



**ORDINARY MEETING OF COUNCIL  
TO BE HELD ON TUESDAY, 22 SEPTEMBER 2009 AT 7.00PM  
LEVEL 3, COUNCIL CHAMBERS**

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

**APOLOGIES**

**DECLARATIONS OF INTEREST**

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

**ADDRESS THE COUNCIL**

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

**DOCUMENTS CIRCULATED TO COUNCILLORS**

**CONFIRMATION OF MINUTES**

**Minutes of Ordinary Meeting of Council**  
File: S02131  
Meeting held 8 September 2009  
Minutes numbered 165 to 180

## MINUTES FROM THE MAYOR

### PETITIONS

### GENERAL BUSINESS

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

#### GB.1 **Delegation of Authority - Mayor & Deputy Mayor - 2009/2010** **1**

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File: CY00259

For Council to give consideration to granting Delegations of Authority to Mayor and Deputy Mayor.

##### **Recommendation:**

That the Delegations of Authority as set out in Attachment A be granted to the Mayor, Councillor I Cross and to the Deputy Mayor, Councillor J Anderson as set out in Attachment B.

#### GB.2 **Introduction of Library Overdue Fees** **6**

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File: S02130

To provide Councillors with a summary of the comments received following the 28 day exhibition period of the proposed fees and charges for overdue library materials.

##### **Recommendation:**

That Council approve the introduction of fees for overdue library items from December 2009, at 20 cents per day per item, with an upper limit of \$12.00 per item and that a report containing details about the implementation of overdue fees come back to Council following a 12 month period.

**GB.3 Investment Report as at 31 August 2009 21**

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File: S05273

To present to Council investment allocations and returns on investments for August 2009.

**Recommendation:**

That the summary of investments and performance for August be received and noted. That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

**GB.4 9 Bruce Avenue, Killara - Modification of DA0983/05 Proposing Landscaping Changes, Internal Layout Modification, Changes to Roof Design & Hours of Construction 39**

.  
File: MOD0054/09

Ward: Gordon  
Applicant: Drew Dickson Architects P/L  
Owner: Bruce Avenue Pty Ltd

To determine development application No.MOD0054/09, which seeks consent for proposed landscaping changes, internal layout modification, changes to roof design and hours of construction.

**Recommendation:**

Approval.

**GB.5 35 to 45 Water Street, Wahroonga - Part 3A Application for a Hospital Facility - Supplementary Report 92**

.  
File: S07617

To refer the matter back to full Council for determination as to whether or not Council wishes to endorse the supplementary report(s) for inclusion in Council's submission to the NSW Department of Planning in respect of the Part 3A application for 35 Water Street, Wahroonga in accordance with Council's resolution of 28 July 2009.

**Recommendation:**

That Council resolves whether it wishes to endorse the supplementary report by Dr Smith for inclusion in its submission to the Department of Planning on the Part 3A application for 35 Water Street, Wahroonga.

GB.6 **1 Elegans Avenue, St Ives - Section 82A Review of Council's Refusal of DA1326/08 Proposing Dual Occupancy Development** 160

.  
File: REV0015/09

Ward: St Ives

Applicants: Mr Kenneth Scannell & Mrs Shirley Ann Scannell

Owners: Mr K & Mrs S A Scannell

To review the refusal of Development Application No.1326/08, which sought consent for a dual occupancy development comprising of the demolition of existing swimming pool and associated structures and construction of a new detached three (3) storey dwelli

**Recommendation:**

Refusal.

GB.7 **763 Pacific Highway, Level 1, Gordon - Change of Use to Brothel & Associated Fit-Out** 199

.  
File: DA0423/09

Ward: Gordon

Applicant: Asia Aroma Pty Ltd

Owner: Mr Gaetano Zofrea & Mrs Sarafina Zofrea

To determine development application No.0423/09 which seeks consent for the change of use of the premises to a brothel and associated fit-out works.

**Recommendation:**

Refusal.

GB.8 **Annual Tender for Supply, Supply & Delivery & Supply, Delivery & Laying of Asphaltic Concrete** 240

.  
File: S05465

To seek Council's approval to accept the NSROC tender for the schedule of rates for the supply, supply and delivery and supply, delivery and laying of asphaltic concrete, including the associated road profiling and heavy patching works as well as thin wearing and intermediate surfacing and bituminous crack sealing of road pavement for the period 2009/10.

**Recommendation:**

That the tender rates be accepted, tenderers be advised of Council's decision and that the Common Seal be affixed to the contract.

## **EXTRA REPORTS CIRCULATED AT MEETING**

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

#### **NM.1 Commence Negotiations to Acquire 12 Woonona Avenue, Wahroonga 246**

.  
File: S07257

##### **Notice of Rescission from Councillor T Hall, C Hardwick & E Malicki dated 8 September 2009**

"We, the undersigned, hereby rescind the resolution (Minute No OMC176 of 8 September 2009) to commence negotiations to acquire 12 Woonona Avenue, Wahroonga for open space in the terms discussed."

#### **NM.2 Indoor Sport Centre Potential Sites 247**

.  
File: S04066

##### **Notice of Motion from Councillor J Anderson dated 14 September 2009**

I move that:

- "1. The General Manager provides a list to Council of all Council-owned and Council managed sites which could physically accommodate, in size terms, an indoor sports centre.
2. That the list of suitable sites not be assessed beyond the size of total land area and does not disregard any site on the basis of current usage, which may be incorporated into any re-development."

#### **NM.3 Book on Ku-ring-gai's Aboriginal History & Culture 248**

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File: S02581

##### **Notice of Motion from Councillor J Anderson dated 14 September 2009**

I move that:

- "1. The General Manager provide a report to Council on the potential for Council to commission the writing of a book on Ku-ring-gai's Aboriginal history and culture prior to European settlement and through to the present day.

2. The report include information on grants that may be available to assist in the funding of such a book."

## **BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 241 OF GENERAL REGULATIONS**

## **QUESTIONS WITHOUT NOTICE**

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

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

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

### **Section 79C**

#### *1. Matters for consideration - general*

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

##### *a. The provisions of:*

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

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

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

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## MAYORAL MINUTE

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### DR BRENDAN NELSON

As Councillors would be aware, our long-serving Federal Member for Bradfield, Dr Brendan Nelson, has resigned from Parliament to take up a major diplomatic posting as Ambassador to the European Communities, Belgium and Luxembourg and Australia's representative at the North Atlantic Treaty Organisation and World Health Organisation.

I seek your support in this Mayoral Minute for Council to formally thank and congratulate Dr Nelson for the enormous contribution he has made to our community as the Member for Bradfield – and also to wish him well in his new roles.

He has been a very hard-working and energetic Member of Parliament, giving Council great support on many major issues including our continuing efforts to protect Ku-ring-gai from over-development.

Dr Nelson was instrumental in obtaining Federal funding towards the acquisition of the last remaining piece of privately-owned land in the Dalrymple Hay/Browns Forest Blue Gum High Forest nature reserve in St Ives.

He also played a vital role in helping to establish the Ku-ring-gai Youth Development Service at Lindfield Library, a ground-breaking initiative that is doing great work in turning around the lives of troubled youth in our area.

Dr Nelson has managed to devote considerable time and effort to his local community despite performing extremely demanding duties as a senior Minister in the former Howard Government and more recently as Opposition Leader.

This experience at the highest levels of government, and his work as a General Practitioner and president of the Australian Medical Association before he entered Parliament, will obviously be of great value in his new role as an ambassador and also as Australia's representative to NATO and the World Health Organisation.

### RECOMMENDATION

That, on behalf of Council, the Mayor write to Dr Nelson thanking him for his contributions to the Ku-ring-gai community, and wishing him and his family well.

Cr Ian Cross  
Mayor

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## PETITION

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### **SUPPORT PRESERVATION OF SURGEON WHITE RESERVE, ST IVES & OPPOSE REDEPLOYMENT OF SITE INTO AN ACTIVE SPORTSGROUND (NINE HUNDRED & THIRTY-FOUR [934] SIGNATURES)**

**The undermentioned Petition was presented by Councillor Tony Hall:**

"We, the undersigned, support the preservation of Surgeon White Reserve, St Ives and strongly oppose the redeployment of the site into an active sportsground. We call for the Council to delete this option from the planning agenda."

### **RECOMMENDATION**

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



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## DELEGATION OF AUTHORITY - MAYOR & DEPUTY MAYOR - 2009/2010

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

For Council to give consideration to granting Delegations of Authority to Mayor and Deputy Mayor.

**BACKGROUND:**

It has been Council's practice to delegate some additional functions to the Mayor and Deputy Mayor.

**COMMENTS:**

These functions are practical delegations which assist the smooth functioning of the Mayoral office.

**RECOMMENDATION:**

That the Delegations of Authority as set out in Attachment A be granted to the Mayor, Councillor I Cross and to the Deputy Mayor, Councillor J Anderson as set out in Attachment B.

## PURPOSE OF REPORT

For Council to give consideration to granting Delegations of Authority to Mayor and Deputy Mayor.

## BACKGROUND

The Mayor's role is set out in Section 226 of the Act, which states:

*To exercise, in case of necessity, the policy-making functions of the governing body of the Council between meetings of the Council;*

*To exercise such other functions of the Council as the Council determines;*

*To preside at meetings of the Council;*

*To carry out the civic and ceremonial functions of the Mayoral office.*

It has been Council's practice to delegate some additional functions to the Mayor and Deputy Mayor.

## COMMENTS

These functions are practical delegations which assist the smooth functioning of the Mayoral office.

## CONSULTATION

Not applicable.

## FINANCIAL CONSIDERATIONS

Not applicable.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

## SUMMARY

Not applicable.

## RECOMMENDATION

That the Delegations of Authority as set out in Attachment A be granted to the Mayor, Councillor I Cross and to the Deputy Mayor, Councillor J Anderson as set out in Attachment B.

John McKee  
**General Manager**

**Attachments:**      **A. Delegation of Authority - Mayor - 671328**  
                             **B. Delegation of Authority - Deputy Mayor - 671329**

## **DELEGATION OF AUTHORITY – MAYOR**

That, in addition of the role referred to in Section 226 of the Local Government Act 1993 and by authority of Section 377 of the Local Government Act 1993 and subject to compliance with any other requirements of the Local Government Act or Regulations and expressed Policy of the Council or regulations of any public authority concerned other than the Council, the Mayor, Councillor Ian Cross be and is hereby authorised to exercise or perform on behalf of the Council, the following powers, authorities, duties and functions, and that such delegations shall remain in force unless otherwise revoked or amended in whole or in part, as Council may from time to time determine:

### **1. Donations**

To approve donations up to the sum of \$250 subject to Council being informed of any such decision, provided that funds are available within the sum voted by Council for donations in the adopted Management Plan.

### **2. Mayoral Reception**

To authorise expenditure for minor civic receptions for visitors up to a maximum of \$500 for any one reception provided that funds are available within the sum voted by Council in the adopted Management Plan.

### **3. Temporary General Manager during General Manager's Leave**

In accordance with Section 351(1)(a) of the Local Government Act, the Mayor be given the authority to appoint, after consultation with the General Manager, a temporary General Manager, during the absence of the General Manager on leave.

### **4. General Manager – Leave**

Authority to approve applications for holidays and leave of absence to the General Manager.

## **DELEGATION OF AUTHORITY – DEPUTY MAYOR**

The Deputy Mayor may exercise any function of the Mayor at the request of the Mayor or if the Mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of Mayor.

That the Deputy Mayor shall exercise the Delegation of Authority of the Mayor in those cases where the General Manager certifies that the matter is of such an urgent nature that it will not wait until the return of the Mayor.

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## INTRODUCTION OF LIBRARY OVERDUE FEES

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### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	To provide Councillors with a summary of the comments received following the 28 day exhibition period of the proposed fees and charges for overdue library materials.
<b>BACKGROUND:</b>	A report recommending the introduction of library overdue fees was deferred by Council on 9 June 2009 for comment by the Community Reference Committee. The Community Reference Committee unanimously supported the introduction of overdue fees in all libraries at its meeting of 1 July 2009. Council then resolved on 28 July 2009 to place the proposed fees on public exhibition for 28 days.
<b>COMMENTS:</b>	Council received 38 submissions commenting on the introduction of library overdue fees during the exhibition period.
<b>RECOMMENDATION:</b>	That Council approve the introduction of fees for overdue library items from December 2009, at 20 cents per day per item, with an upper limit of \$12.00 per item and that a report containing details about the implementation of overdue fees come back to Council following a 12 month period.

## PURPOSE OF REPORT

To provide Councillors with a summary of the comments received following the 28 day exhibition period of the proposed fees and charges for overdue library materials.

## BACKGROUND

A report (Attachment 1), recommending the introduction of library overdue fees was deferred by Council on 9 June 2009 for comment by the Community Reference Committee (Attachment 2). The Community Reference Committee unanimously supported the introduction of overdue fees in all Council libraries at its meeting of 1 July 2009 (Attachment 3).

At the General Committee Meeting of Council on 28 July 2009, Council resolved as follows:

- A. That Council propose the introduction of fees for overdue library items at 20 cents per day per item with an upper limit of \$12.00 per item.
- B. That these fees be placed on public exhibition for a period of 28 days.
- C. That a report come to a full Council meeting following the exhibition period, for formal consideration of overdue fees for library materials,
- D. That a report be returned to Council after twelve months of the fines system, to identify the rates of return of items, the fees collected and, the total number of overdue items.

## COMMENTS

The exhibition period for the proposed library overdue fees was from 6 August to 3 September 2009.

Council received 38 submissions commenting on the introduction of library overdue fees during the exhibition period. 19 submissions clearly supported the introduction of library overdues and 9 opposed or disagreed. The remaining 10, while they didn't necessarily disagree with the introduction of fees, offered suggestions for improving the library service.

The 19 submissions that supported the introduction of overdue fees cited issues such as equity, fairness and availability of items as obvious advantages of introducing overdue fees. Other points raised referred to:

- Increasing the fee to 50 cents per day, per item, plus an annual subscription fee.
- Removal of the \$12 maximum, with the fine accruing to full replacement cost.
- Fees collected be channelled back to the library budget.
- Introduction of a grace period before overdues are charged.
- Loans and reservations restricted until fee is paid.

Comments included:

- "Finally a fee system for overdue books! I applaud the Council for taking steps to put this in place".

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- "With regard to the proposed fees for overdue books I think this is only fair and hope to see the idea introduced".
- "Introducing a late fee sounds great, maybe this will make people return books on time, as there are times when you need a book and it has not been returned to the library on time".
- "I was amazed that there were no late fees charged.... there is nothing more annoying than searching the catalogue for a particular book only to see that it's late back – sometimes by years!...I'm sure the introduction of fees will make both my family and many more residents return their books on time".
- "Fees for overdue items from the library places the responsibility back onto the lenders who receive great support from your staff in the libraries".
- "I support the proposal by Council to introduce library fines. It should lead to more equitable use of books and other items available for loan".
- "Fairness to all members of your libraries is the answer!".

The 9 submissions that opposed the introduction of overdues, provided a number of reasons for doing so, these included:

- Disadvantages for elderly customers due to difficulties in getting to the library to return items on time.
- 20 cents per item per day was excessive.
- Difficulties for staff through extra stress and additional workload associated with collecting money.
- Impact of fees on less wealthy customers.
- Concerns about staff error in not discharging items which have been returned.
- Open all branches more often and increase parking spaces so items can be returned more easily.

The following comments have been taken from the submissions that oppose the introduction of library overdues:

- "Most people do not forget on purpose. They are simply remiss".
- "Many older people are unable to travel to libraries on time".
- "On several occasions I have been told I have an overdue book when in fact the book has not been entered back into the computer system as returned by the librarians. I have had to go and find the book on the shelves to prove this".
- "Everyone forgets once and a while about the due date of an item, and it is wonderful to have this small period to renew".
- "Another reason for concern about this proposal is the number of elderly in the area.....a segment which would be disadvantaged by this system. They may find to physically get to the library to return items... find it more difficult to renew on-line, and there is no phone renewal service".
- "I would rather that the library generated email reminders for late books than impose a fine".
- One submission also lists 'life changing' events such as children with chicken pox, admissions to hospital, dementia, and childbirth as reasons why library items may be overdue.

There were 10 submissions that did not provide a clear indication of either supporting or not supporting the proposal, rather, they offered suggestions for improvement to the library service, and in particular, ideas about how best to implement overdue charges.



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These submissions also included borrowers past experiences with regard to overdue items, and suggestions of how to ensure such experiences would not be repeated again, especially if overdue charges were introduced.

The main message received from this group was that if overdue charges were introduced, a grace period should be given between the date due and the commencement of charging for overdue items. Staff have indicated that this would be possible, and are including a grace period of 3 days in the draft operations manual.

Another suggestion was the use of email to inform borrowers when their items were due, before overdue charges commence. Staff are also investigating this option with SPYDUS and IT staff. Regardless of whether this initiative is introduced, borrowers will continue to be provided with a list of items borrowed and the date due, at the time of issue of the loan.

A small number of these submissions expressed concern for the staff and an anticipated additional workload associated with collecting money for overdue items. This matter will be monitored and measures taken should the collection of money become a significant issue for staff.

Other submissions in this category have commented on the opening hours of the libraries, and have requested the opening hours be extended, also there have been requests for additional parking for disabled people and people with young children.

A draft library procedures manual is currently being developed by senior library staff. The procedures to be introduced in the manual will address a number of the concerns raised by the objectors, some of which had already been identified by staff. They include:

- Library staff will have the capacity to waive overdue items in special circumstances.
- Borrowers can renew material by phone.
- Loan periods can be extended providing material is not on reservation.
- Introduction of a grace period of three days.
- Emailed automatic reminders for items to be sent on the date the item becomes overdue. Currently only 29% of customers have provided current email addresses however the library will promote an increase of customers providing email addresses through an education campaign for the overdue fees. The concept will be on a 'help us to help you' basis. Normal hard copy overdue notices will be sent after 10 days as is the current practice.
- Borrowers will be able to renew their loans before they become overdue.

It is anticipated the introduction of overdue fees will come into effect in December following an education and information campaign during the month of October, followed by an amnesty throughout the month of November.

- Information and promotion will involve:
  - Flyers and posters.
  - Messages on date due slips.
  - 'On hold' recorded telephone messages.
  - Webpage.
  - Alterations to customer registration forms and information booklets.

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- Overdue fees brochure.
- Training for permanent and casual staff will be conducted In September and October. The training will cover:
  - Overdue fees procedures.
  - Spydus training.
  - Bear Solutions training.
  - Dealing with difficult customers.
  - Claims returned processes and claims returned searches.
  - Money handling.
  - Proclaim training for supervisors.

It is anticipated the introduction of overdue charges will commence in December 2009.

## CONSULTATION

The proposal to introduce overdue charges was referred to the Community Reference Committee on 1 July 2009 and was supported unanimously by the members. Council placed the proposal on public exhibition for 28 days and received 38 responses.

Staff have been consulted about the proposal and have held a number of workshops to develop draft procedures for the implementation of overdue charges.

An information/education campaign has been planned for the month of October in conjunction with an amnesty period throughout November.

## FINANCIAL CONSIDERATIONS

There are no financial implications associated with this report.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

No other departments have been consulted in the writing of this report.

## SUMMARY

Council initially referred a report recommending the introduction of overdue charges in the library to the Community Reference Committee. The Community Reference Committee unanimously supported the recommendation. Council resolved to place the draft fees and charges on public exhibition for 28 days. 38 submissions were lodged with 19 agreeing with the proposal, 10 unsure and 9 opposing the proposal.

Library staff have held workshops to develop specific procedures for the implementation of overdue fees which will address the majority of concerns expressed by those objecting to the proposals.

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It is recommended that an education and information period of one month be conducted, along with a month long amnesty in November, prior to the introduction of charges for overdue items in December 2009.

**RECOMMENDATION**

- A. That Council approve the introduction of fees for overdue library items from December 2009, at 20 cents per day with an upper limit of \$12.00 per item.
- B. That a report come to Council, following a 12 month period of charging for overdue library materials, containing details about rates of return of items, the fees collected and the total number of overdue items.

Ray Amos  
**Manager Library Services**

Janice Bevan  
**Director Community**

**Attachments:**

- 1. Original Report to Council held 9 June 2009 - 2009/083857**
- 2. Council Resolution Minute No 108 9 June 2009 - 2009/083969**
- 3. Community Reference Committee Minutes of 1 July 2009 - 2009/128175**

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## INTRODUCTION OF LIBRARY OVERDUE FEES

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To obtain Council's approval for the introduction of fees and charges for overdue library materials.

**BACKGROUND:**

Overdue fees have not been introduced to date, at Ku-ring-gai libraries, as in past years library materials have generally been returned on time. Over the last 4 to 5 years however, there has been a steady rise in the number of outstanding library materials – currently there are 10,447 items overdue from Ku-ring-gai libraries, with an average overdue period of 73 days.

**COMMENTS:**

The introduction of fees for overdue library materials would result in a more equitable system for the circulation of all materials, as overdue fees would encourage people to return items on time, thus providing greater variety and more choice of materials for all library users. The introduction of fees for overdue materials would also contribute to the reduction of the overall number of materials that are withdrawn by the library annually, due to their non return.

**RECOMMENDATION:**

That Council approve the introduction of fees for overdue library items at 20 cents per day per item, with an upper limit of \$12.00 per item, and that these charges be placed on public exhibition for a period of 28 days.

## PURPOSE OF REPORT

To obtain Council's approval for the introduction of fees and charges for overdue library materials.

## BACKGROUND

Overdue fees have not been introduced to date, at Ku-ring-gai libraries, as in past years library materials have generally been returned on time. Over the last 4 to 5 years, however, there has been a steady rise in the number of outstanding library materials - currently there are 10,447 items overdue from the Ku-ring-gai libraries, with an average overdue period of 73 days.

Ku-ring-gai Council is the only local government authority on the North Shore that does not charge overdue fees through its libraries, with Willoughby Council introducing overdue fees in 2006. The majority of the metropolitan and country councils also charge overdue fees.

