



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 20 JULY 2004 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A

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

APOLOGIES

DECLARATION OF PECUNIARY INTEREST

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

ADDRESS THE COUNCIL

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

DOCUMENTS CIRCULATED TO COUNCILLORS

CONFIRMATION OF MINUTES

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 29 June 2004

Minutes numbered 303 to 318

Minutes of Extraordinary Meeting of Council

File: S02131

Meeting held 6 July 2004

Minutes numbered 319 to 320

MINUTES FROM THE MAYOR

PETITIONS

P.1 **Kokoda Track Memorial Project - Support for Building a Memorial - (Sixty-Three [63] Signatures)**

File: S02092

"We, the undersigned, support the building of a memorial at the entrance to Kokoda Avenue, Wahroonga to recognise the battle for the KOKODA TRAIL in New Guinea in 1942.

The building of this memorial recognises the bravery and sacrifice of those who took part in this battle, and the fact that Kokoda Avenue is so named to commemorate the events of 1942.

We consider the position and design of the memorial on the nature strip adjacent to the side boundary of No 2 Kokoda Avenue to be the appropriate site."

REPORTS FROM COMMITTEES

Minutes of Ku-ring-gai Traffic Committee

File: S02110

Meeting held 24 June 2004

Minutes numbered KTC13 to KTC17

Minutes of Inspections Committee

File: S02131

Meeting held 10 July 2004

Minutes numbered INS15 to INS16

GENERAL BUSINESS

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

GB.1 **17 to 19 Orana Avenue, Pymble - Supplementary Report**

1

File: DA1502/03

To address matters raised at the site inspection of 26 June 2004 and for Council to determine a development application for the construction of a tennis court.

Recommendation:

1. That the additional information be noted, and that the application be refused.
2. Should Council decide to approve the application, draft conditions have been prepared to be included with the consent.

GB.2 38 Parkinson Avenue, Turramurra - Alterations and Additions to an Existing Building to Create an Attached Dual Occupancy 30

File: DA501/03

Ward: Comenarra

Applicant: B Abrahams c/- Glendinning Minto and Associates P/L

Owner: B Abrahams

Determination of an application for an attached dual occupancy development.

Recommendation:

Approval

GB.3 37 Grosvenor Street, Wahroonga - Detached Dual Occupancy, Comprising Demolition Of The Existing Dwelling And Construction Of Two, Two Storey Dwellings 60

File: 1698/03

Ward: Wahroonga

Applicant: W & J Wu

Owner: William Wu & Ju Fang Zhang

To determine development application No. 1698/03, which seeks consent for a detached dual occupancy, comprising demolition of the existing dwelling and construction of two, two storey dwellings and a 1.2m high wrought iron front fence.

Recommendation:

Approval

GB.4 51 Billyard Avenue, Wahroonga - Subdivision Of One (1) Allotment To Create Three (3) Allotments 111

File: DA68/04

Ward: Wahroonga

Applicant: M & R Civil Pty Ltd C/- Glendinning Minto & Associates Pty Ltd

Owner: D W & P E Gudex

Determination of a Development Application for the subdivision of 51 Billyard Avenue, Wahroonga to create three (3) Torrens Title allotments.

Recommendation:

Approval

GB.5 33 Lochville Street, Wahroonga - Connection To Council Pipeline 138

File: DA318/04

To consider a request by the owners of 33 Lochville Street, Wahroonga to alter the terms of the council drainage easement over downstream properties and to permit discharge into a council pipeline.

Recommendation:

That Council grants approval to alter the terms of the Drainage Easement, conditional on the payment of Council's legal costs and disbursements in items A to D.

GB.6 5 Suakin Street / 986 Pacific Highway, Pymble - Energy Australia Request For Short Term Lease 143

File: P54824

For Council to approve a request from Energy Australia for a short term lease over a portion of Council owned vacant land at 5 Suakin Street/986 Pacific Highway, Pymble (lot 1 in DP 830320).

Recommendation:

That Council approve the grant of a six month lease with a monthly holding over period to Energy Australia.

GB.7 Investment Cash Flow & Loan Liability As At 30 June 2004 149

File: S02722

To present to Council the investment allocation and the performance of investment funds, monthly cash flow and details of loan liability for June 2004.

Recommendation:

That the summary of investments, daily cash flows and loan liability for June 2004 be received and noted.

GB.8 Pecuniary Interest Returns Register 158

File: S02167

To table the Pecuniary Interest Returns of the newly elected Councillors in accordance with the Local Government Act 1993.

Recommendation:

That the tabling of the Pecuniary Interest Returns be noted.

- GB.9 **Submission On Development Application For Minister's Targeted Site No 6 At 4-14 Merriwa Street & 3-11 McIntyre Street, Gordon** **160**

File: S02983

To have Council endorse a submission to the Department of Infrastructure, Planning and Natural Resources on the Development Application by Stockland Development Pty Ltd for the Minister's Targeted Site No 6 at 4 - 14 Merriwa Street and 3 - 11 McIntyre Street, Gordon.

Recommendation:

That Council endorses the attached submission to DIPNR on the Development Application by Stockland Development Pty Ltd for the 4 - 14 Merriwa Street and 3 - 11 McIntyre Street, Gordon forming the Minister's Site No 6 and forward to DIPNR.

- GB.10 **Rezoning Of B2 Road Reservation, Wahroonga - South Turramurra** **189**

File: S02846

To update Council on progress and recommendation for formal exhibition of Draft Local Environmental Plan No 201 (DLEP201), Rezoning of the Abandoned B2 Road Corridor between The Comenarra Parkway, Wahroonga and Kissing Point Road, South Turramurra.

Recommendation:

That the revised DLEP201 for the former B2 Road Reservation Corridor be placed on formal public exhibition. That DLEP201 be exhibited in accordance with the Best Practice Guidelines for LEP's relating to Council owned land.

- GB.11 **Bushcare - Draft Strategy** **198**

File: S02462

To provide a draft strategic plan for bushcare that considers its current and future environmental, economic and social benefits.

Recommendation:

That the draft strategy be exhibited and also referred to the Bushland, Catchments and Natural Areas Reference Group.

File: S02381

For Council to consider the appointment of a provider for West Pymble Pool Management Services.

Recommendation:

That Mr & Mrs Martin be appointed to provide Commercial Swimming Pool Management Services for a period of three years with a further option of up to two years; the Mayor and General Manager execute all relevant documents and the common seal of Council be affixed to all documents.

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**

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

Section 79C

1. Matters for consideration - general

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

a. The provisions of:

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

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

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

PETITION

KOKODA TRACK MEMORIAL PROJECT - SUPPORT FOR BUILDING A MEMORIAL - (SIXTY-THREE [63] SIGNATURES)

"We, the undersigned, support the building of a memorial at the entrance to Kokoda Avenue, Wahroonga to recognise the battle for the KOKODA TRAIL in New Guinea in 1942.

The building of this memorial recognises the bravery and sacrifice of those who took part in this battle, and the fact that Kokoda Avenue is so named to commemorate the events of 1942.

We consider the position and design of the memorial on the nature strip adjacent to the side boundary of No 2 Kokoda Avenue to be the appropriate site."

RECOMMENDATION

That the Petition be received and referred to the appropriate officer of Council for attention.

17 TO 19 ORANA AVENUE, PYMBLE - SUPPLEMENTARY REPORT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To address matters raised at the site inspection of 26 June 2004 and for Council to determine a development application for the construction of a tennis court.

BACKGROUND:

Council at its meeting of 22 June 2004 deferred consideration of the application pending a site inspection.

COMMENTS:

The matters raised at the site inspection are addressed in this report.

RECOMMENDATION:

1. That the additional information be noted, and that the application be refused.
2. Should Council decide to approve the application, draft conditions have been prepared to be included with the consent.

Item 1

PURPOSE OF REPORT

To address matters raised at the site inspection of 26 June 2004 and for Council to determine a development application for the construction of a tennis court.

BACKGROUND

An assessment report was prepared and considered by Council on 22 June 2004 where Council resolved to defer determination pending a site inspection. The site inspection was carried out on Saturday, 26 June 2004. The following matters were raised at the site inspection and are addressed accordingly.

1. Built-upon area

Concern was raised as to whether the built-upon area of 58.3% was accurate and whether Council can require the 50% maximum built-upon area as required by Development Control Plan No 38 rather than the 60% maximum built-upon area provided by the Ku-ring-gai Planning Scheme Ordinance.

Council staff have reviewed the plans and confirm that the stated build-upon area of 58.3% OR 1068 m² is accurate.

Council's legal officer has prepared a legal opinion in relation to this matter and is a confidential attachment to this report.

2. Excavation cut proposed along western site boundary

Concern was raised as to the impact of the proposed excavation along the western site boundary to provide for the proposed retaining wall. Firstly, if the cut was maintained at the line as shown on the plan, and secondly, if the cut was in excess of the line shown on the plan.

Council's Landscape Development Officer has commented as follows:

Excavation cannot be restricted to the line of the proposed tennis court/retaining wall. Excavation always exceeds the final positioning of the retaining wall to allow for the physical construction of the wall, the installation of drainage pipes and the placement of free draining aggregate behind the wall. There may also be the need for electricity cables and the location of other services. It is usual to over excavate by a minimum 500mm to 1000mm depending upon the height of the wall and the battering required behind the wall.

*The proposed excavation will result in the root severance of existing shrub and tree planting, on site and on the adjoining property, including the removal of tree #14 *Franklinia axillaris* (*Gordonia*).*

3. Location of canopy trees

Item 1

Concern was raised as to whether the proposed canopy trees could be spread around the site.

Council's Landscape Development Officer has commented as follows:

The amount of development on the site (including the tennis court) restricts the available area for tree replenishment on site. The location of the tennis court will result in no 'canopy' trees being located within the front building setback, which is not typical of the Ku ring gai landscape. It is noted that there are two mature trees located on Councils nature strip in front of the site that provide screening, however these are regularly pruned for the overhead wires.

As proposed on the submitted plans, replacement trees have been shown on the site plan. These are located in two main groupings adjacent to the east and west (side) site boundaries with four to six metre spacing. There are two existing trees located at the rear of the site. One 'canopy' tree is proposed to be removed to accommodate the tennis court. The intent of Councils Tree Replenishment Policy is to retain, maintain, and enhance the treed character of Ku ring gai, particularly with the increased amount of development within the area. The intent is to also have the trees located throughout the site where they have the opportunity to grow to maturity free of constraints. The proposed location of replenishment trees relies heavily on adjoining properties to accommodate maturing tree canopies. No native endemic tree species have been proposed.

4. Impact upon existing front screen planting

Concern was raised as to whether the tennis court would impact upon the existing screen planting located along the front, southern, site boundary.

Council's Landscape Development Officer has commented as follows:

Impacts to the front screen planting will be minimal if the existing shrubs are watered, mulched and maintained. They will require some pruning to accommodate the proposed tennis court fence. Natural moisture availability to the screen planting will be significantly altered, as will the existing micro climate. As a result of the proposed tennis court there will be significantly reduced ground moisture availability due to the large expanse of concrete and the significant changes in ground levels and there will be a significant increase in heat reflection and glare from the court which may result in the existing planting becoming 'burnt' during the warmer and drier summer months, particularly as they face north.

A secondary impact is the proposed automatic gate, that will 'slide' into the existing hedge adjacent to the driveway entry. This will result in excavation to the driveway level for the location of the gate 'runners' which will adversely impact upon the root system and require additional and regular pruning. There may also be a need for an additional retaining wall adjacent to the gate runner to maintain existing soil levels, further impacting upon the shrub planting.

5. Conditions

Should Council resolve to grant development consent to the proposed tennis court, contrary to the staff recommendation, appropriate conditions have been attached.

RECOMMENDATION

The Development Application No 1502/03 for the construction of a tennis court, retaining walls and alterations to the existing driveway on Lot 10 & Lot 11, DP 15832, 17-19 Orana Avenue as shown on Plan No's 1 and 3 Issue C prepared by Bo Piotrowski dated 28 April 2004 and lodged with Council on 7 May 2004 be refused for the following reasons:

1. The proposed tennis court structure and associated fencing within the front building line setback will have an unsatisfactory impact on the streetscape.

Particulars:

- (a) Clause 1B of the KPSO (Aims and Objectives for Residential Zones, in that the proposed development fails to satisfy: Part 1 (a) of Schedule 9 of the KPSO, in that the development fails to maintain and improve the existing amenity and environmental character of residential zones; and Part 2 (e) of the KPSO, in that the structure fails to harmonise with the neighbouring development.
 - (b) Part 5.1.3 of DCP 38 (Building Line - Front Setback) , in that the non compliance with the 12 m minimum setback for development on the high side of the street results in the development not being appropriately located on the site having regard to the adjoining properties and the predominant pattern of development in the street, and the location of the structure will restrict the ability to allow for landscaping and the planting of mature trees within the front setback area.
 - (c) Part 5.7.2 of DCP 38 (Tennis Courts), in that the location of the proposed tennis court structure will not maintain the required 3m min setback to the western side boundary which is necessary to minimise potentially adverse impact such as noise, overlooking and visual intrusion and to provide for appropriate landscaping; and the proposed tennis court will not maintain the minimum 5m setback from the habitable areas of any dwelling.
2. The location of the tennis court within the front setback of the dwelling will result in the loss of existing significant tree cover from the site, as well as reducing the potential for the site to re-establish a tree cover and landscape character which is consistent with the character of Ku-ring-gai.

Particulars:

- (a) Clause 1B of the KPSO (Aims and Objectives for Residential Zones), in that the proposed development fails to satisfy: Part 1 (a) of Schedule 9 of the KPSO, in that the development fails to maintain and improve the existing amenity and environmental character of residential zones; and Part 2 (c) of the KPSO, in that the development does not maintain or encourage the replacement of tree cover where possible to ensure the predominant landscape quality of the Municipality is maintained and enhanced;

Item 1

- (b) Part 5.3.3 of DCP 38 (Soft Landscaping Area) in that the development's proposed site cover of 58.3% represents a non-compliance with the minimum soft landscaping area requirement of 50% for this site of the site. The result being that the area available to provide for adequate soft landscaping and the required number of significant trees for the site is unreasonably reduced.
 - (c) Part 5.3.4 (Landscape Character), in that the proposed tennis court structure will result in an unreasonable reduction in the area available within the site to provide for supplementary planting of trees that will on maturity have a height that will contribute to Ku-ring-gai's tree canopy.
 - (d) Part 5.3.5 (Tree Preservation), in that the proposed tennis court structure will result in the loss of and impact upon existing significant trees and landscape planting within the site.
 - (e) Part 5.3.6 (Tree Replenishment), in that the construction of the proposed tennis court structure, which in addition to the approved swimming pool development at the rear of the site, will unreasonably reduce the area available within the site for additional tree planting to contribute to the re-establishment of the tree character of Ku-ring-gai.
 - (f) Part 5.2.15 (Cut and Fill) in that the proposed excavation to a depth of 2700mm will substantially exceed the maximum control of 900mm in cut relative to natural ground level.
3. The proposed tennis court in association with all existing structures results in an overdevelopment of the site.

Particulars:

- (a) Part 5.2.7 (Built Upon Area), in that the proposed built upon area exceeds 50% of the site area.

G Bolton
Team Leader, St Ives
Ward

M Prendergast
Manager
Development Assessment
Services

M Miocic
Director
Environment &
Regulatory Services

Attachments: **Original Report to Council**
 Conditions of Consent
 Legal Opinion (Confidential)

Item 2

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	38 PARKINSON AVENUE, TURRAMURRA - ALTERATIONS AND ADDITIONS TO AN EXISTING BUILDING TO CREATE AN ATTACHED DUAL OCCUPANCY.
WARD:	Comenarra
DEVELOPMENT APPLICATION N^o:	501/03
SUBJECT LAND:	38 Parkinson Avenue, Turrumurra
APPLICANT:	B Abrahams c/- Glendinning Minto and Associates P/L
OWNER:	B Abrahams
DESIGNER:	Robin Edmiston and Associates P/L - Architects
PRESENT USE:	Dwelling House
ZONING:	Residential "C"
HERITAGE:	No
PERMISSIBLE UNDER:	State Environmental Planning Policy No 53
COUNCIL'S POLICIES APPLICABLE:	Development Control Plan 40 - Waste Management, Development Control Plan 43 - Car Parking and Dual Occupancy Code
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy No 53 and 55
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	29 April 2003
40 DAY PERIOD EXPIRED:	8 June 2003
PROPOSAL:	Alterations and additions to an existing building to create an attached dual occupancy.
RECOMMENDATION:	Approval

Item 2

DEVELOPMENT APPLICATION N^o 501/03
PREMISES: 38 PARKINSON AVENUE, TURRAMURRA
PROPOSAL: ALTERATIONS AND ADDITIONS TO AN
EXISTING BUILDING TO CREATE AN
ATTACHED DUAL OCCUPANCY.
APPLICANT: B ABRAHAMS C/- GLENDINNING MINTO
AND ASSOCIATES P/L
OWNER: B ABRAHAMS
DESIGNER: ROBIN EDMISTON AND ASSOCIATES P/L -
ARCHITECTS

PURPOSE FOR REPORT

Determination of an application for an attached dual occupancy development.

EXECUTIVE SUMMARY

Issues: Non compliances with Councils Dual Occupancy Code:

- Disabled access;
- Built-upon area;
- Upper level floor space; and
- Private open space access.

Submissions: Three (3) objections were received.
Land & Environment Court Appeal: Not applicable.
Recommendation: Approval.

HISTORY

Property History:

The site is used for residential purposes and is affected by a drainage easement. The easement runs across the rear of the site immediately behind and partly under a skillion building attachment to the rear of the residence and then along the western boundary of the property to the street.

The existing house is currently being used as a dual occupancy without development consent. This application seeks to formalise this unauthorised situation.

Otherwise, there is no history of the site relevant to the subject development application.

Development Application History:

In response to concerns related to forward ingress and egress from the site raised by Council staff, amended plans were received on 17 June, 2004.

Item 2

THE SITE AND SURROUNDING AREA

The Site

Zoning:	Residential "C"
Visual Character Study Category:	1945 - 1968
Lot Number:	114
DP Number:	223317
Area:	929.5m ²
Side of Street:	South-east
Cross Fall:	South-east to north-west
Stormwater Drainage:	To the street
Heritage Affected:	No
Required Setback:	Not applicable
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No record of contamination

The site is located on the south-eastern side of Parkinson Avenue, between the Comenarra Parkway and Hicks Avenue. The site contains an existing two storey dwelling, with brick and timber walls, tile roof and a metal garden shed. Parking is provided within a carport on the south-west side of the building.

The site is a rectangular shaped, having a site area of 926m² and a frontage to Parkinson Avenue of 18.29 metres, with a depth of 50.825 metres. The property slopes down to the street with stormwater from the site currently draining to the street.

Surrounding Development:

The surrounding area comprises mainly single residential dwellings, one to two storeys in height. Located opposite and on the intersection of Hicks Avenue, exists a park containing playground equipment.

THE PROPOSAL

The proposal is for alterations and additions to modify the existing building to create an attached dual occupancy development containing one dwelling located at ground level and one dwelling at 1st floor level. The work includes:

1. Providing separate entries, including an isolated staircase to the upper level unit. The building already contains separate kitchens and bathrooms on each level.
2. A walkway from the upper level existing deck to the rear yard.
3. Demolition of part of the ground level porch on the south-east side of the building to provide additional car parking.

Item 2

4. It will be necessary for the building to be upgraded in terms of fire isolation. The applicant has provided a letter from Concert Building Certification Services advising that, in their opinion, compliance with the relevant provisions of the Building Code of Australia, particularly in respect of fire separation, can be achieved.
5. A turning bay to allow the forward exit of vehicles.

Details of the proposed development are as follows:

Dwelling 1: (Ground Floor)

The ground floor dwelling would contain 3 bedrooms, en-suite, bathroom, laundry, kitchen, lounge and a storeroom. It has deck at the front entry and a small porch on the south-east side of the lounge room which will need to be partially removed to provide additional parking on the south-eastern side of the building.

Access to the private open space for the ground floor unit would be from the kitchen with limited access from the lounge room. The minimum area of 100m² for private open space is provided, however, it is in two parts, with access to the upper level being by way of a set of timber steps.

Dwelling 2: (Upper Level)

The upper level dwelling consists of a bedroom, dressing room, bathroom, TV room, rumpus room, kitchen, guest room with en-suite, sewing room and a lower level entry and staircase. Access to the private open space for the upper level unit would be from the sewing room by way of a rear deck. The minimum private open space area of 100m² is provided, however, it is not accessible from the living room.

Amended Plans

The amended plans relocated the originally proposed car parking for two vehicles on the north-west side of the building to one space each on either side of the dwelling. This negates the need to demolish part of the existing ground floor entry porch on the north-western side of the building but requires the removal of part of a small porch on the south-eastern side of the building. It also provides a turning bay to allow forward vehicular access to the street.

CONSULTATION - COMMUNITY

Original scheme

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

1. J Knoblauch - 31 Canoon Road, Turramurra
2. N and C Pollard - 40 Parkinson Avenue, Turramurra

The submissions raised the following issues:

Item 2

Roofing material on existing side structure reflects on 31 Canoon Road.

There is no proposal to alter the existing roof.

The existing aerial is higher than allowed.

The existing aerial is not part of this application.

The existing dwelling is already occupied by two families.

This application seeks to formalise the existing unauthorised situation.

Windows on the western side at the upper level look directly into the adjoining kitchen door and private open space of No 40 Parkinson Avenue.

There is no change to the upper level rooms or windows on the western side of the building to the earlier approval in 1997. Screen planting is required to be provided on both side boundaries which will protect privacy (see **Condition 42**).

The rear upper level deck will overlook the rear yard of 40 Parkinson Avenue.

The provision of a privacy screen to the western side of the upper level rear deck would mitigate any privacy impacts. (refer **Condition 18**).

Solar access to the development is poor, with more windows on the east and west facades of the building provided than the north and south facades.

There is no proposed change to the existing fenestration of the building.

The proposal provides stacked parking spaces.

The development has been modified so as to provide car parking for each dwelling on each side of the building.

Vehicle manoeuvrability is poor.

The amended scheme modifies the vehicle manoeuvring area such that forward ingress and egress from the site is provided.

Noise from vehicles.

It is not considered that the noise from vehicles should be any greater than that occurring on the site at the present time.

Amended plans

Item 2

The amended plans were also notified. In response one (1) submission was received:

1. St. Phillips Anglican Church 1 - 3 Parkinson Avenue, Turramurra

The submission raised the following issues:

Need to maintain free use of adjoining driveway during construction process.

The combined driveway to both properties is wide enough to provide individual access to No. 38. A condition is recommended requiring that free access be maintained to No 36 at all times (refer **Condition 32**).

The proposed car space on the south-eastern side of the site should not interfere with the existing fence between the properties.

There should be no need for the construction of the car space on this side of the building to interfere with the fence.

CONSULTATION - WITHIN COUNCIL

Heritage/Urban Design

Council's Heritage/Urban Design Officer has commented on the proposal as follows:

The proposed internal alterations have no heritage or urban design impact. No objection is raised to the increased driveway surface at the front of the dwelling.

Landscaping

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

This application is supported subject to conditions.

Additional car spaces

The amended parking arrangement, utilising space at either side of the 2 storey dwelling is satisfactory. No demolition of portion of the ground floor deck will be required for accommodation or access to the car space at the western side of the dwelling. The turning bay to exit the site in a forward direction, is suitably positioned partially on a rock shelf and is screened from Parkinson Avenue by existing shrub planting.

A 1 metre wide planting strip is to be retained and embellished with screening plants to improve the amenity value for residents and strengthen the sense of separation between the subject site and No 40 Parkinson Avenue.

Item 2

A Liquidambar styraciflua (Liquidambar) of 16 metres height is located within this strip - forward of the dwelling. This tree should be preserved as it is in healthy condition and is structurally sound, although it has been omitted from the applicant's site plan and is not mentioned in the Statement of Environmental Effects. Removal of the Liquidambar styraciflua (Liquidambar) will definitely have a negative visual impact upon the streetscape. (Condition No 47 requires the retention of the liquidambar).

There is no objection to the demolition of a low brick planter abutting the site's eastern boundary and a narrow patio at the eastern side of the dwelling for accommodation of the second car space. One Magnolia x soulangiana (Magnolia) of 4 metres height will require removal for construction of the driveway. The turning bay for this car space is the driveway for the first car space.

Landscape issues.

The 2 proposed car spaces will improve the existing spatial arrangement around the dwelling by retaining boundary planting spaces. Several noxious plant and weed species growing on the site require replacement with appropriate ornamental species to enhance its appearance.

A landscape plan is required for the subject site. The plan is to include existing ornamental trees and shrubs, a minimum number of 5 trees that attain 13 metres height and screen planting adjacent to both side boundaries alongside the dwelling. At least 50% of the tree and shrub planting are to be derived from the Sydney Sandstone Gully Forest assemblage of species (refer Condition 41).

Engineering

Council's Engineering Assessment Officer has not raised any objection to the proposal and has provided conditions (refer Conditions No 31 & 39).

STATUTORY PROVISIONS

State Environmental Planning Policy No. 53

COMPLIANCE TABLE		
Development standards	Proposed	Complies
Allotment size (cl.19(1)(a)) • 400m ² attached dual occ (min)	929.5 m ²	YES
Floor space ratio (cl.19(1)(b)) • 0.5:1 (max)	0.27:1 (257 m ²)	YES
Car parking (cl.20) • Dwelling 1:1 car spaces (min) • Dwelling 2:1 car spaces (min)	Dwelling 1: 1 car spaces Dwelling 2: 1 car spaces	YES YES

Site analysis (cl.31):

Item 2

A consent authority cannot approve a development unless it has taken into consideration a site analysis and design statement prepared in accordance with the SEPP. The documentation submitted with the application is satisfactory in this regard. While no detail has been provided in the site analysis related to the dwelling behind the subject site, it is some distance from the proposed development and well screened with existing vegetation. Given that there is little alteration proposed to the existing building, the site analysis is adequate in the circumstances.

Streetscape (cl.32(a)):

Council's Urban Design Officer considers that the proposal has no detrimental urban design impacts. There will not be any significant change to the appearance of the building from the street.

Visual and Acoustic privacy (cl.32(b)):

It is not considered that the alterations to the existing building will have any significant impact on the adjoining dwellings. The physical changes to the building are minor and screen planting in the form of 3 to 4 metres high trees to both side boundaries will be required (refer **Condition 43**). In addition, **Condition No 18** requires the provision of a 1800mm high privacy screen to the rear deck so as to mitigate privacy impacts to No. 40 Parkinson Avenue.

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

Solar access to adjoining properties

The alterations and additions required to convert the existing building into a dual occupancy development are minor and will not detrimentally affect solar access provided to the adjoining properties.

Solar access to the proposed development

This is an existing building, solar access to the proposed development will not change.

Stormwater (cl.32(d)):

Council's Development Engineer is satisfied that the development, subject to conditions is satisfactory.

Crime prevention (cl.32(e)):

The proposed dwelling units allow for general observation of the street and who approaches the front door.

Accessibility (cl.32(f)):

General accessibility is acceptable. The topography of the site and the layout of the dwelling units does not make it particularly suitable for disabled access.

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Waste management (cl.32(g)):

The proposal can comply with Council’s waste management requirements (refer **Condition 17**).

Visual bulk (cl.32(h)):

The external appearance of the existing dwelling will not change in terms of bulk.

State Environmental Planning Policy No 55 - Remediation of Land

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

Ku-ring-gai Planning Scheme Ordinance (KPSO)

Aims and Objectives for Residential Zones

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

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Building height 8m (max)	No change to height proposed The following information is not a statutory control. This information is provided for the benefit of the Councillors: Height to roof ridge 8.6 metres Height to eaves line 7.4 metres	YES
Built-upon area 60% (max)	55%	YES

POLICY PROVISIONS

Development Control Plan 40 - Waste Management

There is adequate space within the site for it to comply with the DCP.

Development Control Plan No 43 - Car Parking

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

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Council's Dual Occupancy Development Control Code

COMPLIANCE TABLE		
Development control	Proposed	Complies
4.3 Visual and acoustic privacy:		
Visual privacy		
<ul style="list-style-type: none"> Windows to habitable rooms set back 9m from neighbouring habitable windows (min) 	Ground floor dwelling First floor dwelling	YES on east NO on west YES on east NO on west
4.4 Solar access and design for climate:		
Solar access		
<ul style="list-style-type: none"> Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min) 	Ground Level Dwelling 3+ hours solar access received Upper Level Dwelling 3+ hours solar access received	YES YES
<ul style="list-style-type: none"> Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min) 	All neighbouring properties receive 3+ hours solar access	YES
4.7 Accessibility:		
Vehicular access and car parking dimensions		
<ul style="list-style-type: none"> Carport – 2.7m x 5.4m (min) 	Upper Level Dwelling	YES
<ul style="list-style-type: none"> Carspace – 2.7m x 5.4m (min) 	Ground Level Dwelling	YES
4.9 Visual bulk:		
Built-upon area		
<ul style="list-style-type: none"> Total built upon area (max): 50% 	55%	NO
Floor space ratio		
<ul style="list-style-type: none"> FSR (max): 0.5:1 	0.27:1	YES YES
<ul style="list-style-type: none"> 1st floor – 40% 	Upper Level Dwelling (50 %)	NO
Section 5: Landscaping & Open Space		
Total soft landscaping : 50% (min)	45%	NO
Open space provisions		

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<ul style="list-style-type: none"> • Area: 100m² or 2 x 75m² areas (min) 	Ground Level Dwelling – 108 m ² Upper Level Dwelling – 100 m ²	YES YES
<ul style="list-style-type: none"> • Min dimension 5m x 5m (min) 	Ground Level Dwelling - 5m x 19m Upper Level Dwelling - 10m x 10m	YES YES
<ul style="list-style-type: none"> • Grade: 1 in 8 (max) 	Ground Level Dwelling – Rockledge, steps Upper Level Dwelling - 1 in 5.5	NO YES
<ul style="list-style-type: none"> • 50% receives 3+ hours solar access (min) 	Ground Level Dwelling Open space receives 3+ hours solar access Upper Level Dwelling Open space receives 3+ hours solar access	YES YES

Site and Building Design

Additional fencing between the side boundaries and the building would be required to fully comply with this control. This could be easily achieved if required. A condition requiring window and door locks and window grills is recommended (see **Condition 16**)

Disabled Access

The topography of the site, with the steep access driveway and the elevated rear yard and the one above the other dwelling units, is not conducive to easy disabled access.

Built-upon Area

The built-upon area is 55%. However, given that the building already exists and that the alteration required to convert it to a dual occupancy will have little impact on the physical size and layout of the building nor increase ground level paving to a great extent it is acceptable.

Floor Space Ratio

The first floor floor space exceeds the maximum of 40% occupying a similar footprint as the ground level floor. However, this building already exists and as previously mentioned conversion alterations are minimal.

Private Open Space

The proposal provides the required 100m² area and minimum 5 metres dimension for each dwelling, however, the grades of the areas would exceed the 1 in 8 maximum (approximately 1 in 5.5) at the rear of the site and access to the rear area from the ground level unit would require use of a staircase. However, there is a smaller area at ground level which the ground level unit could also utilise. While the private open space configuration is not ideal there is sufficient useable area at ground level for the ground level unit for it to be acceptable.

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Section 94 Plan

The development attracts a section 94 contribution of \$9,789.78, which is required to be paid by **Condition No.38**.

LIKELY IMPACTS

The proposal is unlikely to have any significant impact on the natural or built environment, nor the social or economic aspects of the locality as the building currently exists and the alterations to convert it to a dual occupancy are minimal.

The site is within an area identified by Council as being of high erosion hazard, however, the proposed site works should not exacerbate this condition.

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

ANY SUBMISSIONS

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

Conditions No 18, 32 and 42 have been imposed so as to address the concerns of the objectors.

PUBLIC INTEREST

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

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for assessment.

CONCLUSION

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

RECOMMENDATION

That Development Application 501/03 for alterations and additions to an existing dwelling to create an attached dual occupancy development at 38 Parkinson Avenue, Turramurra, being Lot 114, DP 223317, be approved for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

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GENERAL CONDITIONS

1. The development to be in accordance with Development Application No 501/03 lodged with Council on 29 April, 2003 and Development Application plans prepared by Robin Edmiston and Associates Pty. Ltd. Drawings WD-03 Rev. A dated April 2003 as amended dated 10/6/04.
2. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
3. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
4. 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. To maintain existing ground levels all excavated material shall be removed from the site.

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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. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
12. 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.

13. To preserve and enhance the natural environment, all soil erosion and sediment control structures shall be inspected following each storm event and any necessary maintenance work shall be undertaken to ensure their continued proper operation. Sediment shall be removed from the soil erosion and sediment control structures when no more than forty percent (40%) capacity has been reached. These structures shall continue in proper operation until all development activities have been completed and the site fully stabilised.
14. Your attention is directed to the operation of the Commonwealth Disability Discrimination Act 1992, which may impose greater obligations on providing access to disabled persons other than compliance with the Building Code of Australia. You are advised to seek advice from the Human Rights and Equal Opportunity Commission (phone (02) 9284 9600) in respect of your application.
15. Adequate lighting is to be provided to all paths, accessways, parking areas and building entries so as to enhance amenity and security around dual occupancy dwellings. Refer to Clause 4.6.3 of Council's Dual Occupancy Code.
16. Locks are to be installed on all windows and doors, with chains and viewers to be installed on all front doors. Where security grills are fitted, they are to be sympathetic to the architectural style of the dwelling and not to restrict surveillance.
17. The development shall comply with the requirements of DCP 40 and Policy for Construction and Demolition Waste Management.

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- 18. A suitable 1800mm screen is to be attached to the western side of the rear deck to the upper level unit.
- 19. 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.
- 20. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
- 21. The screen planting shall be completed prior to the issue of the final Certificate of Compliance and be maintained in a satisfactory condition at all times.
- 22. Tree planting to satisfy tree retention/replenishment requirements shall be completed prior to the issue of the final Certificate of Compliance
- 23. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
- 24. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
<i>Liquidambar styraciflua</i> (Liquidambar) Adjacent to the site’s western boundary	6.0 metres

- 25. Paving works within the specified radius of the trunk/s of the following tree/s shall be constructed to ensure that existing water infiltration and gaseous exchange to the tree/s root system is maintained. Details for the paving shall be submitted to the Principal Certifying Authority for approval by a suitably qualified professional prior to the commencement of paving construction:

Tree/Location	Radius From Trunk
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Liquidambar styraciflua (Liquidambar) 6.0 metres
Adjacent to the site's western boundary

26. 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>Liquidambar styraciflua</i> (Liquidambar) Adjacent to the site's western boundary.	6.0 metres

27. 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.
28. On completion of the LANDSCAPE WORKS/TREE PLANTING OR SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
29. 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

Asparagus densiflorus (Asparagus Fern)
Chlorophytum comosum (Spider Plant)
Cinnamomum camphora (Camphor laurel)
Erigeron karvinskianus (Seaside Daisy)
Hedera helix (English Ivy)
Hedychium gardnerianum (Ginger lily)
Ligustrum lucidum (Large-leaved Privet)
Ligustrum sinense (Small-leaved Privet)
Nephrolepis cordifolia (Fishbone fern)
Senna pendula (Cassia)
Tecomaria capensis (Cape Honeysuckle)

30. 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.
31. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the street drainage system. Drainage line connections to the kerb shall conform and comply with the detailed requirements contained within Council's Plan

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No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe"). Drainage crossings of the footway area shall be a single 100mm diameter sewer grade uPVC pipe, where the total design flows from the property are within the capacity of such a pipe, otherwise suitably sized galvanised RHS shall be used. To ensure compliance with this condition, a Certificate from a suitably qualified person is to be submitted to the Principal Certifying Authority.

