receiving a grant, advise Council by 31 May 2005 how the grant was spent.



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- C. That those groups recommended for financial assistance from Council receive the cheques personally from the Mayor at a Council meeting.

Danny Houseas  
MANAGER COMMUNITY DEVELOPMENT

Janice Bevan  
DIRECTOR COMMUNITY SERVICES

- Attachments:**
- 1. Summary of funding applications and recommendations.**
  - 2. Community and Cultural Application Assessments.**
  - 3. Financial Assistance to Community Groups Policy.**
  - 4. Funding distribution pattern across the six areas.**

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## **POLICY FOR THE PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS**

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### **EXECUTIVE SUMMARY**

<b>PURPOSE OF REPORT:</b>	To consider proposed amendments to Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors.
<b>BACKGROUND:</b>	On 3 July 2000, Council adopted a policy for the Payment of Expenses and Provision of Facilities to Councillors. Two matters that are not addressed by the current policy are the questions of provision of mobile telephones to Councillors, and the payment of legal expenses incurred by Councillors.
<b>COMMENTS:</b>	It is recommended that Council consider making the amendments to the policy in relation to the provision of mobile telephones to Councillors, and in relation to the payment of legal expenses.
<b>RECOMMENDATION:</b>	That public notice be given of the proposed amendments for at least 28 days pursuant to Section 253 of the Local Government Act and that the matter be further considered after that period.

## PURPOSE OF REPORT

To consider proposed amendments to Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors.

## BACKGROUND

Section 352(1) of the *Local Government Act* 1993 provides:

*“A council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.”*

On 3 July 2000, Council adopted a policy in accordance with this requirement. A copy of the policy, as adopted, forms attachment 1 to this report.

Two matters that are not addressed by the current policy are the provision of mobile telephones to Councillors, and the payment of legal expenses incurred by Councillors.

If Council wishes to amend the Policy, under section 253(1) of the *Local Government Act*, Council must give at least 28 days' public notice of the proposal to amend the Policy. After this period, Council may amend the policy by a decision made in open meeting in accordance with section 252(4).

## COMMENTS

It is recommended that Council consider making the amendments to the policy in relation to the provision of mobile telephones to Councillors, and in relation to the payment of legal expenses in accordance with Attachment 2.

The proposed insertion of a new provision 2.c.(xi), provides for Councillors to be supplied with a mobile phone for use for Council business at the expense of Council, or alternatively for reimbursement of rental plus 50% of metered call charges in the case of a Councillor using their own mobile phone.

The proposed amendment to clause 8 of the policy provides for circumstances in which legal costs incurred by a Councillor should be reimbursed.

## CONSULTATION

Before deciding whether to amend the policy, Council must first give 28 days' notice of the proposal in accordance with section 253(1) of the *Local Government Act*. Any submissions received as a result will be reported for consideration when Council further considers whether to amend the Policy.

## FINANCIAL CONSIDERATIONS

Expenses associated with the provision of mobile phones and any reimbursement of legal expenses will need to be factored into Council's operating budget.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The Director Finance and Business Development and Corporate Lawyer have been consulted in relation to the proposed amendments to the Policy.

## SUMMARY

On 3 July 2000, Council adopted the current Policy for the Payment of Expenses and Provision of Facilities to Councillors.

Two matters that are not addressed by the current Policy are the provision of mobile telephones to Councillors, and the payment of legal expenses incurred by Councillors. It is recommended that Council consider making the amendments to the policy in relation to the provision of mobile telephones to Councillors, and in relation to the payment of legal expenses in accordance with Attachment 2.

## RECOMMENDATION

- A. That Public notification be given pursuant to section 253(1) of the *Local Government Act* of the proposal to amend Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors in terms of attachment 2 to the Report.
- B. That any submissions received in relation to the proposal be reported to Council for further consideration of the proposed amendments.

Jamie Taylor  
Corporate Lawyer

Brian Bell  
General Manager

**Attachments:**      **Attachment 1: Draft Policy for the Payment of Expenses & Provision of Facilities to Councillors adopted 3 July 2000.**

**Attachment 2: Draft Policy with proposed amendments.**