## COMMENTS

It is permissible under the Library Act 1939 and Regulations for Public Libraries, to charge fees for items on loan to the public which are overdue.

The introduction of fees for overdue library materials would result in a more equitable system for the circulation of all materials, as overdue fees would encourage customers to return items on time, thus providing greater variety and more materials for all library users to choose from.

The advantages to the community when library items are returned within the designated time period include:

- A higher turnover of popular materials ensuring more equitable access to items if they are regularly returned
- A greater number and variety of items available to be borrowed at any given time
- Staff are able to exercise quality control over library materials - an item's condition can be assessed on a more regular basis, thus ensuring that items in good condition will continue to be available
- Return on investment - if an item is purchased for say \$60.00, it is not unreasonable that the library would expect a substantial number of people to borrow that item for the prescribed loan period, rather than only one or two people borrow it for an extended, or overdue, period of time.

Additionally, the introduction of overdue fees would also assist library staff to better facilitate the use of materials as:

- Overdue fees will set ground rules for borrowers in the form of a framework for borrowing which also enhances to the 'professional' management profile of the library
- Overdue fees discourage people from borrowing items and not returning them
- Overdue charges are an acceptable and common world wide library practice

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There are currently 10,447 items overdue from the Ku-ring-gai libraries, with the average overdue period being 73 days. Without overdue fees, there is no real inducement for customers to return these library items by the due date, other than a general sense of responsibility to abide by the rules of the library.

The introduction of a fee for overdue materials would not only assist in addressing this high incidence of overdue items, it would also help to reduce the total number of library materials that are not returned, and need to be eventually replaced in the collection.

The possible introduction of library overdue charges has been discussed on a number of occasions over the past 10 years, however the comparatively low number of outstanding items alone, did not seem a significant enough reason to proceed with this measure. Recently however, an additional factor, the cost of fees and associated recovery costs for library materials, has also increased. This has prompted a rethink of the introduction of overdue fees.

Currently there is approximately \$9,000 outstanding in library processing and recovery costs, and processing and recovery fees to the value of approximately \$28,000, have been written off this financial year.

The introduction of fees for overdue library items will also result in an additional source of revenue. It is estimated that approximately \$50,000 income is achievable per annum, if overdue fees are introduced.

The current loan period for library materials is 28 days. It is anticipated a 3 day grace period, following this loan period of 28 days, be applied before the commencement of overdue charges occur.

Overdue fees, if introduced, would be calculated automatically through the Library's Computer System, Spydus, which can also be modified to calculate fees and mail out appropriate overdue notices.

It is proposed that Ku-ring-gai libraries adopt an overdue charge of 20c per circulating item per day with a \$12.00 maximum fee per item - the overdue fee most commonly used by adjoining councils. This charge would be one familiar to many existing borrowers who also use neighbouring libraries, the 20c per circulating item per day charge is used by Willoughby, Lane Cove, North Sydney, and Hornsby libraries.

Library services from surrounding councils have provided the following information about their current practices in charging overdue fees and their comments are summarised as follows:

**Hornsby Shire Library and Information Service**

This library serves 157,000 residents and has charged overdue fees for at least 15 years. Their fees are charged at 20c per day per item up to a maximum of \$16.80 per item. The loan period is 4 weeks which is followed by 2 day's grace with the overdue fine commencing on the 3<sup>rd</sup> day. The income from overdue fees is amalgamated with other charges such as reserving items so an accurate income is not available. The total income is approximately \$137,000 with an estimated income for overdue fees being in the vicinity of \$100,000

**Lane Cove Library**

Lane Cove Library serves 32,000 residents and fees have been charged for overdue items for quite some time, at least prior to 2000. The fees are charged at 20c per day per item up to a maximum of \$20.00. Lane Cove's income from overdue fees is amalgamated with charges for reserving items

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so an accurate income is not available. However around \$37,000 is collected in a ratio of 2:1 (overdue fees/reservations), resulting in some \$24,000 collected for overdue fines.

**Ryde Hunters Hill Library Service**

This library serves 114,000 residents and has charged overdue fees for at least 11 years. Overdue fees are charged after 1 week and include a \$5.00 notification fee, with all overdue items for the borrower included on the first notice irrespective of the number involved. If the item(s) are still overdue, each week thereafter, an overdue fee of \$2.50 per item per week is applicable without a maximum upper limit. There has not been a maximum upper limit for the last 4 years. The library's income from overdue fees is around \$50,000 pa.

**Willoughby City Library**

Willoughby City Library serves 65,000 residents and Council introduced overdue fines in 2006. The overdue fines are charged at 20c per day per item up to a maximum of \$12 per item. Their income is estimated at \$55,000 for 2009-10.

A recent survey has advised that metropolitan libraries that do not charge overdue fees (3 libraries in total from those that responded), generally have a high migrant population and/or a high level of social disadvantage.

**CONSULTATION**

It is anticipated that, should Council approve the introduction of overdue fees, an awareness program be conducted prior to fees being introduced. It is suggested that an advertising period of 6 to 8 weeks before the fines are introduced would be appropriate. This would also allow library staff to explain the proposed changes to library borrowers.

**FINANCIAL CONSIDERATIONS**

The cost to customise the library system, (Spydus) to generate overdue letters and to calculate fees would be approximately \$2,000.

It is difficult to estimate possible income which would be generated from the introduction of overdue fees in Ku-ring-gai, however, based on population, the income from other libraries in the region, plus the number of items currently overdue, an estimate of \$40,000-\$50,000 per annum, could be achieved.

**CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

Corporate Department has been consulted during the writing of this report.

**SUMMARY**

The charging of fees for overdue library items is common practice within the majority of public libraries, and is permissible under the Library Act 1939.

Item 4

**S02130**  
**1 June 2009**

The combination of a steady increase in the number of overdue library materials over a number of years, plus an increase cost to Council in the recovery processes associated with overdue items has prompted the need to examine the introduction of a fee for overdue library materials.

It is anticipated that, by introducing a fee for overdue materials, more items will be returned within the specified loan period, thus ensuring a more equitable system for all library customers. Higher levels of circulation of materials will also allow staff greater opportunity to assess the condition of items, resulting in increased cost benefits to Council, and a more effective use of Council's assets.

The introduction of library overdue fees also represents an additional source of revenue for Council.

## RECOMMENDATION

- A. That Council approve the introduction of fees for overdue library items at 20c per day per item with an upper limit of \$12.00 per item.
- B. That the fees and charges for overdue library materials be placed on public exhibition for a period of 28 days.
- C. That if submissions objecting to the fees and charges are received during the exhibition period, a report come to Council including the submissions.
- D. That if no objecting submissions are received during the exhibition period, the abovementioned fees and charges be introduced by 30 September 2009.

Ray Amos  
**Manager Library Services**

Janice Bevan  
**Director Community**



## RESOLUTION OF ORDINARY MEETING OF COUNCIL

09 JUNE 2009

### 108 Introduction of Library Overdue Fees

File: S02130

To obtain Council's approval for the introduction of fees and charges for overdue library materials.

#### **Resolved:**

(Moved: Councillors Keays/Cross)

That this matter be referred to the Community Committee for comment and report back to Council.

*For the Resolution:                      The Mayor, Councillor E Malicki, Councillors  
Holland, Keays, Szatow, Anderson, Cross &  
McDonald*

*Against the Resolution:              Councillors Duncombe, Hall & Hardwick*

*The above Resolution was CARRIED as an Amendment to the Original Motion.*

*The Original Motion was:*

*(Moved: Councillors Hall/Hardwick)*

- A.    That Council approve the introduction of fees for overdue library items at 20c per day per item with an upper limit of \$12.00 per item.*
- B.    That the fees and charges for overdue library materials be placed on public exhibition for a period of 28 days.*
- C.    That if submissions objecting to the fees and charges are received during the exhibition period, a report come to Council including the submissions.*
- D.    That if no objecting submissions are received during the exhibition period, the abovementioned fees and charges be introduced by 30 September 2009.*



## COMMUNITY REFERENCE COMMITTEE

*Ante Room, Level 3, 818 Pacific Highway, Gordon*

*Wednesday 1 July 2009 3.30pm*

### Minutes

<b>Present:</b>	<b>Name</b>	<b>Position</b>
	Cr Elaine Malicki - Mayor	Chairperson
	Cr Rakesh Duncombe	Guest Speaker
	Cr Tony Hall	
	Cr Elise Keays	
	Janice Bevan	Director Community
	Ray Amos	Manager Library Services
	Danny Houseas	Manager Community Development
	Sue Davies	Minutes
	Anne Barry	
	Philippa Bean	
	Matthew Cannon	
	Ivan Cribb	
	Joyce Cribb	
	Don Durie	
	Morrison Hammond	
	Tarlock Kudhail	
	Paul Lepp	
	Margie McCrae	
	Kalyan Ram	
	Samantha Williamson	
	Miguel Andrade	
<b>Apologies:</b>	Cr Cheryl Szatow	Deputy Chairperson

1. Cr Malicki, Chairperson, opened the meeting by introducing the Community staff members and welcomed everyone to the meeting and gave a brief outline of the type of matters the committee could be discussing at future meetings.
2. Janice Bevan distributed copies of the Community organisational chart to the committee members and provided a short overview of the department's responsibilities. Danny Houseas and Ray Amos were introduced by Director Community to give a brief outline of the responsibilities and services of Community Development department and the libraries.

#### **Community Development**

Danny Houseas provided the meeting with information focussing on priority areas for Community Development services over the next 12 months:

- **Children's Services**
  - Proposed Multi-Purpose Children's Centre

- Resourcing, supporting training to increase capacity of community organisations
- National accreditation for Family Day Care and Thomas Carlyle Children's Centre
- Redesign Council's Child Care Centre playground
- **Youth Services**
  - Youth entertainment program
  - Parenting seminars
  - Youth Voice project
  - Youth outreach program
- **Older People and People with Disabilities, and Community Shuttle Bus Service**
  - Community transport options
  - Loneliness and Isolation project
  - Increase support service for older people to remain in their own homes
  - Education and Information Seminar series
  - Implementation of Northern Sydney Volunteer Coordination project
  - Establishment of a Community Garden.
- **Culturally and Linguistically Diverse Communities**
  - Development of Settlement Services in Northern Sydney

### **Manager Library Services**

Ray Amos provided the meeting with an overview of the Libraries and services that are available to the community.

- A recent library user survey which resulted in a satisfaction rating of 93%.
- An increased range of materials provided in the libraries for customers eg newspapers, DVDs.
- E-zone
- Your Tutor - on line tutoring system for years 3-12 high school students
- Art in the Library project
- Housebound service
- Librarius service for people who are confined to their home
- Story time for children
- Technical Service section
- Information service/Reference section
- Library co-operation with the Ku-ring-gai Historical Society

### **3. Cr Malicki introduced Cr Duncombe as guest speaker to talk on Youth Development.**

Cr Duncombe joined Balmain Rotary in 2003 as Director of Youth. He is currently President and Youth Development Officer, and he shared his experiences and lessons learnt as a volunteer and speaker for Rotary, talked about setting realistic goals, having commitment, self awareness and also felt there was not enough credit given to the youth on their abilities. He felt that personally, being a volunteer was a most rewarding experience.

### **4. Council Report – Library Overdue Fees**

The Resolution of Council of 9 June 2009 was that the proposal for the introduction of fees for overdue library materials be referred to the Community Reference Committee for

comment. Janice Bevan provided background information to the meeting including the Council report and associated material and briefed the meeting on matters that had been raised by staff and residents regarding overdue fees.

*Morrison Hammond advised that there had been a recent ABC program discussing this issue.*

Comments and responses from the meeting regarding the library overdue fees:

- There are no specific age groups responsible for overdue materials.
- Replacement cost for books – this depends on the type of book. Rather have books returned than new books purchased.
- Perceptions that there maybe extra work for library staff.
- Frequency of overdue notices
- Introduction of a 3 day grace before fines occur.
- Scope of leniency, ability of managers to waive fines if necessary.

*Cr Malicki asked for comments on, 'should we or should we not fine?' One member commented it was assumed by some members of the community that fines were already in place for overdues in the library. The committee's response was unanimous in favour of the introducing of overdue library fees.*

**5. Council Report Referral – Former Meals on Wheels Facility at Gordon Golf Club**

Three groups have provided Expressions of Interest in this facility. Details of the report will be sent out to the committee for feedback, prior to the next meeting.

**6. Resolution of Council of 26 May 2009 – Establishment of JJC Bradfield Museum and a Ku-ring-gai Concert Band**

Cr Hall distributed an article from The North Shore Times regarding JJC Bradfield and gave background information to the committee on the proposed museum and concert band. He asked that the committee support the establishment of both proposals. Cr Malicki suggested this matter be discussed at the next meeting, as there was another meeting scheduled for 5.00pm.

Date for next meeting 22 July 2009, Ante Room, Level 3. Information will be sent to those who are unable to attend for their comments.

Meeting closed at 5.00pm

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## INVESTMENT REPORT AS AT 31 AUGUST 2009

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To present to Council investment allocations and returns on investments for August 2009.

**BACKGROUND:**

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (General) Regulation 2005 and Council's Investment Policy which was adopted by Council on 28 August 2007.

**COMMENTS:**

The Reserve Bank of Australia (RBA) retained the official cash rate at 3.00% in August 2009.

**RECOMMENDATION:**

That the summary of investments and performance for August be received and noted.  
That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

## PURPOSE OF REPORT

To present to Council investment allocations and returns on investments for August 2009.

## BACKGROUND

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (General) Regulation 2005 and Council's Investment Policy which was adopted by Council on 28 August 2007 (Minute No. 319).

## COMMENTS

During the month of August, Council had a net cash inflow of \$10,513,758 and a net investment gain (interest and capital) of \$368,546.

Council's total investment portfolio at the end of August 2009 is \$80,569,105. This compares to an opening balance of \$75,066,501 as at 1 July 2009, an increase of \$5,502,604.

### Implications and recommendations of the Cole report

As previously reported to Council, in April 2008 the Department of Local Government (DLG) issued Circular 08-10 'Council Invested Funds and the Cole Inquiry Report', which advised that the report by Michael Cole on a review of NSW Local Government Investments had been released. The Circular summarised the recommendations contained within the report and the implementation process for those recommendations that the DLG was undertaking.

A new Ministerial Order dated 31 July 2008 has been legislated. Draft investment policy guidelines for consultation were released by the DLG on 25 May 2009 (Circular No. 09-20). An Expression of Interest for Investment Advisory Services was advertised in the Sydney Morning Herald on 21 July 2009 and Expressions of Interest was closed on 11 August 2009. As part of this process, a revised investment strategy and policy will be developed and reported to Council.

## 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.
- **Funds Performance against the UBS Bank Bill Index**  
This measures the annualised yield (net of fees and charges) for Council's portfolio. The weighted average return for the total portfolio of funds is compared to the industry benchmark of the UBS Bank Bill Index.

Item 3

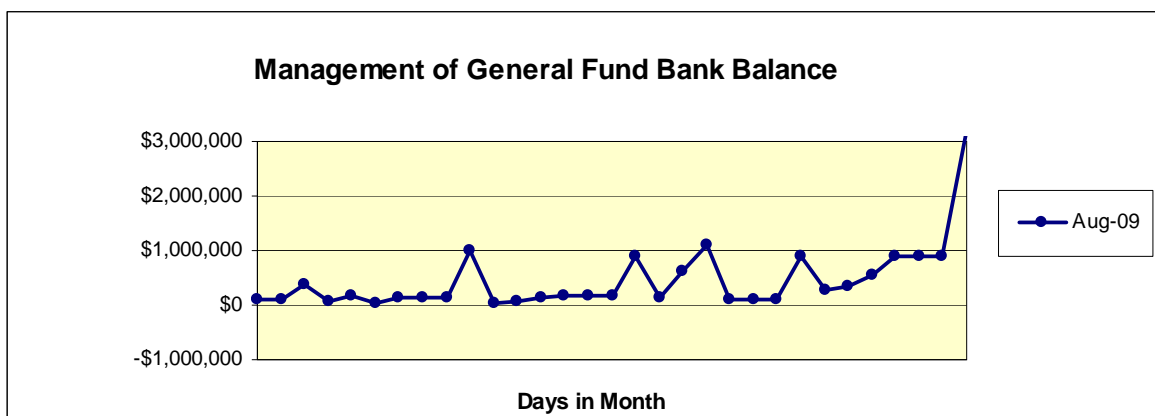
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▪ **Allocation of Surplus Funds**

This represents the mix or allocation of surplus funds with each of Council's fund managers and direct securities.

**Management of General Fund Bank Balance**

During August Council had a net inflow of funds of \$10,513,758, mainly as a result of the first rates instalment being due on 31 August.



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With the exception of Phoenix Notes, these FRNs are all sub-debt or senior-debt which means that they are guaranteed by the bank that issues them with sub-debt notes rated a notch lower than the bank itself. The reason for this is that the hierarchy for payments of debt in event of default is:

1. Term Deposits
2. Senior Debt
3. Subordinated Debt
4. Hybrids
5. Preference shares
6. Equity holders

In the case of default, the purchaser of subordinated debt is not paid until the senior debt holders are paid in full. Subordinated debt is therefore more risky than senior debt.

These types of investment are classified as Held to Maturity assets and they are therefore measured at amortised cost using the effective interest method in accordance with AASB 139: Financial Instruments: Recognition and Measurement.

In terms of reporting, these investments are shown at their purchase price which is then adjusted up or down each month in accordance with the amortisation of the discount or premium. The effect of this is to show the investment at face value at maturity.

## 2. Fixed Interest Notes, Term Deposits, Transferable Deposits and Bonds

Fixed interest notes and term deposits pay a fixed amount of interest on a regular basis until their maturity date. Council has one fixed interest note and six term deposits:

Westpac Fixed sub-debt AA-	purchased 25/02/08 at discount
Investec Bank Term Deposit BBB	purchased 03/09/08 at par
Westpac Bank Term Deposit AA	purchased 16/06/09 at par
National Bank Term Deposit AA	purchased 17/06/09 at par
St George Bank Term Deposit AA	purchased 19/06/09 at par
ANZ Senior Debt Fixed Bond AA	purchased 02/06/09 at discount

As with FRNs, these investments are shown at purchase price with the discount or premium amortised over the period to maturity.

Council has one fixed interest deposit:

Bendigo Bank BBB+	purchased 27/02/09 and held at par
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A Transferable Certificate of Deposit is a bank deposit (i.e. fixed interest) that may be transferred from one party to another. Council has two transferable deposits.

ANZ Transferable Deposits AA-	purchased 22/04/08 at par
Elders Rural Bank (Transferable Deposit) BBB	purchased 18/06/08 at par

A bank bond is a debt security, in which the authorised bank owes the holders a debt and is obliged to repay the principal and interest (the coupon) at a later date, termed maturity.



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The revised Ministerial Investment Order dated 31 July 2008 section (d) states that councils may invest in "bonds issued by an authorised deposit-taking institution (as defined in the Banking Act 1959), but excluding subordinated debt obligations".

Council has two fixed rate bank bonds with senior debt obligations:

BOQ Bank Bond BBB+	purchased 04/09/08 at discount
Suncorp Metway Bank Bond A+	purchased 04/09/08 at premium

### 3. Collateralised Debt Obligations (CDO)

The following investments are classified as CDOs:

Titanium AAA	purchased at discount
Maple Hill 11 B- Neg Watch (downgraded from AA by S&P)	purchased at par
Oasis Portfolio Note CCC- (downgraded from AAA by S&P)	purchased at par
(Please refer to Comments on Individual Investment Performance section for details)	

A CDO is a structured financial product whose returns are linked to the performance of a portfolio of debt obligations. It is split into tranches, whereby the riskiest or lowest tranche, the "equity tranche", receives the highest returns. Higher rated tranches offer protection against the risk of capital loss, but at proportionately diminishing returns.

These investments are also classified as held to maturity assets and are therefore measured at amortised cost using the effective interest method in accordance with AASB 139: Financial Instruments: Recognition and Measurement.

These investments are reported in the same manner as FRNs.

### 4. Constant Proportion Debt Obligations (CPDO)

The following investment is classified as a CPDO:

ABN AMRO CPDO PP AA-	purchased at par
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This is an investment whose returns were based on trading credit default swap (CDS) contracts. A CDS is a contract between two parties where one agrees to accept the risk that a company will default on its loan repayment obligations in return for payment of a fee. Only contracts on investment grade organisations in the CDX (US) and ITraxx (Europe) indices are permissible. The risk to Council was that if enough of the companies default on their loan payment obligations, Council's regular payments of interest may be reduced or cease. On 3 March 2009 this occurred resulting in a cash-out event meaning no more coupon payments will be made on this investment until maturity in September 2016. Opportunities are currently being investigated to trade out of the note and re-invest in a higher yielding asset. It should be stressed that the return of principal is guaranteed by ABN AMRO bank (rated AA-).

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## 5. Growth Investments

Investments that have been purchased on the basis of an anticipated growth in asset value rather than returns being based on an interest coupon have been classified as Growth Investments. The following investments are included in this category:

- Longreach CPWF AAA
- Longreach STIRM A+ (downgraded from AA- by S&P)
- Longreach s26 Property A+ (downgraded from AA by S&P)
- KRGC TCorp LTGF unrated

These investments are valued at fair value where the capital gain is credited to the Income Statement and a capital loss is debited to the Income Statement. All of these investments except for the KRGC TCorp LTGF are principal guaranteed. The value shown in the monthly investment report is based on the redeemable Net Asset Value (NAV). The NAV is the total current market value of all securities plus interest or dividends received to date. This is the price or value of the investment at the time of preparing the report. Although the investments are principal guaranteed, reports are based on the NAV even when it falls below the par value.

The principal is guaranteed by the investment issuer monitoring the net asset value and selling the investments if the NAV falls below the level where a risk free investment will return the principal at the maturity date. Thus the worst case scenario, provided that the issuer remains solvent, for these investments is that overall return will be returns received to date plus return of principal at maturity date and no further interest payments for the remaining period. An exception to this is the Longreach CPWF product, where the principal is guaranteed as well as a 2% semi annual coupon.