32. The combined access driveway to Nos. 36 and 38 Parkinson Avenue is to be maintained free and clear of vehicles and materials in order to provide 24 hour access to the property at No. 36 Parkinson Avenue.

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

33. An amended plan shall be lodged for approval of Council and the Principal Certifying Authority related to the car parking spaces on each side of the building and the turning/manoeuvring bay on the western side of the site within the front setback. The amended plan shall indicate the full extent of the driveway and parking/turning spaces designed to conform with the B99 turning template as indicated in Council's Development Control Plan No.43 (Car Parking).
34. 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.

35. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
36. 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,

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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.

37. 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.
38. 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 DWELLINGS IS CURRENTLY \$9,789.78. 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 - Turramurra/Warrawee	\$1,966.00

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8.	Koola Park upgrade and reconfiguration	\$143.09
9.	North Turramurra Sportsfield development	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

- 39. A guardrail or equivalent safety barrier is to be provided to the driveway where drop offs greater than 150mm or slopes greater than 45 degrees are proposed. Details are to be approved by the Principal Certifying Authority prior to release of the Construction Certificate.
- 40. The Construction Certificate shall not be released until a Site Management Plan is submitted to the Principal Certifying Authority and approved by a suitably qualified professional.

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

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

Landscape Plan Certification Fees

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

- 42. To protect and enhance native vegetation to conserve and promote biodiversity, at least 50% of the tree and shrub plantings shall be derived from the Sydney Sandstone Gully Forest assemblage of species as the site is located between 100 and 300 metres from bushland.

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43. A plan detailing screen planting of the EASTERN AND WESTERN (SIDE) BOUNDARIES shall be submitted to Council prior to the release of the Construction Certificate and approved by Council's Landscape Development Officer, prior to completion of building works. The plan shall incorporate species capable of attaining a height of 3 - 4 metres.
44. The property shall support a minimum number of five 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.
45. The four trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.
46. A CASH BOND/BANK GUARANTEE of \$2000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

47. A CASH BOND/BANK GUARANTEE of \$1000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

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Liquidambar styraciflua (Liquidambar) / Adjacent to the site 's western boundary.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

48. 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.
49. To preserve and enhance the natural environment, the downslope side of the proposed construction area of the site is to be enclosed with a suitable erosion control barrier (e.g. straw bales or geofabric fence) along contour before any other work on the site commences.
50. A Compliance Certificate pursuant to Section 73 Sydney Water Act 1994, as evidence of compliance with the provisions of Division 9 of that Act, to be obtained from Sydney Water prior to the commencement of any work on the site.
51. To preserve the following tree/s, no work shall commence until the trunk/s are protected by the placement of 2.0 metre lengths of 50 x 100mm hardwood timbers spaced at 150mm centres and secured by 2mm wire at 300mm spacings. The trunk protection shall be maintained intact until the completion of all work on site. Any damage to the tree/s shall be treated immediately by an experienced Horticulturist/Arborist, with minimum qualification of Horticulture Certificate or Tree Surgery Certificate and a report detailing the works carried out shall be submitted to the Principal Certifying Authority:

Tree/Location

Liquidambar styraciflua (Liquidambar) / Adjacent to the site's western boundary

52. 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 STRUCTURE 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

Lagerstroemia indica (Crepe Myrtle)
Close to the site's western boundary

3.0 metres

Prunus sp. (Prunus)
Adjacent to the site's western boundary

3.0 metres

53. 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.

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54. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

55. 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.

BUILDING CONDITIONS

56. 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.
57. 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 structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - c. The completed landscape works in accordance with the approved plans.
 - d. The completed structure prior to occupation.

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

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

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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.

58. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
59. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:
- | | | |
|-----------------|---------------|---------------|
| Risers: | Maximum 190mm | Minimum 115mm |
| Going (Treads): | Maximum 355mm | Minimum 240mm |
- Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.
60. The FLOORS and WALLS of the separate units shall have a Sound Transmission Classification in accordance with the requirements of the Building Code of Australia. Details of the proposed method of compliance are to be submitted.
61. So as to ensure adequate fire separation, walls and floors separating occupancies are to be constructed in accordance with the requirements of the Building Code of Australia. Details of the proposed method of compliance are to be submitted.
62. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. A Compliance Certificate from a suitably qualified person that the dual occupancy complies with the relevant deemed to satisfy provisions of the Building Code of Australia.

G Stewart
**Development Control
Officer**

A Bailey
**Team Leader, Comenarra
Ward**

M Miocic
**Director
Environment &
Regulatory Services**

Attachments

**Plan "A" modified Parking Layout
Confidential Floor Plans
Elevations (2)
Site Plan and Site Analysis Plan
Site Analysis Plans (2)**

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DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	37 GROSVENOR STREET, WAHROONGA - DETACHED DUAL OCCUPANCY, COMPRISING DEMOLITION OF THE EXISTING DWELLING AND CONSTRUCTION OF TWO, TWO STOREY DWELLINGS
WARD:	Wahroonga
DEVELOPMENT APPLICATION N^o:	1698/03
SUBJECT LAND:	37 Grosvenor Street, Wahroonga
APPLICANT:	W & J Wu
OWNER:	William Wu & Ju Fang Zhang
DESIGNER:	Lindsay Little & Associates
PRESENT USE:	Residential
ZONING:	Residential 2C
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Ku-ring-gai Planning Scheme Ordinance, Dual Occupancy Code, Development Control Plan 40 & Development Control Plan 43, Development Control Plan 31
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	SEPP 53, SEPP 55
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	22 December 2003
40 DAY PERIOD EXPIRED:	31 January 2004
PROPOSAL:	Detached dual occupancy, comprising demolition of the existing dwelling and construction of two, two storey dwellings
RECOMMENDATION:	Approval

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DEVELOPMENT APPLICATION N^o 1698/03
PREMISES: 37 GROSVENOR STREET, WAHROONGA
PROPOSAL: DETACHED DUAL OCCUPANCY,
COMPRISING DEMOLITION OF THE
EXISTING DWELLING AND
CONSTRUCTION OF TWO, TWO STOREY
DWELLINGS
APPLICANT: W & J WU
OWNER: WILLIAM WU & JU FANG ZHANG
DESIGNER LINDSAY LITTLE & ASSOCIATES

PURPOSE FOR REPORT

To determine development application No. 1698/03, which seeks consent for a detached dual occupancy, comprising demolition of the existing dwelling and construction of two, two storey dwellings and a 1.2m high wrought iron front fence.

EXECUTIVE SUMMARY

- **Issues:** Privacy and front fence
- **Submissions:** One submission in opposition received
- **Land & Environment Court Appeal:** No appeal lodged
- **Recommendation:** Approval

HISTORY

Property History:

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

Development Application History:

DA 1698/03

- Application lodged 22 December 2003.
- Letter of request for additional information sent 28 January 2004. Requested information included:
 - Site plan to show extent of fill;
 - Thermal Assessment and Score sheet; and
 - A Waste Management Plan.
- Further information satisfying request dated 28 January 2004 received by Council on 17 February 2004.
- Site visit conducted by assessing officer on 9 June 2004.

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- Letter of request for additional information sent 18 June 2004. Requested information included:
 - Confirmation of retention an/or construction of side and rear fencing; and
 - Details of proposed fencing between adjoining private open space of Dwelling A and 2.
- Further information satisfying request dated 18 June 2004 received by Council on 23 June 2004.

THE SITE AND SURROUNDING AREA

The Site

Zoning:	Residential 2C
Visual Character Study Category:	1945 and 1968
Lot Number:	C
DP Number:	350577
Area:	1400.3m ²
Frontage:	32.84m
Side of Street:	Western
Cross Fall:	Nil
Stormwater Drainage:	On-site detention then to street
Heritage Affected:	No
Required Setback:	9.5 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The subject site has a frontage of 32.84m and is located on the eastern side of Grosvenor Street. The site is of uniform rectangular shape, with the northern and southern side boundaries measuring 42.765m in length. The eastern rear boundary has a length of 32.84m. The subject site is generally level, with adjoining sites to the north, south and east and on the opposite side of the street sharing a similar topography.

The site contains a single storey brick and tile dwelling set back 10.3m from the front boundary. There is a garden shed located in the far south-eastern corner of the property. A number of mature and semi-mature trees are concentrated along the front and rear of the site. The site also contains several trees along the side boundaries. The front fence comprises a low sandstone wall, approximately 500mm in height.

Refer Attachments for photographs of the site and surrounds.

Surrounding Development:

The subject site is described in the Ku-ring-gai Visual Character Study as being located within an area characterised by single dwellings on single lots, with the majority of construction being within

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the period 1945 to 1968. A mix of architectural styles and periods are evident within the wider streetscape. There is a range of single and double storey dwellings on varying lot sizes, with varying degrees of landscaping. Building line setback along the eastern side of this part of Grosvenor Street is generally consistent. Building line setbacks are more varied on the western side of the street.

The adjoining site to the north, being 41 Grosvenor Street, contains a two level residence set back approximately 10.7m from the front boundary and 2.6m from the common side boundary with the subject allotment. The site to the south at 35 Grosvenor Street, contains a single storey brick and tile dwelling set back approximately 13m from the front boundary and 4.7m from the common side boundary with the subject allotment. Adjoining the site to the rear (east) are 38 and 40 Junction Road. The former contains a double storey dwelling with its rear yard adjacent to the rear yard of the subject allotment. The site at 40 Junction Road contains a seventeen unit SEPP 5 development, with a two-storey building located approximately 3m from the northern end of the rear boundary of the subject allotment.

Fencing in the immediate locality exhibits a range of styles and designs. Typically, however, fencing in this part of Grosvenor Street is generally low level and transparent.

THE PROPOSAL

The proposal is to construct a Detached dual occupancy, comprising demolition of the existing dwelling and construction of two, two storey dwellings. The proposal will also include replacement of the existing southern boundary paling fence with an identical fence and construction of a dividing paling fence 1.8m in height between Dwellings A and B.

Details of the proposed development are as follows:

Dwelling A:

Dwelling A is two-storeys in height and has a total floor area of 311.15m². The front setback proposed is 9.5m when measured from the porch entry. The main building line of the front façade will be set back 10.8m. The front building line of the second storey will be recessed a further 2.7m above the ground floor. The upper level side elevations will be stepped in 1.8m to 3.35m from the ground floor building line. The rear elevation of the upper level is recessed between 0 to 2.8m above the ground floor. The upper floor will contain four bedrooms with associated ensuite and bathroom facilities. No upper level balconies are proposed. Hexagonal bay window features are proposed in the north-eastern and south-eastern corners of the upper floor. These are associated with the master bedroom and ensuite.

The ground floor will comprise a living room, dining room and study orientated to the north, with a family room and kitchen orientated to the eastern rear yard. Covered patios are located either side of the family room. A laundry and garage are orientated to the south and west, respectively.

The dwelling will be set back 1.7 to 2.01m from the northern side boundary and 12.6m from the eastern rear boundary. Private open space will be concentrated in the rear yard, with fencing

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proposed between Dwellings A and B. Vehicular access will be gained off Grosvenor Street with double garaging integrated into the southern end of the front elevation behind the building line.

Dwelling B:

Dwelling B is identical in design and layout to Dwelling A and will also have a total floor area of 311.5m². The front setback proposed is 14.2m when measured from the porch entry. The main building line of the front façade will be set back 15.6m. The building line of the second storey will be stepped in the same dimensions as Dwelling A along all elevations.

The dwelling is set back between 1.5 to 2.55m from the southern side boundary and 8.1m from the eastern rear boundary. Private open space will be concentrated in the rear yard, with fencing proposed between Dwellings A and B. Vehicular access will be gained off Grosvenor Street. The double garage will be integrated into the southern end of the front elevation behind the building line.

Fencing:

The proposed front boundary fence will extend the length of the frontage and comprise eleven, cement rendered, brick piers measuring 590mm x 230mm, with a height of 1.2m. Wrought iron palisades are proposed between the piers to a maximum height of 1.0m. The fencing will replace an existing 500mm high sandstone fence.

The existing, 1.8m high, solid timber northern side and rear fencing is to be retained. A 1.8m high solid timber fence is proposed between Dwellings A and B. This fence does not extend forward of the building line of Dwelling A. The existing, 1.8m high, solid timber southern side fence is to be replaced with an identical new fence.

Notional Subdivision:

A 1.8m high timber fence is proposed to separate the two dwellings and their associated open space. The likely subdivision effected by this fence is the creation of two allotments having areas of 703m² (Dwelling A) and 697m² (Dwelling B). Dwelling A and B will have respective frontages of 16.5m and 16.3m to Grosvenor Street.

This information has no current relevance to the assessment of the dual occupancy development, as Council must consider the application as two dwellings on one allotment of land. However, this information is provided for clearer understanding of the likely future subdivision pattern of the site which would create two dwellings on individual allotments of land. At this stage, no application for the subdivision of the dual occupancy development has been lodged.

Amended Plans

An amended site plan was received on 17 February 2004. The plan provided additional information as to areas of cut and fill as requested by Council on 28 January 2004. Given the minor nature of the proposed earthworks, further notification of the proposal was not necessary.

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An amended site plan was received on 22 June 2004. This plan confirmed the proposed fencing for the northern, southern, eastern and internal boundaries. Given the amendments did not alter the proposal from that originally notified, further notification of the proposal was not necessary.

CONSULTATION - COMMUNITY

In accordance with Council's Notification Policy, owners of surrounding properties were given notice of the application. In response, one objection was received:

1. B & A Bartlett – 48 Grosvenor Street, Wahroonga

The submission raised the following issues:

- ***Block sizes are too small***

SEPP 53 allows construction of two detached dwellings on sites with a minimum site area of 600m², subject to the development satisfying prescribed design criteria and complying with specific development standards. The subject allotment satisfies this minimum site area requirement. Neither SEPP 53 or the KPSO specify minimum lot sizes relating to subdivision of a Dual Occupancy. Subdivision is not proposed under this development application.

- ***Insufficient space available for large trees***

The proposal includes retention of seven canopy trees and several other significant trees on site. Nine trees are located within the front yard and are to be retained. These trees will help screen the proposed dwellings from the objector's property located opposite the site to the west. Council's Landscape Officer has reviewed the submitted landscape plan and is satisfied (subject to conditions) that the proposal will maintain the existing landscape amenity on site and within the wider locality (refer **Conditions 40-54, 57-63, 75-78**).

- ***Out of character due to identical dwelling design***

The proposed dwellings will be of identical design and appearance when viewed from the street. The dwellings will have a staggered alignment, with Dwelling A set back 9.5m from the front boundary and Dwelling B set back 14.2m. The dwellings will have a separation distance of 3.5m from one to the other. This will help mitigate the visual impact of two identical dwellings within an existing streetscape characterised by a range of architectural designs and elements. To further mitigate the imposition of identical building form on the streetscape, a condition of consent is recommended, requiring variation in colour scheme and exterior finish for the dwellings (refer **Condition 4**).

- ***On-site manoeuvring***

On-site manoeuvring is not provided, necessitating reversing onto Grosvenor Street from the respective driveways. However, this will not adversely impact the safe and efficient flow of traffic

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along the street, nor compromise pedestrian safety. There are adequate sightlines in both directions along Grosvenor Street for motorists entering and exiting the site, due to a straight alignment and generally flat grade. The existing 4.9m wide road reserve means vehicles will not be entering the roadway directly upon exiting the site. This provides more time for drivers of exiting vehicles to adjust to traffic flow and more time for drivers of entering vehicles to accommodate pedestrian traffic.

CONSULTATION - WITHIN COUNCIL

Heritage/Urban Design

Council's Heritage/Urban Design Officer has commented on the proposal as follows:

"The existing house has no heritage interest and is not in an area under consideration for conservation area status. It is of no architectural interest and I have no concern with demolition.

The proposed development is for 2 houses facing the street in a traditional way with minimal side setbacks. The front setback is consistent with the street and the neighbouring houses with Dwelling B being set back further to align with the house on the south side.

The proposed new dwellings are two-storey and identical. The setback would avoid privacy problems. Majority of trees along the front elevation will be retained, which would provide screening a soften the impacts.

I have no major concerns with this application. Demolition of the existing house is acceptable. There are no heritage issues relating to the site The proposed dwellings are typical two-storey medium to large houses that are commonly being built in Ku-ring-gai. The only urban design issue is the resultant intensification of the streetscape which would largely be acceptable as the existing trees along the front boundary are to be retained and will provide sufficient screening."

Landscaping

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

"This application is supported subject to conditions (refer Conditions 40-54, 57-63, 75-78).

Impact of development upon trees

The majority of trees growing within the subject site are located close to both the front and rear boundaries and can be effectively preserved in relation to the proposed redevelopment. The 2 proposed Dwellings (A and B), are appropriately located in relation to the following 2 trees:

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- *1 healthy Schinus terebinthifolius (Brazilian Pepper Tree) is located at the rear of the proposed Dwelling A site. This tree is identified on the landscape plan as an unhealthy Fraxinus sp. (Ash) and noted for removal. This tree is to be preserved (refer condition 52).*
- *1 Harpephyllum caffrum (Kaffir Plum) is located at the rear of the proposed Dwelling B site. This tree is noted on the landscape plan for preservation. This tree should be removed due to its poor condition as it has almost defoliated (refer condition 57).*

The removal of 9 small trees and shrubs, located adjacent to the site's northern and southern side boundaries, is supported. Some of these trees are currently exempt and all will be located within the exemption zone of the 2 dwelling sites. One Acer negundo (Box Elder) located close to the site's central front boundary is also to be removed due to its Urban Environmental Weed status.

A note on the landscape plan, prepared by Sally Bourne Landscapes and dated 18.12.03, nominates the removal of 5 Carya illinoensis (Pecan) growing in the Grosvenor Street nature strip - forward of the site. These trees are 6 - 7 metres high and in healthy condition. Their canopies are suppressed due to larger trees growing along the site's frontage. None of these trees require removal to accommodate the proposed driveway crossing near the northern end of the site's nature strip, therefore, they are all to remain. Council's Acting Manager – Trees and Vegetation is in agreement with this decision (refer condition 53).

Landscape plan

An amended landscape plan, that includes at least 25% tree and shrub plantings from the Sydney Turpentine/Ironbark Forest plant list, is required. The Schinus terebinthifolius (Brazilian Pepper Tree) is to be retained and the Harpephyllum caffrum (Kaffir Plum) is to be replaced on the amended landscape plan. The site will comply with Council's Tree Retention/Replenishment policy with the addition of 2 proposed Syncarpia glomulifera (Turpentine)(refer Conditions 52 & 63).

Stormwater drainage

Both proposed detention tanks for Dwellings A and B have been appropriately located beneath their respective driveways – at the perimeter of tree canopies. Drainage lines are to be bored through the root zone of trees lining the site's frontage. ”

Engineering

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

“This DA is recommended for approval, subject to the engineering conditions shown (refer Conditions 31-39, 64-68, 81-85).

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The stormwater plan prepared by AFCE, Drawing No. 342894/D1 and D2, dated 12/2002 is considered satisfactory in principle, but is not to be stamped with the DA plans. Drainage to the street appears to be feasible which can be covered by appropriate conditions.

Driveway gradients are considered satisfactory. Accordingly, no objections are raised from an engineering perspective subject to conditions.”

CONSULTATION – OUTSIDE COUNCIL

No external referrals are necessary as the proposal does not constitute Integrated Development nor is the subject allotment within a fire prone area.

STATUTORY PROVISIONS

State Environmental Planning Policy No. 53

COMPLIANCE TABLE		
Development standards	Proposed	Complies
Allotment size (cl.19(1)(a)) <ul style="list-style-type: none"> 600m² detached dual occ. (min) 	1400.3m ²	YES
Floor space ratio (cl.19(1)(b)) <ul style="list-style-type: none"> 0.5:1 (max) 	0.44:1 (622.3m ²)	YES
Car parking (cl.20) <ul style="list-style-type: none"> Dwelling A: 2 car spaces (min) Dwelling B: 2 car spaces (min) 	Dwelling A: 2 car spaces Dwelling B: 2 car spaces	YES YES

Site analysis (cl.31):

Clause 31 states that a consent authority cannot approve a development unless it has taken into consideration a site analysis prepared in accordance with the SEPP. The applicant has submitted a site analysis plan and written statement. The documentation submitted with the application is considered satisfactory in terms of this Clause and Schedule 5 of SEPP 53.

Streetscape (cl.32(a)):

The existing dwelling is set back 10.4m with a continuous and ‘indented’ facade of 23.3m. The front setback of Dwelling A will be 9.5m when measured from the porch entry. The main building line of the front façade will be set back 10.8m. The front building line of the second storey will be recessed a further 2.7m from the ground floor.

The front setback of Dwelling B will be 14.2m when measured from the porch entry. The main building line of the front façade will be set back 15.6m. The front building line of the second storey

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will also be recessed a further 2.7m. Garaging for both dwellings will be integrated into the front façade but located behind the entry porch building line.

The building line along the eastern side of Grosvenor Street is fairly consistent. Greater variation in set backs exist on the western side of Grosvenor Street. The adjoining residence at 41 Grosvenor Street is set back 10.7m from the street and the dwelling at 35 Grosvenor Street is set back 13.5m. Accordingly, the proposed building line setback on the subject site is consistent with the prevailing set backs within the immediate locality.

The dwellings will have a maximum height to the roof ridgeline of 8.5 metres and will be set 3.5 metres apart. The respective upper levels will be set apart 7.4m to 7.8m. The proposed dwellings will have a roof pitch of 27.5 degrees. The dwelling on the adjoining site at 41 Grosvenor Street is a two-storey residence with a height to the ridgeline of approximately 8.8m, with a steeper pitched roof. The dwelling to the south at 35 Grosvenor Street is single storey, with a height to the ridgeline of 6.3m.

The street contains an eclectic mix of architectural designs, with a range of one and two-storey residences in the immediate locality. In the context of the existing streetscape, the proposed dwellings are compatible.

Both dwellings are of identical design and layout. However, due to a stepped alignment, front entry articulation and recession of the second storey, there will be negligible dominance or adverse visual impact on the streetscape. To further mitigate potential impact on streetscape amenity by increasing visual differentiation, it is recommended that a condition be imposed requiring a different colour scheme and external finish for each dwelling (**refer Condition 4**).

The subject site contains eight trees, of which seven will be retained within the front yard, with a further five street trees located directly in front of the site. These trees will be retained and additional landscaping is proposed within the front yard to improve streetscape amenity. Council's Landscape Officer has reviewed the proposal and is satisfied the proposed landscaping is appropriate, subject to conditions (**refer Conditions 40-54, 57-63, 75-78**).

The proposed development also includes construction of a new front boundary fence. The fence will have a maximum height of 1200mm and comprise eleven, cement rendered and painted, brick piers measuring 590mm x 230mm. Wrought iron palisades will be installed between the piers. Fencing in the wider streetscape is not a feature, with an absence of fencing along a number of frontages. This is consistent with the Ku-ring-gai Visual Character Study that identifies a general absence of fencing in this area. The sites that are fenced have typically low level and transparent fencing, including a picket fence at 41 Grosvenor Street and the existing sandstone fence on the subject site. In the context of the wider streetscape and the prevailing character of sites located within the Visual Character Study category of 1945 to 1968, the proposed fencing is inconsistent and should be deleted (**refer Condition 5**).

Overall, the proposal will maintain existing streetscape amenity.

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Visual privacy & Acoustic privacy (cl.32(b)):

Dwelling A:

Northern side boundary (No. 41 Grosvenor Street)

Dwelling A will be set back 1.7 to 2.01m from the northern side boundary at ground level. The second storey will be set back a minimum of 3.25m from the boundary. Any potential outlook from the ground floor windows will be obstructed by proposed screen planting, having a height of 3 metres and by the boundary fencing.

The five windows along the northern façade of the upper level are associated with Bedrooms 1, 2 and 3. The windows will not provide direct outlook over living areas of the adjoining residence at 41 Grosvenor Street, as there is only one south-facing window contained in the second storey of that dwelling. A bay window feature is aligned north-east and contains two windows orientated to the north. There is sufficient separation distance to ensure there will be no direct outlook over adjoining external living areas.

Eastern rear boundary (Nos 38 & 40 Junction Road)

A setback of 12.6m will ensure that the visual and acoustic privacy of the adjoining sites to the rear will be maintained. The retention of several canopy trees, proposed landscaping and boundary fencing will sufficiently screen the subject site and adjoining properties.

Dwelling B

Southern side boundary (No. 35 Grosvenor Street)

The dwelling will be set back 1.5 to 2.55m from the southern side boundary at ground level and 4.2m to 4.6m at the upper level. Any potential outlook from the ground floor windows will be appropriately screened by proposed screen planting and boundary fencing.

Windows along the southern elevation are associated with a stairwell, toilet, bathroom, wardrobe and ensuite. With the exception of glazing for the stairwell, it is recommended that all other windows, including the south and south-eastern facing bay windows, contain obscure glazing to ensure the visual and acoustic privacy of the dwelling at 35 Grosvenor Street (refer **Condition 3**).

Eastern rear boundary (No. 38 Junction Road)

A setback of 8.1m will ensure that the visual and acoustic privacy of the adjoining sites to the rear will be maintained. Bedroom and ensuite windows commensurate with daylighting requirements are proposed at the upper level while outlook over the private open space is concentrated by way of windows and doors at ground level. The retention of several canopy trees, proposed landscaping and boundary fencing will sufficiently screen the subject site and adjoining properties.

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Privacy between Dwelling A & B

Dwellings A & B will be set apart 3.5m at ground level and a minimum of 7.4m at the upper level.

Windows along the southern elevation of Dwelling A are associated with a stairwell, toilet, bathroom, wardrobe and ensuite. Due to the proximity of Dwelling B, it is recommended that all other windows, with the exception of the stairwell window, contain obscure glazing to ensure the visual and acoustic privacy of residents of Dwelling B and Dwelling A (**refer Condition 2**).

The windows on the ground floor southern elevation of Dwelling A will be screened by proposed planting and 1.8m high timber fence between the dwellings.

Any visual and acoustic privacy effects will be negligible and consistent with that commonly associated with residential development.

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

Solar access to adjoining properties

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

9.00am (June 22):

The submitted shadow diagrams indicate that shadow cast by Dwelling B will encroach a maximum distance of 15m over the property at 35 Grosvenor Street. The majority of shadow will fall upon the side yard and over approximately half of the roof of the neighbouring dwelling. There will be some shading of the rear yard but the vast majority of private open space will remain unaffected.

The submitted shadow diagrams indicate that shadow cast by the existing dwelling already shade the north-facing window of the neighbouring dwelling.

Shading cast by Dwelling A will extend no further than the southern side boundary of the subject allotment.

12.00 noon (June 22):

Shadow cast by Dwelling A will fall upon the northern elevation of Dwelling B. The submitted shadow diagrams indicate that shadow cast by Dwelling B will encroach a maximum distance of 5.5m over the property at 35 Grosvenor Street. At this time, shading will fall over part of the side yard and northern-most part of the rear yard. The plans indicate that the north-facing window will not be in shade.

3.00pm (June 22):

The submitted shadow diagrams indicate that shadow cast by Dwelling A and B will encroach a maximum distance of 10.6m over the property at 38 and 40 Junction Road. At this time, shading

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will be over part of the rear yard of 38 Junction Road and a portion of the building located in close proximity to the boundary at 40 Junction Road.

The proposal will not result in adverse overshadowing of the adjoining sites.

Solar access to the proposed development

The proposed development will receive 3⁺ hours solar access to its internal living areas and private open space areas during the winter solstice.

Stormwater (cl.32(d)):

On site detention tanks are proposed beneath the driveways of the respective dwellings, with drainage to the street. Council's Development engineer can support the proposal, subject to conditions (refer Conditions 31-39, 64-68, 81-85).

Crime prevention (cl.32(e)):

The proposal provides for general surveillance of the street and approaches to the respective dwellings.

Accessibility (cl.32(f)):

The proposal provides convenient access to the respective dwellings. Vehicular access to each dwelling is clearly defined, providing unobstructed sightlines for the full length of the driveway. There is sufficient space available to separate pedestrians and vehicles on site. The grade of the site, ground floor layout and pedestrian access is also appropriate for persons with a disability.

Waste management (cl.32(g)):

Appropriate provision has been made for waste storage facilities on site.

Dwelling A has a bin storage area adjacent to the internal boundary beside the garage. This area will be screened by a timber paling fence and proposed screen planting.

Dwelling B has a bin storage area adjacent to the southern side boundary beside the garage. This area will be screened by a timber paling fence.

Visual bulk (cl.32(h)):

The potential visual effects of the proposal on the streetscape and on adjoining sites have been discussed in detail under **Streetscape** and **Visual and acoustic privacy**. In summation, the proposal involves construction of two, two-storey dwellings set back 9.5 and 14.2m from the front boundary. The dwellings will have a maximum height to the roof ridgeline of 8.5 metres and approximately 6m to the eave line at the highest point. The dwellings will be set 3.5 metres apart, with the respective upper levels set apart 7.4m to 7.8m.

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The proposed dwellings will have a roof pitch of 27.5 degrees. The dwelling on the adjoining site at 41 Grosvenor Street is a two-storey residence, with a height to the ridgeline of approximately 8.8m and a steeper roof pitch. The dwelling to the south at 35 Grosvenor Street is single storey, with a height to the ridgeline of 6.3m. The street contains an eclectic mix of architectural designs, with a range of one and two-storey residences in the immediate locality. In the context of the existing streetscape, the proposed dwellings are compatible in scale, bulk and form.

To further achieve visual integration into the streetscape, **Condition 4** which requires differing colour schemes and external finishes for each of the dwellings, has been recommended. Accordingly, when viewed collectively, the proposed dwellings will not be unduly dominant in relation to the adjoining sites or the streetscape, given the range of architectural designs within Grosvenor Street.

State Environmental Planning Policy No. 55 – Remediation of Land

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

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

The site is within the catchment of the Hawkesbury River and, as such, the development is subject to the provisions of this environmental planning instrument. The aim of SREP 20 is to “protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.”

The SREP requires consideration of a number of matters such as water quality, flora and fauna, wetlands and heritage etc.

The proposed development meets the general strategies of the SREP, however, Clause 6 (4) sets out strategies for water quantity whereby the reuse of water is encouraged wherever possible. As the development consists of a new structure and new stormwater disposal provisions, it is recommended that the provision of rainwater tanks or similar be incorporated to enable the reuse of stormwater for irrigation purposes. Appropriate conditions are recommended to control runoff and sediment from the site during construction, reuse water for irrigation purposes and detain stormwater through an on site detention system (**refer Conditions 32 & 68**).

Other SEPPs or SREPs

There are no other relevant SEPPs or SREPs.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

Aims and Objectives for Residential Zones

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

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Building height 8m (max)	Dwelling A: 6.4m (to ceiling of Bedroom 1 ensuite) Dwelling B: 6.3m (to ceiling of Bedroom 1 ensuite) The following information is not a statutory control. This information is provided for the benefit of the Councillors: Height to roof ridge - Dwelling A: 8.4m Height to roof ridge - Dwelling B: 8.5m Height to eaves line – Dwelling A: 6.05m Height to eaves line – Dwelling B: 6m	YES YES
Built-upon area 60% (max)	41.8%	YES
Notional built-upon area	Dwelling A: 40.2% Dwelling B: 43.4%	YES YES

POLICY PROVISIONS

Development Control Plan 40 – Waste Management

Appropriate waste management facilities have been provided on site.

Development Control Plan No. 43 – Car Parking

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

Council’s Dual Occupancy Development Control Code

COMPLIANCE TABLE		
Development control	Proposed	Complies
4.2 Streetscape:		
Roof pitch • 3m roof height-2 storey (max)	Dwelling A: 2.8m Dwelling B: 2.8m	YES YES

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<ul style="list-style-type: none"> Roof pitch 35⁰ (max) 	Dwelling A: 30 ⁰ Dwelling B: 30 ⁰	YES
Fences <ul style="list-style-type: none"> Visual Character Study indicates no fencing. 	1.2m Pier and transparent front fencing (fence to Grosvenor Street)	NO
4.3 Visual and acoustic privacy:		
Visual privacy <ul style="list-style-type: none"> Windows to habitable rooms set back 9m from neighbouring windows (min) 	Dwelling A: 4.7m & 6m (ground floor:living room, dinning room study. First floor: Bedrooms 1 to 3) Dwelling B: 6.8m (ground floor:living room, dinning room study. First floor: Bedrooms 1 to 3)	NO NO
4.4 Solar access and design for climate:		
Solar access <ul style="list-style-type: none"> Dual occupancy receive 3+ hours of solar access between 9am and 3pm (min) Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min) 	Dwelling A: 3+ hours solar access received Dwelling B: 3+ hours solar access received All neighbouring properties receive 3+ hours solar access	YES YES YES
Energy efficiency <ul style="list-style-type: none"> Thermal assessment 60% (min) 	Dwelling A: 66% (thermal assessment) Dwelling B: 64% (thermal assessment)	YES YES
4.7 Accessibility:		
Vehicular access and car parking dimensions <ul style="list-style-type: none"> Garage – 3.1m x 5.4m (min) 	Dwelling A: 6m x 6.2m Dwelling B: 6m x 6.2m	YES YES
4.9 Visual bulk:		
Building setbacks		

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<ul style="list-style-type: none"> Front building line: Minimum setback: 12m 	Dwelling A: 9.5m Dwelling B: 14.2m	NO YES
<ul style="list-style-type: none"> Average setback: 12.15m 	Dwelling A: 9.5m Dwelling B: 14.2m	NO YES
<ul style="list-style-type: none"> Setbacks between buildings -7m or 5m (50% of building) (min) 	3.5m	NO
<ul style="list-style-type: none"> Side setback: Ground floor: 2.4m (min) 1st floor: 4.9m (min) 	Dwelling A: Ground Floor: 1.7m to 2.5m Dwelling B: 1 st Floor: 3.4m	NO NO
<ul style="list-style-type: none"> Rear setback: 4.9m (min) 	Dwelling B: Ground Floor: 1.5m Dwelling B: 1 st Floor: 4.2m	NO NO
<ul style="list-style-type: none"> Rear setback: 4.9m (min) 	Dwelling A: 12.7m Dwelling B: 8.1m	YES YES
Building form <ul style="list-style-type: none"> Unrelieved wall length: 8m (max) Total building length: 24m (max) 	Dwelling A & B Dwelling A: 20.4m Dwelling B: 20.4m	YES YES YES
Built-upon area <ul style="list-style-type: none"> Total built upon area (max): 40% Notional built-upon area 	41.8% Dwelling A: 40.2% Dwelling B: 43.4%	NO
Floor space ratio <ul style="list-style-type: none"> FSR (max): 0.5:1 1st floor – 40% 	0.44:1 Dwelling A: 42.52% Dwelling B: 42.52%	YES NO NO
Height of buildings <ul style="list-style-type: none"> Dwelling fronting street: 8 & 7m (max) 	Dwelling A & B: 6m	YES

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<ul style="list-style-type: none"> Building envelope: 45° from horizontal at any point 3m above boundary 	<p>Dwelling A (compliant)</p> <p>Dwelling B (compliant)</p>	<p>YES</p> <p>YES</p>
<p>Cut and fill (building works)</p> <ul style="list-style-type: none"> Cut & fill: 900mm & Total 1800mm (max) 	<p>Dwelling A: 300mm (fill)</p> <p>Dwelling B: 300mm (fill)</p>	<p>YES</p> <p>YES</p>
Section 5: Landscaping & Open Space		
<p>Total soft landscaping : 60% (min)</p> <p>Notional soft landscaping:</p>	<p>58.2%</p> <p>Dwelling A: 59.8%</p> <p>Dwelling A: 56.6%</p>	<p>NO</p>
<p>Tree retention and refurbishment</p> <ul style="list-style-type: none"> No. of Trees: 7 (min) 	<p>15 Trees</p>	<p>YES</p>
<p>Cut & fill (landscaping)</p> <ul style="list-style-type: none"> Cut & Fill: 900mm & Total 1800mm 	<p>300mm (fill) located to the north and south-west of the dwelling.</p> <p>No excavation proposed.</p>	<p>YES</p> <p>N/A</p>
<p>Open space provisions</p> <ul style="list-style-type: none"> Area: 100m² or 2 x 75m² areas (min) Min dimension 5m x 5m (min) Grade: 1 in 8 (max) 50% receives 3+ hours solar access (min) 	<p>Dwelling A: 198m²</p> <p>Dwelling B: 132mm²</p> <p>Dwelling A: 16.4 x 12.6m</p> <p>Dwelling B: 16.3 x 8.1</p> <p>Dwelling A: generally level</p> <p>Dwelling B: generally level</p> <p>Dwelling A: Open space > 3 hours</p> <p>Dwelling B: Open space > 3 hours</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>

Visual Privacy

Issues of visual privacy for Dwelling A and B have been discussed under **Visual and acoustic privacy** earlier in this report.

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Building setbacks

Issues of building set back for Dwelling A and B have been discussed under **Streetscape** earlier in this report.

In summation, proposed front setbacks of 9.5m and 14.2m, respectively, for Dwellings A and B will not have an adverse visual impact on the streetscape. The proposed set backs are generally consistent with building line set backs within this part of Grosvenor Street. The main building line of the dwellings is set back 10.9m and 15.6m, respectively, and the proposed entry and recessed upper levels provide appropriate visual relief and articulation.

Building separation

Dwellings A and B will be set 3.5m apart at ground level with the upper levels set apart 5.6m to 8.3m. Due to a staggered alignment with the front boundary, recessed upper levels and retention of mature trees in the front yard, the proposed separation distance will not result in an adverse impact on the streetscape or future residents. Planting along the boundaries will provide a desirable vegetative cartilage to the dwellings. The result being development that is not inconsistent with other dwelling house development in the surrounding area.

Side setbacks

Issues of side set backs for Dwellings A and B have been discussed under **Visual and acoustic privacy** earlier in this report.

In summation, there is sufficient recession of the upper levels to avoid undue building dominance over adjoining sites at 35 and 41 Grosvenor Street. The set backs provide sufficient room for screen planting and boundary fencing will ensure adequate privacy at ground level. Any potential outlook issues associated with the upper levels are sufficiently mitigated by floor layout and by conditions of consent requiring installation of obscure glazing for certain windows. There is sufficient separation with dwellings on the adjoining sites to maintain existing streetscape amenity.

Built Upon Area (BUA)

The proposed BUA of 41.8% represents only a very minor non-compliance that will not result in the dominance of built form over adjoining sites or the streetscape, being only 1.8% over the prescribed maximum. The proposal maintains sufficient front, side and rear yard setbacks and incorporates articulation, upper floor recession and modulation in design so as not to have an adverse visual impact.

Floor Space Ratio (FSR)

The proposed FSR of 42.52% for the first floor levels of Dwellings A and B is only a very minor non-compliance that will not result in development that is inconsistent with the bulk and scale of surrounding development. As detailed under BUA above, the proposal maintains sufficient front,

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side and rear yard setbacks and incorporates articulation, upper floor recession and modulation in design so as not to have an adverse visual impact.

Soft Landscaping (FSR)

The proposed soft landscaping is 58.2%, being only 1.8% below the prescribed minimum of 60% for the site. The retention of several canopy trees and a notable number of trees to both the front and rear of the dwellings will adequately compensate for this minor non-compliance. The applicant has also submitted a landscape plan that can be supported by Council's Landscape Officer, subject to conditions (**refer Conditions 40-54, 57-63, 75-78**).

Fencing

Fencing has been discussed under **Streetscape** above. In summation, the site is described in the Kuring-gai Visual Character Study as being within an area characterized by dwelling construction from the period 1945 to 1968. Streetscapes within these areas typically have an absence of front fences except in noisy or busy streets. In this instance, fencing in the wider streetscape is not a feature, with an absence of fencing along a number of frontages. Where fencing does exist, it is typically low and transparent. When view within the context of the existing streetscape and the design characteristics of areas located within this Visual Character Study category, the proposed fence is inconsistent. A condition is recommended requiring deletion of the fence in its entirety (**refer condition 5**).

Section 94 Plan

The development attracts a section 94 contribution of **\$33,057.22**, which is required to be paid by **Condition No. 68**.

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

ANY SUBMISSIONS

All submissions received have been considered in the assessment of this application. **Conditions 4, 40-54, 57-63 and 75-78** have been recommended so as to address the concerns of the objectors.

PUBLIC INTEREST

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

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ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for discussion.

CONCLUSION

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

RECOMMENDATION

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

THAT the Council, as the consent authority, grant development consent to DA 1698/03 for demolition of an existing dwelling and a new dual occupancy development comprising construction of two detached, two-storey dwellings on land at 35 Grosvenor Street, Wahroonga, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans labelled Job No 2841/03, Sheets 1 and 2, dated 4 December 2004, Sheet 3, dated 22 June 2004 and Sheet 5, dated 5 December 2004, all drawn by Lindsay Little & Associates Pty Ltd, and endorsed with Council's approval stamp, except where amended by the following conditions:
2. To ensure reasonable levels of privacy are maintained for the northern adjoining property, 41 Grosvenor Street and Dwelling B, Dwelling A shall be amended as follows:
 - obscure glazing to a minimum height of 1.7m above finished floor level shall be installed in all south facing upper level windows, with the exception of the stairwell window, but including the south and south-east facing bay feature windows.
3. To ensure reasonable levels of privacy are maintained for the southern adjoining property, 35 Grosvenor Street and Dwelling A, Dwelling B shall be amended as follows:
 - obscure glazing to a minimum height of 1.7m above finished floor level shall be installed in all south facing upper level windows, with the exception of the stairwell window, but including the south and south-east facing bay feature windows.
4. The external finishes and colour schemes of Dwelling A and B are to be different. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council prior to the commencement of work.

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5. In accordance with the notations overdrawn on the consent plans, the proposed front fence shall be deleted in its entirety,
6. All building works shall comply with the Building Code of Australia.
7. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
8. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
9. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
10. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
11. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

12. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
13. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.

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

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- b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
22. 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.
23. 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.
24. 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.
25. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
26. 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.
27. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
28. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
29. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
30. Waste storage facilities for Dwelling A and Dwelling B shall be provided in accordance with Council's Waste Management Development Policy.
31. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the street drainage system. Drainage line connections to the kerb shall conform and comply with the detailed requirements contained within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe"). Drainage crossings of the footway area shall be a single 100mm diameter sewer grade uPVC pipe with kerb adaptor, where the total design flows from the property are within the capacity of such a pipe, otherwise suitably sized galvanised RHS shall be used. To ensure compliance with this condition, a Certificate from the installer is to be submitted to the Principal Certifying Authority prior to issue of the Final Compliance Certificate.
32. To maintain capacity of the public drainage system, an On-site Stormwater Detention System must be provided for the proposed residences in accordance with Council's Stormwater Management Manual. Separate detention systems are to be provided for each residence. An

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overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

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

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

NOTE 2: Earth mounding and/or timber retaining wall will not be accepted as the storage perimeter wall. Any perimeter walls must be in masonry on a reinforced concrete footing.

NOTE 3: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

NOTE 4: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.

NOTE 5: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.

NOTE 6: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings. This is available from Council upon request.

33. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.
34. For the purpose of any Council inspections, the appropriate fees set out in Councils adopted Schedule of Fees and Charges are payable to Council, prior to the release of the approved plans. A re-inspection fee per visit may be charged where remedial work is unprepared at the requested time of inspection or where remedial work is unsatisfactory and a further inspection is requested. Engineering fees must be paid prior to the final approval of the works.

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35. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
36. 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.
37. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of Council’s Specification for Drainage and Road Works.

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

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

38. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
39. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access, accommodation arrangements and passing opportunities must be designed and constructed to comply with Australian Standard AS 2890.1 – “Off-Street car parking”.
40. 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

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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.

- 41. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
- 42. The screen planting shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
- 43. Tree planting to satisfy tree retention/replenishment requirements shall be completed prior to the issue of the final Certificate of Compliance.
- 44. Any imported fill material shall be restricted to material from the local soil landscape on which the site is located or be derived from sandstone geology sites.
- 45. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the Council shall be required at monthly intervals. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.
- 46. Paving works within the specified radius of the trunk/s of the following tree/s shall be constructed to ensure that existing water infiltration and gaseous exchange to the tree/s root system is maintained. Details for the paving shall be submitted to the Principal Certifying Authority for approval by a suitably qualified professional prior to the commencement of paving construction:

Tree/Location	Radius From Trunk
<i>Quercus palustris</i> (Pin Oak) Close to the site’s north-western (front) corner	7 metres

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

Tree/Location	Radius From Trunk
<i>Metrosideros excelsa</i> (New Zealand Christmas Tree) Close to the site’s central boundary.	4 metres

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Castanospermum australe (Moreton Bay Chestnut) 3 metres
Close to the site's southwestern (front) corner.

48. 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.
49. On completion of the LANDSCAPE WORKS/TREE PLANTING OR SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
50. 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

Acer negundo (Box Elder)
Asparagus densiflorus (Asparagus Fern)
Cardiospermum grandiflorum (Balloon Vine)
Chlorophytum comosum (Spider Plant)
Cinnamomum camphora (Camphor laurel)
Hedera helix (English Ivy)
Impatiens balsamina (Impatiens)
Nephrolepis cordifolia (Fishbone fern)
Ochna serrulata (Ochna)
Tradescantia albiflora (Wandering Jew)
Wisteria sp. (Wisteria Vine)

51. 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.
52. The *Schinus terebinthifolius* (Brazilian Pepper Tree) located at the rear of proposed Dwelling A is to be retained. (This tree was incorrectly identified in the submitted landscape plan as an unhealthy *Fraxinus sp.* (Ash)).
53. The 5 *Carya illinoensis* (Pecan), growing in the Grosvenor Street nature strip forward of the site, shall be preserved.
54. To preserve the *Quercus palustris* (Pin Oak) located close to the site's northwestern (front) corner, no excavation into the tree's root system is permitted for construction of the driveway to Dwelling A.

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

55. 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.

56. Details of external finishes as required by conditions of this consent shall be submitted to the Principle Certifying Authority prior to the issue of a Construction Certificate.
57. An amended plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works. A Landscape Assessment fee of \$120 will be payable on lodgement of the required landscape plan, in accordance with the following schedule.

The following amendments shall be made to the Landscape Plan:

- The *Harpephyllum caffrum* (Kaffir Plum) shall be replaced with an appropriate native species;
 - The trees required to be maintained by conditions of this consent shall be indicated as such.
58. A plan detailing screen planting of the site's northern and southern side and rear boundaries shall be submitted to Council prior to the release of the Construction Certificate and approved by Council's Landscape Development Officer, prior to completion of building works. The plan shall incorporate species capable of attaining a height of 3 metres.
59. The property shall support a minimum number of 7 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.
60. The two (2) trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

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61. A cash bond/bank guarantee of \$2000 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

62. A cash bond/bank guarantee of \$5000 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

Quercus palustris (Pin Oak) / Close to the site's northwestern (front) corner.

Michelia champaca (Golden Champa) / Close to the site's northeastern (rear) corner.

Podocarpus elatus (Brown Pine) / Close to and towards the northern end of the site's rear boundary.

Eucalyptus sp (Gum) / Close to the site's central rear boundary.

63. To protect and enhance native vegetation for the conservation and promotion of biodiversity, at least 25% of the tree and shrub plantings on the landscape plan for the site shall be selected from the Sydney Turpentine/Ironbark Forest assemblage of vascular plants (included) as the site is located more than 300 metres from bushland.
64. DRIVEWAYS AND FOOTPATHS: Approval of this Development Application is for works wholly within the property and does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the Application.

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

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

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

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

66. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

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

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

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

67. The stormwater plan prepared by AFCE, Drawing No. 342894/D1 and D2, dated 12/2002 shall be amended to, but not limited to the following:

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- i. Incorrect catchment code has been used. The site is in Spring Gully Creek Catchment (SG).
- ii. Grates are to be provided in each corner of the OSD tanks in order to allow accesses for maintenance. All inlet pipes are to be connected directly under the grate access to the control outlet of the OSD tank. This is to minimise any need to enter the tank for maintenance reasons.
- iii. All downpipe adaptors are to be located above the Top Water Level (TWL) of the on-site systems to ensure no overflows in upstream lines due to backwater effects.
- iv. The OSD tank is to be located fully underneath the proposed driveway of each dwelling.

Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention and all supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council requirements. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

68. For stormwater retention, provision of a 2000 litre rainwater tank within the subject property designed to capture and retain runoff from at least one roof downpipe after which runoff bypasses the tank and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced civil/hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The tank is to be located at or above existing natural ground level.

NOTE 2: If abutting a wall of the dwelling, the tank must be below the eaves line.

NOTE 3: The tank must not be located on the front façade of a dwelling.

NOTE 4: If the tank is to be attached to a structure then a structural engineer is to certify the adequacy of the design of the structure to carry the tank.

NOTE 5: Maximum height of the tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.

NOTE 6: The tank is to be a commercially manufactured tank designed for the use of water supply and to be installed in accordance with manufacturer's specifications.

NOTE 7: The tank is to be located above an available landscaped area so that the tank may be readily used for watering purposes.

NOTE 8: The tank is to be fitted with a standard garden tap or similar which is to be clearly marked as not to be used for drinking purposes.

NOTE 9: The tank is to be fitted with measures to prevent mosquito breeding.

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NOTE 10: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied

NOTE 11: This requirement does not apply where the Applicant considers installation to be impractical.

69. 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.
70. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the Home Building Act 1989 to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the Home Building Act 1989. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
71. 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.
72. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE (1) ADDITIONAL DWELLING IS CURRENTLY \$33,057.22. The amount of the payment shall be in

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accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

1. Preparation of New Residents Kit	\$38.43
2. New Resident Survey	\$34.55
3. New child care centre (including land acquisition and construction of facility)	\$882.46
4. Additions/alterations to Acron Rd child care centre for additional 20 places	\$8.44
5. New Library bookstock	\$62.83
6. New Public Art	\$10.26
7. Acquisition of Open Space - Turramurra	\$27,478.50
8. Koola Park upgrade and reconfiguration	\$500.82
9. North Turramurra Sportsfield development	\$3,453.80
10. Section 94 2000-2003 Study and Interim Plan preparation cost	\$172.69
11. Section 94 Officer for period of Plan 2000-2003	\$414.47

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

73. The following are required details and must be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
 - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
 - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
 - d. Retaining walls and associated drainage.
 - e. Wet area waterproofing details complying with the Building Code of Australia.
 - f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.

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- g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

74. Submission, for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate, of a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater – Soils and Construction" (1998) by a suitably qualified and experienced engineer or surveyor. Such controls should include but not be limited to appropriately sized sediment basins, diversion systems, appropriate controls for each stage of works identified and barrier fencing which maximises and protects areas which are not to be disturbed. The plan must also specify inspection and maintenance regimes and responsibilities and rehabilitation measures.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

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

Tree/Location	Radius in Metres
<i>Michelia champaca</i> (Golden Champa) Close to the site's northeastern (rear) corner.	5 metres
<i>Podocarpus elatus</i> (Brown Pine) Close to and towards the northern end of the site's rear boundary.	5 metres
<i>Schinus terebinthifolius</i> (Brazilian Pepper Tree) Near and towards the northern end of the site's rear boundary.	4 metres
<i>Eucalyptus sp</i> (Gum) Close to the site's central rear boundary.	6 metres
<i>Metrosideros excelsa</i> (New Zealand Christmas Tree) Close to the site's central boundary.	4 metres
<i>Castanospermum australe</i> (Moreton Bay Chestnut) Close to the site's southwestern (front) corner.	3 metres
<i>Podocarpus elatus</i> (Brown Pine) Close to the site's central front boundary.	3 metres

76. 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 dwellings shall be fenced off for the specified radius from the trunk to prevent any activities, storage or the disposal of

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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>Quercus palustris</i> (Pin Oak) Close to the site's northwestern (front) corner.	7 metres

<i>Agonis flexuosa</i> (Willow Myrtle) Adjacent and close to the site's southern front boundary.	6 metres
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77. 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.
78. 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.
79. 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.
80. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
 - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

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

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82. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to occupation, or the issue of an Occupation Certificate or the issue of a Subdivision Certificate.
83. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced civil/hydraulic engineer, prior to occupation, or the issue of an Occupation Certificate, or the issue of a Subdivision Certificate, that:
- a. The works were carried out and completed in accordance with the approved plans.
 - b. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

84. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to occupation, or the issue of an Occupation Certificate, or the issue of a Subdivision Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

- Compatibility of the drainage system with the approved plans
- The soundness of the structure.
- The adequacy of the outlet control mechanism to achieve the discharge as specified.
- The capacity of the detention storage as specified.
- The size of the orifice or pipe control fitted.
- The maximum depth of storage over the outlet control.
- The adequate provision of a debris screen.
- The inclusion of weepholes in the base of the outlet control pit.
- The provision of an emergency overflow path.
- All enclosed floor areas, including habitable and garage floor levels, being safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The Works-as-Executed drawing(s) are to include all relevant levels including:

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- invert levels
- surface or pavement levels
- floor levels including adjacent property floor levels
- maximum water surface level to be achieved in the storage zone
- dimensions of basin(s), tank(s), pit(s), etc.
- location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
- storage volume(s) provided and supporting calculations
- size of orifice(s)

85. Prior to occupation, or the issue of an Occupation Certificate or the issue of a Subdivision Certificate, all disused driveway crossings, pipe crossing and/or kerb laybacks are to be reinstated as footway and kerb and/or gutter to the satisfaction of Council's Development Engineer. Reinstatement works to generally match surrounding infrastructure. Any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer, at the Applicants cost.
86. The Section 73 Sydney Water compliance certificate must be obtained and submitted prior to issue of the Final Compliance Certificate or issue of the Subdivision Certificate.

BUILDING CONDITIONS

87. Any mechanical ventilation installed in a dwelling shall comply with the requirements of Part 3.8.5.0 of the Building Code of Australia Housing Provisions. Documentary evidence of compliance is to be obtained from a suitably qualified person and submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
88. 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.

89. All structural timber members subject to weather exposure shall have a durability class rating of 2 or better in accordance with Australian Standard 1684.2-1999 (National Timber Framing Code), or be preservative treated in accordance with Australian Standard 1604-1980 (Preservative Treatment for Sawn Timbers, Veneers and Plywood).
90. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
91. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:
- | | | |
|-----------------|---------------|---------------|
| Risers: | Maximum 190mm | Minimum 115mm |
| Going (Treads): | Maximum 355mm | Minimum 240mm |
- Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equaling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.
92. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
 - b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
 - ii. are connected to the mains and have a standby power supply; and
 - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

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

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

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

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

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

94. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Wet area waterproofing details complying with the Building Code of Australia.
 - b. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.

M Leotta
Executive Planner
Wahroonga Ward

R Josey
Acting Team Leader,
Wahroonga Ward

M Prendergast
Manager
Development Assessment
Services

M Miocic
Director
Environment &
Regulatory Services

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

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	51 BILLYARD AVENUE WAHROONGA - SUBDIVISION OF ONE (1) ALLOTMENT TO CREATE THREE (3) ALLOTMENTS
WARD:	Wahroonga
DEVELOPMENT APPLICATION N^o:	68/04
SUBJECT LAND:	51 Billyard Avenue Wahroonga
APPLICANT:	M & R Civil Pty Ltd C/- Glendinning Minto & Associates Pty Ltd
OWNER:	D W & P E Gudex
DESIGNER:	Craig & Rhodes
PRESENT USE:	Residential dwelling
ZONING:	Residential 2C
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	KPSO, Subdivision Code
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	Not Applicable
COMPLIANCE WITH GOVERNMENT POLICIES:	Not Applicable
DATE LODGED:	28 January 2004
40 DAY PERIOD EXPIRED:	8 March 2004
PROPOSAL:	Subdivision of one (1) allotment to create three (3) allotments
RECOMMENDATION:	Approval

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DEVELOPMENT APPLICATION N^o 68/04
PREMISES: 51 BILLYARD AVENUE WAHROONGA
PROPOSAL: SUBDIVISION OF ONE (1) ALLOTMENT TO
CREATE THREE (3) ALLOTMENTS
APPLICANT: M & R CIVIL PTY LTD C/- GLENDINNING
MINTO & ASSOCIATES PTY LTD
OWNER: D W & P E GUDEX
DESIGNER: CRAIG & RHODES

PURPOSE FOR REPORT

Determination of a Development Application for the subdivision of 51 Billyard Avenue, Wahroonga to create three (3) torrens title allotments.

EXECUTIVE SUMMARY

Issues: Vehicle access, screen planting

Submissions: One objection received.

Land & Environment Court appeal: 10542 of 2004. Hearing date: 26 July 2004

Recommendation: Approval

THE SITE

Zoning: Residential 2C
Visual Character Study Category: Pre 1920
Lot Number: 1
DP Number: 735609
Area: 5173m²
Side of Street: Southern
Cross Fall: West to east
Stormwater Drainage: Interallotment drainage easement
Heritage Affected: No
Required Setback: Not Applicable
Integrated Development: No
Bush Fire Prone Land: No
Endangered Species: No
Urban Bushland: No
Contaminated Land: No
Section 94 Contributions: Yes

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SITE DESCRIPTION

The subject allotment is legally described as Lot 1 in D.P. 735609 located on the southern and lower side of Billyard Avenue, Warrawee. The allotment has an area of 5,173 square metres and is of irregular shape. The property has a street frontage of 30.48 metres to Billyard Avenue and a rear boundary length of 59.34 metres. The western and eastern boundaries are 'stepped', with a combined length of 118.635 metres and 135.05 metres, respectively. The site falls mildly from the road frontage, with an overall cross fall from the south-western corner to the eastern side boundary. This creates a dip in the site contour roughly in the centre of the allotment.

A drainage easement traverses the northern part of the site from west to east. The general fall in contour from west to east means that the adjoining sites at 53 Billyard Avenue and 16 and 20 Young Street to the east have a lower contour than the subject allotment. The adjoining sites to the west, 35-41 and 47 Billyard Avenue, are generally higher while the adjoining site to the south, 27-29 Chilton Parade, shares a similar contour to the subject site.

The site contains a large two storey brick and tile dwelling, located in the south-west portion of the site. An in-ground swimming pool is located to the rear of the dwelling. The site also contains a tennis court adjoining the eastern boundary, a timber cabana and garden shed in the south-east corner of the site and a carport adjacent to the 'stepped out' portion of the eastern side boundary.

The site is well landscaped, with a mix of remnant locally occurring trees and other native and exotic canopy trees predominantly in the northern portion, far eastern boundary and south-western corner of the site. Remnant tree species include *Angophora floribunda* (Rough barked apple), *Eucalyptus saligna* (Sydney Blue Gum) and *Pittosporum undulatum* (Sweet Pittosporum). Extensive exotic shrub plantings are found throughout the grounds.

THE PROPOSAL

Consent is sought for subdivision of one allotment into three torrens title lots. Proposed Lots 2 and 3 will be vacant. Proposed Lot 1 will contain the existing two storey brick and tile dwelling. It is also proposed to remove the existing in-ground swimming pool and cabana, tennis court, garden shed, a carport and that part of the existing driveway not required by Lot 1.

The proposal has the following indices:

- Lot 1: Area = 1979 m² (1800m² excluding access handle)
 Battle-axe lot with a frontage of 3m to Billyard Avenue. Vehicle access to Billyard Avenue by way of a shared access handle.
 Length = 53.877 metres (excluding length of access handle)
- Lot 2: Area = 1768 m² (1600m² excluding access handle)
 Battle-axe lot with a frontage of 3m to Billyard Avenue. Vehicle access to Billyard Avenue by way of a shared access handle.
 Length = 54.105 metres (excluding length of access handle)
- Lot 3: Area = 1432 m² (1425m² excluding access handle)

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Frontage to Billyard Avenue of 24.48m and vehicle access to Billyard Avenue by way of shared access handle. The existing driveway is to be removed.

CONSULTATION - COMMUNITY

The following comments have been received:

In accordance with Council's Notifications Policy, adjoining owners were given notice of the application. In response, the following submissions were received:

1. B Hodge & J Mealing – 53 Billyard Avenue, Wahroonga

Loss of privacy

The submitter is concerned that the location of the passing bay adjacent to the eastern boundary will not allow for screen planting.

Comment

The proposal involves construction of a passing bay with a length of approximately 25m, set back 200mm from the eastern boundary. Existing boundary fencing will provide some screening of vehicle movements from the adjoining site at 53 Billyard Avenue. However, to ensure an appropriate level of acoustic and visual privacy in relation to the outdoor open space of the adjoining site, it is recommended that the driveway be reconfigured in a straight alignment. The passing bay should be repositioned to be adjacent to the garage on the adjoining site. This will allow the passing bay to be shortened and provide a sufficient set back of 1 metre for screen planting (**refer Condition 25**).

Loss of habitat

The submitter is concerned that removal of trees along the eastern boundary will adversely impact on the habitat of native wildlife.

Comment

The subject site is well landscaped, with a number of mature trees providing a general habitat for wildlife. The proposed tree removal associated with construction of the driveway will have a negligible impact on wildlife habitat.

Unstable trees along eastern boundary

The submitter is concerned that the three pine trees located adjacent to the eastern boundary are hazardous or may be destabilized due to earthworks.

Comment

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In their Statement of Environmental Effects, the applicant has requested removal of two of the Pine trees. Council's Landscape Officer supports removal of the three pine trees on the basis that they appear over-mature and exhibit a lean towards the rear garden of 53 Billyard Avenue. The Landscape officer notes, however, that removal of the trees is not required for construction of the driveway.

Maintenance of native trees and screening.

The submitter requests that any development maintain the native trees and screening currently associated with the subject allotment.

Comments

Council's Landscape Officer supports the proposal, subject to conditions (**refer Conditions 11-16, 44-47**). These conditions will ensure a suitable retention and replenishment of tree cover for the three lots. The subdivision will not result in any undue impact on landscape qualities currently associated with the subject site.

Drainage easement

The submitter states that they have not given their written approval for the proposed interallotment drainage easement over their property at 53 Billyard Avenue.

Comments

Drainage for the proposed subdivision is dependent on an interallotment arrangement over 53 Billyard Avenue or the site at 20 Young Street. To date, neither party has provided their written approval to such an arrangement. It is recommended that this issue be addressed by granting a deferred commencement consent with the consent only becoming operative once interallotment drainage has been secured (**refer Condition No. 1 – Schedule A**).

CONSULTATION - WITHIN COUNCIL

Engineering

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

This application is recommended for approval subject to the engineering conditions recommended below:

The applicant has submitted an overland flow assessment which demonstrates that with some regrading, overland flow can be maintained within the drainage easement. These works can be carried out in conjunction with the construction of the new driveway and on site detention for the existing dwelling. The design drawing submitted, Craig & Rhodes Drawing 25403e01, should be stamped with the DA plans.

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The subdivision works include the construction of a new interallotment drainage line through either 53 Billyard Avenue or 20 Young Street. The Landscape Development Officer may wish to comment on the proposed pit and pipe construction within the canopy of Tree 60.

The entry driveway has sufficient width for two vehicles to pass. A suitable passing bay is shown on the proposed subdivision plan. Driveway grades appear to be satisfactory.

Conditions as recommended by the Development Control Engineer have been included with the recommendation (**refer Conditions 6-9, 17-23, 32-35, 38-42**).

Landscaping

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

This application is supported subject to conditions.

Site description.

The subject site is a hatchet shaped lot of 5173 square metres area, located on the southern side of Billyard Avenue – 100 metres west of Young Street. The site falls approximately 6.5 metres from its Billyard Avenue boundary and southwestern corner to the low point on its central eastern boundary.

The site contains a cement rendered and tiled roofed, 2 storey dwelling near its southwestern corner, a pebbled concrete driveway between the Billyard Avenue boundary and the dwelling, a synthetic grass tennis court and a timber recreation room and attached double carport to the east of the dwelling, a concrete in-ground swimming pool and timber cabana to the rear of the dwelling,. A drainage easement traverses the northern portion of the site.

The garden layout appears very spacious with a mix of remnant locally occurring and other native, and exotic canopy trees dominating its northern portion, far eastern boundary and southwestern corner. Remnant tree species of Angophora floribunda (Rough barked Apple), Eucalyptus saligna (Sydney Blue Gum) and Pittosporum undulatum (Sweet Pittosporum) are from the Blue Gum High Forest grow along the Billyard boundary. Extensive exotic shrub plantings embellish all boundaries and spatial divides. Extensive brick and sandstone paving, steps and retaining walls surround the dwelling.

The proposal.

This application seeks approval for the Torrens title subdivision of 49 - 51 Billyard Avenue into 3 lots of 1972, 1768 and 1425 square metres area, respectively. Subdivisional works appear to include the installation of underground services, construction of the new driveway along the access handle to the 2 rear lots, upgrading of existing drainage infrastructure, removal of the tennis court, swimming pool and 2 timber buildings and the reinstatement of their areas.

Comments.

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The 3 proposed lots are generous in area and appropriate for the locality. Both indicative building platforms (lots 2 and 3) are located upon clearings away from existing massed plantings and pleasantly arranged within the estate for the purpose of this application.

None of the remnant Blue Gum High Forest trees should be adversely impacted upon by the proposed driveway or future development works within Lot 3, although this will not prevent a future applicant from siting a dwelling elsewhere within the lot. A dwelling sited on the permitted 9 metre front boundary setback would be beneath the canopy of Tree 6-Eucalyptus saligna (Sydney Blue Gum).

Removal of T17 - Gleditsia triacanthos (Honey Locust), T1 - Stenocarpus sinuatus (Firewheel Tree) and 4 of a row of mature Photinia glabra (Hawthorn) for construction of the access driveway to the proposed rear 2 lots is supported. Curving the driveway around T2 - Citharexylum spinosum (Fiddlewood) appears superficial to avoid the gun-barrel driveway affect and to avoid running the driveway adjacent to the eastern boundary.

It appears that a straight driveway, including the slight offset at the Billyard boundary, and a reduced passing bay (than shown on the site plan) would most likely have no greater visual impact from Billyard Avenue. Location of the driveway down the western side of the access handle and a reduced passing bay will permit generous space for tall massed screen and tree planting along its eastern side – adjacent to No. 53 Billyard Avenue that could arch over the driveway. Possibly a small area of 'Right of Carriageway' is also required over proposed lot 3 for vehicles entering the rear 2 lots.

T18, 19 and 20 - 3 Pinus radiata (Monterey Pine), located adjacent to the eastern boundary of the access handle, were initially proposed for retention in the applicant's Tree report, although their Statement of Environmental Effects proposes their removal. Removal of the 3 Pinus radiata (Monterey Pine) trees is not required for construction of the driveway, although they do appear over-mature and exhibit a lean towards the rear garden of No.53 Billyard Avenue. An application could be made any time for their removal.

Several noxious plant and weed species have invaded and established within the boundary planting areas. These should be removed before they become more proliferate.

Conditions recommended by Council's Landscape Officer have been included within the recommendation (**refer Conditions 11-16, 44-47**).

STATUTORY PROVISIONS

State Environmental Planning Policy No 55

SEPP 55 aims to set an approach for the remediation of contaminated land. Clause 7 of the SEPP requires Council to consider whether the land is likely to be contaminated prior to the determination of development consent.

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The site is currently used for residential purposes and, as such, the applicant seeks consent for a residential development under the provisions of the KPSO. 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 2 C zone is permissible under Clause 23 of the KPSO.

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

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

	Proposal	KPSO	Complies
Lot 1			
Area	1800m ²	1300m ²	YES
Width at 12.2 metres	32 metres (approx)	N/A	N/A
Access Handle Width	3m	4.6m	NO
Built Upon Area	49%	60%	YES

Lot 2			
Area	1600m ²	1300 m ²	YES
Width at 12.2 metres	27 metres (approx)	N/A	N/A
Access Handle width	3m	4.6m	NO
Built Upon Area	Not applicable-structures to be removed	60%	N/A

Lot 3			
Area	1432 m ²	929 m ²	YES
Width at 12.2 metres	24.5 metres (approx)	18 metres	YES
Built Upon Area	Not applicable- driveway to be relocated	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.*

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- *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;*”

Despite the variation to access width (discussed below) the proposed subdivision creates allotments characteristic of the surrounding area, both in terms of size and configuration (see location sketch). 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.

It is recommended that a condition be attached to consent requiring amendment of the proposed driveway to a straight alignment (**refer Condition 25**). This will enable a reduction in the length of the proposed passing bay and an increase in set back from the eastern boundary adjacent to the rear private open space of 53 Billyard Avenue, to accommodate screen planting. Removal of the curved alignment will necessitate the removal of an additional tree. However, this is supported by Council’s Landscape Officer in the interest of providing dense screen planting along the common boundary. Appropriate conditions have been recommended to ensure tree cover is maintained on the site and appropriate screen planting established. (**Refer Conditions 11-16, 44-47**).