While accounting and reporting for these investments is in accordance with the above, the following information is provided for each:

**Longreach CPWF:** This investment pays a guaranteed 2% coupon semi-annually and is principal guaranteed by Rabobank who are rated AAA. Actual returns depend upon growth of the investment. The worst case performance scenario is a 2% coupon and principal returned at maturity.

**Longreach STIRM:** This investment pays a fixed coupon of 2.5% and a floating coupon of 125% of the quarterly performance. A cap is applied to the total coupon at BBSW+25bps with any additional income going into the NAV. The worst case performance scenario is no coupon is paid due to 100% of investors' funds being redeemed from the STIRM strategy and invested in a discount security to guarantee principal is returned at maturity.

**Longreach Global Property:** This investment pays a fixed coupon of 7% pa payable semi annually. This coupon is contingent on 100% of funds being invested in the Global Property basket. The worst case performance scenario is no coupon is paid and 100% is redeemed from the Global Property basket and invested in a discount security to guarantee principal is returned at maturity.

**KRGC TCorp LTGF NSW Treasury Corporation:** This is a fund managed by the NSW Treasury Corporation which invests in a range of Australian shares 31%, international shares 31%, bonds, listed property and cash 38%. The return is based on the fund's unit price at month end supplied by the fund. There is no principal guarantee with this fund and it is unrated.

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## 6. Managed Funds

Council uses a variety of managed funds for liquidity and diversification purposes. These funds are rated from AA through to A and returns are based on the fund's unit price at month end.

## Funds Performance against the UBS Bank Bill Index

Issuer	Investment Name	Investment Rating	Invested @31st August 2009 \$000's	Period Return (%)	Annualised YTD Return (%)	Performance Since purchase/ inception (%)	% of Total Invested	Valuation M=Mark to Market H=Hold to Maturity	Maturity
<b>Working Capital (0-3 Months)</b>									
BlackRock Investment	BlackRock Diversified Credit	A	2,525	0.82	5.97	*	3.13	M	0-3 mths
Westpac Bank	Westpac Bank Deposit	AA	12,662	0.22	2.78	*	15.72	M	0-3 mths
National Australia Bank	National Australia Bank 120 Days Term Deposit	AA	6,000	0.35	4.25	*	7.45	M	0-3 mths
<b>Short Term (3-12 mths)</b>									
Westpac Bank	Westpac 120 Days Term Deposit	AA	6,000	0.35	4.30	*	7.45	M	3-12 mths
St. George Bank	St. George Bank Term Deposit	AA	5,000	0.34	4.20	*	6.21	M	3-12 mths
Elders Rural Bank	Elders Rural Bank Transferable Deposit	BBB	2,000	0.37	4.56	6.61	2.48	H	3-12 mths
<b>Short - Medium Term (1-2 Years)</b>									
Select Access Investments	Titanium AAA	AAA	2,000	0.34	4.16	7.16	2.48	H	1-2 yrs
Bendigo Bank	Bendigo Bank Term Deposit	BBB+	500	0.32	3.90	4.52	0.62	H	1-2 yrs
Bank of Queensland	Bank of Queensland Bond	BBB+	1,955	0.67	8.30	8.28	2.43	H	1-2 yrs
Suncorp Metway	Suncorp Metway Bond	A+	2,024	0.65	8.06	8.05	2.51	H	2-5 yrs
Bank of Queensland	Bank of Queensland FRN	BBB+	1,978	0.37	4.50	6.15	2.46	H	1-2 yrs
<b>Medium Term (2-5 Years)</b>									
Longreach/Rabobank	Longreach CPWF	AAA	2,889	0.45	-5.93	-1.26	3.59	M	2-5 yrs
NSW Treasury Corp	KRGC Tcorp LTGF	UNRATED	1,849	4.08	74.54	-2.62	2.29	M	2-5 yrs
UBS AG London	Longreach STIRM	A+	1,055	1.39	29.45	2.19	1.31	M	2-5 yrs
ABN AMRO/Nomura	Pheonix Notes	A	2,000	0.44	5.42	8.46	2.48	H	2-5 yrs
ANZ Bank	ANZ Sub FRN	AA-	2,955	0.35	4.25	6.84	3.67	H	2-5 yrs
Westpac Bank	Westpac Subdebt	AA-	945	0.79	9.78	9.77	1.17	H	2-5 yrs
HSBC Australia	HSBC MTN (Medium Term Notes)	AA-	4,000	0.46	5.61	8.17	4.96	H	2-5 yrs
ANZ Bank	ANZ Transferable Deposit	AA-	2,000	0.37	4.47	6.87	2.48	H	2-5 yrs
Investec Bank	Investec Term Deposit	BBB	3,000	0.47	5.82	7.23	3.72	H	2-5 yrs
ANZ Bank	ANZ Snr Fixed Income Bond	AA	998	0.44	5.43	5.42	1.24	H	2-5 yrs
Deutsche Bank	Longreach s26 Prop	A+	761	-0.13	-1.61	-10.64	0.94	M	2-5 yrs
<b>Long Term (5 Years+)</b>									
CBA/Helix Capital Jersey	Oasis Portfolio Note	CCC-	2,000	0.34	4.12	7.14	2.48	H	5 yrs +
HSBC Bank	Maple Hill 11	B-	3,000	0.46	5.61	8.57	3.72	H	5 yrs +
Bendigo Bank	Bendigo Bank FRN	BBB	500	0.37	4.48	7.20	0.62	H	5 yrs +
ANZ Bank	ANZ Sub FRN	AA-	2,973	0.33	4.07	6.84	3.69	H	5 yrs +
ANZ Bank	ANZ Subdebt 2018	AA-	1,000	0.36	4.37	7.05	1.24	H	5 yrs +
ABN AMRO Bank London	CPDO PP	AA-	6,000	0.00	0.00	5.28	7.45	H	5 yrs +
<b>TOTAL /WEIGHTED AVERAGE</b>			<b>80,569</b>	<b>6.01</b>	<b>5.92</b>		<b>100</b>		
Matured/Traded Investments - Weighted YTD Average Return (%)					4.00				
Weighted Average Overall Return Year To Date (%)					5.91				
Benchmark Return: UBSWA Bank Bill Index(%)					3.09				
Variance From Benchmark (%)					2.82				

The weighted average return for the total portfolio year to date was 5.91% compared to the benchmark of the UBS Bank Bill Index of 3.09%.

### Income Investments and Growth Investments

Since Council's investment policy was changed in August 2006, a wider range of investments has been made involving diversification of the portfolio into different investment types, longer maturities and different markets. Council's investments now include several growth investments, where returns are principally derived from growth in the value of capital invested, rather than income payments. These investments can be expected to show higher volatility in price movement on a month to month basis. With the exception of the NSW Treasury Corporation investment, Council has only purchased growth investments which have a capital protection provided by a bank of at least AA ratings. As these investments are long term and not intended to be traded monthly, volatility is of less concern.

### Comments on Individual Investment Performance

**Longreach CPWF 1-2006:** This investment is in property, infrastructure and utilities and was made on 27 September 2006. From inception to the end of August 2009, the investment has returned -1.26% with a 0.45% increase in net asset value for August 2009 and an annualised year to date return of -5.93%.

The Fund's Unit NAV at month end provided to the investment manager by the calculation agent was \$0.9631. This NAV represents a 0.45% increase from the previous month end. This valuation represents the price at which a unit holder could have redeemed fund units at month end inclusive of fund ordinary expenses. General information on the fund is included in the monthly Unit Holder Report **attached**.

**Longreach Series 26 Global Property:** This investment was made in June 2007 in a basket of property spread globally across seven geographical areas. Due to the volatility and poor performance of the property market during the current global economic crisis the allocation in the property basket is now zero with 100% of the funds in the discount debt security, and Deutsche Bank has informed Longreach that Series 26 Global Property has completely de-levered. The funds are now notionally invested in a fixed income bond until maturity.

All other aspects of the note are unchanged:

- Capital protection at maturity
- Buy back facility through Deutsche Bank

The current unit price of Series 26 is \$76.12, down from \$76.22 in June. The principal guarantee mechanism means that the note will be matured to \$100.00 in June 2014. As the capital loss on the note has been brought to account through the income statement in accordance with the relevant accounting standards, the note will now provide for a return of approximately 5.89% over the next 4.8 years. In the current market 5.89% is considered a reasonable return. It is recommended at present, to hold on to this investment in the short term, however if opportunities arise to trade out of the note into higher yielding investments they will be considered.

General information on the fund is included in the monthly Noteholder Performance Report **attached**.

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**Longreach Series 23 STIRM:** This investment is a capital protected note with exposure to a short term interest rate yield enhancement strategy. The redeemable NAV of the notes is \$105.5 whereas last month it was \$104.9. An annualised year to date return on the investment is 29.45% annualised and 2.19% since inception. The credit rating for this investment was downgraded from AA- (neg) to A+ (stable) in December 2008. General information on the fund is included in the monthly Noteholder Performance Report **attached**.

**NSW Treasury Corporation:** The investment was made in October 2006. This is a fund managed by the NSW Treasury Corporation which invests in a range of Australian shares 31%, international shares 31%, bonds, listed property and cash 38%. The fund's annualised return is 74.54% and is - 2.62% since purchase. The increase in investment during August 2009 was due to underlying market returns.

**Blackrock Diversified Credit Fund:** In August 2008, Blackrock Investment Management informed Council of its decision to close the Blackrock Diversified Credit Fund. This action was taken due to the Cole Report recommending removal of the option for local councils to invest in managed funds. The fund was specifically created for, and targeted toward, NSW local councils' requirements. At that time Council had approximately \$9.5M invested in the fund.

Since then, the fund has been slowly winding down by selling its assets; however the illiquidity of markets over the past few months has resulted in the wind down taking considerably longer than first anticipated.

In closing down the fund, BlackRock is required to conduct the sell down process in an orderly fashion to achieve the best possible outcome. Whilst liquidity has not improved dramatically, BlackRock have managed to sell down more of the portfolio.

BlackRock is still attempting to sell down the remaining portfolio which is comprised of largely domestic assets. The domestic credit markets are still highly illiquid and BlackRock will liquidate this portfolio at the earliest opportunity being cognisant of getting "reasonable" value for the securities sold. All the securities held within the portfolio will continue to pay coupons and BlackRock sees no further credit impairment of the portfolio.

During August 2009, BlackRock has managed to sell more of the global assets and made another distribution of \$740,268. The balance of funds remaining in Blackrock at 31 August was \$2.52M.

**ABN AMRO CPDOs PP:** This is an investment whose returns were based on trading credit default swap (CDS) contracts. Only contracts on investment grade organisations in the CDX (US) and ITraxx (Europe) indices were permissible. The risk to Council was that if enough of the companies default on their loan payment obligations, Council's regular payments of interest would be reduced or cease.

Recent falling interest rates combined with widening credit spreads have increased this risk. This means that the note reverts to a risk free bond investment to guarantee principal on maturity. Although the principal is guaranteed, no interest would be paid on the investment in the event of cash-out.

In an effort to reduce the risk of this occurring, it was decided to lock in a zero coupon bond at the rates on offer in early November 2008. The benefit of doing this was that if rates fell going forward then investors will have locked into a zero coupon bond at a lower price with a higher yield. While

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this reduced the risk of a cash-out event by locking in interest rates, the investment was still exposed to the impact of widening credit spreads. Since November 2008, credit spreads have widened dramatically and Council was advised by ABN AMRO Morgan on 3 March 2009 that a cash-out event had occurred. It needs to be stressed that the total principal is protected, but Council will not be receiving any more coupon payments until maturity in September 2016.

Opportunities are currently being investigated to trade out of the note and re-invest in a higher yielding asset.

**Pheonix Notes:** This investment was downgraded by Moody in early July 2009 from AA+ to A. This is a downgrade of the underlying Nomura Securities, who guarantees the payment obligations of the swap counterparty. The coupon payments and principal of the investment are not affected.

**CDOs:**

As a result of the global financial market crisis and in particular the collapse of Lehman Brothers the following CDO investments have been downgraded as follows:

Maple Hill 11 B- Neg Watch (downgraded from AA by S&P)  
Oasis Portfolio Note CCC- (downgraded from AAA by S&P)

The risk of losing principal in a CDO is based on the number of defaults in the portfolio of debt obligations combined with weighting of the entity in the portfolio and the recovery rate of the entities that default. The following information is provided for these two CDOs:

Maple Hill 11

- Losses absorbed: 5.67%
- Losses remaining: 3.34% (manager's estimate, which CPG believes is reasonable)
- Recovery: Floating
- Portfolio: 139 (unequal weight)
- Credit events to date: 4 (Lehman Brothers, Fannie Mae, Freddie Mac and Idearc)
- Credit events supported: 12.8 average sized, assuming average 33% recovery
- Credit events remaining: 7 average sized, assuming average 33% recovery

Oasis Portfolio Note

- Losses absorbed: 4.30%
- Losses remaining: For the AAA tranche 1.45%
- Recovery: Fixed Rate at 40%
- Portfolio: 118 reference entities (unequal weight and started with 120)
- Credit events to date: Lehman Brothers, Fannie Mae, Washington Mutual, Kaupthing Bank
- Credit events supported: Variable = 14 minimum sized; 8.5 average weightings; 4 maximum sized
- Credit events remaining: Depends on the weighting of the credit event – maximum size (1.5% exposure) then 1 more; minimum size (0.5% exposure) then 4 more. The note can withstand 2.9% of the portfolio defaulting.

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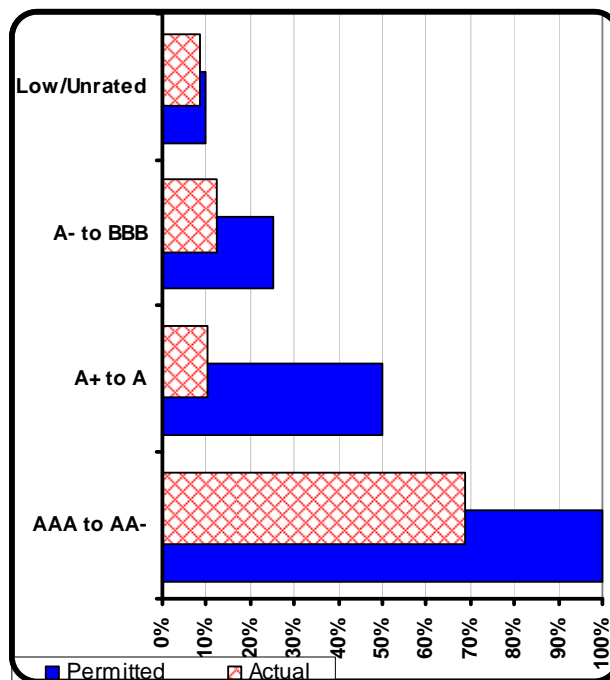
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As this note has a 40% fixed recovery the default of Fannie Mae had a much larger impact on the note's subordination. Fannie Mae and Kaupthing Bank each represented 1.5% of the references and Lehman Brothers was 1.25%.

Allocation of funds

The following charts show the allocations of Council's investment funds by the categories shown:

1) **Credit Rating:** Actual level of investment compared to proportion permitted by policy.



**Investment Rating      Proportion**

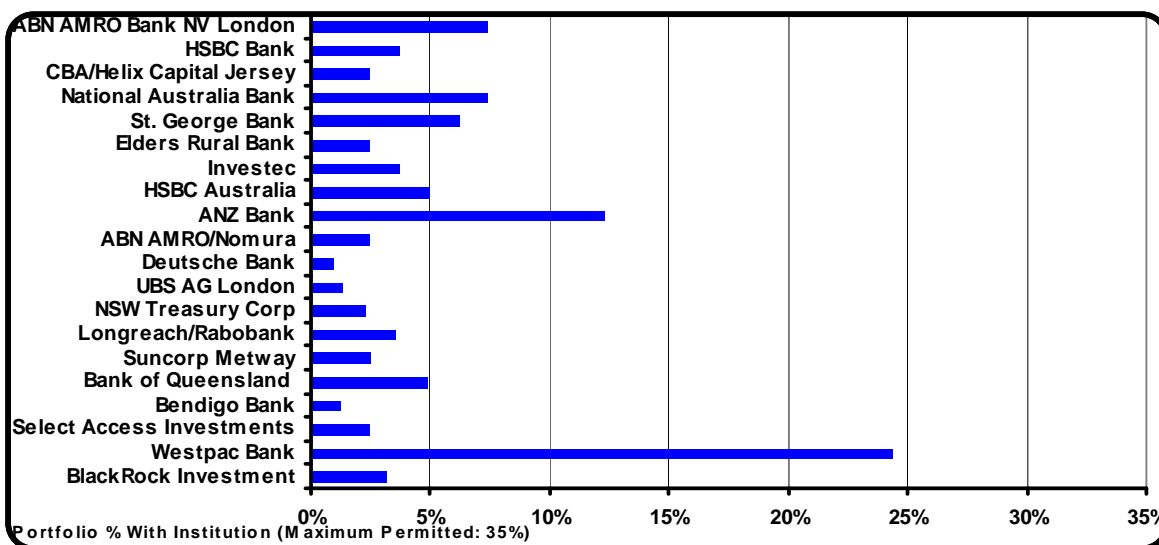
AAA to AA-	68.79%
A+ to A	10.38%
A- to BBB	12.33%
Less than BBB	8.5%

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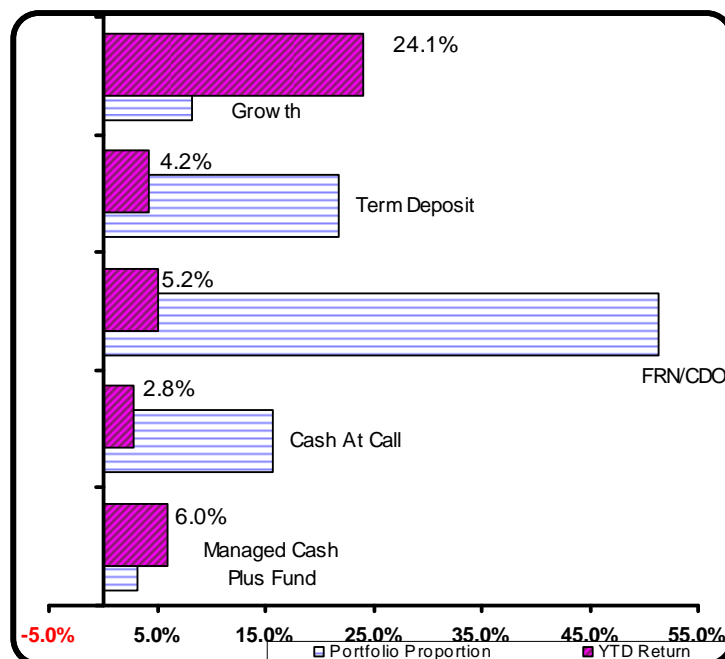
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2) **Proportional Split of Investments by Investment Institution:** Actual portion of investments by investment institutions.

Council's Investment Policy requires that the maximum proportion of its portfolio invested with any individual financial institution is 35%.



3) **Investment type and YTD return:** Actual proportion of investments by type and year to date return.

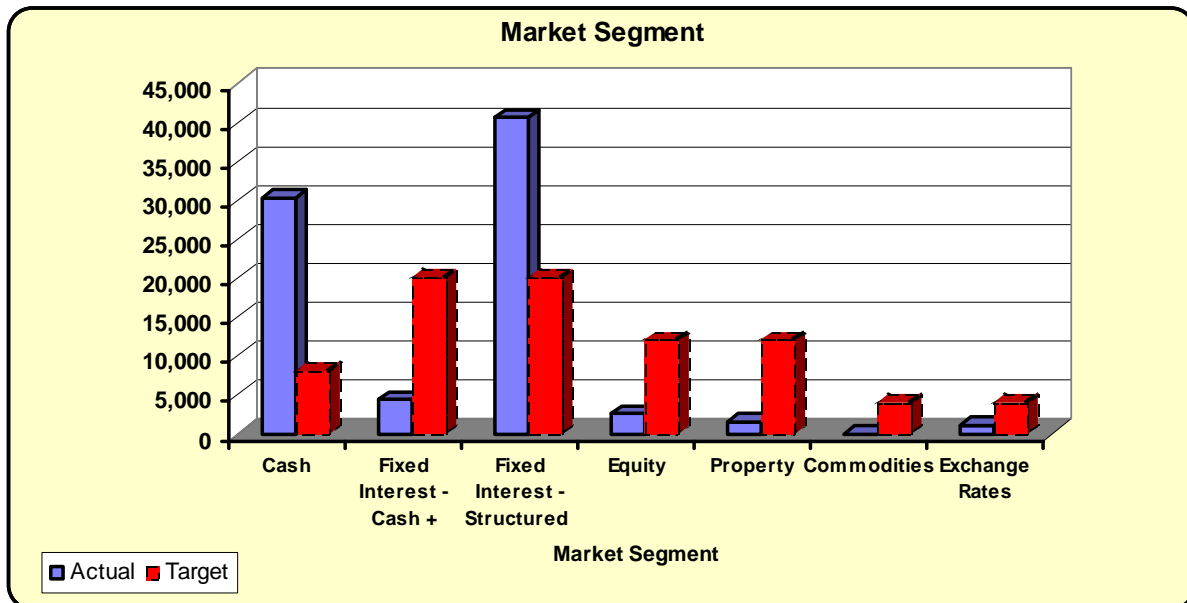




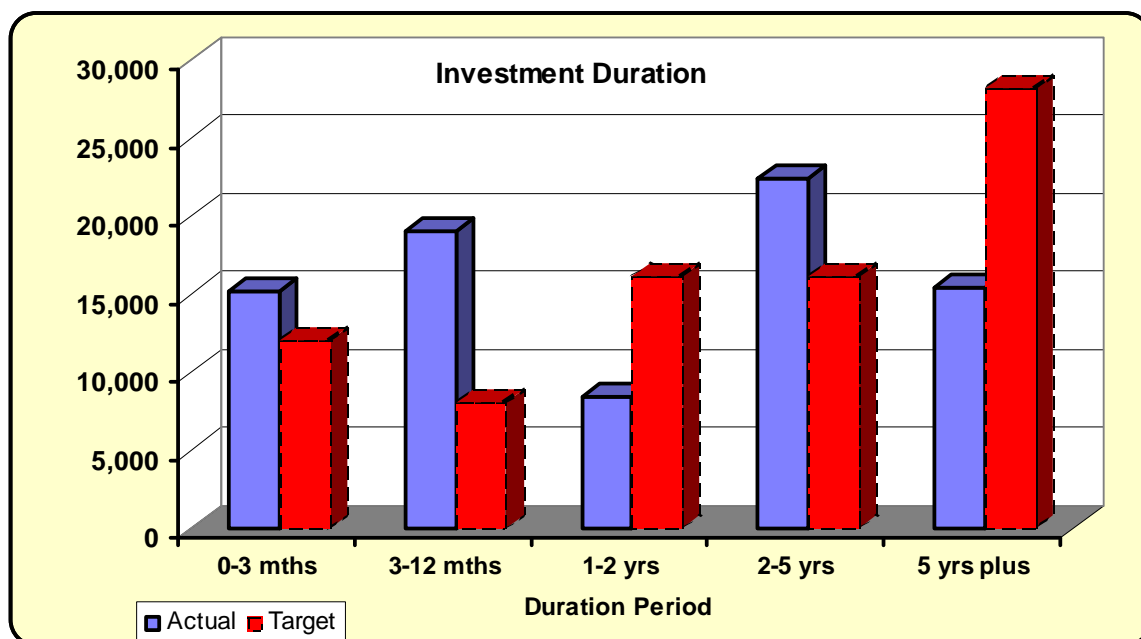
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- 4) **Market Segment:** Strategic allocation of investments by market segment compared to current level.