Access width

The proposal does not comply with the minimum access width development standard specified in the KPSO. The applicant has lodged a SEPP 1 objection to vary the standard in this instance. An assessment against SEPP 1 provisions is detailed below:

Purpose of the development standard

The intent of the standard is to ensure adequate access width to accommodate standard motor vehicles but also emergency and delivery vehicles associated with residential activity. The specified width is required to allow for the passing of vehicles on driveways serving battleaxe lots without the need to reverse manoeuvre along access handles or, where reverse manoeuvring is required, an adequate width is provided to accommodate such movements.

The proposal includes two access handles with a combined width of 6m serving lots 2 and 3. The formed driveway will have a width of 3m with a passing bay provided with a width of 5.5m. Lot 1 will also gain vehicular access off the driveway. Reciprocal rights of way will give legal entitlement for the three lots to utilise the shared driveway.

Reasons provided by the applicant to justify non-compliance:

- Reciprocal rights of way over two access handles of 3m width.
- Provision of a passing bay
- Planting strips of variable widths

Is compliance unreasonable or unnecessary

In this instance, compliance is considered unnecessary, subject to increasing the combined width of the access handles, currently proposed at 6m, to a minimum width of 7.32m. This would allow

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sufficient set back for screen planting along the eastern boundary to the street frontage (**refer Condition 26**).

A 3m wide driveway will serve all three allotments with reciprocal rights of way granted over the access handles. Subject to a condition, the driveway would incorporate a passing bay adjacent to the garage located at 53 Billyard Avenue (**refer Condition 25**). The proposed allotments are of sufficient dimension to accommodate on-site manoeuvring, thereby negating any need for reverse manoeuvring in either direction along the access handle. Subject to a minor realignment, the driveway will be straight with unobstructed driver sightlines and an appropriate grade to enable the safe and efficient ingress and egress of vehicles from the site (**refer Condition 25**). The access handles and driveway are also of sufficient width to accommodate emergency and delivery vehicles and are clear of any intrusion by building eaves or the like. Appropriate set back from the eastern boundary for landscaping will be provided (**refer Condition 26 & 45**).

Is application consistent with the aims of the policy set out in clause 3?

For the reasons stated above the application is not inconsistent with Clause 3 nor the objects specified in section 5 (a)(i) and (ii) of the Act.

Is there concurrence?

The proposed non compliance does not raise any matter of significance for the state or regional environmental planning.

The proposed non-compliance in access width will not result in any adverse impact on adjoining sites or the wider environment as safe and efficient vehicle access can be provided for the three allotments. Council’s Development engineer and Landscape officer can support the proposal. Accordingly, the public benefit in maintaining the planning controls will not be compromised in this instance.

Overall, the proposed non compliance will not adversely impact on traffic safety, the streetscape, or landscape amenity of the surrounding residential zone. Accordingly, the SEPP1 objection has merit and compliance with the development standard is unnecessary. It is considered that granting of development consent would be consistent with the aims and objectives set out in Clause 3 and the objects specified in section 5 (a)(i) and (ii) of the Act.

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
Lot 1			
Area	1800m ²	1300m ²	Yes
Width at 12.2 metres	32 metres (approx)	N/A	N/A
Access handle width	3m	3.66m	No

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Frontage	3m	N/A	N/A
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Lot 2			
Area	1600m ²	1300 m ²	Yes
Width at 12.2 metres	27 metres (approx)	N/A	N/A
Access handle width	3m	3.66m	No
Frontage	3m	N/A	N/A

Lot 3			
Area	1432 m ²	929 m ²	Yes
Width at 12.2 metres	24.5 metres (approx)	18.29 metres	Yes
Frontage	24.48m	6.1m	Yes

Access handle width

The combined width of the access handles of Lots 2 and 3, totalling 6.0m, is insufficient to provide appropriate access to accommodate likely vehicle movements and landscaping. Accordingly, it is recommended that the access handles have a minimum combined width of 7.32m (**refer Condition 26**). There is sufficient area available on site to accommodate a combined access handle of this width without creating any non compliance with either the KPSO or Subdivision Code provisions.

The applicant seeks consent for a driveway of 3.0m as part of the development. Subject to a minor realignment to accommodate screen planting along the eastern boundary, the proposed driveway is of a suitable grade, alignment and width to enable safe and efficient ingress and egress of vehicles from the site (**refer Condition 25**). The proposed driveway is of sufficient width to accommodate emergency and delivery vehicles and provides unobstructed sightlines and a passing bay to enable the passing of vehicles. The proposed allotments are of sufficient area to allow for on-site manoeuvring so that vehicles will be able to enter the roadway in a forward direction.

Reciprocal rights of way will ensure that safe and efficient vehicle access can be provided for the three allotments (**refer Condition 40**). Council’s Development engineer supports the proposal.

Appropriate conditions have been recommended to ensure significant trees on the site are protected and appropriate screen planting established. (**Refer Conditions 11-16, 44-47**).

The proposal complies in all other 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 residential dwellings, Council’s Development Control Plan (DCP) 38 is relevant as a consideration.

The DCP sets out aims and objectives for residential development including minimum setbacks from property boundaries. The sizes and widths of the proposed allotments are generally larger than those of surrounding allotments and, as such, the proposal is sufficient in size to support development consistent in size to that of the surrounding development and will achieve the aims and objectives of the DCP.

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The existing dwelling will be contained within Lot 1 and also requires assessment against the design requirements of DCP 38.

KU-RING-GAI RESIDENTIAL DESIGN MANUAL

COMPLIANCE TABLE		
Site Characteristics		
Site Area = 1800m ²		
The site is on the low side of the road		
The site has a land slope more than 20 ⁰ across the site = NO		
The Visual Character category for the site is Pre-1920		
Section 5: Design Elements		
Development Control	Proposals Numeric Compliance	Complies
5.1 Streetscape:		
Battle-Axe Block Setbacks (s.5.1.4)		
• Front Setback: 12m (min)	82.4m m	YES
• Rear Setback: 12m(min)	17.7m m	YES
• Side Setbacks: 3.6m(min)	1.9m (approx) (east) 6.4m (approx) (west)	NO YES
5.2 Building Form:		
FSR (s.5.2.1) 0.30:1 (max)	0.25:1	YES
Building Height Plane (s.5.2.3) 45 ⁰ from horizontal at any point 3m above boundary		YES
First Floor (s.5.2.4)		
• FSR: < 40% total FSR	46.8%	NO
Built-Upon Area (s.5.2.7) 50% (900m ²) (max)	49% (879m ²)	YES
5.3 Open Space & Landscaping:		
Soft Landscaping Area (5.3.3) 50% (900m ²) (min)	51% (921m ²)	YES
Tree Replenishment (s.5.3.6) 10 Trees Required	12 trees provided	YES
Useable Open Space (s.5.3.8) Min depth 5m and min area 50m ²	Depth >5m, Area >50m ²	YES
5.5 Access & Parking:		
No. of Car Parking Spaces (s.5.5.1) 2 spaces behind building line	Existing parking area forward of dwelling	NO

The following is a detailed discussion of the above relevant matters:

Site Planning & Environmental Constraints (Part 4)

Lot 1 is not relevantly affected by any constraints.

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Design Elements – Streetscape (Part 5.1)

Lot 1 will be configured as a battle-axe allotment. The existing dwelling is set back in excess of 82m from Billyard Avenue. There will be no adverse impact on streetscape. A shared driveway arrangement will maintain the existing single driveway frontage to Billyard Avenue.

Design Elements – Building Form (Part 5.2)

The existing dwelling will be retained but located 1.9m from the proposed eastern boundary. The dwelling is single storey at this height with a first floor balcony. The upper level is recessed approximately 3m from the boundary. To ensure an appropriate level of visual and acoustic privacy for future residents of Lot 2, a condition is recommended requiring a timber paling fence to a height of 1.8m along the full length of the eastern boundary, with the exclusion of any area dedicated to the shared driveway (**refer Conditions 48**). Similarly, a condition requiring screen planting capable of attaining a height of 6m along the boundary is also proposed (**refer Conditions 45**).

Design Elements – Open Space & Landscape (Part 5.3)

Lot 1 contains a number of trees primarily at the rear of the lot. Council's Landscape Officer supports the proposal subject to conditions (**refer Conditions 43 & 44**).

Design Elements – Privacy & Security (Part 5.4)

Visual and acoustic privacy have been discussed under **Building Form** above. The proposal raises no security related issues.

Design Elements – Access & Parking (Part 5.5)

The existing dwelling will utilize an existing concrete parking area located adjacent to the western side boundary. Reciprocal rights of way will be granted for all three lots to utilize the proposed driveway.

Section 94 Contributions

The subdivision of the site into three allotments of land generates a Section 94 contribution of \$66,114.44 (**Refer Condition 28**).

1. Likely Impacts

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

2. Suitability of The Site

The site is of a sufficient size and shape to accommodate the proposed subdivision. It is not subject to hazards such as bushfire, flooding, land slope or contamination and all necessary urban services are available.

3. Any Submissions

There was one submission received in response to the proposed development. This submission has been addressed within this report and the issues raised are proposed to be addressed by appropriate conditions of consent.

4. Public Interest

The proposal is in the public interest.

Any other Relevant Matters Considerations Not Already Addressed

There are no other matters for assessment.

CONCLUSION

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

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

RECOMMENDATION

- A. THAT the Council, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No.1 – Development Standards* to Clause 60C(2) of the Ku-Ring-Gai Planning Scheme Ordinance is well founded. The Council is also of the opinion that strict compliance with the development standard is unnecessary in the circumstances of this case as the non-compliance will not adversely impact on vehicle access, the streetscape and landscape amenity of the surrounding residential zone or generate adverse effects in relation traffic safety.
- B. THAT Development Application No. 0068/04 for the subdivision of the existing allotment to create three allotments at Lot 1, DP 735609, being 51 Billyard Avenue, Wahroonga, be approved for two years on a deferred commencement basis, subject to the following conditions:

SCHEDULE A

1. The applicant shall demonstrate that the subject site benefits from the necessary easement(s) for stormwater drainage as far as the approved point of discharge to the public drainage system. Documentary evidence of the creation of the required drainage easements on the titles of the downstream properties must be submitted to Council and approved prior to the consent becoming operational.

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.

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NOTE: It is the applicant's responsibility to check the title of the subject land to establish if the application is affected by any easements, covenants or restrictions on the use of the land that may affect the proposed structure.

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. 0068/04 and Development Application plans prepared by Craig & Rhodes, reference number 254/03, Dwg File 25403L1, Sheet 1, dated November 2003 and Dwg Ref 25403e01, dated 15 March 2004 and lodged with Council on 28 January 2003 and 19 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 and Construction Certificate 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. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the interallotment stormwater drainage line benefiting the subject site.
6. To maintain capacity of the Public drainage system, an On-site Stormwater Detention System must be provided for the existing dwelling in accordance with Council's Stormwater Management Manual. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

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

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

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

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

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

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

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

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

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

8. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
9. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

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10. 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.
11. Separate written approval under Council's Tree Preservation Order is required prior to the REMOVAL of the following trees within the subject property:

Tree/Location

T18, 19 and 20 - 3 *Pinus radiata* (Monterey Pine)
Adjacent to the access handle's eastern side boundary.

12. Any future dwelling to be erected within Lot 3 shall be located a minimum distance of 10 metres from Trees 6 and 7 – 2 *Eucalyptus saligna* (Sydney Blue Gum) located adjacent and close to its Billyard Avenue boundary.
13. Any imported fill material shall be restricted to material from the local soil landscape on which the site is located or be derived from sandstone geology sites.
14. 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.
15. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

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

16. Submission of design documentation for the required interallotment drainage system from the subject property to the proposed point of discharge to a recognised public drainage system. Plans are to be prepared by a suitably qualified and experienced consulting engineer in accordance with the requirements of Council's Stormwater Management Manual, and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. Plans must include the following details:
 - a. Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system.
 - b. Longitudinal section showing existing ground levels and proposed invert levels.
 - c. Means to preserve the root systems of trees within seven (7) metres of the drainage system.
 - d. New pipes within the downstream easement drainage system are to be sized to have adequate capacity to carry design flowrates, or detention system overflows where detention systems are to be provided, from the subject property.

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17. Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention and all supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council requirements. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.
18. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Design drawings and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

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

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

NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.
19. For stormwater control, the provision of an interceptor drainage system to capture and convey all stormwater runoff arriving at the subject property from upslope areas to the Council or public drainage system and bypassing any on-site stormwater detention systems. The drainage system is to comprise suitable inlet pits, grated drains, pipes and channels and is to be designed in accordance with Council's Stormwater Management Manual. This drainage system is to be designed for storm events up to and including the 100-year ARI. Design drawings are to be prepared by a suitably qualified and experienced civil/hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.
20. 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.
21. Prior to the issue of the Construction Certificate, a CCTV inspection and report of the Council drainage pipeline traversing the subject property is to be undertaken and provided to Council,

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attention Development Engineer. The report is to include a copy of the video footage of the pipeline.

22. The applicant shall demonstrate that the subject site benefits from the necessary easement(s) for stormwater drainage as far as the approved point of discharge to the public drainage system. Documentary evidence of the creation of the required drainage easements on the titles of the downstream properties must be submitted to the Principal Certifying Authority and approved prior to issue of the Construction Certificate.
23. A 5.5 metre wide passing bay is to be provided which complies with AS2890.1-2004. Details are to be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
24. The driveway shall be amended to a straight alignment with the passing bay located adjacent to the brick garage on the site at 53 Billyard Avenue.
25. The combined width of the access handles shall be a minimum of 7.32m with the driveway set back a minimum of 1m from the eastern boundary to accommodate screen planting for the full length of the access handles.
26. 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.
27. 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.
28. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF TWO (2) ADDITIONAL ALLOTMENTS IS CURRENTLY \$66,114.44. 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

Item 4

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

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 WORK COMMENCING

29. 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.

30. 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.

Item 4

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

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

31. The construction of the proposed interallotment drainage system. The works are to be supervised by the designing engineer and certified upon completion that the as-constructed works comply with the approved design documentation and with Council's Stormwater Management Manual. A registered surveyor is to provide a Works-as-executed drawing of the as constructed works and must certify that all drainage structures are wholly contained within the drainage easement(s). The certification and Works-as-executed drawing must be submitted to the Principal Certifying Authority for approval prior to the issue of the Subdivision Certificate.
32. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be created prior to issue of the Subdivision Certificate. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council.
33. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to issue of the Subdivision Certificate.
34. Provision of an overland flowpath along Council's drainage easement and along the driveway within the subject property as shown on Craig & Rhodes Drawing 25403e01, dated 15.3.04. Certification of the as-constructed system is to be provided to the Principal Certifying Authority prior to issue of the Subdivision Certificate.
35. Prior to issue of the Subdivision Certificate, any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site must be fully repaired to the satisfaction of Council's Development Engineer and at no cost to Council.
36. The Section 73 Sydney Water compliance certificate must be obtained and submitted prior to issue of the Subdivision Certificate.
37. Prior to issue of the Subdivision Certificate, the submission of an original Plan of Subdivision plus five (5) copies, suitable for endorsement by the certifying authority.

Note: The following details must be submitted with the Plan of Subdivision:

Item 4

- a. The 88B Instrument.
- b. The Engineer's Certification of the on-site Stormwater detention facility. This must be on the standard Council On-Site Detention certification sheet, available from Councils customer services.
- c. Any Surveyors or Engineers Certification required by other conditions in this consent.
- d. The Section 73 Compliance Certificate.

Note: Council will check the consent conditions and failure to submit the required information will delay issue of the Subdivision Certificate.

38. The submission of an instrument under Section 88B of the Conveyancing Act with the Plan of Subdivision, plus five (5) copies, creating any required easements, rights-of-carriageway, positive covenants, restrictions etc. Ku-ring-gai Council must be named as the authority empowered to release, vary or modify the same.
39. Prior to issue of a Subdivision Certificate, creation of all burdens including drainage easements, service easements and rights-of-carriageway as required. Reciprocal rights of way shall be created over the access handles benefiting lots 1, 2 and 3. A registered surveyor is to certify, prior to issue of the subdivision certificate, that all existing interallotment drainage lines, services and/or driveways are fully contained within the proposed burdens and/or that future provision of such are fully covered by the proposed burdens. Alternatively, where the surveyor is of the opinion that no interallotment easements or rights-of-carriageway are required, then certification to this effect must be submitted.
40. The provision of separate underground electricity, gas, telephone, sewer and water services, or appropriate conduits for the same, to each allotment. The certifier to verify that these services are provided to every lot prior to the issue of the Subdivision Certificate. The provision of these measures is to be certified by a consulting engineer or surveyor prior to the issue of a Subdivision Certificate.
41. Prior to issue of the Subdivision Certificate, a CCTV inspection and report on the Council drainage pipeline traversing the subject property is to be undertaken and provided to Council, attention Development Engineer. The report is to include a copy of the video footage of the pipeline. Any damage which has occurred to this section of the pipeline since the commencement of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer prior issue of a Subdivision Certificate.
42. Prior to the release of the Subdivision Certificate a suitably qualified and experienced engineer or surveyor is to certify that all new lots have ready access to the services of electricity, gas, telephone, sewer and water.
43. Lot numbers 1, 2 and 3 shall support a minimum number of 10, 10 and 7 trees respectively that will attain 13 metres height at 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.

Item 4

44. The existing trees, and additional trees to be planted within Lot 1, shall be shown on a Site Plan. The Plan shall be submitted to Council and approved by Council's Landscape Development Officer. Tree planting shall be completed prior to release of the Certificate of Subdivision.
45. A plan detailing screen planting of species attaining 6 metres height and punctuated by trees, shall be prepared for the space between the driveway and the eastern boundary of the access handle and the full length of the eastern boundary of Lot 1, with the exception of any area dedicated to the shared driveway. The plan shall be submitted to Council and approved by Council's Landscape Development Officer. The screen and tree planting shall be completed prior to release of the Certificate of Subdivision.
46. The following noxious and/or undesirable plant species shall be removed from the property prior to completion of the proposed building works. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to the release of the Certificate of Subdivision.

Plant Species

Acetosa sagittata (Turkey Rhubarb)
Ailanthus altissima (Tree of Heaven)
Araujia hortorum (Moth Vine)
Asparagus asparagoides (Bridal Creeper)
Asparagus densiflorus (Asparagus Fern)
Cinnamomum camphora (Camphor laurel)
Erigeron karvinskianus (Seaside Daisy)
Hedera helix (English Ivy)
Hedera sp. (Ivy)
Hedychium gardnerianum (Ginger lily)
Ipomoea indica (Morning Glory)
Impatiens balsamina (Impatiens)
Jasminum polyanthum (Jasminum)
Ligustrum lucidum (Large-leaved Privet)
Macfadyena unguis-cati (Cat's-claw Creeper)
Nephrolepis cordifolia (Fishbone fern)
Ochna serrulata (Ochna)
Senna pendula (Cassia)
Solanum mauritianum (Wild Tobacco)
Toxicodendron succedaneum (Rhus Tree)
Tradescantia albiflora (Wandering Jew)
Wisteria sp. (Wisteria Vine)

47. The existing in-ground swimming pool, carport, tennis court, cabana and existing driveway, with the exception of the driveway area dedicated to Lot 1, are to be removed prior to issue of the subdivision certificate.

Item 4

48. A 1.8m high timber paling fence shall be constructed along the full length of the northern and eastern boundaries of Lot 1, with the exception of any area dedicated to the shared driveway.

M Leotta
Executive Planner

M Prendergast
Manager
Development Assessment
Services

M Miocic
Director
Environment &
Regulatory Services

Attachments: **Location Sketch**
 Site Plan/Subdivision Plan
 Drainage Plan

33 LOCHVILLE STREET, WAHROONGA - CONNECTION TO COUNCIL PIPELINE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To consider a request by the owners of 33 Lochville Street, Wahroonga to alter the terms of the council drainage easement over downstream properties and to permit discharge into a council pipeline.

BACKGROUND:

Council is in receipt of a proposed house development DA 318/04 at the subject property. The subject development is being assessed for approval of the drainage connection before assessment normally under deferred commencement.

The owner was requested to provide documentary evidence, including written consent from downstream owners, formal request to council and drainage investigation report.

COMMENTS:

Three properties downstream of 33 Lochville Street are burdened by a Council Drainage easement. All require amendment to the terms to permit connection of stormwater from the subject property. Concession has been made for OSD.

The drainage study submitted was considered satisfactory, with a new pit required in the property to be constructed to Councils' standard.

RECOMMENDATION:

That Council grants approval to alter the terms of the Drainage Easement, conditional on the payment of Council's legal costs and disbursements in items A to D.

PURPOSE OF REPORT

To consider a request by the owners of 33 Lochville Street, Wahroonga to alter the terms of the council drainage easement over downstream properties and to permit discharge into a council pipeline.

BACKGROUND

Development Application DA318/04 for 33 Lochville Street comprises a proposed single residence.

Unlike past applications that are granted deferred commencement in these circumstances, the assessment of this DA will not progress until reviewed by Technical Services and approval is given by the Council to alter the terms for the easement and connection to the drainage.

The rear of the site contains a 750mm diameter stormwater pipeline which generally exists within the easement indicated on the location sketch, as **Attachment A**.

Three properties downstream of 33 Lochville Street to Coonanbarra Road are burdened by the easement for drainage, namely 31 Lochville Street, 113 and 113A Coonanbarra Road.

Greg Timewell & Associates was engaged by the applicant to undertake a drainage study for the property to address pipe capacity and runoff from the property for connection to the pipeline. Drawing plans No SW 0324, Rev A, and study were submitted for assessment.

COMMENTS

Written consent of all downstream owners burdened by the easement was obtained and is submitted. Letters have specified that consent is granted to both modify terms and alter Titles documents and therefore is considered satisfactory. However, two owners have made particular mention of their consent being provided subject to payment by the applicant of all costs in relation to the variation and connection. It is standard council practice for the applicant benefiting from and requesting the variation, to bear all costs associated with the variation.

The 750mm pipeline conveys stormwater from Lochville Street as well as the upstream catchment to Coonanbarra Road and then into the receiving waters of Spring Gully Creek downstream. Council has been able to provide pipeline and surface flows applicable for this system based on the hydrological and hydraulic analysis (using *DRAINS*) from Consultants engaged by Council for the Cowan Creek Catchments. The flood study by Greg Timewell and associates has used this information to address the stormwater flows from the subject property with the following noted from analysis:

- The 750mm pipe has an estimated capacity of 2.7 m³/s, based on a 5.1% grade.
- The system conveys a constant flow of 1.3 m³/s for the 5, 20 and 100 year ARI design storms, with 20% blockage assumed in the model.
- Overland flow varies from 0.478 m³/s – 0.807 m³/s.

Item 5

DA318/04
14 July 2004

The study attests to the capacity of the system to convey the proposed runoff without causing adverse impacts on downstream properties, with the following noted:

- There is a net decrease in flow of 0.035 m³/s for the 50 year ARI. Post-developed flows of 0.007 m³/s directed to Councils' drainage pipeline are to be controlled via an On-Site Detention System (OSD).
- In existing conditions, downstream properties are situated in a natural depression which are therefore at risk from overland flow.
- Flows from the OSD system represent less than 1% of the available pipe capacity.

Concession for OSD was allowed by the engineering assessment unit. Calculation of the post developed flow was based on a 35% site area available for development, compared with 60% typically used. The rationale provided explains the rear of the site is occupied by major trees and these are not removable. Advice from the Engineering Assessment Unit, indicate the reasoning and consequent modification to the site area percentage is acceptable for the calculation of site discharge.

As the application was lodged before 7 April 2004 the property was not subject to On-Site Retention requirements.

Inspection of drawing plans No SW 0324, Rev A, indicates the construction of grated pit in the north-western corner of the yard for connection from the OSD system to the Council pipeline. Details for the pit construction are minimal and are required to be Council's standard pit detail. Construction of a saddle pit to Council drawing No 92-083 with a grated lid is appropriate, given the existing pipe is in-situ and is not subject to traffic loading.

The applicants' consultant has designed an overland flow path across the rear of the yard to convey surface flows of 0.664 m³/s from a 20 year ARI design storm. The channel is triangular in shape, 3.5m wide by 0.2m deep at the centre. The flow magnitude and overland flow path can be accommodated satisfactorily within the site. In addition, where the topography allows, the overland flow path should be situated to coincide with the new pit to enable surface flows to be collected to reduce the overland flows.

CONSULTATION

Direct liaison was carried with Greg Timewell & Associates for provision and receipt of drainage information, as well as correspondence and meetings with the Applicant.

FINANCIAL CONSIDERATIONS

As no community benefit will occur from approval to alter the terms of the easements, the costs for survey, legal and disbursements associated with this should be borne by the applicant.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation was undertaken with the Engineering Assessment Unit for advice on site area considered in the calculation for the On-site Detention that differed from councils information form.

SUMMARY

Owners in 31 Lochville Street, 113 and 113A Coonanbarra Road burdened by the drainage easement have granted their consent to the connection and variations required on their Title.

Drawing plans No SW 0324, Rev A and flood report by Greg Timewell & Associates was submitted. These documents address pipe capacity and surface runoff from the property for connection to the existing 750mm diameter pipeline. A saddle pit is required in the rear yard for the connection and constructed to Council drawing, No 92-083 with a flushed mounted hinged grate.

The overland flow path of 3.5m wide is designed to convey the surface flows of 0.664 m³/s from a 20 year ARI design storm across the rear of the yard and should coincide with the new pit to enable surface flows to be collected.

RECOMMENDATION

- A. That Council grant approval to alter the terms of the Council Easements burdening Lots 11 & 12 in DP 21774, known as 33 and 31 Lochville Street, and Lots 1 and 2 in DP 850147, known as 113A and 113 Coonanbarra Road, Wahroonga to allow the connection of surface, roof and stormwaters from 33 Lochville Street into Council's pipeline.
- B. That authority be given to affix the Common Seal of the Council to the appropriate instrument for the release and creation of the easements.
- C. That altering the terms of the easement for drainage be carried out by the applicants' solicitors and costs for all survey, legal and disbursements associated with this request be borne by the applicant.
- D. That a saddle pit be constructed to Council drawing, No 92-083 with a flushed mounted hinged grate in the rear yard for the connection to Council's pipeline.

Ian Taylor
MANAGER SUPPORT SERVICES

Greg Piconi
DIRECTOR TECHNICAL SERVICES

Attachments: Attachment A - Location Sketch

5 SUAKIN STREET / 986 PACIFIC HIGHWAY, PYMBLE - ENERGY AUSTRALIA REQUEST FOR SHORT TERM LEASE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to approve a request from Energy Australia for a short term lease over a portion of Council owned vacant land at 5 Suakin Street/986 Pacific Highway, Pymble (lot 1 in DP 830320).
BACKGROUND:	A request has been received from Energy Australia for a six month lease over a part of the Suakin site (lot 1 in DP 830320).
COMMENTS:	Energy Australia have requested a lease over part of the Suakin site which is currently vacant land for the purpose of parking vehicles, storage of building equipment and materials.
RECOMMENDATION:	That Council approve the grant of a six month lease with a monthly holding over period to Energy Australia.

PURPOSE OF REPORT

For Council to approve a request from Energy Australia for a short term lease over a portion of Council owned vacant land at 5 Suakin Street/986 Pacific Highway, Pymble (lot 1 in DP 830320).

BACKGROUND

Council has received by letter (refer **attached** Appendix A) a request from Energy Australia to lease a portion of the Suakin Site at a rent of \$500 per month plus GST.

Energy Australia is currently upgrading its underground cabling in the Pymble and Lindfield areas and requires a short term depot site near the upgrading works to allow storage of materials.

The proposed lease period is not expected to exceed 6 months, however, in the event of unforeseen delays, a monthly holding over period has been requested.

The purpose of the proposed lease is for car parking, tool sheds, storage container, portable toilet and a storage area (no offices will be located on the site).

COMMENTS

The Suakin site is vacant land with a total area of 13,050sqm, the area subject to the proposed short term lease is estimated at about 2,000sqm (refer **attached** appendix B) . Lease conditions agreed in principle between Council and Energy Australia are as follows:

- *Rental: Energy Australia to pay a ground rental of \$500 per month plus GST.*
- *Use: The parking of vehicles and the storage of building equipment and materials during the duration of the project. Note: Energy Australia will not have officers located on the site.*
- *Access: As discussed there will be no vehicle access or egress from or on to the Pacific Highway.*
- *Vacation of the site: On termination of the lease Energy Australia will remove all equipment from the site and make good and tidy up to your satisfaction.*
- *Legal Fees: Energy Australia to meet all reasonable Council Legal Fees in relation to the preparation of the lease agreement.*

Item 6

P54824
8 July 2004

In addition to the above Council will require the lease to include the following clauses:

- (1) Council makes no undertaking as to the suitability of the site for the proposed use,
- (2) Energy Australia will be required to indemnify Council against any and all claims; and that
- (3) Energy Australia will take out public liability and professional indemnity insurance in an amount not less than \$20,000,000.

The site is currently zoned Special Uses 5(a) and as the intended use is consistent with the zoning and as the works are temporary, a Development Application is not required for the storage of materials and the placement of a tool shed and portable toilet.

Energy Australia requires the site from 1 August 2004 to 31 January 2005 (as per letter). The preparation of the Development Application for the new depot building is expected to be completed and submitted in September 2004. The Development Application will then require assessment by an external consultant planner for a report to Council. The likely timing for the assessment process, approval and calling of tenders for the construction of the new depot site is likely to be carried out during this lease period and will therefore not conflict with the proposed construction period for the new depot site.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

The Suakin site is vacant land. The return to Council over the period of the lease will be \$3,000 plus a holding over amount of \$500 per month if applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has taken place between Technical Services and Finance and Business Development on this matter.

SUMMARY

It is recommended that Council approve the grant of a 6 month lease to Energy Australia over a portion of the Suakin site. The lease to include a holding over provision.

RECOMMENDATION

- A. That Council approve the grant of a six month lease over part of 5 Suakin/986 Pacific Highway, Pymble to Energy Australia at a rent of \$500 per month.
- B. That Council authorise the Mayor and General Manager to sign the lease documentation.
- C. That Council authorise the affixing of the Common Seal of Council to the lease documentation.

Greg Piconi
Director Technical Services

John McKee
Director Finance and Business

Keith Woosnam
Commercial Services Coordinator

Attachments: **Appendix A. Letter from Energy Australia dated 22 June 2004**
 Appendix B. Location Diagram

INVESTMENT CASH FLOW & LOAN LIABILITY AS AT 30 JUNE 2004

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To present to Council the investment allocation and the performance of investment funds, monthly cash flow and details of loan liability for June 2004.

BACKGROUND:

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (Financial Management) Regulation (1999) and Council's Investment Policy which was adopted by Council on 4 June 2002 (Minute No. 264).

COMMENTS:

The Reserve Bank of Australia (RBA) left the official cash rate unchanged at 5.25% during the month of June.

RECOMMENDATION:

That the summary of investments, daily cash flows and loan liability for June 2004 be received and noted.

PURPOSE OF REPORT

To present to Council the investment allocation and the performance of investment funds, monthly cash flow and details of loan liability for June 2004.

BACKGROUND

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (Financial Management) Regulation (1999) and Council's Investment Policy which was adopted by Council on 4 June 2002 (Minute No. 264).

This policy allows Council to utilise the expertise of external fund managers for the investment of Council's short term surplus funds. This is done, as for many other Councils, with the advice of Grove Financial Services Pty Limited.

COMMENTS

During the month of June Council's cash increased by \$1,500,000 and gross capital appreciation on Council's investments was \$83,900.

Council's total investment portfolio at the end of June 2004 is \$17,271,200. This compares to an opening balance of \$15,719,100 as at 1 July 2003.

Council's General Fund interest on investments for 2003/2004 financial year totalled \$954,000. This compares favourably to the full year revised budget of \$845,000.

Council's total debt as at 30 June 2004 is \$11,850,000. This compares to a total debt of \$12,605,500 as at 1 July 2003.

PERFORMANCE MEASUREMENT

Council's investment portfolio is monitored and assessed based on the following criteria:

- **Management of General Fund Bank Balance**

The aim is to keep the general fund bank balance as low as possible and hence maximise the amount invested on a daily basis.

- **Performance against the UBSWA Bank Bill Index**

This measures the annualised yield (net of fees and charges) for each of Council's portfolios. The weighted average return for the total portfolio of funds is compared to the industry benchmark of the UBSWA Bank Bill Index.

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S02722
9 July 2004

▪ **Allocation of Surplus Funds**

This represents the mix or allocation of surplus funds with each of Council’s Fund Managers.

Council’s investment policy requires that not more than 45% of funds are to be with any one Fund Manager. All funds are kept below this required level of 45%.

▪ **Summary of Borrowings**

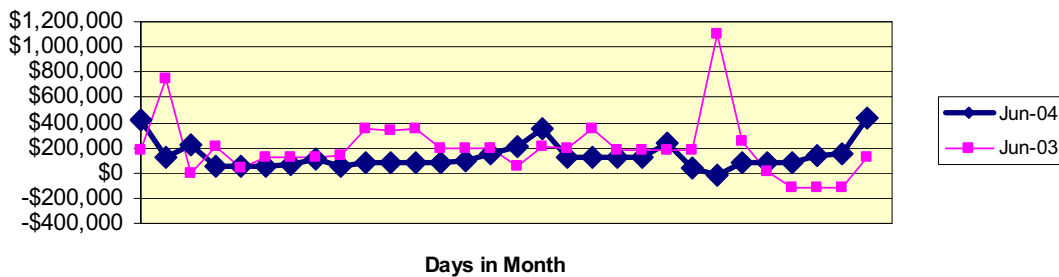
This is a summary of Council’s borrowings. It lists each of Council’s loans, original amounts borrowed, principal repayments made, outstanding balances, interest rates and maturity dates.

June 2004

Management of General Fund Bank Balance

During June Council had an inflow of funds of \$1,500,000. Funds received from the overflow of the fourth rate installment that fell due on 31 May 2004 and the new loan of \$1,800,000 that was taken up on 23 June 2004 were partially offset by the increased level of expenditure for the end of financial year.

Management of General Fund Bank Balance



Funds Performance against the UBSWA Bank Bill Index

The weighted average return for the total portfolio of managed funds during June was 6.12% compared to the benchmark of the UBSWA Bank Bill Index of 5.64%.

A summary of each funds performance is shown in the following table.