- 5) **Duration:** Strategic allocation of investments by duration compared to current level.



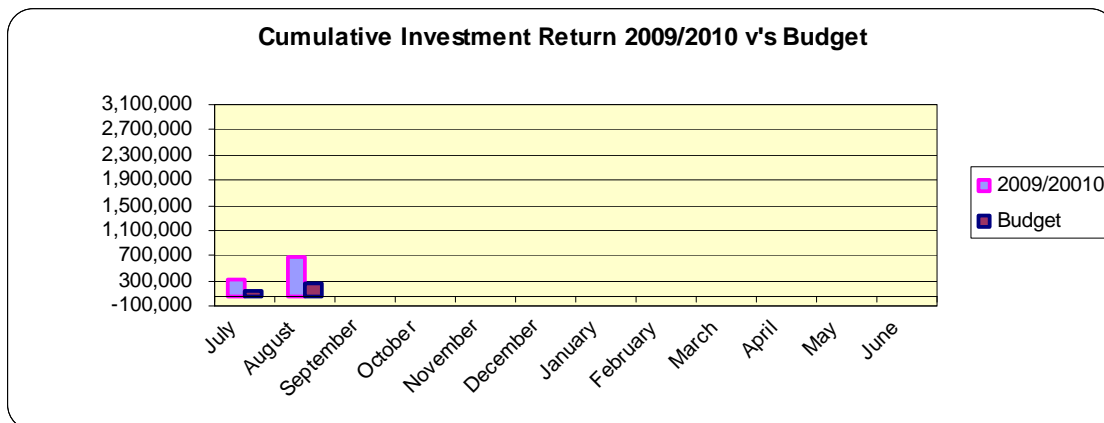
## Item 3

S05273  
9 September 2009**Cumulative Investment Return**

The following table shows Council's total return on investments for August and financial year to date, split into capital and interest components and compared to budget:

\$000's	Month	Financial YTD
Interest	983	1,206
Cap Gain	101	237
Cap Loss	-715	-764
Net Return	369	679
Budget	135	270
<b>Variance</b>	<b>234</b>	<b>409</b>

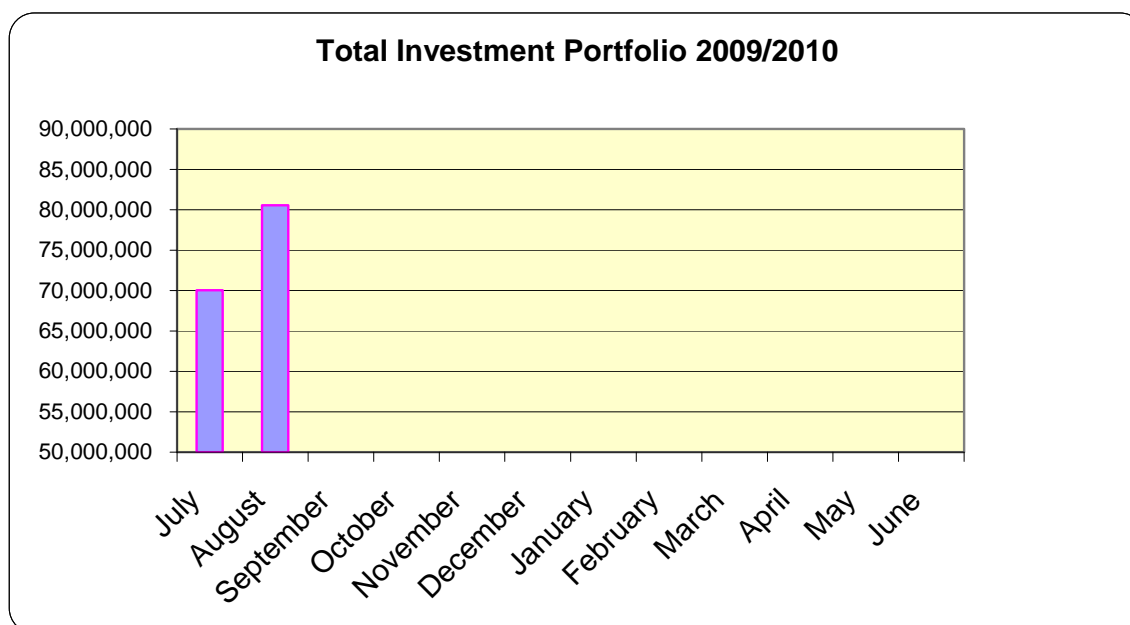
At the end of August 2009, the net return on investments totalled \$678,640 against a year to date budget of \$269,630 giving a positive variance of \$409,010. At the end of August, year to date returns on investments were 5.91% compared to 5.80% in July, an increase of 0.11%.



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9 September 2009**Total Investment Portfolio**

The following chart compares the year to date investment portfolio balances for 2009/2010.



During August 2009 Council's investment portfolio increased by \$10,513,758.

**Some key points in relation to investments and associated markets during August are:****International Market**

August was another month of consolidation across global equity markets. Speculation that the global recession was nearing an end allowed investors' confidence levels to remain at elevated levels. In the US, the S&P 500 and Dow Jones gained +3.4% +3.5% respectively while in Europe, France's CAC and UK's FTSE 100 surged +6.6% and +6.5% respectively. Japan's Nikkei Index also had positive month, gaining +1.3%. The MSCI World Index, a broad measure of global shares, added +3.9% for the month of August.

**Highlights for August included:**

- The US Federal Reserve (Fed) indicating there were plans to slow the pace of its purchases of US Treasuries with the recession easing, and signalled that the \$US300 billion program will end in October;
- Officials from the Federal Open Market Committee (FOMC) left the benchmark interest rate at between 0-0.25%, stating that economic conditions meant that the cash rate will stay "exceptionally low" for an "extended period" after indicating the economy was "likely to remain weak for a time" while projecting a "gradual resumption of sustainable economic growth";

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- According to the Commerce Department, US gross domestic product (GDP) shrank at a 1% annual pace in the June quarter, less than what most economists projected. The drop in GDP was the fourth in a row, the longest contraction since quarterly records began in 1947;
- The Labour Department revealed that the unemployment rate in the US rose to 9.7% in August, a 26 year high, after dipping to 9.4% in July. The department revised job losses for June and July to show 49,000 more jobs lost than previously reported. US Treasury Secretary Timothy Geithner predicted that the unemployment rate may not peak until the second half of 2010;
- US retail sales fell 0.1% in July, the first drop in three months, as consumers cut spending amid concern over jobs and stagnant incomes;
- Figures from the Commerce Department showed that home sales in the US increased 9.6% in July, the most in four years, to a 433,000 annual pace;
- Meanwhile, although Japan's jobless rate reached a six year high of 5.4% in June, GDP expanded at an annual 3.7% pace in the June quarter, ending the country's worst post-war recession.

### Domestic Market

The Reserve Bank of Australia (RBA) left interest rates unchanged at the 49-year low of 3.00% for a fifth consecutive month in August. As the recovery of the Australian economy unfolds, the futures market is pricing more than five interest rate increases by August next year, with interest-rate contracts showing about a 80% chance the RBA will increase borrowing costs in November by a quarter percentage point. This was spurred on after central bank Governor Glen Stevens hinted his next move may be an increase, saying the economy is "stronger than expected a few months ago".

Australia's economy has thus far outperformed most other developed nations, expanding 0.4% in the first quarter and 0.6% in the June quarter of 2009, as \$AUD12 billion in government handouts boosted consumer spending, which accounts for about 60% of GDP. The unemployment rate remained at 5.8% in July after Australian employers unexpectedly added 32,000 (mainly part-time) workers from June.

The domestic equity market continued its strong rally, with the S&P / ASX 200 Index gaining +5.5% in August, to be up +33.9% for the past six months.

### Other

With the chance of higher interest rates later this year and in 2010, this pushed the Australian dollar to a fresh ten-month peak, with the currency gaining 1 cent against the US dollar to finish the month off at US84 cents.

As a sign of the recent recovery in global financial markets, the measure of the difference between what banks and the Treasury pay to borrow for three months has dropped to its lowest level in more than two years.

## CONSULTATION

Not applicable.

## FINANCIAL CONSIDERATIONS

The budget for interest on investments for 2009/2010 is \$1,617,800. Of this amount approximately \$1,149,180 is restricted for the benefit of future expenditure relating to developers' contributions, \$468,620 transferred to the internally restricted Infrastructure & Facility Reserve, and the remainder is available for operations.

At the end of August 2009, the net return on investments totalled \$678,640 against a year to date budget of \$269,630, giving a positive variance of \$409,010.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

None undertaken or required.

## SUMMARY

As at 31 August 2009:

- Council's total investment portfolio is \$80,569,105. This compares to an opening balance of \$75,066,501 as at 1 July 2009, an increase of \$5,502,604
- Council's year to date net return on investments (interest and capital) totals \$678,640. This compares to the year to date budget of \$269,630, giving a positive variance of \$409,010.

## RECOMMENDATION

- A. That the summary of investments and performance for August 2009 be received and noted.
- B. That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

Tony Ly  
Financial Accounting Officer

Tino Caltabiano  
Manager  
Finance & Responsible Accounting  
Officer

John Clark  
Director Corporate

**Attachments:** Investments arranged by Longreach Capital Markets and held by Ku-ring-gai Council - Valuation Date 31 August - 2009/146860

Longreach Global Capital Pty Limited  
 ABN: 27 080 373 762  
 AFSL: 247 015  
 Phone: (02) 9241-1313  
 Email: info@longreachcp.com.au

Investments arranged by Longreach Capital Markets and held by  
 Ku-ring-gai Council  
 Valuation Date 31-Aug-09



Email to: tly@kmc.nsw.gov.au

Capital Protection Status Issue Description	Maturity Date	Issuer Calculation Agent	S+P Rating	Principal Outstanding:	NAV:	Issue Status	Allocation to active asset Class
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### **Capital Protection at Maturity**

Series 20	Longreach Capital Protected Wholesale Fund 1-2006 Property, Infrastructure and Utilities Fund	29-Sep-11	Equity Trustees Limited (as RE)	AAAf	\$3,000,000	0.9631	Exposed to Active asset class	100.00%	Next closing day for Redemption applications 23-Sep-2009
			Rabobank						
Series 23	5 year Capital Protected Short Term Interest Rate Model (STIRM)	10-Feb-12	UBS AG, London Branch	A+	\$1,000,000	105.5000	Exposed to Active asset class	100.00%	
			UBS AG, London Branch						
Series 26	7 year Capital Protected Global Property Basket Linked Note	07-Jun-14	Deutsche Bank AG, London Branch Deutsche Bank AG, London Branch	A+/Stable	\$1,000,000	76.1200	Fully Delevered	n/a	

### **Important Information**

The valuations in this report represent the mid point valuations provided by the Calculation Agent and do not take into account any unpaid fees due on the issue or any other costs that the issuer may charge by way of a bid/offer spread to buy back the stock. Redemption prices can be obtained from Longreach Global Capital Pty Limited.

All issues can be redeemed early. Issues identified as Capital Protected At Maturity will be subject to market prices at that time and redemption prices may be below par.

Issues that have been fully delevered will not pay any further interest. Other issues still may pay interest, subject to the issue's terms and conditions. Please refer to issue documentation for more information.

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	9 BRUCE AVENUE, KILLARA - MODIFICATION OF DA0983/05 PROPOSING LANDSCAPING CHANGES, INTERNAL LAYOUT MODIFICATION, CHANGES TO ROOF DESIGN AND HOURS OF CONSTRUCTION
<b>WARD:</b>	Gordon
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	MOD0054/09
<b>SUBJECT LAND:</b>	9 Bruce Avenue, Killara
<b>APPLICANT:</b>	Drew Dickson Architects P/L
<b>OWNER:</b>	Bruce Avenue Pty Ltd
<b>DESIGNER:</b>	Drew Dickson Architects
<b>PRESENT USE:</b>	Residential dwellings
<b>ZONING:</b>	Residential 2(d3)
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	SEPP 65, SEPP 55, SREP (Sydney Harbour Catchment) 2005, SREP 20 (Hawkesbury Nepean River), KPSO, DCP 55 - Multi Unit Housing, DCP 31 - Access, DCP 40 - Waste Management, DCP 43 - Car Parking, DCP 47 - Water Management, DCP 56 - Notification
<b>COMPLIANCE WITH CODES/POLICIES:</b>	No
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP 65, SEPP 55, SREP (Sydney Harbour Catchment) 2005
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Yes
<b>DATE LODGED:</b>	27 February 2009
<b>40 DAY PERIOD EXPIRED:</b>	8 April 2009
<b>PROPOSAL:</b>	Modification of DA0983/05 proposing landscaping changes, internal layout modification, changes to roof design and hours of construction
<b>RECOMMENDATION:</b>	Approval.

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**DEVELOPMENT APPLICATION N<sup>o</sup>**      **MOD0054/09**  
**PREMISES:**                              **9 BRUCE AVENUE, KILLARA**  
**PROPOSAL:**                              **MODIFICATION OF DA0983/05**  
    **PROPOSING LANDSCAPING CHANGES,**  
    **INTERNAL LAYOUT MODIFICATION,**  
    **CHANGES TO ROOF DESIGN AND HOURS**  
    **OF CONSTRUCTION**  
**APPLICANT:**                              **DREW DICKSON ARCHITECTS P/L**  
**OWNER:**                                   **BRUCE AVENUE PTY LTD**  
**DESIGNER**                                 **DREW DICKSON ARCHITECTS**

**PURPOSE FOR REPORT**

To determine development application No.MOD0054/09, which seeks consent for proposed landscaping changes, internal layout modification, changes to roof design and hours of construction.

This application was called to full Council for determination by Councillor Keays on 23 July 2009.

**EXECUTIVE SUMMARY**

<b>Issues:</b>	Deep soil landscape area, privacy, hours of construction
<b>Submissions:</b>	Eighteen (18)
<b>Land &amp; Environment Court Appeal:</b>	N/A
<b>Recommendation:</b>	Approval

**HISTORY**

**Previous Development Application:**

<b>7 February 2006</b>	DA0983/05 for demolition of existing buildings, construction of a residential flat building comprising 59 units, basement parking, landscaping, pool and strata subdivision at 9 – 23 Bruce Avenue, Killara was issued a deferred commencement consent by Council.
<b>9 June 2006</b>	MOD0983/05A for minor internal modification to the fire egress corridors was approved under delegation.
<b>18 January 2008</b>	EXT0069/07 extended the lapsing date of DA0983/05 to 31 May 2009.
<b>6 November 2008</b>	DA0950/08 for erection of advertising signage was refused under delegation for the following reason:  <ol style="list-style-type: none"><li>1. The subject site is zoned Residential 2(d3). As defined under Part 3, Division 1 Clause 10(1) of State Environmental Planning Policy 64 (Advertising and</li></ol>



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Signage) the display of an advertisement is prohibited in residential zones.

Part 3, Division 1 Clause 9 states that Part 3 applies to all signage other than signage that is exempt development under an environmental planning instrument. This proposed sign is not classified as exempt development under Development Control Plan 46 as the sign is greater than 1.15m<sup>2</sup>.

2 February 2009

A Class 4 Appeal, challenging the validity of the consent to DA0983/05 was lodged with the Land and Environment Court by plaintiffs Paul Hogan and Diana Lipman. The hearing has been set down for 26 – 28 October 2009.

8 September 2009

MOD0229/09 for removal of Tree 66 and pruning of Tree 67 was approved under delegation.

Current application history:

27 February 2009  
6 – 20 March 2009

Application lodged  
Application notified to owners of surrounding properties.  
Sixteen (16) submissions were received.

6 March 2009  
13 March 2009  
12 May 2009

Council requested an amended deep soil landscape plan.  
Amended deep soil landscape plan submitted.  
Council identified issues concerning the deep soil landscape plan, landscape plan and plant schedule.

26 May 2009

Amended plans were submitted in response to Council's concerns.

28 May – 11 June 2009  
10 June 2009

Amended plans were notified. One (1) submission was received.  
Council raised further concern regarding deep soil landscape plan.

19 and 23 June 2009

Amended deep soil landscape plan, landscape plan and site plan submitted.

3 July 2009

Briefing given to Cr Keays on application by Manager of Assessment, Team Leader, Assessment Officer and Landscape Officer.

9 July 2009

Meeting with Cr Keays, objector (Paul Hogan), Manager of Assessment, Team Leader and Landscape Officer to discuss landscaping, screening and privacy issues.

15 July 2009  
23 July 2009  
3 August 2009

Additional submission received regarding amended plans.  
Application called to Council for determination.  
Objector invited to view amended plans.

**BACKGROUND**

Development application DA0983/05 was issued with a deferred commencement consent condition requiring the consent from Council to relocate a drainage easement and provide new drainage pipes. The drainage easement originally through 21 Bruce Avenue, is relocated adjacent to the

Item 4

eastern side boundary. The applicant provided the required information and the matter was reported to Council.

At its Ordinary Meeting 23 May 2006 Council resolved as follows:

- A. *That Council grant approval for the extinguishment of the existing 1.2m wide easement and creation of a new drainage easement 2.1m wide within Lot 6, DP 13657.*
- B. *That authority be given to affix the common seal of the Council to the instrument for release and creation of new easement and Restriction on Use of Land.*
- C. *That the cost of altering the terms of said easement for drainage including release and creation and Council's legal costs and disbursements be borne by the applicant.*
- D. *That Council approve the proposal to relocate and reconstruct the stormwater pipelines in accordance with the stormwater plans and details, drawing 205014, Plan No. H0, H1A, H2A, H3C, H4A, H5A, H6, H7, H8 prepared by the hydraulic consultant, DEMLAKIAN and subject to the following conditions:*
  1. *The applicant carrying out of all drainage works in accordance with the plans and specification approved by Council at no cost to Council.*
  2. *The works are subjected to inspections. The applicant or their engineer is to give Council at least 24 hours notice (to allow inspection) at the following stages.*
    - i) *After completion of excavation and prior to pipe laying commencing.*
    - ii) *After completion of pipe laying prior to backfilling.*
    - iii) *On completion of pipeline installation.*
- E. *That prior to construction of the building, fencing or suitable alternative be installed around the easement perimeter to prevent loading by heavy construction machinery on the area directly above the pipelines at no cost to Council.*
- F. *That after the building is completed, an inspection of the pipeline by Close Circuit TV or suitable alternative be undertaken to verify the structural integrity of pipeline by the applicant at no cost to Council, prior to issue of Occupation Certificate.*

## THE SITE AND SURROUNDING AREA

### The site

Zoning:	Residential 2(d3)
Visual Character Study Category:	1920/1945
Lot Number:	1
DP Number:	1127482
Area:	6724.36724.3m <sup>2</sup>
Side of Street:	Eastern
Cross Fall:	North West to North East
Stormwater Drainage:	To Bruce Avenue
Heritage Affected:	Yes – in vicinity of 20 Greengate Road & Greengate Hotel

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Required Setback:	10 - 12 metres
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	Yes – Sydney Blue Gum High Forest (no impacts)
Urban Bushland:	No
Contaminated Land:	No

## SITE DESCRIPTION

The site is located on the southern side of Bruce Avenue, between Greengate Lane and Bruce Avenue. The site is generally rectangular in shape with an area of 6724.3m<sup>2</sup>, with a frontage of 106.685 metres to Bruce Avenue and a frontage of 106.715 metres to Greengate Lane. The site has a depth of 61.75 metres to 64.305 metres, with a north-south orientation. The site slopes gently towards the east, with a fall of approximately 6 metres from the north-western corner on the Bruce Avenue frontage.

The works approved under the consent to Development Application 983/05 have commenced. Excavation has been undertaken and construction of the three buildings has substantially commenced.

## SURROUNDING DEVELOPMENT

The site is surrounded by residential development, consisting of one and two storey dwellings, located within heavily landscaped surroundings.

Adjacent to the west of the subject site, is 1 - 7 Bruce Avenue, where a residential flat building is presently under construction pursuant to Development Application DA0514/05 approved by Council on 6 December 2005.

To the east of the subject site are two single dwellings. No. 25 Bruce Avenue is a contemporary one and two storey "Federation" style dwelling. No. 24 Greengate Lane is a contemporary style dwelling. These sites are also zoned 2(d3) but no application for redevelopment of these sites has been yet lodged.

No. 20 Greengate Road, opposite the south-eastern corner of the subject site, is a heritage listed property, zoned 2(b) and developed with a single storey, Georgian Revival style dwelling. Also, to the south of Greengate Lane, are the rear yards of properties zoned 2(c2), which each contain single dwellings, set back 14 to 27 metres from Greengate Lane. The rear yards are characterised by landscaping with lawns and a number of mature trees.

The Greengate Hotel, a heritage listed property, is located approximately 80 metres to the east of the subject site and has views across the subject site.

On the northern side of Bruce Avenue, are single residential dwellings to 2 storeys on land zoned 2(d3).

## THE PROPOSAL

Under the provisions of section 96(2) of the Environmental Planning and Assessment Act 1979, consent is sought to modify the development in the following way:

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1. Deletion of swimming pools, spa baths and water features and their conversion to soft landscaping.

Pursuant to the above proposed modifications, Condition 1 of the development consent should be amended to reflect the amended plans. Further Conditions 6, 7, 9, 10, 12 and 14 should be deleted as these conditions relate to the swimming pools which are proposed to be deleted in this application.

2. Modification to condition 125 relating to tree protection measures to include reference to arborist report prepared by Jacksons Nature Works which recommends a reduction in the radius of the tree protection zones for trees 49, 57, 68 and 22.
3. Relocation of electrical substation from rear of the property adjoining Greengate Lane to adjoining Building A fronting Bruce Avenue.
4. Modification of internal courtyard fencing from horizontal palings to vertical palings and minor relocation.
5. Internal layout change to Unit 24 resulting in an additional bedroom.
6. Reduction in the number of lifts within each building from 2 to 1.
7. Changes to the roof of Building B including deletion of four roof windows and addition of an exhaust grill.
8. Change to hours of construction to permit works until 6.00pm weekdays, until 1.00pm on Saturdays and use of noise generating processes and equipment until 5.30pm on Saturdays. Approval for concrete pours for 15 Saturdays until 4.00pm. This increases construction hours by half an hour during the week at night, by 1 hour on Saturdays and permits concrete pours on 15 Saturdays for 3 additional hours.

## CONSULTATION - COMMUNITY

In accordance with Council's Notification DCP, owners of surrounding properties were given notice of the application. In response, submissions from the following were received:

1. Dr P M Hogan, 20 Day Street, Drummoyne (owner of 25 Bruce Avenue)
2. Ms C Brown, 29 Bruce Avenue, Killara
3. Ms G Gould, 20 Day Street, Drummoyne
4. Mr M W & Mrs J Davidson, 14 Bruce Avenue, Killara
5. Ms Emilia Gevorkian, 6 Bruce Avenue, Killara
6. Mr Martin Nespor, 8 Bruce Avenue, Killara
7. Mr Glenn and Mrs Dorothy Lee, 8A Bruce Avenue, Killara
8. Ms Diane Lipman, 10 Bruce Avenue, Killara
9. Mr and Mrs Tal, 10a Bruce Avenue, Killara
10. Mr Philip Jones, 12 Bruce Avenue, Killara
11. Mr Bill Davidson, 14 Bruce Avenue, Killara
12. Mr Michael Croney and Ms Vicki Steer, 16 Bruce Avenue, Killara
13. A Weiss, 18 Bruce Avenue, Killara

Item 4

14. Mr Michael Toal, 20 Bruce Street Killara
15. Ms Christine Brown, 29 Bruce Avenue, Killara
16. Mr Heeseol Kang, 29 Bruce Avenue, Killara

The following issues were raised in the submissions:

***traffic from underground carpark results in unreasonable privacy impacts on 14 Bruce Ave***

The subject modification application does not seek to alter the approved underground carpark. The concern raised does not relate to the proposed modification.

***the proposal redirects the vehicular entry/exit driveway***

The modifications sought do not seek to redirect the vehicular entry/exit driveway.

***headlights of vehicles entering the site will impact on neighbour's sleep***

The modifications sought do not alter the approved driveway entrance.

***changes to hours of construction will impact upon residential amenity***

The proposal to modify the approved hours of construction is not supported.

***plans are further changed than advised regarding landscaping***

Concern has been raised that the notified plans include further changes beyond those discussed in the submitted statement of environmental effects. The concerns raised in this submission regarding this particular issue have been addressed by the provision of amended plans including amended landscape plan, planting schedule and deep soil landscaping plan and these were notified in May 2009.

***no updated landscape plan has been submitted***

A deep soil landscaping plan was submitted to Council on 13 March 2009. An amended deep soil landscaping plan was submitted on 26 May 2009 and notified. A further deep soil landscaping plan was provided on 19 June 2009. This plan was not notified as it did not result in a further impact upon neighbouring properties.

***errors in the submitted statement of environmental effects regarding side setbacks and visual privacy***

The submitted statement of environmental effects does indicate different side setbacks to those referred to in the original assessment report. These are identified as typographical errors as the application does not seek to modify the approved setback of the Buildings. The issues relating to privacy which relate to the modifications are discussed in this assessment report.

**FURTHER AMENDED PLANS**

On 26 May 2009 amended plans were submitted to address issues raised in Council's preliminary assessment letter. The following amendments were made to the original plans:

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- An amended landscape plan was provided which nominated a plant species list and planting schedule.
- The amended deep soil landscape plan excluded areas identified by Council not to be included in the calculation.
- The amended calculation indicates a deep soil landscape area of 50.15%.
- Amended plans also modified the western courtyards and relocated the wall and fence on the eastern side of the sewer line.

The amended plans were notified in accordance with Council's Notification DCP. In response, one submission from the following was received:

1. Dr P M Hogan, 20 Day Street, Drummoyne (owner of 25 Bruce Avenue)

The following issues were raised:

*replacement of the approved large trees with smaller species along the eastern boundary is detrimental to amenity of adjoining properties*

The approved development provided for a setback of 6.26m from the eastern side boundary. The deferred commencement consent condition relating to the overland flow path required the relocation of a Council stormwater pipe within this setback.

Council officers raised concern with the applicant regarding the proposed plantings along the eastern side setbacks and the long term survival given the infrastructure within the side setback. Council officers requested further consideration of the species selection. The proposal was considered by Council's Landscape Officer who provided the following comments:

*...tall tree species (as required by LEP 194) are considered to be unviable due to the presence of the shallow installation of the required drainage easement. Tall tree species if planted, as they mature will interfere with drainage lines, potentially blocking them with roots.*

The proposed modification amends some of the plant species along the eastern boundary to trees which obtain a height of between 6 metres and 8 metres and increases the number of tall trees forward of the front building line. This is shown in **figure 1** below.

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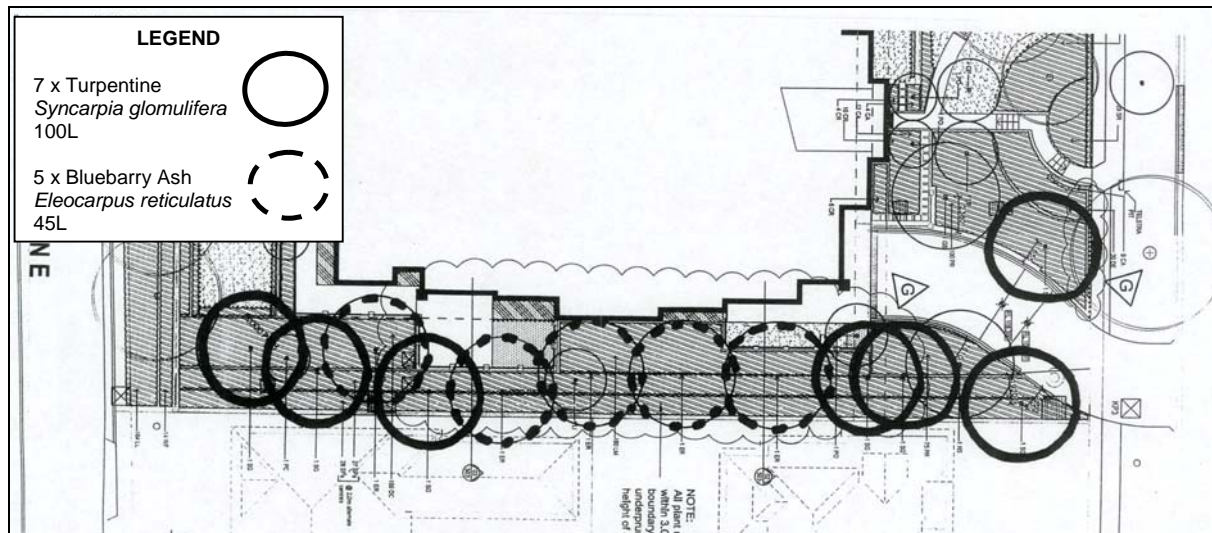


Figure 1 plant species along eastern boundary

Plantings within the front setback adjacent to the eastern boundary are still required to have a minimum height of 2.5m at planting. **Condition 87**, which requires new plantings to have a minimum height of 2.5 metres at the time of planting, is not proposed to be deleted or amended. The amended plans specify that all plantings along the eastern boundary will be a minimum of 2.5 metres in height at planting which is an improvement to what is presently required by the consent.

*non compliance with SEPP 65 with regard to height, number of storeys, building separation, side setbacks*

*non compliance with LEP 194 with regard to deep soil landscaping and number of storeys*

*non compliance with DCP 55 in regard to side setbacks, building separation and deep soil landscaping*

The proposed modification does not alter the approved height, number of storeys, building separation or the side setbacks of the development. The modifications include a reduction in the setback by 0.4 metres of the courtyard of Apartment 42 from the eastern boundary. The approved setback of 4.5 metres is reduced to 4.1 metres and provides for an increase in deep soil landscape area adjacent to the eastern boundary. The provided setback maintains landscape screening within both the private courtyard and eastern setback. The reduced setback does not result in any adverse impacts upon the adjoining property.

The proposed alterations to the deep soil landscaping are discussed in this report.

*the proposal is contrary to the aims, objectives and considerations of Clause 25C(1)(a), 25C(2)(b), 25D(2)(b),(c),(e) and 25(I)(1)(a),(c),(d),(e) of LEP 194*

The proposal is consistent with the aims, objectives and considerations of Clause 25C(1)(a), 25C(2)(b), 25D(2)(b),(c),(e) and 25(I)(1)(a),(c),(d),(e) of the KPSO for the reasons discussed within the assessment report. The modification does not alter Building C's setback from the eastern boundary and the proposed changes to the plant species along the boundary increase tall trees within the front setback and provide sufficient deep soil landscaping for effective landscaping.

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***the non compliance with the deep soil landscaping along the site's eastern boundary will exacerbate adverse streetscape impacts and adversely impact on adjoining properties by reason of reduced visual privacy and visual amenity and increased building dominance***

The modification results in changes to the landscape species, location of the on site detention system and reduction in the private courtyards along the eastern boundary.

The amendment to the schedule of plantings responds to the restricted area within this setback to ensure appropriate species are provided which will survive. Landscaping is still proposed to be provided within this setback area which reaches heights between 6 – 8metres and canopy trees are provided within the setback in specific locations.

It is recommended that the living room windows at Level 2 of Building C along the eastern elevation are provided with obscure glazing to address any privacy impacts on the adjoining property. The height difference between the approved tree species and proposed species would only relate to Level 2 and above. The view line from Level 3 would preclude any overlooking of the existing dwellings to the east and would not result in a privacy impact as shown in **figure 3**. The proposal maintains the approved setbacks, planter boxes and privacy screens at Level 4 and as a result does not impact adversely upon privacy.

The modification and subsequent conditions will limit privacy impacts and result in an improved privacy outcome for the adjoining property.

***there is a further reduction made to the deep soil landscaping by 460mm along the length of the building for reduction of deep soil arising from the "as built" basements and ground floor concrete slabs that encroach into the approved side setback of 6.26m and reduce deep soil***

The proposed modifications do not seek to alter the basement slab.

#### **ADDITIONAL AMENDED PLANS**

Additional amended plans were submitted on 19 and 23 June 2009 in response to Council's letter of 10 June 2009. The following further amendments were made to the plans:

- The setback from the north-east courtyard to Apartment 42 was reduced from 4.5m to 4.1m to provide a 2.0 metres deep soil area which could be included in the total calculation. The applicant's deep soil landscaping calculation was 50.03%.

In accordance with Council's Notification Policy DCP 56, the amended plans were not required to be notified as the amendments were considered minor and resulted in an improved environmental outcome.

Notwithstanding, a further submission was received on 15 July 2009 from Paul Hogan raising the following concerns:



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*flood structure*

*The flood structure footings need to be redesigned and not use strip footings in order to allow for the installation and viability of screen hedge planting along the eastern boundary*

The submitted plan W/A-04H details a 700mm wide footing. A condition is recommended that pier and beam footing be utilised to ensure the viability of vegetation along the eastern boundary (Condition 113a).

*screen planting*

*As a consent condition, a screen hedge (Lillypilly) should be planted along the entire eastern boundary between Bruce Ave and Greengate Lane. The height of the hedge at planting should be 3.5m for the section from the rear of the garage to the rear boundary of 25 Bruce Avenue. The remaining portions of screen hedge along the eastern boundary, is to be 2.5m in height when installed. As a consent condition, the screen hedge when installed should be sufficiently dense to provide an effective privacy screen. To ensure that this is carried out a further consent condition is required that the consent holder must install a temporary privacy screens to a height of 3.5m along the length of the boundary to remain in place until the hedge screening installed provides an effective privacy screen.*

The current conditions of consent require only planting within the front setback to have a height of 2.5 metres at the time of planting. As part of the modifications, the applicant has indicated planting along the entire eastern boundary will be 2.5 metres in height at the time of planting. The further amendments requested by the owner of the neighbouring property are not warranted, given that the modifications as currently proposed would not result in any adverse impacts upon this property. The levels between the properties are not altered by the proposed modifications, the setbacks are not decreased and the change in plant species relates to Levels 2 and 3 and not the ground level.

*tree planting*

*request that any trees proposed be at least 75lt (approx 1.8m height) when planted*

The amended landscape plan specifies that plantings along the eastern boundary will be 2.5 metres in height at the time of planting. DCP 55 and LEP 194 do not nominate minimum pot sizes and Council's requirement for tree replacement is 25 litres.

*unit 42 (north-east unit)*

*the courtyard should be removed from encroaching into the side setback.*

*due to the elevated height of the building and courtyard, there needs to be tree planting to a minimum height of 4.7m for privacy between the ground floor courtyard (Unit 42) and the adjoining 1st floor bedroom of 25 Bruce Avenue*

The development consent permits the courtyard to be located within the side setback and deletion of the courtyard is not warranted. The modifications have extended the private courtyard towards the eastern boundary to create an area 2 metres in width to be defined as deep soil landscape area between Courtyard 42 and the eastern side boundary, which is an improvement to the existing circumstance.

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The proposed modification does not alter the levels of the approved building or the courtyard. The concerns raised regarding privacy between the ground floor courtyard and adjoining property were considered as part of the original application. Privacy impacts as a result of landscaping changes along the eastern boundary are discussed elsewhere within this report.

*unit 41 (south-east unit)*

*the extensive area of the courtyard protruding into the side setback should be removed to provide for effective landscaping*

*the detention basin should be located under hard surface areas*

*Schedule A, condition 1 of the consent required that on-site detention/retention be beneath proposed hard surface areas to maintain deep soil planting*

*for privacy, no security gate for Unit 41 or 42 should open onto the eastern boundary*

The courtyard location has been approved as part of the development consent. The deferred commencement consent has been issued and was considered satisfactory.

The proposed location of the on-site detention/retention basin does not reduce the deep soil landscape area to a non-compliance for reasons discussed in this report. Further, landscaping is still provided between the structure and the eastern side boundary.

The provision of a security gate is not considered to result in unreasonable privacy impacts upon the adjoining properties. Further **Condition 99** of the consent requires security gates to be provided between the courtyard walls of Units 1 and 42 and the side boundaries.

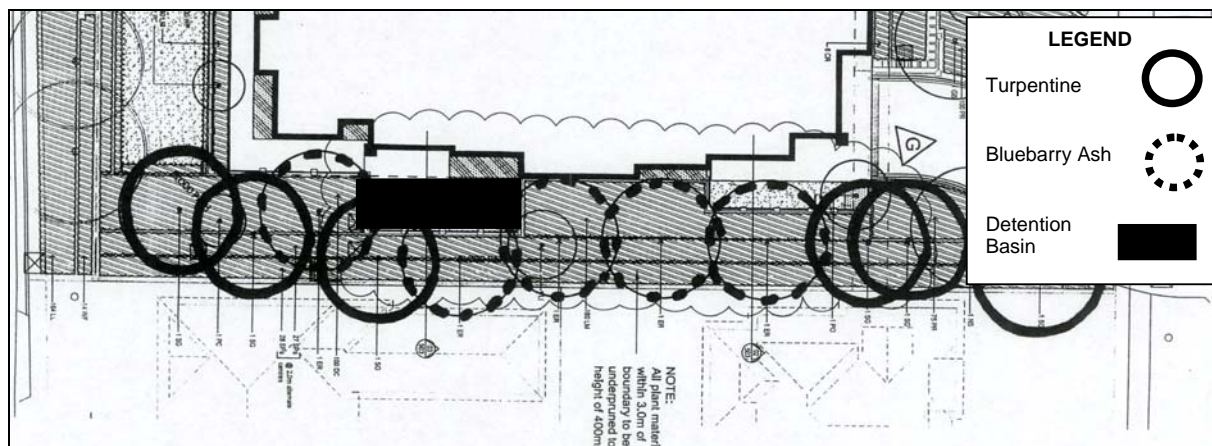


Figure 2 detention basin and landscape screening

*obscure glass and privacy screening*

*for units: 42 (Ground floor), 46 (first floor), 51 (2nd floor) and 56 (3rd floor) obscure glazing should be provided to the living room window and privacy screen to the balconies*

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*for unit 42 (ground floor - elevated) obscure glazing to a height of 1.7m FFL should be provided to the kitchen and bedrooms that overlook the family room and kitchen of 25 Bruce Avenue*

The modification proposes amendments to the approved tree species along the eastern side boundary. The change in species results in a change of the mature height from 10-12 metres to 6-8 metres. At ground and first floor there will be no change from that which has been approved. The amended species will grow to a height in excess of these floor levels consistent with the approved development. It is therefore unreasonable to require additional measures.

It is recommended that obscure glazing and a privacy screen be provided at the second floor as it is considered there is a change in the approved circumstance which may lead to greater opportunity to overlook the adjoining property (**Condition 1b**). The sight line available from the third level will not result in a privacy impact upon the adjoining property.

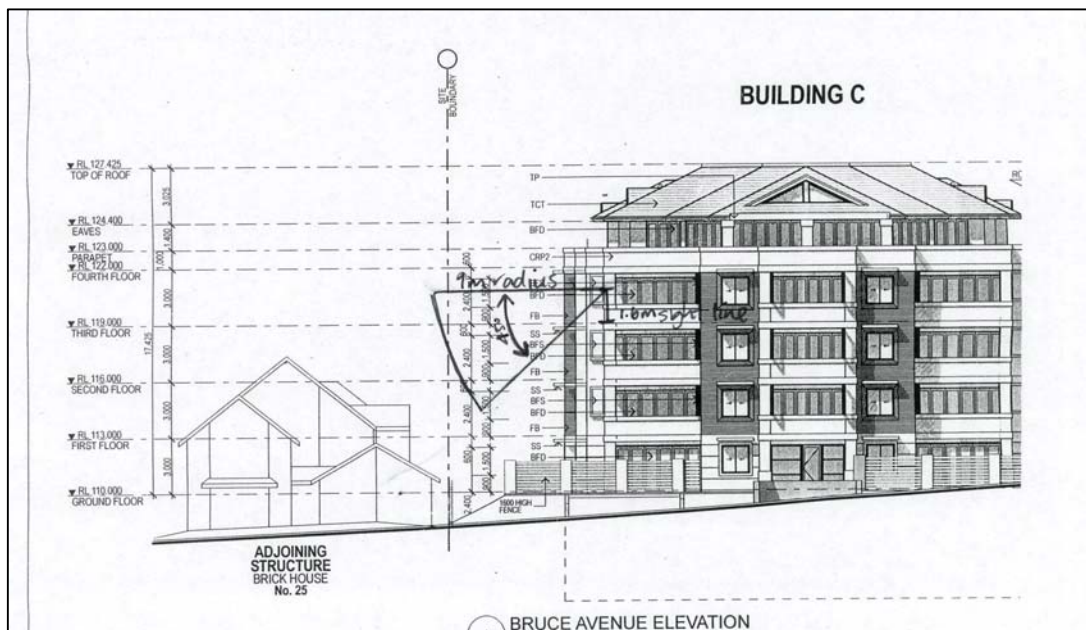


Figure 3 sight line from Level 3 to 25 Bruce Avenue

The approved location of the kitchen and bedroom windows is behind the rear building alignment of 25 Bruce Avenue. The modification proposed does not alter the setback or location of these openings nor the levels within the building in relation to the adjoining property. The landscaping proposed along the eastern elevation will maintain reasonable privacy between properties.

*deep soil landscaping at 47.4% does not meet the required 50% under the LEP.*

This issue is discussed in detail in the assessment report.