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Fund Manager	Terms	Opening Balance	Cash flow Movement	Income Earned (net of fees)	Closing Balance	Interest Rate
BT Institutional Managed Cash	At Call	\$547,643	(\$100,000)	\$5,259	\$452,902	5.74%
Macquarie Diversified Treas.	At Call	\$3,242,938	\$350,000	\$18,709	\$3,611,647	6.36%
Perennial Cash Enhance Fund	At Call	\$4,578,657	\$1,250,000	\$24,234	\$5,852,891	6.26%
BT Institutional Enhanced Cash	At Call	\$4,473,003	-	\$20,759	\$4,493,762	6.13%
CBA Loan Offset No 1	Offset	\$1,300,000	-	\$5,984	\$1,300,000	5.60%
CBA Loan Offset No 2	Offset	\$1,560,000	-	\$7,180	\$1,560,000	5.60%
TOTALS		\$15,702,241	\$1,500,000	\$82,125	\$17,271,202	

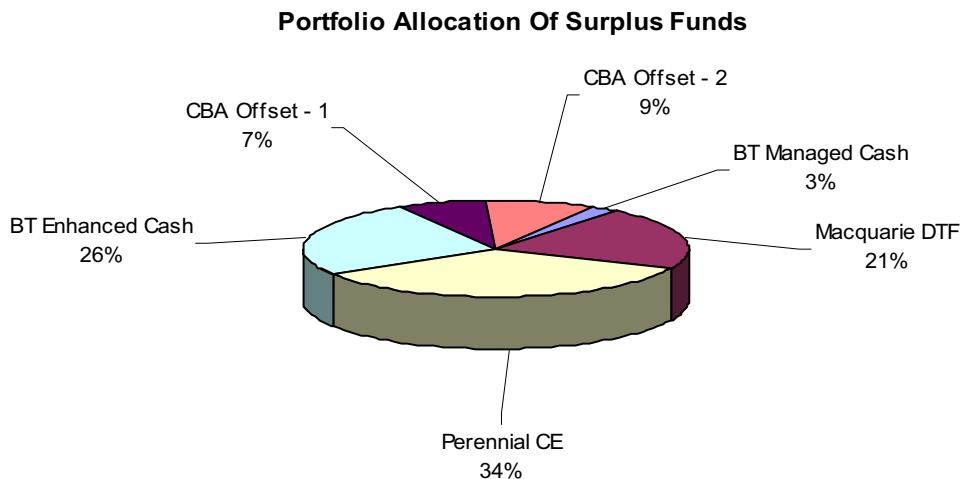
2003/2004 Funds Performance against the UBSWA Bank Bill Index

The following table provides an analysis of each fund's performance against the industry benchmark for the 2003/2004 financial year.

Fund Manager	Performance Annualised for July 2003 – June 2004	UBSWA Bank Bill Index Annualised for July 2003 – June 2004
BT Institutional Managed Cash	5.34%	5.30%
Macquarie Diversified Treas.	5.90%	
Perennial Cash Enhanced Fund	6.19%	
BT Institutional Enhanced Cash	5.97%	
CBA Offset No.1	5.08%	
CBA Offset No.2	5.08%	

Allocation of Surplus Funds:

Council’s funds during June were allocated as follows:

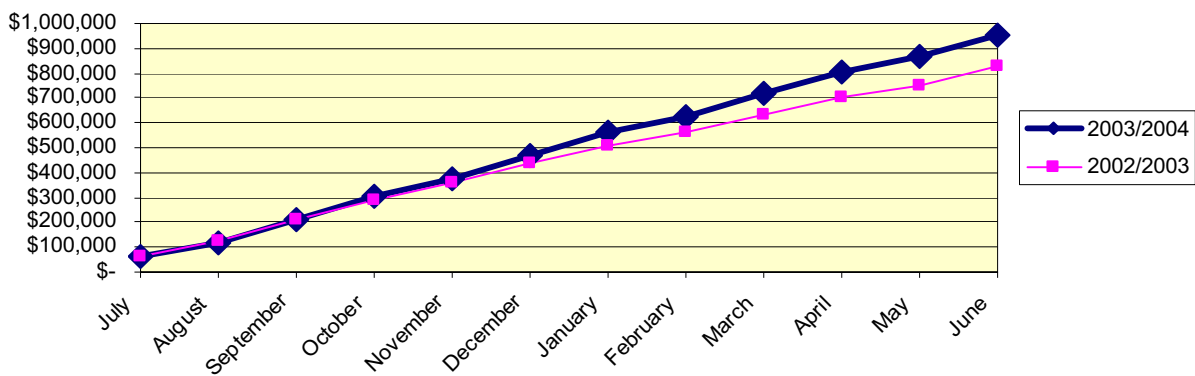


2002/2003 versus 2003/2004

Accumulative Interest

The following graph compares the interest earned on an accumulative monthly basis for financial years 2002/2003 and 2003/2004. Interest on investments for the financial year 2003/2004 totalled \$954,000. This compares to \$829,000 in 2002/2003, an increase of \$125,000.

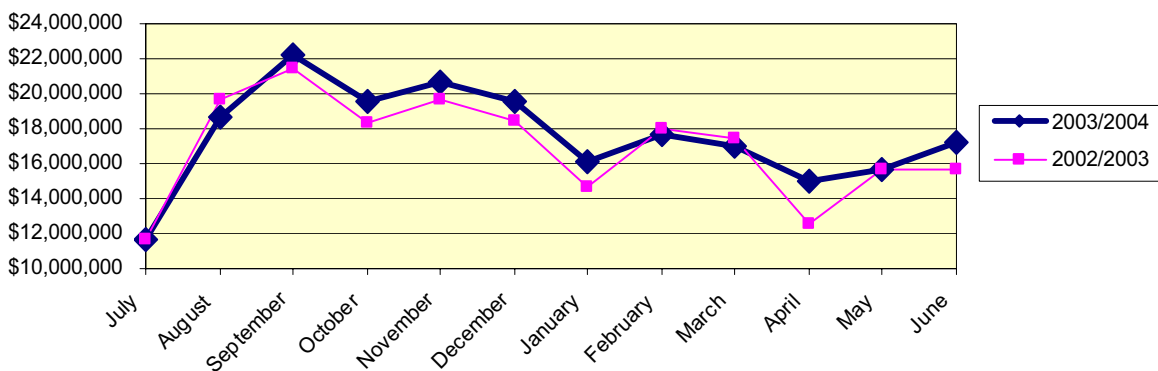
Accumulative Interest 2002/2003 v's 2003/2004



Total Investment Portfolio

The following graph tracks the monthly investment portfolio balances for 2003/2004 in comparison to 2002/2003.

Total Investment Portfolio 2002/2003 v's 2003/2004



During June 2004 Council’s investment portfolio increased by \$1,500,000. In comparison, during June 2003 Council’s investment portfolio balance did not change.

As the above graph shows, investment trends were relatively consistent between the two years, with investment levels peaking in the rate instalment months.

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Council’s closing investment portfolio of \$17,271,200 in June 2004 is \$1,552,100 higher than the June 2003 closing balance of \$15,719,100.

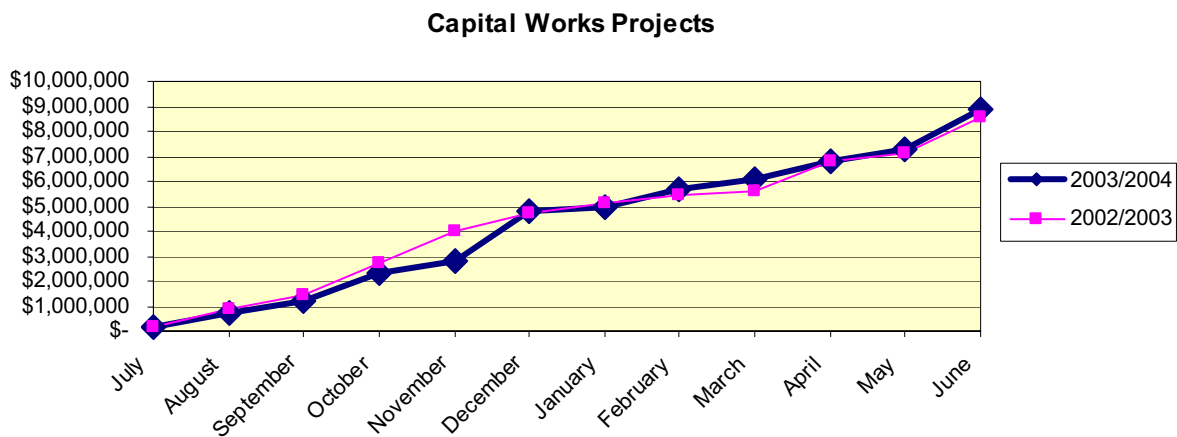
Capital Works Projects

During 2003/2004 Council expended \$8,859,400 on capital works, which is \$320,600 higher than 2002/2003 when \$8,538,800 was expended.

During June 2004 Council expended \$1,603,600 on capital works, which compares to \$1,392,300 during June 2003, an increase of \$211,300.

The full year revised budget for capital works (excluding fleet replacement) was \$ 11,699,400. A balance of \$2,840,000 remains unexpended as at 30 June 2004.

The following graph compares the accumulative monthly expenditure totals for Capital Works for financial years 2002/2003 and 2003/2004.



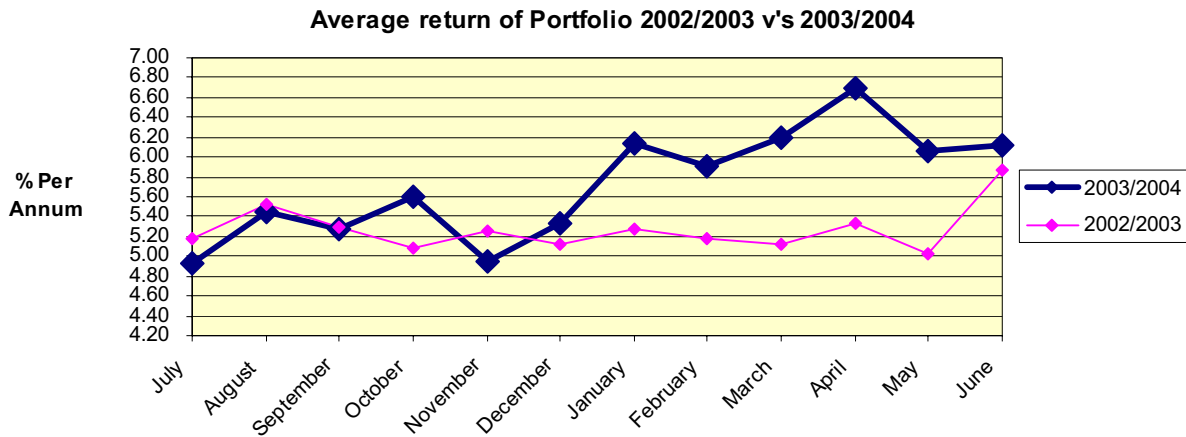
Portfolio Performance Average Return 2002/2003 versus 2003/2004

In June 2004 earnings before fees were 6.12%, this compares to 5.86% in June 2003.

In 2003/2004 Council’s average earnings before fees were 5.72%. This compares to 5.27% for the previous financial year, an increase of 0.45%.

Earnings before fees in the second half of 2003/2004 have been significantly higher than during the same period in 2002/2003. The main reason for this is the rise in the official cash rate from 4.75% to 5.25% by the Reserve Bank of Australia during 2003/2004.

The following graph compares the monthly returns on Council’s portfolio for the financial years 2002/2003 and 2003/2004.

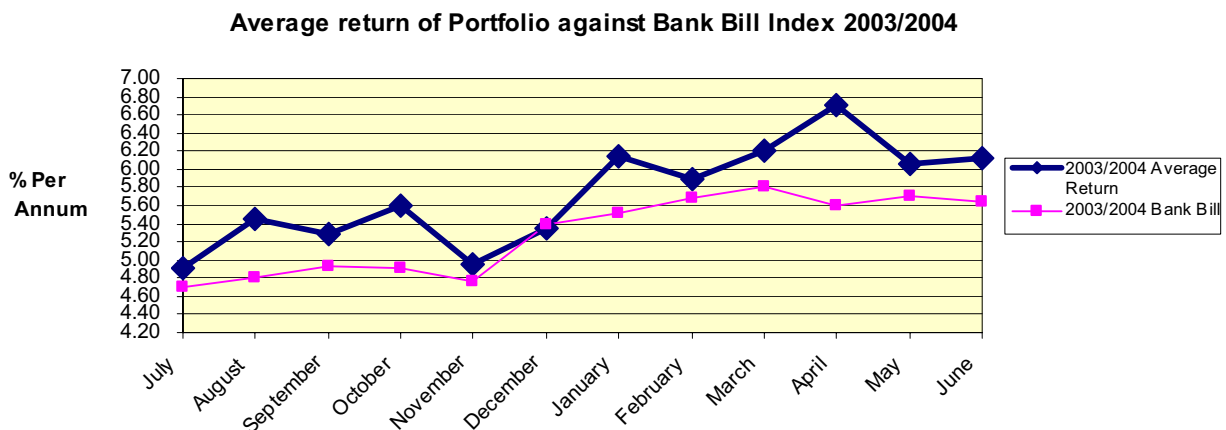


2003/2004 Portfolio Performance against the UBSWA Bank Bill Index

Council’s performance against UBSWA Bank Bill Index in 2003/2004 has improved significantly. Returns above benchmark have been achieved in eleven out of twelve months during the year. Careful selection and combination of quality fund managers has delivered an outstanding result for Council.

The investment portfolio benefited from increasing its exposure to Perennial Cash Enhanced, which has been one of the best performing AA rated funds over the last year. Council has also moved a portion of its funds to BT Enhanced Cash which returned 0.67% above the industry benchmark throughout 2003/2004. All funds used by Council have proved to be consistent and quality investment fund managers during the last 12 months.

The average return of Portfolio against Bank Bill is displayed in the following graph.



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9 July 2004

Summary of Borrowings

During June Council repaid \$494,500 in borrowings. In addition a new loan of \$1,800,000 was taken up with Commonwealth Bank at 6.36%, bringing the total level of debt at year end to \$11,850,000. This compares to a total debt at 1 July 2003 of \$12,605,500, a repayment of net debt of \$755,500 during 2003/2004.

Lender	Loan Number	Original Principal	Principal Repayments	Balance Outstanding	Interest Rate	Draw Down Date	Maturity Date
Westpac	122	\$1,494,000	\$1,494,000	-	7.40%	28-Jul-93	28-Jul-03
CBA	123	\$2,000,000	\$2,000,000	-	9.70%	28-Jun-94	28-Jun-04
Westpac	124	\$4,000,000	\$3,383,069	\$616,931	10.95%	02-Feb-95	02-Feb-05
Westpac	125	\$1,000,000	\$829,379	\$170,621	6.27%	02-Feb-95	02-Feb-05
Westpac	126	\$1,500,000	\$1,500,000	-	9.13%	21-Sep-96	21-Jun-04
Westpac	127	\$1,000,000	\$524,374	\$475,626	6.32%	29-Jun-98	29-Jun-08
CBA Offset No 1	128	\$2,600,000	\$1,300,000	\$1,300,000	5.75%	29-Jun-99	13-Jun-09
CBA Offset No 2	129	\$2,600,000	\$1,040,000	\$1,560,000	5.75%	13-Jun-00	14-Jun-10
CBA	130	\$2,600,000	\$618,247	\$1,981,753	6.32%	26-Jun-01	28-Jun-11
NAB	131	\$2,600,000	\$389,123	\$2,210,878	6.85%	27-Jun-02	27-Jun-12
Westpac	132	\$1,882,000	\$147,788	\$1,734,212	5.16%	27-Jun-03	27-Jun-13
CBA	133	\$1,800,000	-	\$1,800,000	6.36%	23-Jun-04	23-Jun-14
TOTAL		\$25,076,000	\$13,225,980	\$11,850,020			

CONSULTATION

Not applicable

FINANCIAL CONSIDERATIONS

The official cash rate remained unchanged at 5.25% during the month of June. The rate has not moved since December 2003.

During 2003/2004 the Reserve Bank of Australia (RBA) increased the official cash rate by 50 basis points from 4.75% in July to 5.25% in December.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

As at 30 June 2004:

- Council's total investment portfolio is \$17,271,200. This compares to an opening balance of \$15,719,100 as at 1 July 2003, an increase of \$1,552,100.
- Council's General Fund interest on investments for 2003/2004 totaled \$954,000. This compares favourably to the full year revised budget of \$845,000.
- Council's total debt is \$11,850,000. This compares to a total debt of \$12,605,500 as at 1 July 2003, a net debt repayment of \$755,500 during 2003/2004.

RECOMMENDATION

That the summary of investments, daily cash flows and loan liability for June 2004 be received and noted.

Mellissa Crain
Manager Business Development

John McKee
Director Finance and Business

PECUNIARY INTEREST RETURNS REGISTER

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To table the Pecuniary Interest Returns of the newly elected Councillors in accordance with the Local Government Act 1993.
BACKGROUND:	The Act requires that Returns for newly elected Councillors must be tabled at the first Council meeting after 3 months following their being declared elected.
COMMENTS:	The Register will be tabled at the meeting.
RECOMMENDATION:	That the tabling of the Pecuniary Interest Returns be noted.

PURPOSE OF REPORT

To table the Pecuniary Interest Returns of the newly elected Councillors in accordance with the Local Government Act 1993.

BACKGROUND

Section 449 of the Local Government Act 1993 requires the lodgement of returns disclosing interests of newly elected Councillors.

Under Section 450A (2)(a), the Returns must be tabled at the first Council meeting held after the last day for lodgement (4 July 2004).

COMMENTS

The Register will be tabled at the meeting.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

That the tabling of the Pecuniary Interest Returns Register be noted.

Geoff O'Rourke
SENIOR GOVERNANCE OFFICER

Brian Bell
General Manager

SUBMISSION ON DEVELOPMENT APPLICATION FOR MINISTER'S TARGETED SITE NO 6 AT 4-14 MERRIWA STREET & 3-11 MCINTYRE STREET, GORDON

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To have Council endorse a submission to the Department of Infrastructure, Planning and Natural Resources on the Development Application by Stockland Development Pty Ltd for the Minister's Targeted Site No 6 at 4 - 14 Merriwa Street and 3 - 11 McIntyre Street, Gordon.
BACKGROUND:	The Department of Infrastructure, Planning and Natural Resources (DIPNR) has received a Development Application (DA) from Stockland Development Pty Ltd for the Ministers Targeted Site No 6 at 4 - 14 Merriwa Street and 3 - 11 McIntyre Street, Gordon.
COMMENTS:	Relevant officers have evaluated the application and supporting information and prepared a draft submission on the application for Council's consideration.
RECOMMENDATION:	That Council endorses the attached submission to DIPNR on the Development Application by Stockland Development Pty Ltd for the 4 - 14 Merriwa Street and 3 - 11 McIntyre Street, Gordon forming the Minister's Site No 6 and forward to DIPNR.

PURPOSE OF REPORT

To have Council endorse a submission to the Department of Infrastructure, Planning and Natural Resources on the Development Application by Stockland Development Pty Ltd for the Minister's Targeted Site No 6 at 4 - 14 Merriwa Street and 3 - 11 McIntyre Street, Gordon.

BACKGROUND

On Friday 9 May 2003 that State Government gazetted Amendment No 7 to State Environmental Planning Policy No 53 – Metropolitan Residential Development (SEPP 53). Under this amendment, six targeted sites in Ku-ring-gai were rezoned for higher density residential development and the Minister for Planning has become the consent authority for all development on the sites.

DIPNR has received a DA from Stockland Development Pty Ltd for the site at 4 – 14 Merriwa Street and 3 – 11 McIntyre Street, Gordon known as “Site 6” of the Minister’s six targeted SEPP 53 sites.

The DA was publicly exhibited by DIPNR from 10 June 2004 to 12 July 2004 at the Council Chambers and the Department of Infrastructure, Planning and Natural Resources.

COMMENTS

The application for 4 - 14 Merriwa Street and 3 - 11 McIntyre Street, Gordon proposes the demolition of 9 dwellings and the conservation and relocation of a Heritage item on the site to construct a medium density housing development comprising the following:

- Two multi-level apartment buildings containing a total of 148 units (90 units in the building fronting Merriwa Street and 58 in the building fronting McIntyre Street);
- The 148 dwelling units comprise 27 x one bedroom, 100 x 2bedroom and 21 x three bedroom units (unit sizes range between 59m² and 146m² of internal floor space);
- 215 basement car parking spaces (including 120 resident and 9 visitor parking spaces in the Merriwa Street building and 80 resident and 6 visitor parking spaces in the McIntyre Street building);
- Associated landscaping works; and
- Strata subdivision of the complete development.

The development proposal is assessed against the relevant provisions of SEPP 53, the “development Control and Design Guidelines – Six SEPP 53 Sites in Ku-ring-gai”, State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development and other relevant planning

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controls including Section 79C of the EP & A Act. The Urban Assessments section of DIPNR will assess the application, with the Minister being the consent authority.

Relevant officers in Planning and Environment, Environment and Regulatory Services, Technical Services and Open Space have evaluated the application and supporting information. The comments provided by these officers have been compiled to form a draft submission on the application for Council's consideration. The draft submission is included as **Attachment A**.

Issues raised and detailed in the submission include the following:

- SEPP 65 – Design Quality/Urban Design
- SEPP 53 – Metropolitan Residential Development
- Traffic, parking and assess
- Accessibility
- Drainage/stormwater/hydrology
- Waste collection
- Vegetation and landscaping
- Heritage Issues
- Section 94 – Developer Contributions.

The submission also identifies areas where, in the opinion of officers, additional detailed information is required to enable appropriate assessment.

The main issues raised in the submission include the following:

- The design of the development fails to respond to the site constraints and the inappropriate building envelopes established under SEPP53. The proposal to vary the SEPP53 development standards to extend the building envelopes and footprints is not adequately justified and will create an excessively high and bulky building. The proposal extend basement car parking into the designate deep soil zones under SEPP53 is also unacceptable.
- Building heights and limited setbacks will result in excessive visual bulk, privacy and overshadowing impacts on adjoining properties.
- The excessive building depths will lead to poor environmental performance, particularly in regard to natural ventilation and solar access and will contain almost double the desirable percentage of single aspect south facing apartment.
- The lack of adequate deep soil areas along the 2 street frontages and the reliance on Council's nature strip areas for the planting of larger trees for the development site.
- The significant overshadowing of the central common open space area, will not only provide poor amenity for residents, but also may have detrimental impacts on the existing trees to be retained on the site.
- There is insufficient visitor parking proposed in the development, adding further stress to already saturated on-street parking in the area.

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- The proposal will require traffic management pedestrian amenity improvements in both Merriwa and McIntyre Streets, their intersections with the Pacific highway and the surrounding street networks.
- The proposed stormwater management plan provides insufficient details for adequate assessment and does not comply with Councils DCP 47 on Water Management.
- While the restoration and relocation of the existing heritage item on site is acceptable, the whole building, not only part of it needs to be retained and the proposed setting and interpretation of the building needs to be improved.

CONSULTATION

Stockland Development provided Council officers with a briefing on the development proposal at the officers of DIPNR on 6 May 2004. The briefing was prior to lodgement of the DA. No formal feedback has been provided on the issues raised by Council officers in the briefing prior to the proponent finalising and lodging the DA.

The DA has been placed on public exhibition by DIPNR from 10 June 2004 until 12 July 2004. Copies of the application and supporting information have been on display at the Council Chambers and the DIPNR Resource Centre. DIPNR undertook to notify surrounding residents of the application in accordance with Council's Notification Policy.

Councillors were provided a briefing on Tuesday 6 July 2004 by representative from Stockland Development and Marchese + Popov the Architects for the proposal.

FINANCIAL CONSIDERATIONS

Nil

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The DA has been referred to relevant officers in Planning and Environment, Environment and Regulatory Services, Technical Services, Community Services and Open Space for review and comments. Workshop meetings have been held with Council officers to discuss issues and co-ordinate and finalise the submissions.

SUMMARY

The Department of Infrastructure, Planning and Natural Resources (DIPNR) has received a DA from Stockland Development Pty Ltd for the site being 4 - 14 Merriwa Street and 3 - 11 McIntyre Street, Gordon for a medium density residential development. The subject lands forms "Site 6 of the Minister's six targeted sites under SEPP 53.

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Relevant Council officers have evaluated the application and supporting information. Officer's comments have been compiled to form a draft submission on the application for Council's consideration. The draft submission is included as **Attachment A**.

RECOMMENDATION

- A. That Council endorse the attached submission entitled "Submission from Ku-ring-gai Council to the Department of Infrastructure, Planning and Natural Resources (DIPNR) on the Development Application from Stockland Development Pty Ltd for 4 - 14 Merriwa Street and 3 - 11 McIntyre Street, Gordon.
- B. That the submission be forwarded to the Department of Infrastructure, Planning and Natural Resources as Council's response to the Development Application submitted in relation to part of the Minister's Site No 6.
- C. That Council request a formal meeting with the Department of Infrastructure, Planning and Natural Resources to discuss in detail Council's submission on the Development Application.

Craige Wyse
Senior Urban Planner

Leta Webb
Director
Planning and Environment

Attachments: **Attachment A - "Draft Submission on the Development Application from Stockland Development Pty Ltd for 4 - 14 Merriwa Street and 3 - 11 McIntyre Street, Gordon".**

ATTACHMENT A

DRAFT

Ku-ring-gai Council SUBMISSION

TO

**THE DEPARTMENT OF INFRASTRUCTURE,
PLANNING AND NATURAL RESOURCES
(DIPNR)**

**Development Application from
Stockland Development Pty Ltd (DA126-
5-2004)**

FOR

**4-14 MERRIWA STREET AND
3-11 MCINTRYE STREET, GORDON**

20 JULY 2004

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SITE DESCRIPTION

The site comprises the Minister's Targeted Site No.6 and consists of two areas of land, 6 lots fronting Merriwa Street and another 4 lots fronting McIntyre Street. The sites are linked through the common rear boundary of 4 Merriwa Street and 11 McIntyre Street. The combined site area is approximately 8434sqm.

The cottage at 9 McIntyre Street, Gordon is listed as a heritage item under the Ku-ring-gai Planning Scheme Ordinance.

The land bordering the site to the east generally fronts the Pacific Highway and is zoned Commercial 3(b) (B1). Development consists of commercial development ranging in height from 2 storeys on the Pacific Highway frontage to 3-4 storeys at the rear. There is a single undeveloped residential lot with a 14m frontage (area of approx 550sqm) on McIntyre street between the subject site and the commercial development to the east.

The land bordering the site to the west and south has recently been rezoned to Residential 2(d3) under Ku-ring-gai LEP 194. Existing development on these sites typically consists of single storey detached cottages. The Residential 2(d3) zone would permit residential flat buildings up to 5 storeys on this land.

The site slopes significantly from the north-east to the south-west.

UNDERSTANDING THE PROPOSAL

Council has analysed the Development Application (DA) and accompanying material including Statement of Environmental Effects and appendices.

The application is understood to include the following components:

- Demolition of nine (9) existing residential buildings.
- The conservation and relocation of the heritage listed building at 9 McIntyre Street to elsewhere on the site
- Construction of 148 dwelling units in two (2) buildings being:-
 - Merriwa Street Building - 90 units (24x1bedroom, 54x2 bedroom & 12x3bedroom)
 - McIntyre Street Building – 58 units (3x1 bedroom, 46x2 bedroom &9x3 Bedroom).

Ku-ring-gai Council Submission

- Construction of 2-3 basement levels under each building providing a total of 216 car spaces plus visitor, bicycle and motorcycle parking, storage, garbage and plant room facilities. Car parking provision includes:
 - Merriwa Street Building – 129 spaces (120 resident and 9 visitor)
 - McIntyre Street Building – 86 spaces (80 resident and 6 visitor)
- Associated landscaping and swimming pool.
- Strata subdivision of the completed development.

ISSUES RAISED

Council has analysed the application against the relevant statutory issues including the relevant controls in Ku-ring-gai Sites Report and SEPP65 Design Quality of Residential Flat Development Flat Code PNSW and has identified the following issues and concerns with the proposal.

Many of the issues raised by Council in the body of this submission require further information before an adequate assessment or a determination of the application can be made.

STATUTORY CONSIDERATIONS

SEPP65 – Design Quality of Residential Flat Buildings and Matters of Urban Design

The applicant's Statement of Environmental Effects includes a brief 'SEPP 65 Design Statement', evaluating the proposal against the SEPP 65 design quality principles listed in Part 2 of SEPP 65. This statement is generally superficial in nature and fails to give a considered justification for many aspects of the proposal, particularly in relation to the principles of 'Density', 'Amenity', 'Resource, Energy and Water Use' and 'Landscape'.

The Statement of Environmental Effects also considers the performance of the proposal against the criteria specified in the publication "Residential Flat Design Code" and identifies a number of significant non-compliances.

Context and Built Form.

The building design generally responds to the context of the site, although this is within limitation imposed by the inappropriate building footprints and envelopes established under SEPP53.

The proposed development successfully provides a transition the existing and future commercial development along the Pacific Highway and to the future medium density residential development further to the west along Merriwa and

Ku-ring-gai Council Submission

McIntyre Streets. The design provides for an appropriate level of articulation and modulation of the building façade and massing of building elements, which helps reduce the excessive height and bulk established by the building envelopes.

However, the design does not respond to the failure of the building envelopes to provide an adequate landscaped front setback, which is characteristic to residential development in Ku-ring-gai. This could be achieved through the buildings not being developed to the full extent of the building envelopes towards the street to achieve a better and more contextual landscape outcome along the street frontages. The reduced building depths would return some way to addressing the environmental performance shortcomings of the buildings, as discussed below.

Density

The applicant has justified the proposed density of the development on achieving 80% floor space of the building envelopes for the site as specified in the SEPP 53 controls. The applicants have used this base FSR as a development right on the site and in fact justify the contravention of the building envelopes on achieving the 80% FSR component, which equates to an FSR of 1.71:1.

SEPP 53 establishes the building envelope as the primary development controls that have been established as development standards in Sheets 13 and 14 attached to Amendment 7 of SEPP 53. The '80% rule' is established as a 'guideline' under the *'Ku-ring-gai Sites Report'*. The varying of a development standard in order to achieve development outcome established by a development 'guideline' cannot be justified.

The applicant's proposal to vary the development standards to achieve the desirable floor space does not result in beneficial development outcomes and fails to address the underlying flaws of the development in terms of bulk and height, overshadowing, poor environmental performance and will result in a greater intrusion into the designated deep soil zone. Compliance with the building envelopes and subsequent reduction in floor space will actually alleviate the need to extend the basement car parking into the deep soil zone and street setbacks, as well the overall need for parking spaces in the development will be reduced.

Amenity

There are many aspects of the design of the proposed development that will result in poor amenity for future residents and neighbouring properties. These include negative impacts relating to privacy, bulk and overshadowing impacts, solar access and ventilation.

- The SEPP 65 Residential Flat Design Code (RFDC) recommends a distance of 12m between habitable to habitable rooms and 9m between

Ku-ring-gai Council Submission

habitable and non-habitable rooms. Under the proposal, windows of habitable rooms on the eastern and western ends of both the Merriwa and McIntyre Street buildings are only 3 to 4m from the property boundary. In the case of the western end of the buildings the proposed windows of habitable rooms are within 4 and 5 meters of windows of the existing adjoining properties. This proximity is an imposition on the privacy and amenity of the existing adjoining neighbours. It also places restrictions on the future redevelopment on these adjoining sites by requiring future development to have increased setbacks to compensate for the failures of the development on the subject site.

In order to alleviate the potential privacy and amenity issues, the proposed buildings need to be setback further from the western and eastern boundaries, or the apartment layouts in these areas of the proposed buildings need to be reconfigured so as not to have habitable rooms on these boundaries.

- Approximately 18% of the apartments are single aspect south facing apartments. This is almost double the maximum 10% allowed under the SEPP 53 development controls and guidelines and the SEPP 65 RFDC. The applicant justifies the high need for single aspect south facing apartments on the limitations of the building envelope controls. As discussed previously, this could be over come through not building to the full extent of building envelope in order to provide a greater proportion of multiple aspect apartments.

The extent of the departure from the controls and guidelines relating single aspect south facing apartments is unacceptable and cannot be justified.

- Approximately 71% of apartments receive more than 3 hours sunlight to living rooms in midwinter between 9am and 3pm. However, only 62% of apartments receive the minimum 3 hours sunlight to primary private open space. This is below the minimum 70% guideline.
- The building design provides for poor levels of cross ventilation. The applicant claims that 70% of apartments have cross ventilation. However, up to 20 of these apartments have building depths well in excess of the maximum 18 metres under the guidelines. When these are taken into consideration, approximately 53% of apartments fail to provide adequate natural ventilation. Once again, this failure of the building design could be alleviated through not developing to the full extent of the building envelope controls.

Resources and Energy Efficiency

The proposed buildings' poor performance in relation to solar access and natural ventilation are detailed above. Poor environmental performance of the proposed buildings is principally due to the inappropriate building envelope

Ku-ring-gai Council Submission

orientation and depth contained in the SEPP 53 development standards. Council raised concern over the proposed building envelopes for this particular site at the time of the ministerial rezoning. The retention of these envelopes following rezoning was justified on basis that:

“Architectural designs will be required to incorporate efficient environmental performance which complies with the building envelopes.” (p.42 Review of Submissions - Amendment 7 of SEPP 53 (Ku-ring-gai Sites): Scott Carver Urban Planning January 2003)

The proposed development fails to respond to envelope control deficiencies and seeks to develop to the maximum of the envelopes despite poor environmental performance. The design and layout of the proposed buildings need to be modified to better respond to poor building performance due to envelope orientation and depth.

The applicant has demonstrated that the design achieves the desirable NatHERS rating for passive energy design. However, this type and scale of residential development is new to Gordon and Ku-ring-gai, Council is therefore seeking that for all aspects of the new buildings adopts a best practice approach to design and represent a benchmark for new flat development. DIPNR should ensure that water sensitive design principles and energy management models - eg BASIX principles are applied to this development.

Landscape

Specific detailed issues relating to the landscape design are outlined elsewhere in this submission. Overall, the principle concerns raised by Council in relation to the impact of the proposed built form on the proposed landscape include:

- Lack of adequate deep soil areas along the 2 street frontages and the reliance on Council’s nature strip areas for the planting of larger trees for the development site.
- The significant overshadowing of the central common open space area, which will not only provide poor amenity for residents, but also may have detrimental impacts on the existing trees to be retained on the site.
- Significant overshadowing of the private courtyards of units fronting McIntyre Street and at the rear of the Merriwa Street building.
- The impact of the altered drainage on the mature Blue gums to be retained in the central landscaping core.
- The encroachment of the extended basement car parking and building footprint as well as other hard surfaces, such as the swimming pool, into the designated deep soil zones.

Ku-ring-gai Council Submission

Overall, the proposed built form of the development limits the ability to establish suitable and usable landscaping and open space and poses significant threats to the retention of significant landscape features on the site.

SEPP 53 – Metropolitan Residential Development

Amendment 7 to SEPP 53 provides specific development standards for the site through building envelope, foot print and deep soil provision controls, as well as providing general development controls and design guidelines. The non-compliance of the proposal with the development controls and design guidelines are discussed above.

The applicant has also submitted a SEPP 1 objection to vary the SEPP53 development standards relating to the building envelope and building height.

SEPP 1 Objection to SEPP 53 Development Standards

Building Envelope

The proposal seeks to vary the prescribed building envelope by extending the basement car parking area closer to the front and rear boundaries. By extending the basement car park towards the front boundary, the potential area for deep soil planting is removed. The applicant's argument is that deep soil planting is restricted initially by the provision of paved courtyards and paths. As raised in the section of this submission relating to landscaping, the lack of deep soil along the street frontages of the two buildings greatly limits the ability to establish appropriate street trees and landscaping.

The extension of the basement car parking area to the rear boundaries is considered to be acceptable to the extent that it does not encroach upon the designated deep soil zone. However, the extension of the basement car parking area into the deep soil area at the rear of the McIntyre St building is not supported.

Building Height

The variation of the number of storeys is acceptable in part, due to the topography of the land; however the extension of the top storey in the McIntyre Street building to create a 6th storey is not acceptable. It is acknowledged that the topography of the site will create an additional storey when applying the definition of a storey; that is, calculating parts of the building greater than 1.2m above natural ground level as a storey. It is not accepted that the applicant take advantage of this to extend the top floor for the creation of an additional four units as 5 complete storeys are achievable in this section. An appropriate justification has not been provided for this part of the variation.

Ku-ring-gai Council Submission

As raised elsewhere in this submission, the varying of development standards is only justifiable when it achieves a better development outcome. The applicant has failed to demonstrate how the proposed variations achieve a better outcome. Rather the variations appear to be premised on the achieving a specified floor space (and associated additional car parking) in the development through extending the building foot print and basement car parking into deep soil landscaping and increasing the height and bulk. This is not acceptable and is not supported by Council.

SITE SPECIFIC MATTERS

Traffic, Parking and Access

The proposal has been assessed to identify the impacts on parking, traffic generation and access points. Although the development controls and design guidelines for this site have been set by NSW Department of Infrastructure, Planning and Natural Resources and AS2890.1/2 have been used/referred to for assessing the parking provision and access requirements. Accompanying the Application is a traffic report, prepared by Colston Budd Hunt and Kafes.

The Roads and Traffic Authority's "Guide to Traffic Generating Developments" has been used to assess the traffic generation impacts of the proposal.

Parking Provision

Resident parking provision is at the mid-upper end of the range specified in the development controls.

However, visitor parking provision is at the low end of the range specified in the development controls for the site. The Statement of Environmental Effects suggests that additional visitor parking would be available on-street due to the removal of driveways on the Merriwa Street and McIntyre Street frontages. Most of the Merriwa Street frontage of the site is currently signposted as full time 'No Parking', therefore removal of driveways would not provide additional on-street parking opportunities there. Also, the area surrounding the site already experiences high parking demand and additional kerbside space would not necessarily be available for visitors to this development.

It is therefore considered that visitor parking should be provided at the upper end of the range, possibly through redistribution of the resident parking spaces.

Parking Space Dimensions

Visitor space 1 in the McIntyre Street block would be only 2.5m wide and should be 2.8m wide due to adjoining wall obstructing car parking design envelope. All other parking spaces appear to be in accordance with AS2890.1.

Ku-ring-gai Council Submission

Access Within Car Parking Area

The outer radius of curved roadway in the McIntyre Street block is about 8m, which is less than the minimum radius of 11.8m. Also, if the outer radius is to be less than 15m, a separator or a median would be required. The proposed inside radius would be 2m which is lower than the minimum of 4m required for curved roadways and ramps.

There are concerns that the proposed single lane, alternate two-way ramps at the upper parking level of both Merriwa Street and McIntyre Street blocks could result in conflicts, despite only servicing 13 and 17 spaces respectively.

Access Points

It is noted that the Merriwa Street access driveway is in a prohibited location (within intersection area) according to AS2890.1, despite being indicated as the general access point location in the development controls for the site. This driveway would service 129 low turnover car parking spaces from a local road, requiring a Category 2 driveway (combined entry/exit, 6m-9m wide). Despite the traffic report indicating that this driveway would be 6m wide, scaled dimensions from the plan indicate that the driveway would be 5.5m, which is less than the minimum. Given the number of car spaces it would be servicing, this driveway should be wider than the minimum of 6m.

There are sight distance concerns for right turns from the proposed McIntyre Street driveway. To the east, the split level road and the guard rail effectively conceal approaching westbound vehicles. Vehicles parked at the kerb also reduce sight distance in that direction, as well as to the west.

Sight distance appears to be adequate from the Merriwa Street driveway due to the existing 'No Parking' restrictions on most of the frontage of the site. However, a street tree obscures visibility to the west. A driveway location outside the zones prohibited under AS2890.1 would improve visibility in that direction without necessitating removal of the tree.

Service Vehicles

It is proposed that waste collection vehicles would reverse into the garbage collection area and exit in a forward direction. For an "occasional" service (service by a nominated design vehicle less than once per day), AS2890.2 allows 1 reverse manoeuvre at the property boundary, if permitted by the relevant authority. Council's DCP43 (Car Parking Code), however, specifies that service areas should be able to be accessed off-street by vehicles entering and leaving the site in a forwards direction. Therefore, it is considered that reverse movements are not acceptable.

There is also concern about the adequacy of the garbage collection area as a loading/unloading area for removalists vehicles, which would be larger than the typical waste collection vehicle expected to service the site.

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Traffic Generation

The following existing peak hour traffic volumes (two-way) were recorded by the Applicant's traffic consultant:

Location	Morning Peak	Afternoon Peak
Ridge Street, north of Merriwa Street	385	460
Merriwa Street, west of Pacific Highway	110	95
Merriwa Street, east of Vale Street	105	100
Vale Street, south of Merriwa Street	395	475
McIntyre Street, west of Pacific Highway	20	55
McIntyre Street, east of Vale Street	95	100

Ridge Street/Vale Street are collector roads while Merriwa and McIntyre Streets are local roads. The Roads and Traffic Authority Guide to Traffic Generating Developments suggests that in residential areas, a local roads such as Merriwa and McIntyre Streets should have a desirable environmental traffic capacity of 200vph (two-way), and a maximum traffic environmental capacity of 300vph (two-way). Collector roads in residential areas, such as the Ridge Street/Vale Street route, should have a desirable environmental capacity of 300vph and a maximum environmental capacity of 500vph. Therefore, based on the counts, the existing traffic volumes in the Ridge Street/Vale Street route during the afternoon peak tend towards the maximum environmental capacity for a collector road, while the existing traffic volumes in Merriwa Street and McIntyre Street are lower than the desirable environmental traffic capacity for a local road. The Ridge Street/Vale Street route has existing flat top threshold and speed humps, while Merriwa and McIntyre Streets also have raised thresholds at various locations.

The Roads and Traffic Authority Guide to Traffic Generating Developments suggests the traffic generation rates for medium density residential development would be in the following range:

Apartment Size	Daily vehicle trips	Peak hour vehicle trips
Smaller units and flats (up to two bedrooms)	4 to 5 per dwellings	0.4 to 0.5 per dwellings
Larger units and flats (three or more bedrooms)	5 to 6.5 per dwellings	0.5 to 0.65 per dwellings

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Given that the site is located relatively close to Gordon railway station and other core services, traffic generation could be at the lower end of the range. Using the lower end of the range, the table below shows the expected traffic generation from the residential development proposal:

Apartments	Daily vehicle trips	Peak hour vehicle trips
27 x 1-bedroom	108	11
100 x 2-bedroom	400	40
21 x 3-bedroom	105	11
Total	613	62

Allowing for traffic generation of the existing detached dwellings on the site, the net additional traffic generation would be about 53 vehicle trips during the peak hour. The Applicant's traffic consultant has considered the situation where these trips were distributed to the surrounding road network resulting in the following two-way peak hour traffic flows:

Location	Morning Peak	Afternoon Peak
Ridge Street, north of Merriwa Street	395	470
Merriwa Street, west of Pacific Highway	130	130
Merriwa Street, east of Vale Street	125	115
Vale Street, south of Merriwa Street	415	490
McIntyre Street, west of Pacific Highway	30	65
McIntyre Street, east of Vale Street	110	115

The expected future traffic volumes in Ridge Street during the afternoon peak is near the maximum environmental capacity for a collector road, while the expected future traffic volumes in Merriwa Street and McIntyre Street would still be lower than the desirable environmental traffic capacity for a local road.

Cumulative Impact of Proposed Commercial Development at 3-5 Merriwa Street

A Development Application has been lodged with Council to construct a 3 storey commercial office building with 3 basement levels, and a café at ground level at 3-5 Merriwa Street. If traffic generation effects of the proposed commercial development are superimposed with the traffic generation effects of this site, the following traffic volumes would result in the surrounding roads:

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Location	Morning Peak	Afternoon Peak
Ridge Street, north of Merriwa Street	415	487
Merriwa Street, west of Pacific Highway	163	165
Merriwa Street, east of Vale Street	146	133

The expected future traffic volumes in Ridge Street during the afternoon peak would still be below the maximum environmental capacity for a collector road. The expected future traffic volumes in Merriwa Street and McIntyre Street would still be lower than the desirable environmental traffic capacity for a local road, although the traffic increases in Merriwa Street would be noticeable compared to the existing traffic flows. Traffic volumes in Vale Street, south of Merriwa Street, could exceed the maximum environmental capacity for a collector road during peak hours. These roads already have treatments to encourage slower speeds so additional treatments, particularly on the Ridge Street/Vale Street route, would be difficult to implement.

Other

The intersection of Pacific Highway with Merriwa Street is a priority controlled intersection, with Pacific Highway having right of way. Right turns are permitted from Merriwa Street to Pacific Highway, and a sheltered right turn bay is provided on Pacific Highway for access into Merriwa Street. A check of the most recent 5 years of recorded collision history at this intersection revealed 19 accidents. Of these, 9 involved vehicles turning right from Pacific Highway and colliding with the opposing (northbound) vehicles on Pacific Highway. The vast majority of these incidents occurred during the evening peak period, when northbound traffic volumes are heavy, and it is noted that about half of these occurred on Friday evenings, and half resulted in casualty.

Under this proposal, right turn movements from Pacific Highway to Merriwa Street are expected to increase. However, the collision history indicates that this movement is not safe during evening peak periods, therefore consideration should be given to restricting right turns during the evening peak. The demand for this movement is also expected to increase with the proposed commercial development at 3-5 Merriwa Street, which is currently being considered by Council, as well as from nearby areas affected by LEP194. An alternative route could be for vehicles to use Ridge Street then Merriwa Street or McIntyre Street. Given the increase in development expected in the area and the resulting demands on the surrounding road network, the Applicant should be required to contribute to the cost of installing traffic signals at the intersection of Pacific Highway and Merriwa Street, to improve medium-long term safety and access to the area.

The median at the eastern end of McIntyre Street effectively restricts movement past the site to one way, easterly. It is expected that increased

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number of U-turns would be made near the Highway, resulting in conflicts. The conflicting left turn off the Highway is a sweeping curve and can be undertaken at speed. The applicant is proposing to shorten the guard rail at the western end to permit right turns out of the site. The pavement levels either side of the guard rail appear to be different and adjustments to road levels and possible nearby driveways may be required. Alterations to the guard rail would also require appropriate end treatment.

Council has previously requested that the median at the eastern end of McIntyre Street be extended to Pacific Highway to prevent unsafe U-turns. This median should incorporate a pedestrian refuge to improve pedestrian access across McIntyre Street.

Given that access to public transport is being encouraged from the site, the street lighting from the site to Pacific Highway should be upgraded to encourage pedestrian access.

Conclusions

It is considered that there are a number of deficiencies relating to visitor parking provision, parking dimensions, parking area design, access within the parking area, service vehicle access and visibility at the access point. The following issues remain outstanding and require addressing:

1. Visitor parking provision should be 18 spaces for the Merriwa Street block and 12 spaces for the McIntyre Street block.
2. Visitor space 1 in the McIntyre Street block should be 2.8m wide due to adjoining wall obstructing car parking design envelope.
3. The inner and outer radius of curved roadway in the McIntyre Street block should be a minimum of 4m and 11.8m respectively.
4. There are concerns that the proposed single lane, alternate two-way ramps at the upper parking level of both Merriwa Street and McIntyre Street blocks could result in conflicts.
5. The Merriwa Street access driveway is in a prohibited location (within intersection area) according to AS2890.1. and should be wider than the minimum 6m width.
6. There are sight distance concerns for right turns from the proposed McIntyre Street driveway.
7. Service vehicles must enter and exit the site in a forward direction.
8. There appears to be no satisfactory provision for removalists' vehicles.
9. The applicant should be required to liaise with the RTA regarding the imposition of afternoon peak period 'No Right Turn' restrictions from

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Pacific Highway into Merriwa Street, and contribute to the cost of installing traffic signals at the intersection of Pacific Highway and Merriwa Street.

10. The median at the eastern end of McIntyre Street should be extended to Pacific Highway and should incorporate a pedestrian refuge to improve pedestrian access across McIntyre Street.
11. Street lighting in Merriwa Street and McIntyre Street, from the site to Pacific Highway, should be upgraded to encourage pedestrian access.

Furthermore, there are concerns that, with the cumulative impact of the proposed development at 3-5 Merriwa Street, traffic volumes along the Ridge Street/Vale Street route would approach (and could exceed) the maximum environmental capacity for a collector road during peak hours.

Accessibility

The applicant has submitted an access report prepared by Access Australia Consultants Pty Ltd as part of the supporting information with the application. This report identifies the access provisions in the proposed development as being acceptable, subject to compliance with numerous recommendations in the report.

Council requests that any development consent for this proposal ensures that the recommendations of the access report are included as conditions of consent and are enforced.

Drainage / Stormwater / Hydrology

The Applicant has provided a Water Management Plan by Steve Paul and Partners, dated 14/05/2004. This forms part of the DA submission.

Council is unable to provide a full and comprehensive assessment of matters relating water and storm water management due to the lack of detailed information presented in the submission. It is requested that sufficient information be submitted by the applicant to allow such an assessment to occur.

As stated previously in this submission, Council is seeking that for all aspects of the new buildings adopts a best practice approach to design and represent a benchmark for new flat development. DIPNR should ensure that water sensitive design principles and stormwater management models such as those contained in BASIX and Ku-ring-gai DCP 47 – Water Management are applied to this development.

Council has identified a number of concerns arise after reviewing the stormwater management plan submitted. These are summarised as follows:

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- a) Section 3 of the submission states that “on-site detention will be not be (sic) provided for this development”. Clarification is required in this respect.
- b) The proposal does not comply with Ku-ring-gai Councils Water Management Development Control Plan 47 which requires, for this development, mandatory storage and re-use of stormwater **for toilet flushing and laundry purposes** as a minimum. While the proposed “detention retention” tanks are to be used for garden irrigation and carwashing purposes, these are not considered to be a sufficient level of water re-use within this site. Further, the proposed systems will not provide attenuation of flows entering the Council road system during periods of extended rainfall. This is because garden irrigation will not occur during rainfall (i.e there will not be a drawdown of water in the tanks) and the “detention retention” systems will remain full of water. Council officers cannot offer any compensation to the required detention volumes and discharge rates where there is no obvious constant drawdown on the system in the form of toilet flushing and laundry use.
- c) If on-site detention is not proposed under the system (which appears to be the case), uncontrolled runoff from the development will have a substantial impact on Council’s trunk drainage system, potentially leading to increased flooding issues downstream. Attenuation of site discharges, by way of a dedicated on-site detention system or constant re-use on site in accordance with Councils DCP47, is required to maintain the finite capacity of the downstream trunk drainage system.
- d) For the Merriwa Street system, the invert level of the outlet discharge pipe within detention/retention system is shown at 105.68, and the invert level of Council stormwater pit in Merriwa Street to which connection is proposed is 105.68. A minimum fall of 1% is required between the site system and the proposed point of discharge. The proposed system will not drain freely by gravity to the proposed point of discharge
- e) The hydraulic grade line of the receiving Council systems in both Merriwa Street and McIntyre Street (when flowing) will be substantially higher than the invert of the “detention retention” tank outlets. The proposed systems will not drain freely by gravity to the street systems when the trunk system is operating. This is notwithstanding points (c) and (d) above.
- f) The orifice plate diameters shown (20.695) are (far) too small. The systems will surcharge within the site as water backs up. Notwithstanding this fact, clarification is required as to the intended system. Where retention only is provided, the retained water shall be used as a minimum for toilet flushing, laundry purposes and garden irrigation with a mains top up being provided. No orifice plate is required in this case.
- g) Depending on the grades of the outlets from the “detention retention”

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tanks, the 150 mm diameter sizing may not have capacity to carry discharge from the site. This is in conjunction with point (d) above.

- h) The plan does not address surcharge or overflow of the “detention retention” tanks and the path overtopping water will take. Overtopping will occur if the systems become blocked (e.g by a plastic bag, leaves etc), the capacity of the tanks is too low or the orifice is too small (refer to point (f) above). It is noted that the natural fall of the site is towards downstream private property. Clarification is required as to how surcharge will be handled.
- i) The plan submitted does not provide adequate detail as to the location of the proposed tanks, levels in relation to the discharge points

To prevent the subject development contributing to downstream flooding, Council Development Engineers will require one of the following options to be adopted and demonstrated before it can finalise engineering assessment of this proposal:

1. Provision of an on-site detention system(s) with a site storage requirement and peak site discharges calculated in accordance with the associated catchment set out in appendix 2 of Development Control Plan 47. No concession can be offered to the site detention storage requirement by introducing a retention component into the volume *unless* the water is used for toilet flushing, laundry and irrigation purposes as a minimum (i.e a constant drawdown is provided at all times).

Where it is only proposed to reuse water for irrigation and carwashing purposes, then a separate retention system(s) shall be provided *in addition* to the site storage and discharge requirement for the on-site detention system. This shall be provided in-line with the on-site detention system, so that overflow from the retention system passes into the detention system.

The design for these system(s) shall consider the issues raised in points (a) to (i) above and shall demonstrate the following details as a minimum:

- Location of the proposed tanks and main feeding lines in plan view so that impact on significant trees may be ascertained
- Typical section through the tank showing discharge control pit, correct orifice sizing for the appropriate PSD, correct diameter for the outlet pipe, top water levels and correct reduced levels
- Dedicated overland flow path in the event of blockage or surcharge of the system(s).

The design shall generally comply with the controls set out in appendix 5 of Councils Development Control Plan 47.

OR

2. The Applicant shall design a retention system with volume in compliance with Council’s Development Control Plan 47 so that retained water is used

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for constant drawdown uses including toilet flushing and laundry purposes as a minimum. Such a system shall include a low level mains top up.

Impacts on groundwater due to depth of excavation for parking need to be investigated. Previously raised with the Minister's Site at Avon Road.

Waste Collection

The development has not demonstrated in its submission compliance with the objectives as set out in the "Residential Flat Code" concerning the management of waste during all phases of construction.

Details have not been provided indicating avoidance in waste generation through:

- the design, materials selection and building practice the types, amounts and disposal of material during excavation, construction and building phases,
- the reuse, source separation and recycling of these materials ,
- the preparation of the Waste Plan for waste generated on site.

The letter dated 5/4/04 from Elephants Foot Waste Compactors P/L is noted, however, the proposal does not demonstrate the method for achieving adequate storage or separation for recyclables, nor is there any notation evident within the plans that indicate the proposed location for residents to place this material.

It should also be noted that the manual handling of waste materials through sorting or transferring waste materials including recycling materials is generally prevented due to Occupational Health and Safety standards. Clarification would be required regarding the methods proposed for handling the transfer of recyclables to the holding bays.

The calculations nominated for the waste and recycling bin are inconsistent with the service levels provided by Council. Council would be providing 1x 120 litre waste container per each residential unit. Recycling bins will be supplied at a rate of 1x 240 litre paper bin & 1x 240 litre household containers bin for every 4 units or there part of, the waste holding bays would need to demonstrate that adequate storage is available for the bins number nominated by Council, including recycling containers, that also allows for adequate manoeuvring of the containers when serving.

In order to allow regular serving of the waste and recycling materials Council will require unimpeded access to the waste holding areas. Council will not service premises utilising locking devices on waste access doors.

For the purpose of health, safety and cleanliness all waste and recycling storage rooms are to constructed of masonry having a steel trowel finish to internal walls and floors, be provided with hot and cold hose cocks for cleaning and be provided with floor waste connected to the sewer.

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Service bay areas are to be provided with adequate night lighting for the safety of operators conducting the service.

Vegetation and Landscaping

The application has been referred to Council's Landscape Assessment officer who has raised the following concerns with the proposal.

- There are concerns regarding to the reliance on Council's nature strip areas for the planting of larger trees for the development site. It is Council's position that the trees should be planted within the site in the front setback to maximise the available space and to filter the inward views of the development. Trees able to grow above thirteen (13.0) metres would be required.
- Planting within the front setback should be layered with large trees above 13.0m (upper canopy), small trees between 8 – 10.0 m (intermediate canopy) and various shrubs and ground covers (understorey) to provide suitable landscape amenity to both the development and the streetscape. It is important that the residential character of the streetscape be maintained/enhanced.
- What is proposed for the existing mature tree planting along Merriwa Street? The street trees are mature Chinese Pistachio and are in good condition. These trees form part of the existing streetscape and should be retained. This also furthers the argument to have supplementary large tree planting within the site frontage rather than relying on Council's nature strip
- Screen planting adjacent to the side site boundaries needs to be substantially increased to filter views from the existing single residences to the development. As mentioned screening shrubs to 4.0m is inadequate. Small trees up to 8 – 10.0 m should also be utilised to filter views of the development as well as to maintain a treed character.
- The proposed 'green wall' at the rear of the Merriwa St building on the southern side where there is no sun is impractical. Proposed planting will not grow to 5.0m high and the selected species will not tolerate the southern aspect.
- Proposed plantings should be a mix of both native and exotic plant species, as is typical of the Ku-ring-gai landscape. It is preferred/required however that the trees be native endemic species as is consistent with the immediate locality
- There was not a discussion about overshadowing either within the site or onto neighbouring properties. Of particular concern are the micro climatic impacts on the communal open spaces where the existing trees are

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located centrally on site. Given that there is a 5 – 7 storey high dwelling located to the north will this area receive ANY winter sun? This may have detrimental impacts on the existing trees to be retained.

- Given the scale of the proposed development and the location of the existing mature Bluegums centrally located on the site in the swale, how is the natural sub-surface and surface moisture content going to be maintained? No doubt with the development drainage channels and moisture flow will be radically altered. This will in the long term adversely impact these trees, it probably will not show up for a number of years after the development is completed, but it is highly possible that the trees will go into decline if ground moisture (and gaseous exchange) is altered.
- The location of services and drainage pipe was not fully discussed. It is required that no services of any kind be located within the primary root zones of existing significant trees to be retained. This should be applied to both the trees located centrally within the site as well as those located adjacent to the Merriwa Street frontage.
- The existing drainage easement from the southern corner of the property was discussed briefly stating that they had an existing easement over an adjoining property. What was not discussed was what existing vegetation exists within this easement and what would become of it. Given that most easements are adjacent to side site boundaries where screen planting and trees are planted there is a potential conflict. Has this been addressed by the consulting Arborist? Are there significant trees that should be retained and protected? Particularly as a much larger pipe/pipes will be required to drain the increased development size. Of note also is that it was stated that this will also act as a surface overflow. Does this require regrading? The use of embankments or walls etc? This will all potentially have adverse impacts on the existing landscape.
- There are concerns regarding the proposed landscape treatment around the shallow end of the proposed swimming pool. There is a 4.0m height difference (excavation) between the pool water level and the existing ground level. How is this to be treated? One large wall is not desired. It is also on the northerly aspect of the swimming pool which will result in considerable shading. The 4.0m high retaining wall required at the northern end of the swimming pool. It is more appropriate to terrace and plant this area rather than having one 4.0m high wall which will heavily overshadow the pool.
- Access pathways within the site and their subsequent surface treatments should consider disabled/elderly access. Treatments such as stepping stones are difficult to traverse and create conflicts. Disabled access should be maintained to the majority of the site, including both the buildings and outdoor communal areas.
- It is advisable that the immediate landscape treatment around the

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relocated heritage building be complimentary / characteristic of the architectural style of the building to provide it with some immediate context. (Refer to heritage comments below)

- The proposed cranes to enable construction of the development will potentially have significant conflicts with the existing mature Bluegums centrally located on the site. The trees are approximately 25.0 – 30.0m high, are the cranes to be higher? Can they manoeuvre without impacting the existing canopy/branch spread? The Bluegums have a very high if not significant landscape significance and should be fully protected including both the canopy and the root zone.

Additional issues to be raised

- Conflict of nominated site storage areas and existing significant trees to be retained that are centrally located on site. Particularly tree #'s 40,39,27. Tree protection requirements will result in approximately 25-30% of nominated storage area to be excluded. It is noted in the landscape report by Context landscape design that ALL significant trees, shrubs and existing ground levels are to be maintained. Given that this area is also the site storage area, there is a significant conflict.
- The removal of tree #'s 28 and 30 both Angophora floribunda (Rough Barked Apple). These trees are significant within the existing streetscape of Merriwa St and are an uncommon/rare species within the Ku ring gai area. These two mature specimens are outwardly healthy and approximately 15.0m high. Council utilise the seeds gathered from these trees to propagate seedlings at the Council Nursery for replenishment throughout Ku ring gai. Their location immediately adjacent to the northern site boundary rather than centrally on site could/can result in their retention. Given their significance and rarity, it is preferred that these trees be retained and protected.

Heritage Issues

a) Background

Heritage issues were discussed in detail as part of a separate submission to PlanningNSW with public exhibition of the Minister's Envelope Controls under SEPP53. The points raised about heritage with the earlier submission are still relevant to this application.

b) Applicant's Heritage Statement

The proposal seeks to conserve the heritage listed building at 9 McIntyre Street and to relocate it on site to the rear of the proposed McIntyre Street building elsewhere.

The subject heritage item is a small timber dwelling, called "Woodville"

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constructed in several stages, and represents the type of small timber workers dwelling in a semi rural setting that was common in the area at the turn of the century.

The heritage report prepared by Mr. Staas provides a the history, description and drawings of the dwelling that are adequate as records. There is little photography and no interior photographs. Council's Heritage advisor is not convinced that the conclusions reached in the report or the proposed reuse option is adequate to retain the significance of the dwelling and interpret that significance in the future. There are some unresolved issues about the history and development of the building.

There is some dispute as to what part of the dwelling is the original part. The oral history from a former occupant, Mrs. Rook confirms the small two roomed section containing the kitchen and living room is the original section and the gable roofed section is a later addition. The applicant's heritage report claims that:

"There is some internal evidence that the main skillion roof may once have been pitched, suggesting that these two rooms may have formed the core of the original structure."

The report goes on to recommend demolition of the later bathroom and toilet and recommend that the early sections be retained, restored, relocated on the site with a garden context and archival recording and interpretation be undertaken. There is no evidence in the report to confirm or deny that the small lean to bathroom and toilet is original or a later construction. A site visit on 7 July 2004, confirmed that the outside toilet is still operational.

While Council no objection to relocation of the building on the site as a communal facility in a garden context, there are several major concerns as follows:

1. *There is confusion in identifying the age of the cottage and the age of its components. This needs to be clarified in consultation with Council's Heritage Officer, prior to any relocation or restoration of the building.*

The heritage report identified Mr. William Warr as the owner of the land in 1904 and credits him as the builder of the cottage. There is some confusion as it is notes that he was in occupation on the land as early as 1900. This suggests that some kind of dwelling was on the land. There is evidence to suggest that the building at 9 McIntyre is much earlier than claimed and might be one of the oldest in Ku-ring-gai.

2. *The proposal would remove the dwellings visual connection to the street and a considerable part of its heritage significance to the local community would be lost.*

Relocation to a garden space in the middle of the development would remove visual access of the cottage from the surrounding streets and only

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residents and visitors to the proposed development would know it was there. Heritage management has gone a long way since the time when the fabric of the item was sacrosanct and the contemporary view places much more emphasis on the “place” and the setting.

- 3. The drawings of the relocated cottage only show the square gable roofed portion of the dwelling being relocated. It suggests that the earlier section of the building will be demolished.*

Both the two roomed section of the dwelling and the later gable roofed section of the dwelling should be retained in any reuse scenario. It would seem logical that the early part contained a kitchen and a living/bedroom and that the larger room was added at a later stage. That is also consistent with the oral history that indicates the gable roof section was added c1930. The later lean to bathroom should be retained as these simple rural type dwellings often had a series of such simple additions and the capacity to reuse the building as a new communal facility for the residents would be enhanced. A basic Burra Charter principle is that all aspects of the cultural and natural significance are important and that emphasis on one value at the expense of the other is unwarranted.

- 4. There is no use identified use for the “communal use” of the relocated building.*

Interpretation of the building is critical to enable an understanding of its future role in the medium density development. The proper future interpretation of the cultural significance would require retention of both main parts of the building and the lean to bathroom. To simply say “a communal use” is not really appropriate. It is suggest that the building should be located with enough space around it and a “kitchen garden” be developed. The building could serve as a communal facility associated with the kitchen garden and the occupants of the new dwellings would have the opportunity to take part in growing vegetables and fruit, something that does not occur in medium density developments and it could be a very positive element in this proposed development.

- 5. The proposed garden context has no or little relationship to its existing setting on a separate lot.*

The small timber building has no context in the medium density development. Council suggests that if a larger area of garden space was allocated as a “kitchen garden” or “common garden”, there would be some historical connection.

Section 94 Developer Contributions

The Section 94 contributions applicable to development on the site are contained in “Ku-ring-gai Section 94 Plan 2004-2009 – Residential

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Development". Under this Plan, S94 contributions payable are determined by dwelling size and location. For development in Gordon, "small dwellings" (< 75m²) are to be levied at a rate of \$13,890.72 per dwelling, "medium dwellings" (75m² - < 110m²) are to be levied at a rate of \$19,468.88 per dwelling, "large dwellings" (110m² - < 150m²) are to be levied at a rate of \$28,000.18 per dwelling and very large dwellings (150m² or more) are to be levied at a rate of \$38,062.75 per dwelling.

The proposed development contains:

- 27 small dwellings,
- 100 "medium dwellings" and
- 21 "large dwellings".

There are currently **3** very large dwellings, **3** large dwellings and **3** medium dwellings on the site that will be demolished and **1** small dwelling that will be relocated and its residential use discontinued. This will result in a net increase of **26** small dwellings, **97** medium dwellings, **18** large dwellings. The applicant will also be entitled to section 94 credits for the 3 existing very large dwellings. Therefore the total contribution payable is as follows:

26 small dwellings @ \$13,890.72	=	\$361,158.72
97 medium dwellings @ \$19,468.88	=	\$1,888,481.36
18 large dwellings @ \$28,000.18	=	<u>\$504,003.24</u>
Less		
<i>3 Very Large dwellings @ \$38,062.75</i>	=	<u>(\$114,188.25)</u>
Total Section 94 Contribution payable		\$2,639,455.07

REZONING OF B2 ROAD RESERVATION, WAHROONGA - SOUTH TURRAMURRA

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To update Council on progress and recommendation for formal exhibition of Draft Local Environmental Plan No 201 (DLEP201), Rezoning of the Abandoned B2 Road Corridor between The Comenarra Parkway, Wahroonga and Kissing Point Road, South Turramurra.
BACKGROUND:	The rezoning application was submitted to Council on behalf of the Department of Infrastructure, Planning and Natural Resources and Roads and Traffic Authority. The submission was publicly exhibited for initial comment from 10 September 2003 to 10 October 2003. A report was considered by Council on 16 December 2003 detailing the application and preliminary feedback and initial analysis (Attachment D). A Council inspection and meeting of the B2 consultative committee has also been held.
COMMENTS:	It is generally considered appropriate that the County Road reservation be removed and replaced with the appropriate zonings under the Ku-ring-gai Planning Scheme Ordinance.
RECOMMENDATION:	That the revised DLEP201 for the former B2 Road Reservation Corridor be placed on formal public exhibition. That DLEP201 be exhibited in accordance with the Best Practice Guidelines for LEPs relating to Council owned land.

PURPOSE OF REPORT

To update Council on progress and recommendation for formal exhibition of Draft Local Environmental Plan No 201 (DLEP201), Rezoning of the Abandoned B2 Road Corridor between The Comenarra Parkway, Wahroonga and Kissing Point Road, South Turramurra.

BACKGROUND

The B2/B3 Road Corridor extends for 4.3 kilometres from Pearces Corner, Wahroonga to Kissing Point Road, South Turramurra. This proposal only covers the section of the Corridor extending from south of the Comenarra Parkway, Wahroonga to Kissing Point Road, South Turramurra.

The abandoned road corridor passes through residential areas, bushland and open space. The Road Corridor is currently reserved as "County Road Proposed" under the Ku-ring-gai Planning Scheme Ordinance. The proposal seeks to rezone some of this land to Residential 2(c) and Residential 2(b) to permit residential development. It also seeks to maintain bushland and open space through an Open Space 6(a) zoning of the remainder of the Corridor lands.

The application was submitted on 1 August 2003 and put on preliminary exhibition from 10 September 2003 to 10 October 2003 to seek initial comments from the public, before Council assessment. A report went to the meeting of Council on 16 December 2003 detailing the application and preliminary feedback and initial analysis (Attachment C).

At the meeting of 16 December, 2003 Council resolved the following:

- A. *That the Director of Planning and Environment prepare a Draft Local Environmental Plan for the road reservation corridor between The Comenarra Parkway, Wahroonga and Kissing Point Road, Turramurra in consultation with appropriate staff from Council's other Departments.*
- B. *That when prepared, the Draft Local Environmental Plan be the subject of a report to Council for consideration as to whether it should be placed on statutory public exhibition.*
- C. *That the Department of Infrastructure Planning and Natural Resources be advised of Council's decision to prepare a Draft Local Environmental Plan in accordance with Section 54 of the Environmental Planning and Assessment Act.*
- D. *That Council resolve to notify those that made submissions of Council's resolution of this meeting.*
- E. *That Council resolve to advise the public of the future report to Council and accompanying Draft Local Environmental Plan.*
- F. *That prior to and if necessary during preparation of the draft Plan, Council consult with the B2/B3 Corridor Lands Consultative Committee.*

G. *That there be a site inspection for Councillors and staff.*

COMMENTS

It is generally considered that the preparation of an appropriate Draft Local Environmental Plan is desirable to see the defunct freeway reservation removed from the Planning Scheme map. It is appropriate that the reservation be removed and replaced with appropriate local zonings. Single residential housing and open space zonings are considered the most suitable zones within the context of surrounding development. In some locations, changes to the zoning recommended in the original submission have been made.