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## CONSULTATION - WITHIN COUNCIL

### Landscaping

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

*The following amendments as part of the application can be supported by Landscape Services:*

- *The relocation of the substation*
- *The fencing style changes from horizontal to vertical timber batons.*
- *The deletion of the water features.*
- *The deletion of the swimming pool and spas.*
- *The tree protection changes.*

#### *Landscape plan*

*The amended planting plan/landscape plans can be supported by Landscape Services. However, the following comment is made.*

*Proposed tree planting adjacent to the eastern side boundary has been amended with smaller tree species. As previously stated, tall tree species (as required by LEP194) are considered to be unviable due to the presence of the shallow installation of the required drainage easement. Tall tree species if planted, as they mature will interfere with the drainage lines, potentially blocking them with roots. In addition, the area is significantly compromised and restricted with the required masonry wall adjacent to the side boundary and its footings, the pipes and the restricted setback to the building/basement line and private courtyard areas.*

*While Landscape Services can support the planting of the smaller tree species, it will be conditioned for the proposed planting of the *Syncarpia glomulifera* (Turpentine) to be planted so that they have an appropriate setback from the drainage infrastructure. The submitted cross sections demonstrate that the planting of taller tree species is unviable within the available 200-750mm topsoil.*

#### *Deep soil*

*By the applicant's calculations as detailed on the Deep Soil Landscaping Plan Rev I, the development will have a deep soil landscape area of 3 364.2sqm or 50.03% of the site, which is 2.05sqm in excess of Council's requirement.*

*Landscape Services does not agree with the areas included within the deep soil landscape area calculations, as per the LEP194 definition. The areas in dispute include:*

- *The garden area <2.0m wide within the private courtyard of Unit 2 (Building A). This area amounts to approximately 3.2sqm*

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*As a result, the proposed development falls short of the minimum required deep soil landscape area. To address this, it will be conditioned for the proposed retaining wall and courtyard fence to be located immediately adjacent to the proposed paved terrace, which will result in the garden bed being within communal ownership and also able to be included within the deep soil calculable area being >2.0m wide. Landscape Services considers that, with the added condition the aims and objectives of the minimum deep soil landscape area can be satisfied.*

*Stormwater plan*

*No amended drainage works are proposed as part of this application. However it is pertinent to mention that approved stormwater drainage works adjacent to the eastern side boundary between Bruce Avenue and Greengate Lane significantly compromises the deep soil landscape area for the establishment of tall trees as per LEP194 controls and objectives. In reality, no tall trees as envisaged by LEP194 and DCP55 can be established within this side setback within close proximity of the drainage infrastructure as the pipes are large and shallow and are located midway within the setback, therefore maximising their zone of influence. This has been detailed within the submitted Landscape Details 3 plan Drawing Number LCC503 Issue F prepared by Site Image.*

*Western courtyards*

*Previous concerns raised have been satisfactorily addressed with the reduction of the proposed private courtyard area.*

*Conclusion*

*The modification can be supported by Landscape Services, subject to conditions.*

**Engineering**

Council's Engineering Team Leader, Kathy Hawken, provided the following comments:

*"The original development had an over supply of car parking spaces therefore I raise no objection to the additional bedroom."*

**STATUTORY PROVISIONS**

**Section 96 of the Environmental Planning and Assessment Act 1979**

Consent is sought under the provisions of Section 96(2) of the Act to modify Development Application DA0983/05. A consent authority may, subject to and in accordance with the regulations, modify this consent if:

***(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)***

The development as modified is substantially the same development as that approved. The application seeks to make amendments to conditions of development consent relating to tree

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protection measures, hours of construction and minor design changes. As a result of the modifications, the development will remain substantially the same development as approved.

*(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Consultation with the Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent is not required in the circumstances of this case.

*(c) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

The proposed Section 96 modification has been notified in accordance with the provisions of the regulations and Council's Notification DCP 56.

*(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be*

Sixteen (16) submissions were received during the first notification period and one (1) submission was received during the second notification period. An additional submission was received on 15 July 2009. The submissions are addressed in this report.

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

SEPP 65 aims to improve the design quality of residential flat buildings across NSW and provides an assessment framework, the Residential Flat Design Code (RFDC), for assessing "good design". Part 2 of SEPP 65 also includes 10 design principles which a residential flat development must satisfy. The proposal has been assessed with regards to SEPP 65 and the 10 design principles:

#### **Context:**

The proposed modifications do not alter the approved setbacks from the side boundaries or the design incorporating three buildings or the variety of materials in earthy tones and landscaping which is consistent the landscaped character.

#### **Scale:**

The proposed modifications do not alter the approved height of the development. The proposal maintains the approved building envelope, perimeter ceiling height and site coverage requirements of LEP 194.

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**Built form:**

As a result of the modifications sought, the proposal will still maintain a built form which is broken up by a recessive 5<sup>th</sup> storey and balconies, vertical and horizontal modulation and a variety of building materials.

**Density:**

The proposal maintains compliance with the floor space ratio requirements of DCP 55 and the density is considered to be appropriate.

**Resource, energy and water efficiency:**

The proposal is considered satisfactory with respect of this principle.

**Landscape:**

The amended landscape plan is considered to be acceptable and appropriate to achieve long term survival of vegetation on site. The landscaping species is considered satisfactory to be sustainable and is suitable in the context of the development. The proposed landscaping is acceptable for the useability and privacy for the site and its relationship with adjoining properties.

**Amenity:**

The modifications to the layout of Unit 24 and the deletion of spa baths associated with Units 20, 21, 38, 58 and 59 and conversion into balcony area is considered to retain an acceptable level of amenity. The proposed amendments are unlikely to result in any additional impact upon adjoining dwellings. The deletion of the swimming pool and its conversion to landscaping will not result in a greater amenity impact.

**Safety and security:**

The proposal is considered satisfactory with respect of safety and security. The proposal maintains passive surveillance of communal spaces and provides for pedestrian through the site. The modifications do not seek to alter the approved vehicular access arrangement from Bruce Avenue. The development maintains lift access to each unit despite the reduction in the number of lifts as part of this application.

**Social dimensions:**

Despite, the reconfiguration of Unit 24, the development is considered to contain an adequate mix of unit sizes, to cater for a social mix within the development.

**Aesthetics:**

The proposal does not seek to alter the approved composition of building elements, textures, materials and colours. The aesthetics of the buildings remain satisfactory.

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## State Environmental Planning Policy No 55 - Remediation of Land

Under the assessment of the development application, the application was supported by an Environmental Site Screening Report by "EIS" and remediation was required to be undertaken and subject to this, the site would be considered suitable for a residential use. The modifications sought do not seek to alter the conditions of consent relating to site contamination and is therefore considered satisfactory having regard to the relevant matters for consideration under the State Environmental Planning Policy No 55.

## Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005

Matters for consideration under SREP 2005 include biodiversity, ecology and environmental protection, public access to and scenic qualities of foreshores and waterways, maintenance of views, control of boat facilities and maintenance of a working harbour. The proposal is not in close proximity to, or within view, of a waterway or wetland and is considered satisfactory. The modifications do not alter the original assessment of the application with respect of SREP 2005.

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

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 2400 m <sup>2</sup> (for 5 storeys)	6724.3m <sup>2</sup>	No change
Deep landscaping (min): 50%	47.7%	NO
Street frontage (min): 30m	106+m	No change
Number of storeys (max): 5	5	No change
Site coverage (max): 35%	35%	YES
Top floor area (max): 60% of level below	Building A: 45.5% Building B: 34.9% Building C: 45.5%	No change
Storeys and ceiling height (max): 4 storeys and 13.4m	4 storeys 13.4m to NE corner of Building C	YES
Car parking spaces (min): • 15 (visitors) • 107 (residents) • 122 (total)	15 108 123	YES YES YES
Manageable housing (min): 10% - 6 units	6 units	No change
Lift access: required if greater than three storeys	3 lifts, 1 per building	YES

## Clause 251(2) Minimum standards for deep soil landscaping

The applicant nominates a deep soil landscape area equivalent to 50.5%.

The modification includes the deletion of a swimming pool, relocation of a substation and other minor changes. The deep soil landscape area is calculated to be 47.7% or some 154.66m<sup>2</sup> short of the 50% requirement specified in LEP 194. This calculation differs from the applicant's as it



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excludes the drainage infrastructure along the eastern boundary and the garden area <2.0m wide within the private courtyard of Unit 2 of Building A.

The approved works have commenced on site and the proposal has been designed to locate hard surfaces such as private courtyards above the basement footprint. There is practically very little opportunity to provide for any additional deep soil landscaping area. Nevertheless, a condition of consent (**Condition 113a**) is recommended to relocate the proposed retaining wall adjacent to the approved paving of Unit 2 of Building A. This will increase the deep soil landscape area to 47.72%.

Concern has been raised that the proposal does not comply with the minimum required deep soil landscape area, particularly along the eastern side boundary. This is as a result of the deferred commencement consent, which required the relocation of the Council drainage easement and installation of infrastructure to address the overland flow path. Two stormwater pipes have been located within the eastern side setback and as a consequence the development as constructed does therefore not comply with the minimum deep soil landscape area.

In the circumstances the degree of deep soil landscape area whilst not fully compliant is considered acceptable, as the development meets the aims and objectives of the standard, being:

- capable of providing landscape screening on site which is consistent with the scale of the development;
- an adequate deep soil landscaping area to accommodate tall trees in the rear and front gardens; and
- effective in providing landscaping between properties.

**Clause 25J Car parking**

The proposal includes the provision of an additional bedroom to Unit 24. As a result, an additional carparking space is required, making a minimum requirement of 107 spaces. The approved development provides 108 spaces, and meets the required number of spaces.

**Requirement for Lifts (cl. 25N(3))**

The proposed modification seeks to delete one (1) lift in each of the buildings. The proposal maintains a single lift in each building which is consistent with the control requirement of having lift access for multi-unit housing of more than 3 habitable storeys.

**Heritage /conservation areas (cl.61D – 61I):**

The modifications sought relate to the deletion of elements and internal changes to the development. The original development was considered satisfactory and did not result in adverse impacts upon the significance of 20 Greengate Road or the Greengate Hotel. The modifications are similarly, not considered to result in an impact upon the significance of these items given the minor nature of the works.

**Residential zone objectives and impact on heritage:**

The proposed modification provides for appropriate plantings within the eastern side boundary to ensure long term longevity, an increase in tall trees forward of the front building line and does not seek to alter the approved side setbacks. The landscaping provided with the side setbacks is

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satisfactory to achieve a filtering of views of the approved development and maintain amenity between properties. The modified works are not considered to be detrimental to nearby heritage items. The proposal is consistent with the aims, objectives and considerations of Clause 25C, 25D and 25I of the KPSO.

## POLICY PROVISIONS

### Development Control Plan No 55 - Railway/Pacific Highway Corridor & St Ives Centre

COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Part 4.1 Landscape design:</b>		
<b>Deep soil landscaping (min)</b> 150m <sup>2</sup> per 1000m <sup>2</sup> of site area = 1008.6m <sup>2</sup>	1329m <sup>2</sup>	YES
<b>No. of tall trees required (min):</b> 22 trees	>22 trees	YES
<b>Part 4.2 Density:</b>		
<b>Building footprint (max):</b> 35% of total site area	34.7%	YES
<b>Floor space ratio (max):</b> 1.3:1	1.254:1	No change
<b>Part 4.3 Setbacks:</b>		
<b>Street boundary setback (min):</b> 10-12 metres (<40% of the zone occupied by building footprint)	Buildings A & C: 13m -15.6m Building B: 13m-13.3m 35% of zone occupied by building footprint	YES YES YES
<b>Rear boundary setback (min):</b> 6m	10.44m	No change
<b>Side boundary setback (min):</b> 6m	East 6.26m West 6.17m	No change No change
<b>Setback of ground floor courtyards to street boundary (min):</b> 11m	11m	No change
<b>% of total area of front setback occupied by private courtyards (max):</b> 15%	15%	YES
<b>Outdoor living:</b> ground floor apartments have a terrace or private courtyard greater than 25m <sup>2</sup> in area	>25m <sup>2</sup>	YES

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COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Part 4.7 Social dimensions:</b>		
<b>Housing mix:</b> Mix of sizes and types	37 x 3 bedroom, 9 x 3 bedroom with study, 2 x 3 bedroom with 2 studies, 11 x 2 bedroom with study  Sizes varying from 97.7m <sup>2</sup> to 147.7m <sup>2</sup>	YES
<b>Part 5 Parking and vehicular access:</b>		
<b>Car parking (min):</b> 15 visitor spaces 107 resident spaces 122 total spaces	15 spaces 108 spaces 123 spaces	YES YES YES

**Part 4.5 Residential amenity:****Privacy**

Concern has been raised by the owner of the adjoining property at 25 Bruce Avenue regarding the modifications resulting in a greater impact in terms of visual privacy and visual amenity.

The modification alters the approved deep soil landscaping and plant species on site. The landscaping along the eastern boundary included tall trees reaching a mature height of 10 - 12 metres as part of the original approval. The current proposal maintains some tall trees along the eastern side boundary.

The modification incorporates the use of smaller trees which are more suitable within the setback, given the location of the stormwater easement. The proposed species will reach mature heights of 6 - 8 metres. The changes in species occurs through the centre of the site along the eastern elevation of the building and side boundary, with an increase in tall trees forward of the front building line at this location. This is shown in **figure 4** below.

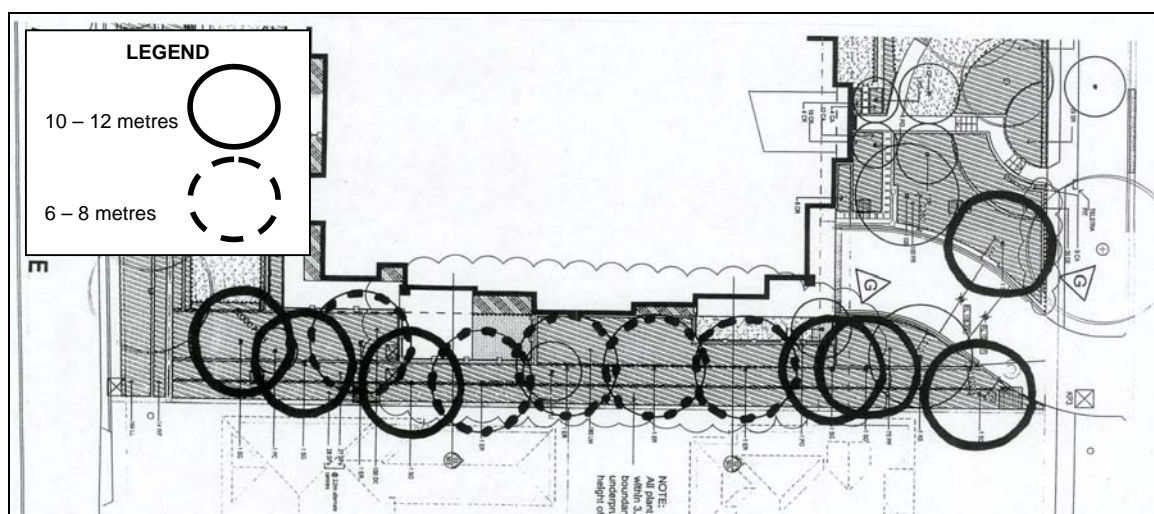


Figure 4 screen planting height along eastern boundary

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Given the height of the modified species in relation to the approved development, the plantings will reach a minimum height equivalent to the second floor of Building C. The allotment at 25 Bruce Avenue has a length of approximately 32 metres shared with the subject property and the rear property boundary aligns approximately mid way along Building C. The second and third levels have the same building layout and include five (5) openings in the eastern elevation at both levels facing the common boundary with 25 Bruce Avenue.

The openings are associated with bedroom 2, an ensuite, 2 kitchen windows and the living room. The living room also provides access to a balcony. There is no concern regarding the bedroom and ensuite windows in terms of additional privacy impacts given the nature of the use of these rooms and they do not align with any openings in the adjoining dwelling.

The kitchen windows have changed in size from the approved plans which were 600mm in width with a height of 1350mm. The submitted plans indicate a reduced size of the kitchen windows at 471mm in height with a width of 600mm. The windows have a sill height of 976mm. The top of the window is therefore 1.447m above the floor level and below the sight line of the average person. The kitchen windows therefore do not result in a loss of visual privacy to the adjoining property.

However, it is considered there may be additional overlooking of the adjoining property at 25 Bruce Avenue from the living room windows at Level 2 only. **Condition 1B** is recommended which requires these openings to be of obscure glazing.

The living rooms at Levels 2 and 3 are directly accessible to north-facing elevated balconies. The approved plans have aluminium sun screens and framed bi-folding shutters. These are not fixed devices and it is considered appropriate to require a fixed screen along the eastern elevation of the balcony at Level 2 (**Condition 1B**). It is considered that the sight line from Level 3 would not result in a loss of privacy to adjoining properties. This is demonstrated in **figure 3**.

The approved development at Level 4 incorporates a series of planter boxes and privacy screens. The proposed plant species within the planter boxes varies in height between 1.0 metre and 3.0 metres. The planter boxes adjacent to the eastern boundary contain 'Liriope' which has a mature height of 3.0 metres and width of 2.0 metres. It is considered that a reasonable level of privacy would be maintained to the adjoining properties to the east from the Level 4.

Despite the change in plantings along the eastern setback, the proposed modification is acceptable with respect to privacy. The additional conditions of consent requiring obscure glazing to the living room window at level two and provision of a privacy screen along the eastern end of the elevated balcony will result in a greater level of privacy for 25 Bruce Avenue than what would have been achieved with the landscape screening only as proposed in the original development application.

### Prominence of building without landscaping

Concern has been raised regarding the visual amenity impact as a result of the amendments to the plant species along the eastern side boundary. The modifications result in a reduction in some of the mature tree heights to 6 – 8 metres. The proposal however, maintains seven (7) tall trees along the eastern side boundary. The modification results in an increase in the number of tall trees forward of the residential flat buildings. Therefore, there would be increased landscaping of the development as viewed from the street.

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Further, the amendments proposed indicate that all plantings along the eastern boundary will be 2.5 metres in height at the time of planting. Previously, **Condition 87** only required plantings forward of the front building line to be subject to this requirement. This amendment will enhance the landscape amenity to the adjoining properties.

The proposal has been considered by Council's Landscape Officer who is satisfied with the proposed amendments to the plantings, subject to conditions.

**Outdoor living**

As a result of the proposed modification and necessity for deep soil landscape areas to have a minimum depth of 2.0m, the north-eastern courtyard to Unit 42 has been reduced. The approved development has a private open space of 51.1m<sup>2</sup>. As a result of the modification, the courtyard area has been reduced to 25m<sup>2</sup> and complies with the control.

**Part 4.7 Social dimensions**

The modifications sought provides for an additional 3 bedroom unit, which was formerly a two bedroom unit with study. The development is still considered to provide for an appropriate mix of unit sizes and types.

**Part 5 Parking and vehicular access**

As a result of an additional bedroom proposed in Unit 24, an additional car space would be required. The approved development provided 108 spaces, above the minimum requirement, and therefore the new requirement of 107 spaces would be satisfied.

The modifications sought do not alter the approved vehicular access or arrangements on site.

**Relocation of substation**

The electrical substation is proposed to be relocated to be set back 6.0 metres from the western side boundary and 4.2 metres from the front boundary. The proposed setback is not considered acceptable and the proposed relocation will result in an unacceptable visual impact upon the streetscape of Bruce Avenue.

The electrical substation was approved to be located in the south-western corner of the property fronting Greengate Lane and would be accessible by vehicles. This location is considered more appropriate. The proposed relocation of the substation is not supported. (**Condition 1c**).

**ANY OTHER RELEVANT MATTERS**

**Hours of construction**

The application seeks to modify the following approved hours of construction required by **Condition 17**.

17. *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*

Item 4

*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."*

It is proposed to extend the construction hours to be consistent with Draft NSW Construction Noise Guideline which nominates:

- 7:00am – 6:00pm, Monday to Friday;
- 8:00am – 1:00pm, Saturday;
- No work on Sundays or Public Holidays.

Consent is also sought to permit low noise generating construction activities such as internal fit-out activities, laying brick, roof tiling, landscaping, paving, plumbing, painting and cleaning be permitted to occur up to 5:30pm on Saturdays.

The applicant also requests relaxation of the restriction in the control activities on a specified number of Saturdays up until 4:00pm to enable concrete pours to occur. The maximum number of Saturdays requested to permit concrete pours is 15 days.

The applicant has indicated the reasons to enable concrete pours as follows:

- *Concrete pours are a critical task and once commenced, the full pour needs to be completed including finishing;*
- *Current imposed hours of construction in practice restricts concrete pouring operations to weekdays only if commenced on Saturday and forced to cease at 12:00 midday significant wastage can occur; and*
- *Allowance of extended hours and subsequent concrete pouring on specified Saturdays would allow constraints resulting from poor weather to be minimised and the progress of the development without significant delays of construction activities.*

The applicant references examples on two occasions where Council approved variation to construction hours on Saturdays for MOD0189/07 and MOD0174/07 in both cases where concrete pours were permitted to 4:00pm. The modifications in respect of these sites were supported for site specific reasons with respect of proximity to schools and truck movement restrictions during school periods.

In this circumstance, there are no special circumstances to justify variation of the standard construction work period requirements. The application has been supported by an acoustic report prepared by Atkins Acoustics. The acoustic report acknowledges that high noise levels will occur potentially impacting on neighbouring properties. Variations to construction hours are only supported where adequate justification is provided. The currently approved hours are satisfactory to permit construction whilst minimising disturbance on adjoining properties.

It is not considered to be in the public interest in this instance to support extending the approved hours of construction.

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**Development Control Plan 31 - Access**

The modifications sought do not raise any new issues in relation to access. Matters for consideration required under DCP 31 have been taken into account in the assessment under DCP 55 and the proposal is satisfactory in this regard.

**Development Control Plan 40 - Construction and demolition waste management**

Matters for assessment under DCP 40 have been taken into account in the assessment under DCP 55 and the proposal is satisfactory in this regard.

**Development Control Plan No 43 - Car parking**

Matters for assessment under DCP 43 have been taken into account in the assessment under DCP 55 and the proposal is satisfactory in this regard.

**Development Control Plan 47 - Water management**

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

**Development Control Plan 56 – Notification**

The modification was notified in accordance with Council's Notification DCP.

**LIKELY IMPACTS**

The proposed changes to the hours of construction will result in amenity impacts upon surrounding residential properties and the changes are not supported as part of this application. The approved hours of construction are considered a reasonable balance to permit construction and maintain residential amenity of surrounding properties.