CONSULTATION

During the original preliminary consultation for the proposal the following key issues were raised in the submissions:

- loss of flora and fauna and inconsistencies in the flora and fauna assessment report.
- high bushfire risk in the area and consequent evacuation routes
- pedestrian, vehicular access and increased traffic and concerns about loss of walking tracks and open space including the horse paddock.

(These issues were discussed in detail in the Officers Report to Council 16 December, 2003)

Attachment D. In addition on 21 April 2004, a meeting was held with the B2/B3 Corridor Lands Consultative Committee. Attendees included representatives of the Committee, Councillors and staff.

A presentation was given to attendees and discussion took place between summaries of each of the Precincts. The major concerns were as follows:

- Loss of area designated as a wildlife corridor and overall open space connectivity as a consequence of residential development;
- Ownership and management of asset protection zones and the preference for Council to be responsible for maintenance;
- Some areas proposed for Residential 2(c) zoning contain good bushland which should be preserved (especially Precincts 10(a) and 10(b));
- Decrease in parking availability in Barwon Avenue (for the netball courts) after residential development is undertaken;
- Areas which are currently cleared are acceptable for development, however undisturbed bushland should remain intact;

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- The Flora and Fauna Study submitted to Council was not necessarily representative of what has been observed by local residents

These matters have been taken into account during the preparation of Draft Local Environmental Plan 201. The Committee will have another opportunity to comment during the formal public exhibition of Draft LEP 201.

In June 2004 Staff met with officers from DIPNR seeking their views on the proposed changes and it is recommended that Council proceed to exhibition of the Draft LEP.

FINANCIAL CONSIDERATIONS

The financial considerations specific to the issue of the preparation of a proposed LEP and its finalisation relate to staff resources and advertising. These are covered by the rezoning fee.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Following consultation with Open Space and the Traffic and Transport Section of Technical Services, changes to the zoning recommended in the application are proposed. In essence, much of the proposed rezoning is agreed with, however there are some parts of the corridor identified for residential zoning which should be rezoned to Open Space. Below is the proposed rezoning of each 'Precinct' as per the application received by Council, followed by recommendations from internal consultations with justifications and taking into account the initial public submissions.

This should be read in conjunction with Attachments A and B. Attachment A is a map showing the applicants' proposed rezoning of the corridor, while Attachment B is Council staff's recommended zoning for comparison. Attachment C is a map displaying ownership and classification of the land within the road reservation.

Precinct 7 (Comenarra Parkway – Kiogle Street)

Proposed zoning by Department of Infrastructure, Planning and Natural Resources / Roads and Traffic Authority:

Residential 2(b) under the Ku-ring-gai Planning Scheme Ordinance proposed for entire Precinct.

Recommendation:

The northern row of allotments fronting Comenarra Parkway should be left undisturbed and rezoned Open Space (6a) "Recreation Existing".

The southern row of allotments fronting Kiogle St should be rezoned Residential 2(c) to allow development for residential purposes with the zoning being consistent with the Residential 2(c) zone of adjoining residential property.

Precinct 8 (Kiogle Street – Eurong Street)

Proposed zoning by Department of Infrastructure, Planning and Natural Resources / Roads and Traffic Authority:

Residential 2(c) proposed for land between the southern side of Kiogle Street and the northern side of Eurong Street.

A sliver of land proposed for Open Space 6(a) “Recreation Existing” adjoining with the bushland of Precinct 9 at Eurong Street.

It should be noted that land between the southern side of Kerela Avenue and the unmade part of Eurong Street requires an Asset Protection Zone due to its bushfire prone land classification.

Recommendation:

The entire precinct is suitable for Residential uses and is recommended to be rezoned as residential 2(c), with the exception of the open space strip at Eurong Street.

However, it is inhabited by significant intact individual and groups of Angophora and Turpentine trees, housing possums and cockatoos. For this reason, consideration must be given at the development application stage to protect the trees and vegetation that are identified as significant.

Precinct 9(a) (Eurong Street – Field of Mars Avenue)

Proposed zoning by Department of Infrastructure, Planning and Natural Resources / Roads and Traffic Authority:

Proposed to be zoned Open Space 6(a) “Recreation Existing”.

Recommendation:

Open Space 6(a) “Recreation Existing”.

Precinct 9(b) (Field of Mars Avenue – Canoon Road)

Proposed zoning by Department of Infrastructure, Planning and Natural Resources / Roads and Traffic Authority:

Proposed to be zoned Open Space 6(a) “Recreation Existing”.

Recommendation:

Open Space 6(a) “Recreation Existing”.

Precinct 10(a) (Canoon Road – Warner Avenue)

Proposed zoning by Department of Infrastructure, Planning and Natural Resources / Roads and Traffic Authority:

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It is proposed that north of Canoon Road, the area within the Precinct should be zoned Open Space 6(a) "Recreation Existing".

It is proposed that the Precinct south of Canoon Road be zoned Residential 2(c).

An Asset Protection Zone is suggested fronting Canoon Road from the southern block of Precinct 10(a).

Recommendation:

Proposed to be zoned Open Space 6(a) "Recreation Existing" north of Canoon Road.

South of Canoon Road could be rezoned to Residential 2(c) in so far as the current bush landscape is not of considerable environmental value to warrant an open space zone when compared to other areas of the rezoning proposal.

Precinct 10(b) (Warner Avenue – Chisholm Street)

Proposed zoning by Department of Infrastructure, Planning and Natural Resources / Roads and Traffic Authority:

It is proposed that the entire Precinct be rezoned to Residential 2(c).

Recommendation:

That the area North of Hall Street be rezoned Residential 2(c), including the horse paddock (D.P. 746618, Lots 1,2,3).

Note: The triangular shaped land south of Hall Street and west of Chisholm Street is classified as transitional Duffy's Forest. This bushland is regarded as having moderate maintenance importance. Following discussion with Open Space, this bushland could be offset in order to protect the vital natural bushland of Precinct 7 and Precinct 11. This area should be zoned as Residential 2(c).

Precinct 11 (Chisholm Street – Kissing Point Road)

Proposed zoning by Department of Infrastructure, Planning and Natural Resources / Roads and Traffic Authority:

The application proposes that the land making up Kissing Point Oval and a small segment of Sir David Martin Reserve be zoned Open Space 6(a) "Recreation Existing".

Two parcels of residential land fronting Chisholm Street and Paroo Place are currently zoned Residential 2(c) and part Reservations (a) – "County Road Proposed". It is proposed that those segments protruding slightly into the corridor be rezoned Residential 2(c) to match with the existing zoning of the land.

A Residential 2(c) zone is proposed for the rectangular parcel of land fronting Chisholm Street to complement low-density housing on large sized allotments in the locality.

Recommendation:

This entire Precinct including the two protrusions should be maintained as undeveloped and be rezoned to Open Space 6(a) "Recreation Existing" due to its environmental significance, including the northwest triangle proposed for residential zoning.

It should be noted that in the case of the land at the rear of Chisholm Street and Paroo Place the area to be rezoned from Reservations (a) – "County Road Proposed" have been recommended for rezoning to Open Space 6 (a) rather than the adjoining zone of Residential 2(c) as the areas are considered of environmental significance and should be incorporated into the main parcel of existing open space. The areas of land are 35sqm and 75sqm respectively.

Discussions with the Department of Infrastructure Planning and Natural Resources

Following the preliminary public submissions and further staff review, and discussions with the Department of Infrastructure, Planning and Natural Resources the proposed amendments will be placed on exhibition of the Draft LEP. The key changes from proposed Residential 2(c) to Open Space 6 (a) are:

- the bushland of Precinct 7 fronting the Comenarra Parkway as shown by the existing allotment pattern
- the bushland on the northwest corner of Precinct 11

The land adjacent to the road reservation in Precinct 10(b) next to the horse paddock is currently owned by Council, while the section that lies in the corridor is owned by DIPNR. Council could also be prepared to rezone the small triangle south of Hall Street in Precinct 10(b) which is also owned by Council. This bushland is intact, however could be offset in order to protect more significant open space areas (please see Attachment C).

Maintenance of the northwest corner of Precinct 11 as undisturbed bushland is of high priority. This is owned by DIPNR. A possible trade for example could be beneficial for Council and DIPNR in this situation regarding Precinct 10(b) and Precinct 11.

Note: It is to be noted that in some parts of the B2 Corridor, the application has not clearly addressed the uplifting of the 'road reservation' status from existing streets where they cross the corridor. The applicant has verbally indicated this to have been an oversight. It is proposed that this should be addressed in the Draft LEP by erasing these reservations such that the unzoned status of these roads is re-established. This is consistent with the practice applying to all roads in Ku-ring-gai.

As Council owns some land (See attachment XX) within the B2 Corridor the Draft Local Environmental Plan must be exhibited in accordance with the Best Practice Guidelines published by the Department of Urban Affairs and Planning in January 1997 titled "*LEPs and Council Owned Land– Guidelines for Councils using delegated powers to prepare LEPs involving land that is or was previously owned or controlled by Council*".

SUMMARY

The subject application proposes the rezoning of the Abandoned B2 Road Corridor between The Comenarra Parkway, Wahroonga and Kissing Point Road, South Turramurra.

The abandoned road corridor passes through residential areas, bushland and open space. The Road Corridor is currently reserved as "County Road Proposed" under the Ku-ring-gai Planning Scheme Ordinance. The proposal seeks to rezone some of this land to Residential 2(c) and Residential 2(b) to make residential development permissible on certain areas of the land currently allocated as the road corridor. It also seeks to maintain bushland and open space through an Open Space 6(a) zoning of the remainder of the Corridor lands.

Public submissions have been received expressing concerns relating to loss of flora and fauna, bushfire risk, traffic issues and loss of open space for the community.

The rezoning application is supported to the extent that single residential development is compatible and consistent with much of the land adjoining the county road reservation.

Following further internal consultation with Council's Open Space and Technical Services, it is found that the fundamental issue is that some areas proposed as residential zones are considered to be of significant open space value, namely sections of Precinct 7 and Precinct 11. This is a matter which should be discussed with the Department of Infrastructure, Planning and Natural Resources during preparation of Draft LEP 201 with a view to altering the plan prior to public exhibition.

RECOMMENDATION

- A. That Council exhibit Draft Local Environmental Plan No 201 in accordance with the provisions of the Environmental Planning and Assessment Act and Regulations with the following zones under the Ku-ring-gai Planning Scheme Ordinance.
- B. That in relation to Precinct 7 Comenarra Parkway to Kiogle Street, Fox Valley, the northern row of allotments fronting Comenarra Parkway be rezoned Open Space (6a) "Recreation Existing" under the Ku-ring-gai Planning Scheme Ordinance and that the southern row of allotments fronting Kiogle St be rezoned Residential 2(c).
- C. That in relation to precinct 8 Kiogle Street – Eurong Street, Fox Valley be rezoned Residential 2 (c) and the lot forming part of Eurong Street be rezoned to Open Space 6(a).
- D. That in relation to precincts 9(a) (south of Eurong Street, Fox Valley – Field of Mars Avenue, South Turramurra) and Precinct 9(b) (Field of Mars Avenue – Canoon Road) be rezoned to Open Space 6(a) "Recreation Existing".
- E. That in relation to Precinct 10(a) (Canoon Road – Warner Avenue) the lots north of Canoon Road, be rezoned Open Space 6(a) "Recreation Existing" and South of

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Canoon Road be rezoned to Residential 2(c) under the Ku-ring-gai Planning Scheme Ordinance.

- F. That in relation to Precinct 10(b) (Warner Avenue – Chisholm Street) the lots north of Hall Street to Warner Avenue be rezoned Residential 2(c).
- G. That in relation to Precinct 11 (Chisholm Street – Kissing Point Road) the entire Precinct (including the two protrusions) be rezoned to Open Space 6(a) “Recreation Existing”.
- H. That Council resolve to exhibit Draft Local Environmental Plan No 201 in accordance with the Best Practice Guideline published by the Department of Urban Affairs and Planning in January 1997 titled “LEPs and Council Land – Guidelines for Councils using delegated powers to prepare LEPs involving land that is or was previously owned and controlled by Council”.
- I. That Council further discuss with DIPNR the options of a land swap for the land in the north west sector of Precinct 11 (undisturbed bushland) owned by DIPNR and Council owned land adjacent to the horse paddocks south of Hall Street.
- J. That a report be brought back to Council at the end of the exhibition period.

Rod Starr
Urban Planner

Antony Fabbro
Manager Strategic Planning

Leta Web
Director Planning &
Environment

Attachments:

- A - Map and plan for Draft Local Environmental Plan No 201 - Circulated separately.**
- B - Map showing ownership and classification of the land within the road reservation - Circulated separately.**
- C - Schedule of Council owned land - Circulated separately.**
- D - Report considered by Council on 16 December 2003 - Circulated separately.**

Attachment A



NORTH



SCALE - 1:4000



RESIDENTIAL 2(c)



RECREATION EXISTING 6(a)

DRAWN BY: COUNCIL'S CORPORATE MAPPING SYSTEM

PLANNING OFFICER - LETA WEBB

COUNCIL FILE NO. S02846

DEPT. FILE NO.

CERTIFICATE ISSUED UNDER SEC 65 E.P.A. ACT DATE:

GOVT. GAZETTE NO DATE

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979
KU-RING-GAI COUNCIL
DRAFT LOCAL ENVIRONMENTAL PLAN NO.201

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMENDS THE KU-RING-GAI PLANNING SCHEME ORDINANCE

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS.

GENERAL MANAGER

DATE

Ku-ring-gai Draft Local Environmental Plan 201

1 Name of this plan

This plan is Ku-ring-gai draft Local Environmental Plan 201.

2 Aims of this plan

This plan aims to:

- a) To zone the land to which this plan applies from land reserved for county road purposes to Residential “C” and Open Space: Recreation Existing under the provisions of the Ku-ring-gai Planning Scheme Ordinance.
- b) To remove the reservation of County Road purposes that applies over local roadways.
- c) To provide lands for the purpose of orderly residential development in a manner consistent with residential development in the locality.
- d) To establish open space zonings which will retain existing bushland areas allowing for their conservation and protection.

3 Land to which this plan applies

This plan applies to land in the Ku-ring-gai Council Local Government Area edged heavy red on the Map marked Ku-ring-gai Local Environmental Plan No 201.

4 Amendment of Ku-ring-gai Planning Scheme Ordinance

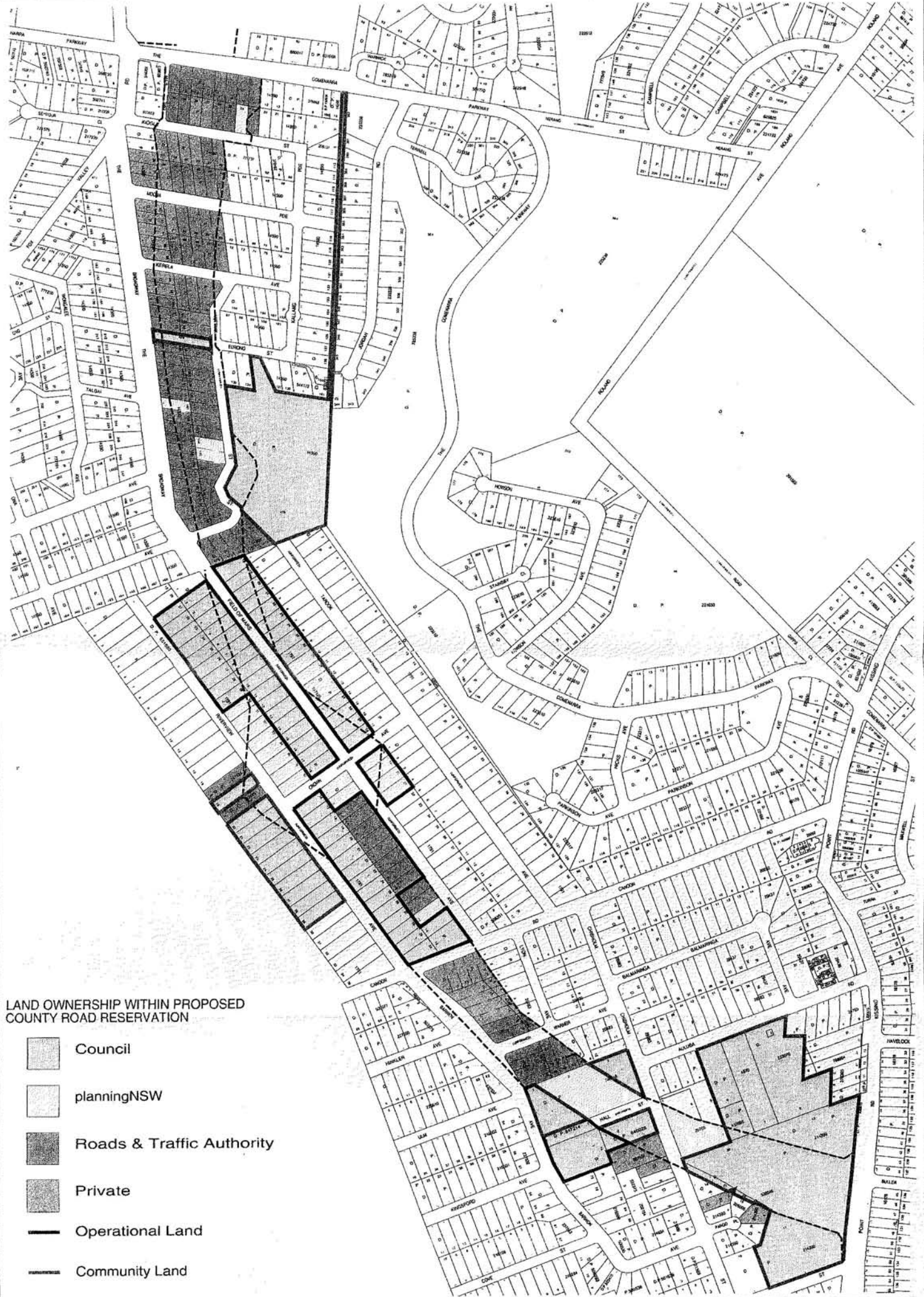
Ku-ring-gai Planning Scheme Ordinance is amended as set out in Schedule 1:

Schedule 1 – Amendment of Ku-ring-gai Planning Scheme Ordinance







Definitions

Insert in appropriate order in the definition of “Scheme Map” in clause 4(1):

Ku-ring-gai Local Environmental Plan No 201.



LAND OWNERSHIP WITHIN PROPOSED COUNTY ROAD RESERVATION

-  Council
-  planningNSW
-  Roads & Traffic Authority
-  Private
-  Operational Land
-  Community Land

DISCLAIMER - These details are based on Councils existing records and should be used as a guide only.

SCHEDULE OF COUNCIL OWNED LANDS - B2 CORRIDOR

<u>Street No</u>	<u>Street Name</u>	<u>Street Type</u>	<u>Suburb</u>	<u>Lot</u>	<u>Section No</u>	<u>Plan No</u>	<u>Proposed Council Zoning's</u>
	RIVERVIEW	AVENUE	TURRAMURRA	21-29	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	18-26	2	DP 1791	Open Space 6(a)
	TAROOK	AVENUE	TURRAMURRA	31	2	DP 1791	Open Space 6(a)
	TAROOK	AVENUE	TURRAMURRA	32	2	DP 1791	Open Space 6(a)
	TAROOK	AVENUE	TURRAMURRA	33	2	DP 1791	Open Space 6(a)
	TAROOK	AVENUE	TURRAMURRA	34	2	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	2	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	3	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	4	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	5	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	6	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	7	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	8	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	9	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	10	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	11	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	12	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	13	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	14	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	15	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	16	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	17	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	18	4	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	14	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	15	5	DP 1791	Open Space 6(a)
	RIVERVIEW	AVENUE	TURRAMURRA	18	6	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	16	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	17	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	18	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	19	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	20	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	21	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	22	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	23	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	24	5	DP 1791	Open Space 6(a)

SCHEDULE OF COUNCIL OWNED LANDS - B2 CORRIDOR

<u>Street No</u>	<u>Street Name</u>	<u>Street Type</u>	<u>Suburb</u>	<u>Lot</u>	<u>Section No</u>	<u>Plan No</u>	<u>Proposed Council Zoning's</u>
	FIELD OF MARS	AVENUE	TURRAMURRA	25	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	26	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	27	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	28	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	29	5	DP 1791	Open Space 6(a)
	FIELD OF MARS	AVENUE	TURRAMURRA	30	5	DP 1791	Open Space 6(a)
	RIVERVIEW	AVENUE	TURRAMURRA	20-29	6	DP 1791	Open Space 6(a)
10B	AULUBA	ROAD	TURRAMURRA	3		DP222070	Open Space 6(a)
10B	AULUBA	ROAD	TURRAMURRA	2		DP222070	Open Space 6(a)
10B	AULUBA	ROAD	TURRAMURRA	7		DP4870	Open Space 6(a)
10B	AULUBA	ROAD	TURRAMURRA	9		DP4870	Open Space 6(a)
10B	AULUBA	ROAD	TURRAMURRA	8		DP455666	Open Space 6(a)
10B	AULUBA	ROAD	TURRAMURRA	13		DP214390	Open Space 6(a)
1	VERNON	STREET	TURRAMURRA	11		DP214390	Open Space 6(a)
235	KISSING POINT	ROAD	TURRAMURRA	20		DP538546	Open Space 6(a)
235	KISSING POINT	ROAD	TURRAMURRA	21		DP538546	Open Space 6(a)
235	KISSING POINT	ROAD	TURRAMURRA	22		DP538546	Open Space 6(a)
21	CHISHOLM	STREET	TURRAMURRA	2		DP840228	Residential 2 (c)
2	MUTTAMA	STREET	WAHROONGA	475		DP14590	Open Space 6(a)
	THE BROADWAY		WAHROONGA	476		DP14590	Open Space 6(a)

REZONING PROPOSAL - ABANDONED B2 ROAD CORRIDOR

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To advise Council of the submissions received in response to the Abandoned B2 Road Corridor application to rezone lands existing within the County Road Reservation between The Comenarra Parkway, Wahroonga and Kissing Point Road, South Turramurra and also to seek Council's resolution to prepare a Draft Local Environmental Plan.

BACKGROUND:

The Corridor was intended to provide a link between the end of the F3 Freeway at Wahroonga and the M2 Motorway at North Ryde. In June 1996 the B2 Corridor was abandoned and that part south of Kissing Point Road has been rezoned. The remaining Freeway Reservation passes through both residential and bushland areas. The current application proposes rezoning that part of the reservation between The Comenarra Parkway and Kissing Point Road to a combination of single residential and open space zonings. The rezoning was publicly exhibited for comment from 10 September 2003 to 10 October 2003.

COMMENTS:

It is generally considered appropriate that the reservation be uplifted and replaced with appropriate zonings. Single residential and open space zonings are considered the most logical fit within the context of surrounding development. Some 25 public submissions have been received in response to the application raising a range of issues concerning the adequacy of information and the appropriateness of proposed zones. It is generally considered that the preparation of an appropriate Draft Local Environmental Plan (LEP) is desirable to see the defunct freeway reservation removed from the Planning Scheme map.

RECOMMENDATION:

That Council resolve to prepare a Draft Local Environmental Plan for its further consideration.

PURPOSE OF REPORT

To advise Council of the submissions received in response to the Abandoned B2 Road Corridor application to rezone lands existing within the County Road Reservation between The Comenarra Parkway, Wahroonga and Kissing Point Road, South Turramurra and also to seek Council's resolution to prepare a Draft Local Environmental Plan.

BACKGROUND

The Corridor was intended to form a continuation of the F3 Freeway at Wahroonga to link the existing M2 Motorway at North Ryde. In June, 1996, the State Government abandoned the B2 Corridor and the corridor south of Kissing Point Road has been rezoned.

Don Fox Planning has been engaged to prepare a submission for the rezoning of the part of the abandoned B2 Road Corridor between The Comenarra Parkway and Kissing Point Road on behalf of the Department of Infrastructure Planning and Natural Resources (DIPNR) and the Roads and Traffic Authority (RTA).

The abandoned road corridor passes through residential areas, bushland and open space. The Road Corridor is currently reserved as "County Road Proposed" under the Ku-ring-gai Planning Scheme Ordinance. The proposal seeks to rezone some of this land to Residential 2(c) and Residential 2(b) to make residential development permissible on certain areas of the land currently allocated as the road corridor. It also seeks to maintain bushland and open space through an Open Space 6(a) zoning of the remainder of the Corridor lands.

Several existing Council roadways are subject to the existing "County Road Proposed" reservation but are not shown within the plan relating to the rezoning application. The applicant has clarified that it was intended that the reservation be uplifted where it relates to these Council roads. It is appropriate that the application be considered on this basis.

The application was submitted on 1 August 2003. The application comprised a planning report (Don Fox Planning), environmental assessment report (Geotechnique Pty Ltd), traffic impact assessment report (Transport and Traffic Planning Associates), archaeological assessment report (Austral Archaeology Pty Ltd), flora and fauna report (SMEC) and bushfire protection assessment report (Conacher Travers).

The application was put on a preliminary exhibition from 10 September 2003 to 10 October 2003, to gather initial comments from the public, before Council assessment.

Application

The application applies to part of the road corridor owned by the Roads and Traffic Authority (RTA), Department of Infrastructure Planning and Natural Resources (DIPNR), Council, and private ownership. The corridor is divided into a number of precincts (see Attachment A). This rezoning proposal applies to precincts 7-11 only.

Precincts 7-11 are the subject of the rezoning submission. They extend between the southern side of the Comenarra Parkway and the western side of Kissing Point Road.

PRECINCT	LOCATION
7	Comenarra Parkway – Kiogle Street
8	Kiogle Street – Eurong Street
9 (a)	Eurong Street – Field of Mars Avenue
9 (b)	Field of Mars Avenue – Canoon Avenue
10 (a)	Canoon Avenue – Warner Avenue
10 (b)	Warner Avenue – Chisholm Street
11	Chisholm Street – Kissing Point Road

PRECINCTS – PROPOSED REZONING

Below are comments assessing the proposals for each precinct.

Precinct 7

- All lot sizes in the precinct are 828m², except one 841m² and one 822m²
- Residential 2(b) proposed. Lot sizes are slightly too small for this zoning. Most lots in the precinct are 828m² and the minimum lot size in Residential 2(b) is 836m².

Precinct 8

- Proposed: 1) residential development on cleared land.
2) open space on undisturbed bushland.
- Residential 2(c) proposed for land between the southern side of Kiogle Street and the northern side of Kerela Avenue. Minimum lot size for this zoning is 929m².
- This Residential 2(c) zoning is compatible with adjoining land zoned Residential 2(c) that have been developed as low density housing.
- Land between the southern side of Kerela Avenue and the unmade part of Eurong Street has a high bushfire threat and requires an Asset Protection Zone.

Precinct 9(a) and 9(b)

- These precincts are comprised of undisturbed bushland and walking tracks. Steep, undisturbed forested land.
- Development opportunities within these precincts are severely limited because of the steep slopes, bushfire risk and undisturbed bushland containing threatened flora species.
- On either side of the Corridor undisturbed bushland is currently zoned Open Space 6(a) “Recreation Existing”.
- The suggested outcome is to expand this Open Space 6(a) “Recreation Existing” zoning into Precincts 9(a) and 9(b).

Precinct 10(a)

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- North of Canoon Road, limited development opportunities are available due to presence of threatened flora species, undisturbed bushland, and the Girl Guides grounds.
- It is suggested that north of Canoon Road, the area within the Precinct should be zoned Open Space 6(a) Recreation Existing.
- South of Canoon Road, land is capable of being developed for low density housing because the bushland is not as abundant in species diversity.
- It is proposed that the Precinct south of Canoon Road be zoned Residential 2(c).

Precinct 10(b)

- Land use assessment, vegetation analysis, subdivision pattern and heritage assessment of the precinct pose no adverse impact for the development of housing within Precinct 10(b).
- The grassed paddock is suitable for residential purposes. Its use as open space is inappropriate because of the existence of nearby Auluba Road reserve.
- Opportunity is available to open Hall Street and extend Warner Avenue to intersect with Barwon Avenue to improve traffic circulation.
- It is recommended that the Precinct be rezoned to Residential 2(c), which would be consistent with the surrounding low-density housing.

Precinct 11

- The application proposes that the land making up Kissing Point Oval and a small segment of Sir David Martin Reserve be zoned Open Space 6(a) "Recreation Existing"
- Two parcels of residential land fronting Chisholm Street and Paroo Place are currently zoned Residential 2(c) and part Reservations (a) – "County Road Proposed". It is proposed that those segments protruding slightly into the corridor be rezoned Residential 2(c) to conform with the rest of the zoning of the land.
- A Residential 2(c) zone is proposed for the rectangular parcel of land fronting Chisholm Street to complement low-density housing on large sized allotments in the locality.

COMMENTS

Analysis of Application measured against Rezoning Assessment Criteria

In determining the merit of each rezoning application, the proposal is measured against criteria outlined in the information brochure Council provides to the community. Councillors will be aware that State Government requirements/guidelines on rezonings are relatively minimalist when compared to those for development applications. The Ku-ring-gai rezoning information kit seeks to make Council's requirements on the topic more explicit. Each of the Criteria for this proposal are addressed below.

The Environmental Planning & Assessment Act (Section 5)

The Environmental Planning & Assessment Act (EP&A Act) and its objects set the framework within which town planning is carried out at the local level. It is appropriate to therefore measure this proposal against the relevant aims contained in Section 5 of the Act.

Section 5(ii) – this section requires “the promotion and co-ordination of the orderly and economic use and development of the land”

It is considered that appropriately located single residential housing which is accessible to services and transport constitutes a proper management and development of land previously under-utilised and reserved as an abandoned road corridor.

Section 5(iv) – this section requires “the provision of land for public purposes”

If the rezoning is to go ahead, the amount of land available for public purposes may be decreased when existing undeveloped lands are rezoned for residential purposes.

Section 5(vi) – this section requires “the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats”.

Rezoning of sections of the subject land may result in loss of flora and fauna species including potentially endangered species. It may also lead to loss of wildlife habitat. Clearing of forest for low density housing could be detrimental to important existing bushland pockets.

Section 79(c) of the EP&A Act

Whilst this section of the Act applies to the assessment of development applications, it serves as a useful tool in analysing rezonings (which eventually result in Development Application's). The pertinent subsections – as outlined in the Department of Infrastructure Planning and Natural Resources (DIPNR) Guide to Section 79(c) – are discussed below.

Context and Setting

Single residential development and open space would be consistent with the landuse surrounding the subject areas.

Access, Transport and Traffic

A number of issues arise in relation to access, transport and traffic. Increased traffic congestion may result with residential development south of Canon Road in Precinct 10(a). This is of particular concern during netball season, when the roads are heavily used.

The submission recommends that no vehicular access should be made available from the Comenarra Parkway to dwellings in Precinct 7. In this case, access for residents must be provided from Kiogle Street, therefore making Kiogle Street potentially busier.

The submission also recommends the forming of Hall Street and extension of Warner Avenue to intersect with Barwon Avenue.

The subject area is predominantly a high bushfire prone region, and questions arise pertaining to emergency access and evacuation points. Canoon Road is heavily used when netball activities are undertaken and consideration must be taken to determine acceptable thoroughfare and options in potential bushfire situations.

Public Domain Impacts

In the context of this proposal, public domain impacts might be seen as the way in which the rezoning application would impact on existing natural surrounds. Essentially the existing larger areas of bushland within the freeway reservation are to be zoned to Open Space 6(a) to conform with existing adjoining bushland. Careful consideration for the vegetated areas of the reservation where surrounded by residential areas will need to be taken. Under the application, these areas are generally proposed as residential in conformity with the adjoining residential development.

Heritage

The only item of significant heritage value is the relics of the Western Arterial Road construction which was proposed in 1924 as an alternative route to the Harbour Bridge. Memorial stones remain on the subject land in the northern section of Precinct 9(a). However, as the application proposes to rezone this land Open Space 6(a), it will not be impacted upon by any residential development.

Flora and Fauna

Flora and Fauna issues are discussed in the comments from the Department of Open Space in the Consultation with Other Council Departments Section.

Waste

Not applicable

Energy

Not applicable

Noise and Vibration

Noise associated with the clearing of vegetation and construction of dwellings.

Natural Hazards

Much of the subject area is identified as Category 1 Bushfire Prone land. This includes land throughout stretching from Precinct 8 to Precinct 11.

Any development that occurs in these areas must adhere to the 'Planning for Bushfire' guide prepared by the NSW Rural Fire Service. Provisions of Chapter 4 'the Development Stage' and Chapter 5 'Construction Standards' must be satisfied to maximise protection from bushfires.

Technological Hazards

Not applicable

Safety, Security and Crime Prevention

It is not anticipated that the rezoning will negatively impact on crime prevention

Social Impact

Residential development that would result from the rezoning would involve transition from current open space pockets to residential blocks. Some open space would be provided on the Wahroonga side of the subject lands. Residential development in the South Turramurra area of the subject land would not negatively impact on available recreational space. Land in Precinct 11 is proposed for an open space zoning and existing active open space areas would remain.

Economic Impact in the Locality

Residential rezoning may ultimately influence property values due to the certainty of the abandonment of the Road Corridor. The rezoning of the land will eliminate doubt regarding the future of the corridor.

Residential rezoning can be seen as economically positive for traders at Kiole Street shops in the north and Kissing Point Road shops in the south of the subject area.

Site Design and Internal Design

There are no relevant issues concerning siting and design of development relevant at this time to the rezoning application. The location of proposed new zones within the existing county road reservation will be a subject for consideration in the detail of preparing any Draft Local Environmental Plan.

Construction

Construction in the form of development for residential purposes would occur subject to rezoning approval and in accordance with Development Control Plan 38 – The Residential Design Manual.

Precedent and Consequent Cumulative Impacts

It is not considered that the proposal represents an undesirable precedent. The opportunity for similar rezonings are few. Being a unique situation, with very little land in Kuring-gai reserved 'County Road Proposed', the flow on effect of this rezoning would be limited. However, as this particular rezoning does not cover the entire road corridor, there is the further potential rezoning of other B2/B3 road corridor lands to the north in Wahroonga. There is also land designated as 'County Road Proposed' in St Ives.

Does the Proposal Fit in the Locality?

The proposal if realised would be similar in form and landuse to that of surrounding areas. The proposed Residential 2(c) zone is consistent with development on both sides of the road corridor in much of the land extending from Wahroonga to South Turrumurra. In Precinct 7, the application seeks to rezone these lands to Residential 2(b). The reason provided for this in the application is that Residential 2(b) is considered most suitable because such zoning allows a minimum lot size that closely resembles the lot sizes in the precinct.

Open Space 6(a) is compatible and consistent to the character and land use in land surrounding the B2 Road Corridor. Precinct 9(a) and Precinct 9(b) should clearly be rezoned to open space as recommended. Open space is suitable and encouraged in all areas where the application seeks an open space zoning. Rezoning into residential where open space and bushland areas should be maintained as a nature reserve due to its significant flora species must be closely considered in preparing a Draft Local Environmental Plan.

The Public Interest

The application has been the subject of public notification in accordance with the provisions of Council's Notification Policy. Council has received 27 public submissions. These have been discussed elsewhere in this report.

The rezoning proposal can be seen to be in the public interest in a broad sense by the removal of an abandoned reservation from the Ku-ring-gai Planning Scheme Ordinance. This will allow its replacement with appropriate zonings to be determined by Council.

State or Regional Environmental Policies, Circulars or Ministerial Directions

Three State Environmental Planning Policies are relevant to the rezoning application and consequent future development. These are:

- SEPP 1 – Development Standards

In some instances the proposed rezoning of allotments in the subject land are inconsistent with the minimum allotment sizes specified in the Ku-ring-gai Planning Scheme Ordinance. In such instances a SEPP1 objection would need to be lodged for new residential development.

- SEPP 19 – Bushland in Urban Areas

SEPP19 is relevant to the rezoning application as its primary objective is to protect and preserve bushland within urban areas.

- SEPP 53 – Metropolitan Residential Development

SEPP 53 applies to all land within the Ku-ring-gai local government area. This permits a variety of housing types, including multi unit housing in the form of dual occupancies.

Council's Management Plan 2003-2007

The rezoning submission should be consistent with Council's vision outcomes relating to 'Open Space' and 'Land Use Management'.

Specifically, an objective of the Management Plan's Open Space vision is *"to retain and restore the quality and connectivity of terrestrial habitats"*. To ensure this outcome is realised, a balance must be sought between residential use of the land, and satisfactory provision of natural bushland and open space areas for flora and fauna. The necessary method for achieving this may be a compromise with the applicants to determine which areas should be rezoned to Open Space 6(a) rather than Residential 2(c)

Another relevant objective of the Management Plan, which relates to Land Use Management is to achieve *"Residential development that meets the reasonable needs of the community and is compatible with the area's environmental capacity and treed landscape, heritage and character"*.

Added dwellings in the lands surrounding the Corridor is feasible and single residential development would be consistent with the existing housing. While development would result in clearing of vegetation, the treed landscape would not be detrimentally jeopardised and the leafy suburban character would be retained. Few heritage items exist in or adjacent to the Corridor and they are not proposed to be altered.

Ku-ring-gai Planning Scheme Ordinance

Schedule 9 of the KPSO outlines "Aims and Objectives for Residential Zones". An analysis of the rezoning application measured against these relevant objectives is outlined below:-

- "1.(a) The maintenance and where appropriate improvement of the existing amenity and environmental character of residential zones."

A balance must be sought to ensure that the environmental quality is maintained. Although residential development would be beneficial and non-problematic to some of the proposed areas, judgement must be made as to how much of the environment can be rezoned without unduly eliminating some valuable natural bushland. Amenity issues have also been raised regarding access and transport.

- "1.(b) New residential development only where it is compatible with the character of the locality and has a sympathetic and harmonious relationship with adjoining development."

The proposal is consistent with the scale and density of single residential development adjoining and adjacent to the road Corridor in the locality. Where residential zoning is proposed, the type of development is not considered to be excessive or detract from the character of the locality.

Contamination Assessment

The application is accompanied with an environmental site assessment. There are two parts to this assessment, a preliminary study, and a stage 2 study.

The preliminary study reads as follows:

The purpose of this assessment was to determine whether or not the subject corridor presents a significant risk of harm to human health and/or the environment under the proposed development and if so, to present recommendations for additional investigative works. The scope of this assessment included an examination of historical aerial photographs, site reconnaissance and preparation of a report on the potential contamination status of the corridor.

Based on preliminary environmental assessment, it is considered that the B2/B3 Road Corridor, as it exists, does not pose a significant risk of human hazard to human health and/or the environment and is therefore suitable for future residential and/or open space development, where appropriate

Some localised areas of potential low level soil contamination have been identified.

It is presumed that all existing residential properties located within the B2/B3 Road Corridor will be retained in their current status. As some of the properties contain houses, sheds and/or garages that were constructed some time ago, there is potential for these buildings to contain hazardous materials such as lead based paints and/or asbestos. Should it be proposed to demolish any of the existing buildings within the road corridor, it is recommended that a hazardous materials inspection is carried out, followed by (if required) a contamination assessment of soils surrounding the building(s).

Stage 2 reads as follows:

The purpose of this report was to complement the preliminary assessment and to provide additional information of the contamination status of Precincts 8, 10a, 10b and 11 of the Corridor, which were identified as potentially containing contaminated soils. The secondary purpose was to provide remediation recommendations if necessary, to ensure the suitability of the site for proposed future development, which is likely to comprise residential and/or open space.

Based on the laboratory test results, it is considered that remediation works are only required within one of the precincts, namely Precinct 10b. The surface soils in the vicinity of the galvanised iron sheds and beneath scattered scrap metals, were found to be contaminated with both lead and zinc. The concentrations of lead suggest a potential for human health risk, particularly if left accessible to children, who may ingest the soils.

Remediation of the identified contaminated soils in Precinct 10(b) should involve excavation (surface soils) and Landfill disposal.

Based on the preliminary environmental site assessment and this Stage 2 environmental assessment, it is concluded that the B2/B3 Road Corridor, in general, does not pose a risk of hazard to the environment or human health. The only exceptions are localised surface soils in the vicinity of and/or beneath the galvanised iron sheds and scrap metals in Precinct 10(b).

Before the drafting of a Draft Local Environmental Plan to provide for rezoning, land contamination will be the subject of further investigation.

The Residential Design Manual – DCP38

Future development that will result from the rezoning will be assessed under the provisions of DCP38. It is considered that the rezoning proposal does not pose any threat to the appropriate assessment of future development applications proposing the construction of dwelling houses in residential zones.

This DCP is considered the appropriate vehicle for the assessment of the merits of individual applications for future dwellings.

CONSULTATION

Council has established a B2/B3 Corridor Lands Consultative Committee. They will be consulted in the preparation of the Draft LEP, should Council decide to proceed with the rezoning application.

In accordance with Council policy, some 960 surrounding owners and occupiers were notified of the rezoning proposal by letter. The application was also the subject of notification in the North Shore Times and by the placement of a notice at the Kiogle Street shops and the Kissing Point Road shops. The proposal was on exhibition at Council Chambers, Gordon Library and Turramurra Library from 10 September to 10 October. Written submissions were invited.

In response to the notification, a total of 27 letters and e-mails were received. Submissions generally expressed objection to a change in zoning although one supported the recommendations of the proposal. Several gave support subject to particular measures being taken.

In general the community's concerns can be summarised as:-

- a. Concern about loss of flora and fauna and inconsistencies in the flora and fauna assessment report
- b. Concern about high bushfire risk in the area and consequent evacuation routes
- c. Concern about pedestrian, vehicular access and increased traffic
- d. Concern about loss of walking tracks and open space including the horse paddock.

Specific issues raised in the submissions are discussed below:-

Submission: Concern that rezoning to permit residential development will disrupt flora and fauna species and habitats

Comment: There will be impacts where development is to occur in existing bushland areas. Generally the proposal seeks to retain as bushland those areas contiguous with the existing 6(a) Open Space zone. Detailed consideration of other areas will be undertaken in considering the format of a future Draft LEP.

Submission: Need to maintain a wildlife corridor

Comment: The importance of corridor links is recognised and will be assessed when determining the content of a Draft LEP as previously discussed.

Submission: Concern that the 6(a) open space rezoning may not protect the bushland community or native flora and fauna from development in the future, for example sports grounds.

Comment: It is unlikely that open space areas created under a proposed Draft LEP would be developed other than to augment existing natural bushland.

Submission: Inconsistencies in the flora and fauna surveys conducted which emitted various species of flora and fauna.

Comment: This matter is discussed in the comments of Council's Department of Open Space.

Submission: Provision of a permanent walkway and bicycle way through Precinct 10(b), especially if Hall Street is no longer to be made.

Comment: The possible formalising of such links can be considered in the preparation of a Draft LEP.

Submission: Concern that residential development would remove quality 'environmental heritage' in the area and disadvantage future generations.

Comment: The expressed concern is noted. It is important to understand that any residential rezoning of an existing vegetated area will have some affects on the natural landscape. It is important that the correct balance is struck in preparing a Draft LEP.

Submission: Concern that increasing the population of the area would lead to further traffic congestion, particularly during netball season.

Comment: The concern of traffic related impacts is understood. Satisfactory access to and from new residential zones needs to be assured during periods of peak traffic demand. Although the submission states that gridlock occurs for 5 months of the year, it must be noted, that although netball season lasts for 5 months of the year, traffic congestion is only severe on 18 Saturdays of the year.

Submission: Concern about loss of horse paddock because of its sense of local heritage and it provides gardeners with compost base

Comment: The concern expressed here is understood. It is however unlikely that such horse paddocks in an urban area can be expected to be retained indefinitely.

Submission: Houses developed in Precinct 8 must have strict stormwater controls so that additional stormwater run-off does not enter the adjacent bushland

Comment: Development control provisions of Council relating to stormwater runoff will apply to new development. Runoff from new development will be controlled via stormwater detention measures and Council's Stormwater Management Manual.

Submission: Concerns about noise and safety resulting from opening Hall Street and extending Warner Avenue through to Barwon Avenue.

Comment: The proposed rezoning of lands does not necessarily mean that existing road reservations within the Corridor will be opened to traffic. It is a question for Council to consider separately. It is not necessarily the case that these roads will be required for vehicular access.

Submission: Concern that loss of bushland will remove the noise buffering from the traffic along the Comenarra Parkway.

Comment: Removal of trees, particularly north of Kiogle Street, will be dependent upon how the land is finally zoned. This will be considered in the preparation of a Draft LEP.

Submission: Concern that rezoning land to residential will decrease available open space for community usage.

Comment: Existing lands in the reservation are generally vegetated and not utilised as active open space. However to the extent that they may be developed in the future for residential purposes, there will be a loss in existing natural areas.

Submission: Provision of concrete kerbing of streets in Precinct 8 if it is rezoned Residential 2(c).

Comment: There is generally no formal kerb and gutter in this precinct. Allotments are already subdivided. As to whether a kerb and gutter is provided, the matter is for Council determination.

Submission: Corridor should be preserved for its original intended use, as it will be necessary to expand Sydney's transport system in the future.

Comment: The road corridor has already been abandoned. It seems clear that road linkages that it was intended to provide for are now to be provided by tunnel. The corridor is now surplus to requirements.

Submission: Concern that low density residential development proposed by the application, may lead to higher density development being permitted in the future.

Comment: There is no planning basis on which to suppose that a low density residential rezoning will act in any way to encourage medium density in the future.

If Council resolves to prepare a draft LEP these comments will be looked at closely in preparing the plan.

FINANCIAL CONSIDERATIONS

The financial considerations specific to the issue of the preparation of a proposed LEP and its finalisation relate to:

1. Staff resources
2. Advertising

These have been compensated for by the applicant's application fees.

There are no foreseeable Section 94 contribution issues associated with the rezoning because the existing allotments are already in place.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

BUSHLAND TECHNICAL OFFICER OF THE DEPARTMENT OF OPEN SPACE

The following comments in regard to the proposed rezoning report by Don Fox Planning are given from a nature conservation perspective.

Overall the proposed rezoning proposals have a balanced approach to housing and conservation reserves. In particular gaining of precincts 9A, 9B and parts of precincts 10A and 11 are a positive outcome for conservation of local habitats and "biolinks". A number of suggestions made in meetings by other Council staff and myself with DIPNR and the RTA, have been incorporated into the current proposal.

Several areas suggested by Council as important conservation or biolinks were not included. These areas contain either Sydney Turpentine Ironbark Forest or Duffys Forest, which are both endangered ecological communities under the NSW Threatened Species Act (1995). These plant communities were not identified by Don Fox Planning or their sub-consultants though some of the studies contradict each other and could be considered not accurate in places. Council should negotiate further with DIPNR / RTA to have these areas preserved as bushland reserve.

Another suggestion is that the asset protection zone in Precinct 7 be classified as a local park so that the fuel hazard can be managed permanently and the local area gains a recreation area.

Excluding the above-mentioned areas of threatened plant communities the proposed rezoning study is suitable for use in the creation of an LEP for the area.

Informal consultation with specialists from environment, heritage and traffic & transport was also carried out, however no formal memorandum was prepared for this report.

SUMMARY

Council has established a B2/B3 Corridor Lands Consultative Committee. They will be consulted in the preparation of the Draft LEP should Council decide to proceed with the rezoning application.

The subject application proposes the rezoning of the Abandoned B2 Road Corridor between The Comenarra Parkway, Wahroonga and Kissing Point Road, South Turramurra.

The abandoned road corridor passes through residential areas, bushland and open space. The Road Corridor is currently reserved as "County Road Proposed" under the Ku-ring-gai Planning Scheme Ordinance. The proposal seeks to rezone some of this land to Residential 2(c) and Residential 2(b) to make residential development permissible on certain areas of the land currently allocated as the road corridor. It also seeks to maintain bushland and open space through an Open Space 6(a) zoning of the remainder of the Corridor lands.

Public submissions have been received expressing concerns relating to loss of flora and fauna, bushfire risk, traffic issues and loss of open space for the community. It is considered that these matters can be satisfactorily addressed with further investigation into the issues that were raised.

The rezoning application is supported to the extent that single residential development is compatible and consistent with much of the land adjoining the county road reservation. However to ensure valuable flora and fauna is not compromised, land that is currently in a natural bushland state should be further examined to determine the consequences of rezoning to residential.

RECOMMENDATION

- A. That the Director of Planning and Environment prepare a Draft Local Environmental Plan for the road reservation corridor between The Comenarra Parkway, Wahroonga and Kissing Point Road, Turramurra in consultation with appropriate staff from Council's other Departments.
- B. That when prepared, the Draft Local Environmental Plan be the subject of a report to Council for consideration as to whether it should be placed on statutory public exhibition.
- C. That the Department of Infrastructure Planning and Natural Resources be advised of Council's decision to prepare a Draft Local Environmental Plan in accordance with Section 54 of the Environmental Planning and Assessment Act.
- D. That Council resolve to notify those that made submissions of Council's resolution of this meeting.
- E. That Council resolve to advise the public of the future report to Council and accompanying Draft Local Environmental Plan.
- F. That in preparing the draft Plan, Council consult with the B2/B3 Corridor Lands Consultative Committee.

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3 December 2003

Rod Starr
Urban Planner

Leta Webb
Director
Planning & Environment

Attachments:

- A. Map showing land subject to rezoning proposal including division of Precincts.**
- B. Map showing current zoning of precinct lands.**
- C. Proposed rezoning of each of the Precincts.**

PREVIOUS REPORT

BUSHCARE - DRAFT STRATEGY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To provide a draft strategic plan for bushcare that considers its current and future environmental, economic and social benefits.

BACKGROUND:

In June 2003 a report was submitted to Council setting out a series of options regarding funding and service proposals for the Bushcare program. This report provides information on benchmarking other programs, a customer satisfaction survey and discussions with stakeholders.

COMMENTS:

The Bushcare program has around 70 groups with approximately 700 active volunteers. The program will continue to grow, however there exists a need and opportunity to broaden the scope of this and other community based environmental programs. This draft describes a path for this growth.

RECOMMENDATION:

That the draft strategy be exhibited and also referred to the Bushland, Catchments and Natural Areas Reference Group.

PURPOSE OF REPORT

To provide a draft strategic plan for bushcare that considers its current and future environmental, economic and social benefits.

BACKGROUND

The 2003/04 Management Plan requires the preparation of a strategic plan for the continuation of the Bushcare program that reports on environmental, economic and social benefits.

In developing this plan consideration has been given to five studies and reports including:

- Bushcare Volunteer Policy (first adopted by Council in 1994 and later revised in 1997)
- A review of the growth, analysis and future service delivery of Bushcare, as considered by Council on 13 June 2003 that resolved:
 - *To establish new group or sites only once they can be serviced within existing resources.*
 - *To pass the proposed Bushcare budget so as to allow for the program to maintain service levels to all existing group and individual sites.*
- A comparison and benchmark of Ku-ring-gai's Bushcare program with others across the Sydney Metropolitan (undertaken in 2003)
- A survey of Bushcare volunteers to determine satisfaction levels (2003)
- An analysis of Council's weed mapping data with the activities undertaken at Bushcare sites (2004).

In 1991 Council commenced the Bushcare program in response to community interest in restoring bushland. A policy was developed and adopted by Council in 1994 that outlined the roles and responsibilities of Council and the community. However this was not accompanied by a plan that sought to provide direction on how and where the program should grow and expand. Despite this the program has grown to its current levels supporting over 700 volunteers, working at 150 sites.

In managing the delivery of services to the program it has been necessary to focus primarily on newly established groups in order to transfer the necessary skills and foster a sense of ownership to the site with the volunteers. The longer established groups are visited less frequently by a trainer, recognising their expertise and momentum.

Benchmarking Bushcare programs between councils proved to be difficult in that structures and budgets were seldom if ever consistent. Ku-ring-gai Council is the only organisation that costs all its core functions relating to Bushcare to one cost centre including internal expenses such as nursery, vehicle, salaries and materials.

Table 1. Benchmark of Bushcare Services

Council	Staff (effective full time employees)	Number of Bushcare sites	Number of volunteers	Staff:site:volunteer ratio
Ku-ring-gai	2.5	150	720	1:60:288
Sutherland	4.75	100	700	1:21:147
Willoughby	3	38	not available	1:13
Hornsby	4	120	500	1:30:125

As shown in Table 1, the ratio of staff to site to volunteer numbers indicates that Ku-ring-gai is almost twice as efficient as the next comparable Council. Presently staff supporting the program include a full time officer, trainers and administrative support that make up the 2.5 effective full time positions. In terms of customer satisfaction of the program and the frequency of trainer visits, respondents identified an overall level of satisfaction with the services and methods for delivering the program. Over 50 percent believed that an increase in resources to the program would allow more regular visits by trainers, almost 90 percent reported that if any additional resources were to be allocated it should go towards expanding Bushcare into the broader community.

In terms of environmental outcomes, the activities of Bushcare have resulted in demonstrable improvement in the quality of bushland as reflected through Council’s weed intensity surveys. Weed mapping occurs in each of the major catchments (Cowan Creek, Middle Harbour and Lane Cove River) every three years. The mapping uses a system developed by Ku-ring-gai Council that categorises the areas or parts thereof into one of four categories.

- Category 1 – less than 10% weeds present
- Category 2 – 10-30% weeds present
- Category 3 – 30-60% weeds present
- Category 4 – over 60% weeds present

Between 1996 and 2003 category 4 areas fell on average by 54.4% on bushcare sites. This improvement in condition not surprisingly shows a strong relationship to the collective hours spent by the volunteers at each site. At the sites established for some time, the condition is typically represented in the Category 1 or 2 weed condition, reflecting the secondary and maintenance regeneration occurring.

COMMENTS

The intent of the Bushcare strategy (included as attachment one to this report) is to recognise and respond to changing community expectations. This incorporates the natural environment, parks and open spaces, local landscapes and the need to protect private property at the bushland interface. For Council, community based environmental programs offer significant benefits not only to our landscape but also to the communities that are empowered by such programs and the resources they contribute which otherwise cannot be afforded.

The role of Bushcare in facilitating and responding to community change lies in its philosophy and systems that are a proven template for volunteer programs. This has included the development of systems and procedures such as databases to record site assessments, volunteers and the activities of the groups, insurance and risk management, education, responding to community needs by providing a 7 day a week program, running seminars, additional training, facilitating and supporting grant applications and matching funding and networking opportunities.

Bushcare is ideally placed to support and work in partnership with the emerging and proposed programs. Examples of these programs include Firewise, Adopt a Park and Street Care. Small scale trials of these programs will be undertaken this year as a component of the current Management Plan. However, funding these initiatives will become a significant issue in the near future as community interest and willingness to participate continues to grow. To overcome this, the programs must become more innovative with respect to service delivery and also seek other funding opportunities as discussed in the Finance section of this report.

CONSULTATION

This report and strategy has been written in consultation with the Ku-ring-gai Bushcare Association (KBA), the organisation representing Bushcare volunteers.

As part of the consultative process the draft policy will be referred to the KBA and Bushland, Catchments and Natural Areas Reference Group.

Complimenting this, the draft strategy will be placed on the Council's website and copies will be distributed to libraries and other Council distribution points. Details of the strategy will be incorporated within the Spring issue of the Bushcare News.

It is proposed that the consultative period extend to the 30 September 2004. After this it will be referred to Council final consideration and adoption.

FINANCIAL CONSIDERATIONS

In the report to Council of June 2003 it was decided by Council to support Bushcare at its current level of funding. Any future change to the budget was to be determined on the basis of the presentation of a strategic plan.

In the financial year 2000-2001 Bushcare's budget was \$216,000 with approximately 55 groups and 90 individual sites employing 3.5 full time positions. A series of organisation wide budget cuts were made in the preparation of the 2001/2002 budget. This resulted in a decrease of available resource for the program with some consequences for service delivery in that year. Several groups disbanded towards the end of the 2001/02 financial year. Council subsequently increased the budget to \$161,000 for 2003/04 which has allowed Council to meet current requirements. The 2004/05 budget has increased to \$168,000. Trial programs such as Backyard Buddies will be resourced from recurrent budgets. Further growth in these emerging programs will require consideration by Council in future budget and funding deliberations.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The Bushcare program relies heavily on the support offered it by the Natural Environment and Bushland Section within the Open Space Department.

Technical Services and Corporate Communications also provide vital assistance when required.

SUMMARY

Bushcare is a program that has redefined the way Council works with the community. It not only improves the environmental health of the local area but reconnects the community by engaging residents in volunteer work.

The existing program is relatively lean and cost effective. Compared to other similar Bushcare programs, Ku-ring-gai has the highest ratio of volunteers to staff. As the current budget allocation is only sufficient to maintain the current size and initiatives, there has been some consequence for promotion and growth of the program.

The Bushcare Strategy (Attachment 1) outlines how Bushcare can be used as a model for other community based volunteer programs. If Bushcare is to expand as a program as well as moving into these new areas, it is going to require greater financial input. Initiatives such as Community Firewise and Backyard Buddies will require funding for trainers and administration if the programs are to be viable.

RECOMMENDATION

- A. That Council receive and note the draft Bushcare Strategy.
- B. That the draft Bushcare Strategy be exhibited to seek comment.
- C. That the draft Bushcare Strategy be considered at the first meeting of the Bushland, Catchments and Natural Areas Reference Group.
- D. That resources to implement the draft Bushcare strategy and other expanded programs are considered further by Council.

Steven Head
Director Open Space

Peter Davies
Manager Sustainability &
Catchment Management

Peter Clarke
Bushland Supervisor
Volunteers

Attachments: 1. Bushcare Strategy

WEST PYMBLE SWIMMING POOL - MANAGEMENT LEASE - PREFERRED TENDERER

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to consider the appointment of a provider for West Pymble Pool Management Services
BACKGROUND:	Council recently undertook an Expression of Interest and selective tender process during April and May 2004 for the provision of Commercial Swimming Pool Management Services at West Pymble Swimming Pool. Four proposals were received and invited to tender. Two submissions were received by the due date, with one being received after the closing date and consequently not considered.
COMMENTS:	The existing contract with the current provider expires on 31 August 2004. An evaluation panel has undertaken a detailed assessment of the tender responses including site visits, interviews and reference checking and recommends acceptance of the preferred tenderer.
RECOMMENDATION:	That Mr & Mrs Martin be appointed to provide Commercial Swimming Pool Management Services for a period of three years with a further option of up to two years; the Mayor and General Manager execute all relevant documents and the common seal of Council be affixed to all documents.

PURPOSE OF REPORT

For Council to consider the appointment of a provider for West Pymble Pool Management Services.

BACKGROUND

On 9 March 2004 Council considered a report recommending a process for the selection and period of appointment for the provision of commercial swimming pool management services for West Pymble Swimming Pool. This report outlined the status and term of the existing contractual arrangement with the current provider and summarised previous reports considered by Council on this matter. The management services contract for West Pymble Pool is currently held by Mr. Ian and Mrs. Michele Martin.

Council's resolution is outlined below in full:

- A. That Council adopt Option 2 as outlined in the draft West Pymble Pool Business Strategy as its preferred direction for future management and development of the Pool.*
- B. That a detailed feasibility be considered for inclusion in the 2004/05 Management Plan including full financial analysis.*
- C. That Council acknowledge the efforts of those who have contributed to the development of the West Pymble Pool Business Strategy as outlined in the report.*
- D. That further analysis be undertaken of options and demand for an indoor swimming pool.*
- E. That a selective tender process be used for the selection of qualified companies or bona fide partnerships for the delivery of pool management services for a three year period commencing September 2004.*
- F. That at the conclusion of tender evaluation a further report be considered by Council with regards to the appointment of a suitable tenderer to undertake those works as tendered.*

The report also considered long term development options for West Pymble Pool following the development of a business strategy and public consultation. The strategy additionally proposed improvements to the range of services and products offered in the short to medium term whilst longer term planning of future facility development was being undertaken.

Accordingly the Invitation to Tender included the following recommendations from the business strategy:

- Providing additional health, fitness and community programs, particularly for young children, parents and older people.
- Review user fees and in particular consider a family pass, group pass, spectator benefits, reduced fees or trial vouchers for new programs.
- Enhancing the kiosk/café area.
- Consider the sale and distribution of merchandise.
- Introduce child care.
- Increase promotions.

It should be noted the strategy recognises that the facility itself has substantial limitations that make the efficient delivery and incorporation of some of these services and programs difficult.

Expression of Interest

An invitation for Expression of Interest for the provision of Pool Management Services for West Pymble Pool was advertised in the Sydney Morning Herald on 24 March 2004 for two weeks with a four week period for submissions.

A total of four submissions were received:

- Ian and Michele Martin
- Leisure Co
- Aquatic Performance Management
- Aquatic Leisure Management

Each Expression of Interest was assessed independently by a panel of three comprising the Acting Manager Parks, Sport and Recreation, Manager Revenue Accounting and an Open Space Technical Officer. The five selection criteria and relative weighting determined for assessment of the Expressions of Interest is outlined below:

1. Demonstrated experience in the provision of commercial swimming pool management (30%).
2. Proven track record within the commercial swimming pool industry (30%).
3. Demonstrated capacity to fulfill the required tasks (20%).
4. Evidence of innovative and/or successful management strategies and techniques relating to commercial swimming pool management (10%).
5. Indicative fees and charges and financial contribution to develop/upgrade of facility by operator and a subsequent profit share arrangement between the potential operators and Council (10%).

Table 1 provides a summary of the average score for each criteria and the combined total:

Selection Criteria (Weighting)	Ian & Michele Martin	Leisure Co	Aquatic Performance Management	Aquatic Leisure Management
1. Demonstrated experience in the provision of commercial swimming pool management (30%).	25%	25%	25%	26%
2. Proven track record within the commercial swimming pool industry (30%).	30%	25%	28%	29%
3. Demonstrated capacity to fulfill the required tasks (20%).	20%	20%	20%	20%
4. Evidence of innovative and/or				

successful management strategies and techniques relating to commercial swimming pool management (10%).	7%	5%	5%	7%
5. Indicative fees and charges and financial contribution to develop/upgrade of facility by operator and a subsequent profit share arrangement between the potential operators and Council (10%).	8%	10%	9%	10%
Total (100%)	90%	85%	87%	92%

Table 1: Average assessment of scores against the evaluation criteria in the Expression of Interest. .

Selective Tender:

From the Expression of Interest process, four potential providers were selected and invited to submit a tender to provide commercial pool management services at West Pymble Pool. These included:

- Ian and Michele Martin
- Leisure Co
- Aquatic Performance Management
- Aquatic Leisure Management

An Invitation to Tender was sent to the four service providers above on 5 May with a closing date of 27 May 2004.

The Invitation to Tender document sought to clarify the tasks required by the successful provider and provided financial information relating to fees and charges, attendance numbers and attendance at classes for the previous five years. The core tasks required at the pool facility include:

1. Manage the access to and use of the pool. In particular:
 - The swimming centre is to be made available to the general public
 - The swimming centre is to be made available to the Ku-ring-gai Amateur Swimming Club
 - The swimming centre is to be made available to schools and a timetable is to be supplied by the lessee to Council
2. Provision of qualified lifeguards (full compliance with the Royal Life Saving Society of Australia – “Guidelines for Safe Pool Operation”)
3. Manage behavior at the facility
4. Marketing and promotion
5. Service Support
6. Act as an interface between Council and users
7. At own cost to carry out operational and maintenance works associated with the facility
8. Clean, purify and operate the pool
9. Undertake water testing
10. Manage onsite kiosk

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11. Grounds Maintenance
12. The Lessee can sub-lease the Kiosk with Council consent.
13. Lost property service.
14. Collect Swimming Pool Development Levy on behalf of Council as, and if required.
15. Maintain and make any necessary improvements to the counter, Kiosk area and outdoor eating area to ensure that all areas comply with Council's food handling regulations.

In addition to the above tasks, the new contract also requires the following additional service be provided:

1. Implement a Risk Management Plan for the site.
2. Pursue options for enhancing facility amenities and services.
3. Develop strategies in consultation with Council to sustainability increase attendance levels.
4. Complete and comply with Council's Contract Risk Management Procedures.
5. Provision of a detailed Business Plan.

COMMENTS

In assessing tenders, the following weighted criterion was used:

1. Demonstrated capacity to fulfill the required tasks as identified in this invitation to tender package (30%).
2. Evidence of innovative management strategies and techniques relating to commercial swimming pool management (20%).
3. Scope and capacity to increase community use of the site, provide a greater range of services, while maintaining the existing provision as outlined in the tender document (20%).
4. The capacity to initiate services on commencement of the contract (10%).
5. Indicative fees and charges and financial contribution to development/upgrade of facility by operator (10%).
6. Scope and capacity to deliver a subsequent profit share arrangement between the potential operations and Council (10%).

On 25 May 2004 at the opening of tenders, two tenders had been received by Council. Those received were from:

1. Ian & Michele Martin
2. Aquatic Leisure Management

A further submission received by Council on 28 May 2004 was not considered as it was received by Council well after the closing date. The respondent was informed that their tender could not be considered.

The two conforming tenders have been evaluated by a tender panel comprising of four people, Acting Manager Parks, Sport and Recreation, Manager Revenue Accounting, Open Space Technical Officer and an independent nominee from Spencer Steer Chartered Accountants.

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A comprehensive evaluation process has been undertaken by the panel in determining the most suitable provider of pool management services to Council. The process of evaluation has included analysis of the tender responses, clarification site visits, interviews of the respondents by the panel, financial analysis including analysis of the application of proposed fees and charges and referee checking.

A summary of the tender panel's evaluation of both tenders is contained below:

Aquatic Leisure Management (ALM)

- well presented and comprehensive tender submitted
- good aquatic management knowledge demonstrated in reference to Occupational Health and Safety and Risk Management
- strong qualifications, skills and experience of key personnel
- good experience in similar projects, including local government
- generally a premium attached to fees
- interested in site improvements and development
- annual management fee payable to Aquatic Leisure Management
- potential income returns to Council
- certain operational costs to be borne by Council
- strong marketing program

Ian and Michele Martin

- little change in current fee structure minimising the impact of price considerations on the community
- less detail provided in tender response to expand on business plan and risk management but costings are realistic and there is a high degree of certainty in place for Council.
- good experience at the current location (pool operators for 20 years)
- expressed interest in site improvement and development in conjunction with Council
- no management fee
- strong customer focus

A copy of the tender evaluation committee's report is Attachment 4 of the confidential attachments to this report as the information in the report and associated attachments contains information which is regarded as commercial in confidence.

The Tender Evaluation panel have recommended that Council identify Mr. and Mrs. Ian and Michele Martin as the preferred tenderer to provide commercial swimming pool management services at West Pymble Pool for a 3 year term with an option of up to 2 years commencing 1 September 2004.

CONSULTATION

Development of the Expression of Interest and Invitation to tender has followed the direction outlined in Council's Pool Business Strategy which was developed with considerable input from the community including key stakeholders of the facility.

FINANCIAL CONSIDERATIONS

A key outcome sought by this tender is to provide enhanced service provision to the community, reduce Council's subsidy over the term of the new lease and improve specific aspects of the facility, i.e. kiosk re-fit, develop outside eating areas with a larger, healthier menu offered to both facility and general park users.

The tender panel undertook detailed financial assessment of the proposals. Confidential Attachment 1 outlines a financial comparison of both tenders by the evaluation panel and Confidential Attachment 2 outlines additional financial details relating to the preferred tenderer. Confidential Attachment 5 provides a further assessment by the Director of relevant financial matters.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Open Space and Finance and Business Development staff were involved in the development and assessment of the Expression of Interest and Invitation to tender and assessment of the financial models and business planning.

DIRECTOR'S COMMENTS

In addition to previously undertaken improvements at the Pool including shade structures and the club room, Council has over recent years increased its focus on this asset. A program of significant capital improvements to the existing asset has commenced and longer term planning for the future development of the facility is underway.

Following examination of the tenders and having reviewed the process undertaken by staff in managing the Tender and their recommendation, I am satisfied that the evaluation has sufficiently investigated the proposals and recommended a tenderer capable of delivering the required tasks.

The Director's recommendation contains only minor variation to those of the evaluation panel.

SUMMARY

The West Pymble Pool represents one of the most valuable community assets of Council. Whilst the business strategy for the pool sets a long term direction for the range of facilities offered, this tender seeks to further improve the range of services offered within the pool's current context.

A selective tender process has been completed following initial expressions of interest. Two responses to the Invitation to Tender have been considered. It is recommended by the Tender Assessment Panel and upheld by this report that Mr. & Mrs. Martin are the preferred tenderers. Consistent with the tender and their response, it is considered that post tender, further meetings be

scheduled to progress the development of the kiosk for the benefit of the community and return to Council.

RECOMMENDATION

- A. That Mr. Ian and Mrs. Michele Martin be appointed to provide the commercial swimming pool management services for West Pymble Pool commencing 1 September 2004 in terms consistent with the Invitation to Tender, the tender response and those matters outlined in this report.
- B. That the period of the contract be for a period of three years with a further option of up to two years with the agreement of both parties.
- C. That the Mayor and General Manager be authorised to execute all necessary documents relating to the contract.
- D. That the common seal of Council be affixed to all necessary documents.
- E. That all tenderers be informed of Council's decision.

Steven Head
Director Open Space

Attachments:

- 1. Financial Comparisons (Confidential)**
- 2. Preferred Tenderer Financial Options (Confidential)**
- 3. Tender Evaluation and Panel Memorandum (Confidential)**
- 4. Tender Assessment Panel (Confidential)**
- 5. Financial Considerations (Confidential)**