The proposed relocation of the electrical substation to within the Bruce Avenue streetscape is not supported as part of this application. The substation will result in a visual impact upon the streetscape which is unacceptable. The approved location fronting Greengate Lane maintains vehicular access to the substation and is more appropriate.

The proposed amendments to the landscaping conditions have been considered by Council's Landscape Officer and are satisfactory.

The modifications which result in changes to the deep soil landscaping, plant species and landscape plan are acceptable. Subject to conditions, the amendments will not result in a greater privacy or visual amenity impact to adjoining properties. The landscaping along the eastern boundary will be planted at a height of 2.5 metres and conditions are recommended to require obscure glazing to the level two living room window of Building C.

The proposed modifications to the internal layout, deletion of roof windows, size of kitchen and ensuite windows in the eastern elevation and swimming pool is considered to be acceptable as there is no resultant amenity impact upon adjoining properties or the streetscape.

Item 4

This assessment demonstrates that, subject to the recommended additional conditions, the proposal will not have any adverse impacts upon the environment in general or any adjoining properties.

## ANY SUBMISSIONS

All submissions received have been considered as part of this assessment report.

## PUBLIC INTEREST

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised.

The modifications to **Condition 17** relating to hours of construction and the proposed relocation of the electrical substation are not considered to be in the public interest and are not supported.

The proposed modifications to deep soil landscaping, landscape plan and plant species are satisfactory, subject to conditions. The proposal does not result in any significant impacts upon neighbouring properties in this regard and subject to conditions. The proposal is considered to result in a better outcome for the neighbouring properties to the east than the approved development. The modification will provide for additional privacy through obscure glazing, privacy screen and landscaping having a height of 2.5metres at the time of planting.

## CONCLUSION

Having regard to the provisions of Section 96 and 79C of the Environmental Planning and Assessment Act 1979, the proposed development is satisfactory, with the exception of the proposed changes to the hours of construction. Therefore, it is recommended that the application be approved, with the exception of the proposed modification to **Condition 17** and the relocation of the electrical substation.

## RECOMMENDATION

### **PURSUANT TO SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

THAT Council, as the consent authority, approve MOD0054/09 to modify development consent to DA0983/05 for demolition and construction of a residential flat building comprising 59 units, basement car parking, landscaping, pool and strata subdivision at 9 -23 Bruce Avenue, Killara, subject to the following conditions:

1. Modify Condition 1 as follows:
  1. The development must be carried out in accordance with plans numbered 703 D/B18B and D/B 20B, dated 15 August 2005 and 703 D/A02D, D/B01C-17C, D/B19C, D/B 21-22C, D/C01C - D/C08C, D/D01C, D/D02C dated 2 December and 13 December 2005, drawn by Drew Dickson Architects and lodged with Council 5 December & 13 December 2005, **except as further modified by plans**



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numbered W/A-04H, W/A-05G, W/A-06H, W/A-07F, W/A-08H, W/B-07/3, W/B-15/4, W/B-16/4, W/B-17/2, W/C-02/2, W/C-03/3, W/C-04/2, W/C-08/2, W/C-09/2, W/C-10/2, all drawn by Drew Dickson Architects and received by Council on 27<sup>th</sup> February 2009. W/A-02N prepared by Drew Dickson Architects and received by Council on 23<sup>rd</sup> June 2009 and endorsed with Council's approval stamp, except where amended by the following conditions:

2. Deletion of conditions 6, 7, 9, 10, 12 and 14 as they relate to the swimming pool structures which are being deleted as part of this modification.
3. Addition of condition 1b as follows:

**1(b) Privacy measures**

- The living room windows in the eastern elevation of Building C associated with Unit 51 at the second level of the building are to be of obscure glazing as noted in red on plan W/C-10/2 prepared by Drew Dickson Architects and received by Council 27<sup>th</sup> February 2009.
- Privacy screens shall be provided which are vertically fixed at a 45 degree angle in a north-easterly direction to the eastern elevation of the balconies associated with Unit 51 at the Second level of Building C to a height of 1.7m above the finished floor level of the balcony and for the depth of the balcony as noted in red on plan W/C-10/2 prepared by Drew Dickson Architects and received by Council 27<sup>th</sup> February 2009.

**Reason:** To maintain a reasonable level of privacy to adjoining properties.

4. Addition of Condition 1c as follows:

**1(c) Electrical substation**

The electrical substation is to remain in the approved location shown on the approved site plan D/A-02 Amendment D prepared by Drew Dickson Architects and dated 13/12/2005.

**Reason:** To protect the streetscape.

5. Addition of Condition 1a which states:

**1(a) Approved landscape plans**

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

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Plan no.	Drawn by	Dated
LCC301 Rev G Hardscape Plan	Site Image	17/06/2009
LCC401 Rev G Planting Plan		17/06/2009
LCC402 Rev F Softscape plan level 4		25/05/2009
LCC503 Rev F Landscape details 3		17/06/2009

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

6. Addition of condition 113 (a) as follows:

**113(a). Amendments to approved landscape plan**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved landscape plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
LCC301 Rev G Hardscape Plan	Site Image	17/06/2009
LCC401 Rev G Planting Plan		17/06/2009
LCC402 Rev F Softscape plan level 4		25/05/2009
LCC503 Rev F Landscape details 3		17/06/2009

The above landscape plan(s) shall be amended in the following ways:

- The two *Elaeocarpus sinuatus* (Blueberry Ash) located adjacent to the eastern site boundary/adjacent to the Beds 2&3 of Unit 42 (Building C) is to be changed to two *Syncarpia glomulifera* (Turpentine).
- To increase the deep soil landscape area on site, the proposed retaining wall adjacent to the western side of the private courtyard for Unit 2, Building A is to be located immediately adjacent to the proposed paved terrace.
- The electrical substation is not approved to be relocated to the Bruce Avenue streetscape. The substation is to remain in the approved location, being the south-western corner of the property fronting Greengate Lane.

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that the landscape plan has been amended as required by this condition.

**Note:** An amended landscape plan, prepared by a landscape architect or qualified landscape designer shall be submitted to the Certifying Authority.

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

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7. Addition of condition 154 which states:

**154. Completion of landscape works**

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

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

8. Amend condition 125 as follows:

**125. Tree protection measures**

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/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in Metres
#22 <i>Araucaria hetrophylla</i> (N.I. Pine) Bruce Ave nature strip (pedestrian access to be maintained at all times)	9.0m*
<b>*Tree protection fencing may be placed along the existing kerb and gutter.</b>	
#23 <i>Eucalyptus spp.</i> (Eucalypt) Bruce Ave nature strip	4.0m
#27 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary in neighbouring property	4.0m
#40 <i>Sapium sebiferum</i> (Chinese Tallow) Adjacent to eastern site boundary in neighbouring property	3.0m
#42 <i>Liriodendron tulipifera</i> (Tulip Tree) Adjacent to southern site boundary	4.0m
#43 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#44 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#45 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#46 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
# 49 <i>Unidentified tree</i> Centrally located adjacent to southern boundary	2.0m
#57 <i>Angophora costata</i> (Sydney Redgum) Adjacent to southern site boundary	4.5m
#65 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	6.0m
#67 <i>Camellia japonica</i> (Japanese Camellia) Adjacent to western site boundary	3.0m
#68 <i>Jacaranda mimosifolia</i> (Jacaranda)	3.0m*

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Tree/Location	Radius in Metres
Adjacent to southern site boundary	

**\*Excavation permitted to allow for the detention tank**

#68a <i>Acer palmatum</i> 'Dissectum' (Weeping Maple)	3.0m
Adjacent to northern site boundary	
#69 <i>Magnolia soulangeana</i> (Soul's Magnolia)	4.0m
Adjacent to northern site boundary	
#71 <i>Cupressus</i> spp. (Cypress)	3.0m
Adjacent to northern site boundary	
#72 <i>Magnolia soulangeana</i> (Soul's Magnolia)	3.5m
Adjacent to northern site boundary	

**Reason:** To protect existing trees on site.

9. Addition of condition 113a which states:

**113a Pier and beam footings**

Prior to the issue of the construction certificate, the Principal Certifying Authority shall be satisfied that the footings of the proposed eastern boundary flood wall will be isolated pier or pier and beam construction.

**Note:** Structural details of the pier or pier and beam construction shall be submitted to the Principal Certifying Authority.

**Reason:** To protection vegetation along the eastern side boundary.

K Munn  
**Executive Assessment Officer**

S Garland  
**Team Leader**  
**Development Assessment - South**

C Swanepoel  
**Manager**  
**Development Assessment Services**

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

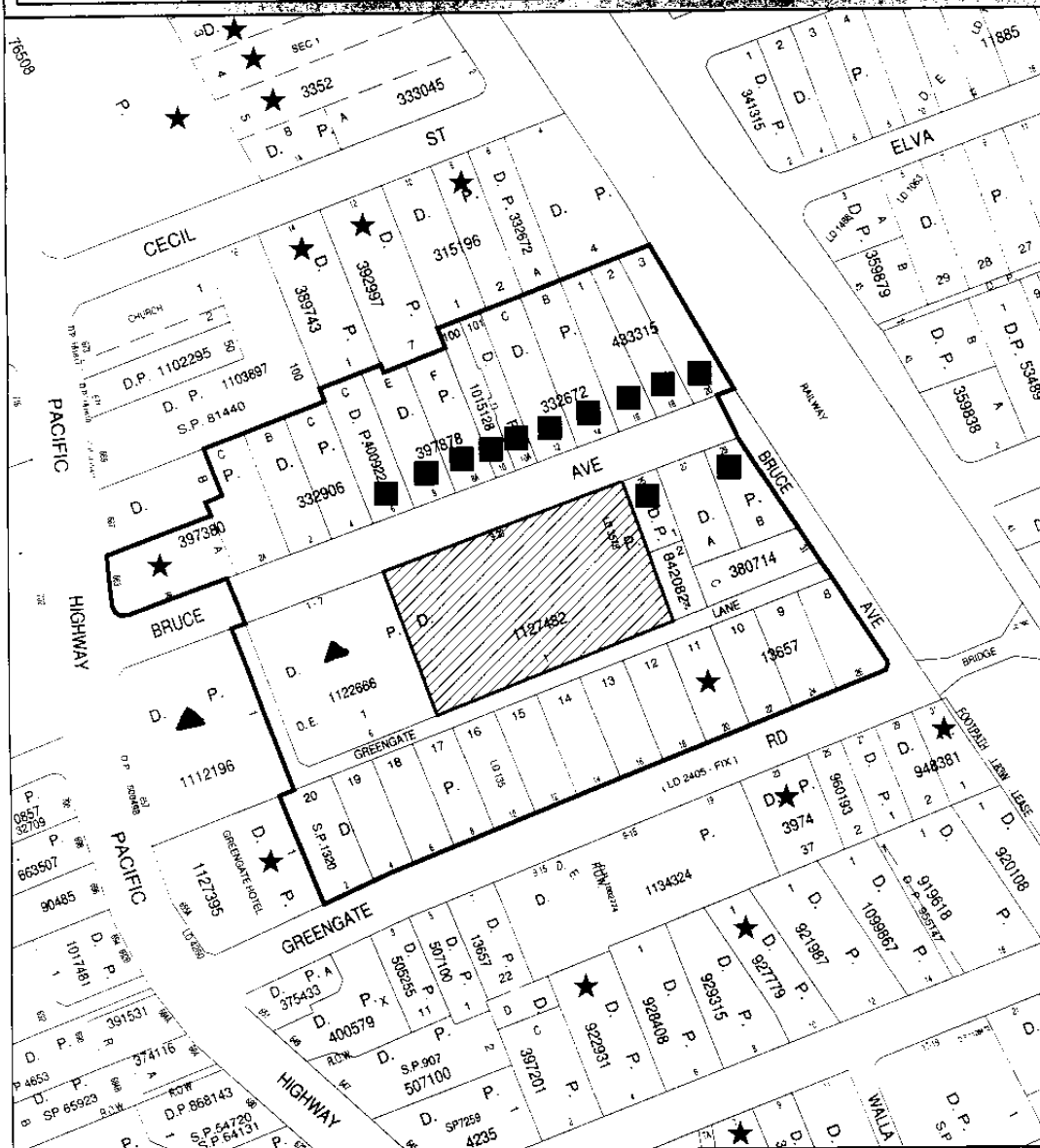
**Attachments:**

- Locality map – 2009/149937
- Zoning extract – 2009/149943
- Assessment report DA0983/09 - 577674
- Consent DA0983/05 - 583644
- Site plan - 2009/149946
- Deep soil calculations – 2009/149950
- Landscape plans – 2009/149951
- Elevations – 2009/149954
- Fence elevations – 2009/149955
- Floor plans – 2009/149958
- Roof plans – 2009/149960

# LOCATION SKETCH

## 9-23 Bruce Avenue, KILLARA

MODIFICATION APPLICATION No MOD0054/09



Scale : 1:2200

11-08-2009

- ★ HERITAGE PROPERTY
- ▲ LEP 194 UNDER CONSTRUCTION
- OBJECTION
- ▨ SUBJECT LAND
- ▣ PETITION
- SUBMISSION
- CIRCULATED AREA



## DEVELOPMENT APPLICATION

### SUMMARY SHEET

**REPORT TITLE:**

9 TO 23 BRUCE AVENUE, KILLARA -  
DEMOLITION OF 7 SINGLE DWELLINGS AND  
CONSTRUCTION OF 3 X 5 STOREY BUILDINGS  
CONTAINING 59 UNITS, ASSOCIATED  
BASEMENT CAR PARKING AND STRATA  
SUBDIVISION

**WARD:**

Gordon

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

983/05

**SUBJECT LAND:**

9 to 23 Bruce Avenue, Killara

**APPLICANT:**

Drew Dickson

**OWNERS:**

Lai Fing Cheng & William Wai Nin So - 9 Bruce  
Avenue, Killara, Tak Ping Yeung & Sylvia Siu  
Yee Chow - 11 Bruce Avenue, Killara, Lun Yu  
Chung & Viola Chi Fong Lee - 15 Bruce  
Avenue, Killara, Cho Yau Chan - 17 Bruce  
Avenue, Killara, Brian Joseph Fagan & Eileen  
Celine Fagan - 19 Bruce Avenue, Killara, Maria  
Stergiotis - 21 Bruce Avenue, Killara, Stanley  
Sheung Chi Chen & Lister Po Wah Chen - 23  
Bruce Avenue, Killara

**DESIGNER:**

Drew Dickson Architects Pty Ltd

**PRESENT USE:**

Residential dwellings

**ZONING:**

Residential 2(d3)

**HERITAGE:**

No

**PERMISSIBLE UNDER:**

KPS0 - LEP 194

**COUNCIL'S POLICIES APPLICABLE:**

KPS0 - LEP 194, DCP 31 - Access, DCP 55 -  
Multi-Unit Housing, DCP 40 - Waste  
Management, DCP 43 - Car Parking, DCP 47 -  
Water Management

**COMPLIANCE WITH CODES/POLICIES:**

Yes

**GOVERNMENT POLICIES APPLICABLE:**

SEPP 65, SEPP 55

**COMPLIANCE WITH GOVERNMENT POLICIES:**

Yes

**DATE LODGED:**

6 September 2005 - Amended plans: 7 October  
2005, 5 December 2005, 13 December 2005  
16 October 2005

**40 DAY PERIOD EXPIRED:**

**PROPOSAL:**

Demolition of 7 single dwellings and  
construction of 3 x 5 storey buildings  
containing 59 units, associated basement car  
parking and strata subdivision

**RECOMMENDATION:**

Approval



Item 1

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

**PREMISES:**

**PROPOSAL:**

983/05

9-23 BRUCE AVENUE, KILLARA

DEMOLITION OF 7 SINGLE DWELLINGS AND  
CONSTRUCTION OF 3 X 5 STOREY  
BUILDINGS CONTAINING 59 UNITS,  
ASSOCIATED BASEMENT CAR PARKING AND  
STRATA SUBDIVISION

**APPLICANT:**

**OWNER:**

DREW DICKSON

LAI FING CHENG & WILLIAM WAI NIN SO - 9  
BRUCE AVENUE, KILLARA, TAK PING YEUNG  
& SYLVIA SIU YEE CHOW - 11 BRUCE  
AVENUE, KILLARA, LUN YU CHUNG & VIOLA  
CHI FONG LEE - 15 BRUCE AVENUE,  
KILLARA, CHO YAU CHAN - 17 BRUCE  
AVENUE, KILLARA, BRIAN JOSEPH FAGAN  
& EILEEN CELINE FAGAN - 19 BRUCE  
AVENUE, KILLARA, MARIA STERGIOTIS - 21  
BRUCE AVENUE, KILLARA, STANLEY  
SHEUNG CHI CHEN & LISTER PO WAH CHEN -  
23 BRUCE AVENUE, KILLARA

**DESIGNER**

DREW DICKSON ARCHITECTS PTY LTD

**PURPOSE FOR REPORT**

To determine development application No 983/05 which seeks consent for the demolition of 7 single dwellings and the construction of 3 x 5 storey residential flat buildings containing 59 units and associated basement car parking.

**EXECUTIVE SUMMARY**

**Issues:**

Access and privacy

**Pre DA:**

Yes

**Submissions:**

8 submissions (original scheme)

4 submissions (amended plans)

**Land & Environment Court**

**Appeal:**

No appeal lodged.

**Recommendation:**

Approval

**HISTORY**

**Site history:**



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The site has been used for residential development. There is no site history relevant to the proposal.

**Development application history:**

**DA 983/05**

22 June 2005	Pre DA meeting. Issues identified included Bruce Avenue setback to Building B, communal open space in front setback, accessibility, location of pool, calculations.
6 September 2005	DA lodged.
14 September 2005	Amended photo montage submitted.
16 September 2005	"Stop the clock" letter sent, in relation to landscaping/tree issues.
7 October 2005	Arborist's report and amended landscape plan submitted.
17 November 2005	Correspondence from applicant re issues raised.
5 December 2005	Amended plans - Variations to address concerns regarding vehicular access, privacy and amenity, solar access, mix of units, courtyards.
13 December 2005	Site plan amended to retain <i>Angophora costata</i> .
13 December 2005	Correspondence to applicant regarding Norfolk Island Pine.
14 December 2005	Correspondence from applicant regarding potential alternate driveway design to retain Norfolk Island Pine.

**THE SITE AND SURROUNDING AREA**

**The site**

Zoning:	Residential 2(d3)
Visual Character Study Category:	1920-1945
Lot Number:	11, 12, 13, 14, & 4, 5, 6
DP Number:	4362 & 13657
Heritage Affected:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	Yes

The subject site is located on the southern side of Bruce Avenue, between Greengate Lane and Bruce Avenue. The site has a frontage of 106.685 metres to Bruce Avenue and 106.715 metres to Greengate Lane, with a total area of 6,724.3m<sup>2</sup>. The site has a depth of 61.75 to 64.305 metres. The site is located 80 metres to the railway line. The site is approximately 122 metres from Pacific Highway, 80 metres from the railway line and 700 metres from Killara Railway Station.

The site is generally rectangular in shape, comprising seven individual properties, each containing a detached dwelling (Refer **Appendix 1**). The site slopes gently towards the east, with a fall of approximately 6 metres from the north-western corner on the Bruce Avenue frontage.

The site is characterised by an established landscape setting with mature trees and shrubs within formal garden beds and lawn areas. The site is dominated by a mature *Angophora costata* (Sydney Redgum) located at the rear of the site.

Item 1

Both Bruce Avenue and Greengate Lane are two-way sealed roads, however, Greengate Lane is very narrow without any formalised kerbs.

**Surrounding development:**

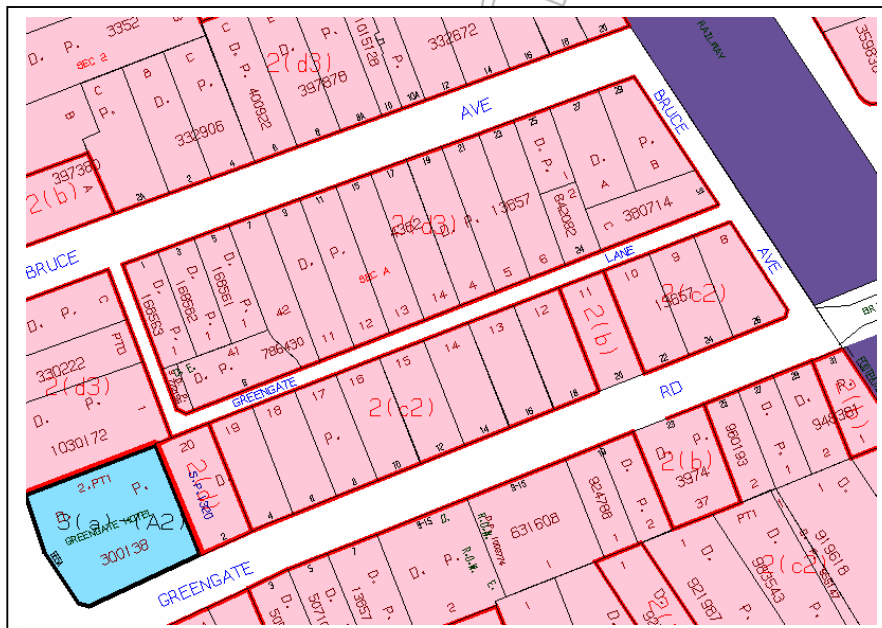
The subject site is surrounded by residential development, consisting predominantly of one and two storey dwellings, located within heavily landscaped surroundings. Landscaping obscures the view of many dwellings in the locality.

Adjacent to the west of the subject site, No. 7 Bruce Avenue, is a dual occupancy development. A residential flat building to 5 storeys has recently been approved for this site and adjacent sites to its west. To the east of the subject site are two single dwellings. No. 25 Bruce Avenue is a contemporary "Federation" style dwelling to two storeys (Refer **Appendix 1**). No. 24 Greengate Lane is a contemporary style dwelling. These sites are also zoned 2(d3). No application for redevelopment of these sites has yet been lodged.

No. 20 Greengate Road, opposite the south-eastern corner of the subject site, is a heritage listed property, zoned 2(b). This site contains a single storey, Georgian Revival style, house. Also to the south of Greengate Lane are the rear yards of properties zoned 2(c2), which each contain single dwelling houses, set back 14 to 27 metres from Greengate Lane. The rear yards are characterised by landscaping with lawns and a number of mature trees.

The Greengate Hotel, a heritage listed property, is located approximately 80 metres to the east of the subject site and has views across the subject site.

On the northern side of Bruce Avenue, are single residential dwellings to 2 storeys on land zoned 2(d3). This area is likely to be re-developed for residential flat buildings to 5 storeys in height.



Zoning extract  
**THE PROPOSAL**

The proposal involves the demolition of the

existing structures, amalgamation of the seven lots, the construction of three residential flat buildings, containing 59 units, associated car parking and strata subdivision.

Item 1

The proposal consists of three buildings to five storeys in height. Buildings A and C are set back 13m -15.6m from Bruce Avenue, Building B is set back 13m-13.3m from Bruce Avenue. The minimum setback to Greengate Lane is 10.44m.

The main components of the proposal are as follows:

- A total of 59 units, comprising 47 x 3 bedroom (some with studies) and 12 x 2 bedroom with study. All units have ground level open space or balconies, varying in size from 111.5m<sup>2</sup> to 147.7m<sup>2</sup>. Buildings A and C contain 21 units each and Building B contains 17 units;
- 2 lifts are provided to each building;
- A total of 123 car parking spaces, comprising 108 resident spaces and 15 visitor spaces. The basement also includes a car wash bay, bicycle parking, waste and storage areas and WC;
- A communal area of open space including a swimming pool and barbeque area on the southern side. An energy substation is located in the south-western corner of the site;
- Pedestrian entry to both Bruce Avenue (main entries) and Greengate Lane;
- On-site stormwater detention/retention.

**Amended plans dated 5 December 2005**

- Vehicular access changed to Bruce Avenue. Changes to basement to suit;
- Mix of units changed to incorporate smaller 2 bedroom units with studies to 97.7m<sup>2</sup>. Buildings to contain 36 x 3 bedroom, 9 x 3 bedroom with study, 2 x 3 bedroom with study, 12 x 2 bedroom with study;
- More detailed solar access diagrams;
- Reduced front and side courtyards;
- Variations to window design and privacy screening to improve privacy outcomes;
- Reduction in height of courtyard fencing to Bruce Avenue from 2 metres to 1.6 metres.

**Amended plans dated 13 December 2005**

- Site plan amended to show retention of *Angophora costata* (Sydney Redgum) near the southern boundary.

**CONSULTATION - COMMUNITY**

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

**Original scheme dated 15 May 2005**

1. *Daphne Beumont, 25 Bruce Avenue Killara*
2. *Celia and David Ascroft, 24 Greengate Lane Killara*
3. *Terence Smith, Colonial State Properties, PO Box 29 Horsley Park*
4. *Stewart and Patricia Cooper, 4 Greengate Road Killara*
5. *Marian and Janet O'Donnell, 16 Greengate Road Killara*
6. *T G Howard and M S O'Dea, 26 Greengate Road Killara*
7. *Anna and George Weiss, 18 Bruce Avenue Killara*

Item 1

8. *Vicky Steer, Principal, Ravenswood School, Cecil St Gordon*

The submissions raised the following issues:

***Overshadowing of 25 Bruce Avenue***

A minimum of 3 hours of direct solar access is maintained to 25 Bruce Avenue as required by DCP 55.

***Visual privacy and visual bulk impacts to 25 Bruce Avenue and 24 Greengate Lane***

Screen planting, setbacks, tall tree planting and retention, as well as the design and location of private open spaces, including the use of planter boxes and privacy screens, will ensure that a reasonable level of amenity for the residents of the existing dwellings at No. 25 Bruce Avenue and No. 24 Greengate Lane is maintained.

***Object to construction of residential flat buildings where single residential development already exists***

Five storey multi-unit development is permissible under the zoning and is therefore anticipated development within the area. The development complies with the prescribed controls of LEP 194 and is consistent with the objectives of the relevant DCPs.

***Additional traffic will be generated in Henry and Cecil Streets adjacent to Ravenswood School***

Five storey multi-unit development is permissible under the zoning and therefore additional traffic is anticipated within the area. Council's Development Engineer does not anticipate any unacceptable safety impacts on Henry or Cecil Streets from the additional traffic. A condition is recommended which requires a construction management plan, showing heavy vehicle routes, to be submitted (**Condition No 121**). This must be endorsed by Council's engineers prior to any works commencing.

***Increased flooding to 24 Greengate Lane***

The existing developments do not include stormwater detention systems, which results in uncontrolled runoff to either overland or through pipes to Greengate Lane. The proposal includes the retention and detention of stormwater on the site, which will control the amount of stormwater leaving the site and will substantially reduce the volume and intensity of water that now discharges from the property during heavy rain.

***The design is consistent with style of the area***

It is agreed that the development is of a suitable design reflective of the aims and objectives of LEP 194.

***Isolation of 25 Bruce Avenue and 24 Greengate Lane as narrow lots between 5 storey unit developments***

Item 1

If Nos. 27-31 Bruce Avenue are developed for multi-unit housing without the inclusion of 25 Bruce Avenue and 24 Greengate Lane, the latter two lots would then become "isolated sites" under DCP 55 and could potentially be surrounded by 5 storey unit developments. However, no DA has been lodged for 27-31 Bruce Avenue, and therefore the proposed development does not result in these sites becoming "isolated sites".

***Greengate Lane is too narrow to cater for the development and would lose its character***

Amended plans provide for vehicular access via Bruce Avenue. Pedestrian access to Greengate Lane is provided. The applicant is prepared to provide a footpath along Greengate Lane and a condition is recommended to this effect **(Condition No. 102)**.

***Congestion and safety from cumulative traffic impact of developments on Greengate Road bridge leading to Werona Ave and use of the narrow section of Bruce Avenue***

The intent of rezoning for multi-unit development is to establish medium density living in proximity to transport nodes, educational and health facilities and local business centres. The rezoning of this site under LEP 194 to permit medium density development confers a development potential pursuant to the development standards and controls set out in LEP 194 and DCP 55. The proposal is consistent with the objectives of SEPP 65, the Residential Flat Design Code, LEP 194 and DCP 55. Council's Traffic Engineer is satisfied that the proposal will not result in a cumulative impact beyond that which is provided for under the zoning and associated controls that apply to the site.

***Proposal should be referred to the RTA***

The RTA has advised residents that, as the Council is both the consent authority for the subject development and the roads authority for the local roads, SEPP 11 does not apply to the proposal, and no referral is required. The RTA has suggested that the proposal be referred to the Local Traffic Committee to determine cumulative impacts and any necessary localised road improvements. It is noted that a traffic study is currently underway to determine any improvements required to the local road network due to the rezoning of sites in the locality.

***Construction traffic impacts on 26 Greengate Lane and Ravenswood School***

A traffic management plan will be required for the construction period via a recommended condition of consent **(Condition No. 121)**.

***The Section 94 plan needs to include capital works for required road changes***

The Section 94 plan currently in place includes roadworks identified as being required as a result of rezoning within the LGA. Additional road works adjacent to the site are required as a condition of consent **(Condition No. 102)**

***Request for traffic noise impact assessment in relation to 26 Greengate Road***

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No separate assessment is required. The additional traffic noise is anticipated in the zoning and is compatible with the urban environment.

***Design could be improved by the use of flat roofs, greater differentiation between the buildings and the use of only two buildings***

The pitched roof is consistent with the style of dwellings across the lane. Due to the setback of the top floor, the additional bulk will have little impact on the streetscape. Council's Urban Design Consultant has considered the application and has no concerns regarding the differentiation between the buildings.

The building configuration is satisfactory when considered against the relevant State and Council plans and policies.

**Amended plans dated 5 December 2005**

The amended plans were notified. Submissions were received from the following:

1. *Daphne Beumont, 25 Bruce Avenue Killara*
2. *Stewart and Patricia Cooper, 4 Greengate Road Killara*
3. *Vicky Steer, 16 Bruce Avenue Killara*
4. *Marian, Edward and Janet O'Donnell, 16 Greengate Road Killara*

The submissions raised the following additional issues:

***Noise impacts from relocated driveway on 25 Bruce Avenue***

This location is preferred as it will allow for the retention of the large Norfolk Island Pine which provides significant local amenity and contributes to the maintenance of the landscaped character of the street.

The driveway, as conditioned, enters the site close to the boundary with 25 Bruce Avenue and then curves away from the boundary. The existing screen planting will be retained and supplemented if it is possible to run the stormwater pipes around them. If this is not possible, advanced replacement plantings will be provided which will reduce the noise impacts to some extent. Conditions are recommended in this regard (**Schedule A Condition No. 1 and Condition No. 87**).

This portion of the site is relatively level, providing the best point of access from Bruce Avenue to the basement carpark. This reduces the need for acceleration up the ramp to exit the site and accordingly minimizes the noise to the adjacent site. The expected noise levels at the driveway are acceptable within the urban area.

***Support for access via Bruce Avenue, even if this includes the loss of the Norfolk Island Pine on the nature strip***

It is possible to both retain the pine and provide access via Bruce Avenue. **Condition No. 92** is recommended in this regard.

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***Potential safety impacts of location of driveway relatively close to the 90 degrees bend in Bruce Avenue and substandard road surface in Bruce Avenue.***

The driveway will be located at a distance exceeding the requirements of AS2890.1 "Off Street Car Parking". Sight distance in each direction is adequate.

***Privacy impacts on 24 Greengate Lane from penthouse balconies***

A combination of 300mm to 1.5m planter boxes and a privacy screen to the terrace areas of the penthouse apartment, Unit 59, ensure a reasonable level of privacy is maintained to the open space areas of No. 24 Greengate Lane. This will be further enhanced with the growth of the 6 trees proposed in the setback directly adjacent to No. 24.

**CONSULTATION - WITHIN COUNCIL**

**Urban Design Consultant**

Council's Urban Design Consultant, Russell Olsson, has commented on the proposal as follows:

***"Design Review***

***Principle 1: Context***

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

*The built form context is comprised of:*

- *A 2 storey detached house west of the site, on the northern corner of Bruce Avenue and the Pacific Highway. This is a heritage item;*
- *A detached house and Electricity Substation on the eastern side of Greengate Lane.*
- *The house lot is zoned Residential 2(d3);*
- *Northern Railway Line approximately 100m east of the site;*
- *The 2 storey Greengate Hotel south-west of the site at the corner of Bruce Avenue and the Pacific Highway. This is a heritage item.*

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

*Greengate Lane serves primarily service functions and is approximately 6m to 7m wide. Sites to the south of Greengate Lane are zoned 2(c2).*

*DAs have been submitted for adjoining sites to the west, at No's. 657-661 Pacific Highway and 1-7 Bruce Avenue, Killara. LEP 194 and DCP 55 apply to all these sites.*

***Principle 2: Scale***

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

*The scale of development is acceptable, as it complies with the 2(d3) controls.  
The scale of the proposed buildings will not detract from the view from the rear of the Greengate Hotel.*

**Principle 3: Built form**

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

*The buildings comply with the maximum building length of 36m in DCP 55.  
The SEPP 65 Residential Flat Design Code recommends a minimum distance of 12m between windows to habitable rooms. The proposed buildings have windows which are separated by 11.2 to 11.3m, however translucent glazing is proposed to windows in Building B within the 12m separation distance, which resolves this issue.*

**Principle 4: Density**

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

*The site coverage is 34.7% of the site. The top floor of Building A and C occupies 46% of the floor area of the lower floors. The top floor of Building B occupies 34% of the floor area of the lower floors. The FSR is 1.25:1. The density is acceptable.*

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

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

*More than 70% of living rooms/balconies in apartments will receive greater than 2 hours sunlight between 9am and 3pm in mid-winter. There are no south facing apartments. 100% of apartments are proposed to be cross ventilated, however the proposed cross ventilation of six apartments (apartments 9, 14, 19, 47, 52 and 57) through light wells, raises a potential problem of sound transmission and viewing through openable windows between apartments. It is recommended that windows to the void in apartments 1, 4, 5, 8, 10, 13, 15, 18, 39, 42, 44, 46, 48, 51, 53 and 56 are non-openable glass brick, to avoid potential sound transmission and viewing problems between apartments.*

**Principle 6: Landscape**



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

*Comment:*

*The graphic representation of trees on the landscape plan is misleading, as trees of different species and sizes are drawn the same size and are too small.*

*The proposed pedestrian access on the eastern and western ends of the site may provide security issues, as there are no security gates shown. This space should be made secure. The site benefits from having Greengate Lane to the south, which, in principle, should provide car access to underground carparking. This would allow the frontage to Bruce Avenue to have uninterrupted landscaping. Council planners have advised us that if Greengate Lane was to remain a two way lane then there would be excessive traffic volumes from this site into the lane. In urban design terms it is preferable that car access be maintained from the lane, however, traffic considerations may take precedence.*

**Principle 7: Amenity**

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

*Comment:*

*As noted in Principle 5 above, it is recommended that windows to the void in apartments 1, 4, 5, 8, 10, 13, 15, 18, 39, 42, 43, 46, 48, 51, 53 and 56 are non-openable glass brick, to avoid potential sound transmission and viewing problems between apartments. The voids in these light wells are to be left open to the sky. It is recommended that a roof plan of the top level roof, showing the void and the adjacent roofing material, be submitted.*

*The studies in apartments 5, 8, 47, 10, 13, 52, 15, 18 and 57 have the potential to be used as bedrooms, and as such would be sub-standard accommodation, with a minimum dimension of 2090 mm ( recommended minimum of 3000mm ), with a window opening onto a 2.3m wide void. To ensure that this area is used as a study nook, and not an enclosed bedroom, it is recommended that the wall and door between the study and dining room is deleted in all instances, so that the area is a study nook off the dining room.*

*The studies in apartments 9, 14 and 19 are unacceptable, as they are enclosed habitable rooms with a minimum dimension of 1800mm, which have the potential to be used as a bedroom. The minimum dimension of a bedroom is 3000m. It is recommended that these rooms are deleted from the plan, that the lift lobby is widened and that the kitchen is extended.*

**Principle 8: Safety and security**

*SEPP 65: Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising activity on the streets, providing clear,*

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*safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.*

*The common open space along the eastern and western boundaries is open to Bruce Avenue, reducing the security of the apartments along these boundaries and to the common open spaces. It is recommended that security is improved to these spaces.*

*Planter boxes on the fourth floor between units in Building A and B reduce security between apartments in each building. Screening is to be provided to ensure that the planter boxes between apartments in both buildings will not reduce security.*

**Principle 9: Social dimensions**

*SEPP 65: Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities.*

*New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood, or, in the case of precincts undergoing transition, provide for the desired future community.*

*The mix of apartments is acceptable.*

**Principle 10: Aesthetics**

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

**Conclusion and recommendations**

*It is recommended that:*

- *Windows in Apartments 1, 4, 5, 8, 10, 13, 15, 18, 39, 42, 43, 46, 48, 51, 53 and 56 are non-openable glass brick, to avoid potential sound transmission and viewing problems between apartments (Refer Condition No. 96);*
- *The voids in the light wells are left open to the sky;*
- *The wall and door between the study and dining room is deleted in Apartments 5, 8, 47, 10, 13, 52, 15, 18 and 57 so that the area is a study nook off the dining room (Refer Condition No. 97);*
- *The studies in Apartments 9, 14 and 19 are deleted from the plan, that the lift lobby is widened and that the kitchen is extended (Refer Condition No. 98 );*
- *Security gates are provided to both ends of the common open spaces along the eastern and western boundaries, to improve security (Refer Condition No. 99 );*
- *Screening is provided between the planter boxes on the fourth floor between Units in Building A and B to improve security between apartments in each building (Refer Condition No. 95 ).*

**Comment:**

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The roof plan and sections show that the void is not covered by a roof area. The lightwells will therefore receive adequate light. All other recommendations are addressed by recommended conditions.

**Heritage**

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

***"Demolition of existing buildings 9-23 Bruce Avenue"***

*The existing houses have no identified heritage significance and were not identified as contributory to the Killara Urban Conservation Area. I have no objections to demolition of the existing houses provided archival recording of the houses to be demolished is provided prior to demolition.*

***Heritage Items "within the vicinity" of the site***

*The site is close to the Greengate Hotel and a large two storey Federation period house on the corner of Bruce Avenue and Pacific Highway. Due to the distance of the development site from these items and given the objectives and controls within DCP 55, it is considered that there would be no substantial impact as a result of this application. Development of this site for 5 storey residential development may have some limited impact on the district views obtained from the first floor terrace area of the Greengate Hotel, but it is considered these views would be minor and generally acceptable due to the physical separation between the hotel and the subject site. It is noted that Council has already approved a similar development at 1-7 Bruce Avenue which is physically closer to the subject site.*

*A single storey cottage at 20 Greengate Avenue is located close to the rear boundary of the subject site. The item is a small neo-Georgian cottage that faces Greengate Avenue. It is separated from the development site by Greengate Lane. The physical separation between the proposed development and the heritage building is over 30 metres, which exceeds the setback requirements in DCP 55. The proposed development would not reduce existing views to or from the heritage item or affect its primary setting. The curtilage to the heritage item is limited to the views from Greengate Road. The view of the item from Greengate lane is not considered to be important. The subject development would be seen as a backdrop above the ridge of the heritage item but it is considered that the impact is minor and acceptable.*

***Proposed development***

*The proposed development comprises three separate buildings, each 5 storeys in height. The design is contemporary but restrained in character, using face brick and rendered/painted finishes. It is considered that the restrained style is complementary to the heritage item and would not cause adverse visual impacts. The colours and textures are considered acceptable and are consistent with nearby development.*

***National Trust UCA No 12 - Greengate Precinct***

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*With gazettal of LEP 194, most of the land in Bruce Avenue was rezoned to accommodate medium density development. Bruce Avenue contains a variety of building styles and has no consistent character. A number of sites have been redeveloped in recent years. 5 of the houses in Bruce Avenue are graded as contributory to UCA 12 (Nos 1, 3, 5, 12, & 18) and it is noted that consent for demolition of Nos 1, 3 & 5 has already been granted by Council. When all rezoned sites in Bruce Avenue are taken up, UCA 12 will be effectively reduced to a much smaller precinct which will include the Greengate Hotel and Greengate Road.*

**Conclusions and recommendations**

*Demolition of the houses at 9-23 Bruce Avenue is considered acceptable, provided archival recording is undertaken prior to work commencing on the site (attached condition).*

*Impacts from the proposed development on the nearby heritage item at 20 Greengate Road are considered minimal and acceptable given the guidelines contained in DCP 55.*

*The site is a reasonable distance from other nearby heritage items and it is considered to have minimal impacts.*

*Bruce Avenue contains a few houses considered to have contributory value to UCA 12 (Nos 1, 3, 5, 12 & 18) but the street lacks consistency and in my opinion should not be included in UCA 12. I conclude that the impact on UCA 12 from this development is thus acceptable."*

See Condition No. 100.

**Landscaping**

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

***"The site***

*It is proposed to demolish the existing dwellings and associated structures and construct three, five storey residential flat buildings with basement car parking on the amalgamated site area of 6 724.3sqm with vehicle access from Greengate Lane. The site is characterised by an established landscape setting with mature trees and shrubs within formal garden beds and lawn areas. The site is dominated by a mature *Angophora costata* (Sydney Redgum) centrally located at the rear of the site.*

***Deep soil***

*The proposed development will result in a deep soil landscape area of 3 369.4sqm or 50.1% of the site area, which complies with LEP194 numerical requirements.*

***Tree removal/tree replenishment***

*A total of seventy seven trees are identified as being located on or associated with the site, including trees located on the opposite side of both street frontages. Of these, thirty five are located on site, eighteen on neighbouring properties and twenty four are street trees. Of*

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*these identified trees, it is proposed to remove twenty seven retaining fourteen (14) on site. Due to the scale of the development proposed, the site is to be cleared with the exception of the nominated trees located primarily adjacent to the northern and southern site boundaries.*

*Tree #57 Angophora costata (Sydney Redgum), is the most significant tree located on site which has been taken into consideration with appropriate setbacks and suitable landscape treatments within its primary root zone. Tree #22 Araucaria heterophylla (Norfolk Is Pine) is identified as being a significant tree and is proposed for removal. This cannot be supported by Landscape Services. It is required for tree #22 to be retained. This will be conditioned.*

*The development proposes an additional sixty six (66) trees that are capable of attaining a minimum height of 13.0m. These, in addition to existing trees to be retained, exceed Council's minimum tree replenishment requirements. Many of the proposed trees have inappropriate setbacks from each other and, as a result, will compromise their future growth habits and maturity. It will be conditioned for proposed tree numbers to be reduced and the spacing increased to ensure that trees will grow to maturity true to their natural form.*

**Landscape plan**

*Overall, the landscape plan can be supported. Planting as proposed is fairly monotonous, particularly for tree species. It will be conditioned for a greater variety of tree species, including exotic deciduous trees, to ensure that the proposed landscape works is reflective of the broader Killara landscape and in keeping with other development proposals within the immediate vicinity.*

*Screen planting proposed on the planting plan LDA401 Rev C will result in a mix of native and exotic shrub species capable of attaining heights up to 5.0m. These in conjunction with proposed planting of tall canopy trees and smaller feature tree plantings around the perimeter boundaries will provide as they mature, a layered planting scheme filtering views to and from the proposed development. Subject to ongoing maintenance during establishment and adequate soil preparation the selected species have a high viability to mature and adequately screen the development. Subject to conditions the landscape plan can be supported by Landscape Services.*

**Drainage plan**

*Landscape Services raises no objections to the proposed drainage works as shown on the ground floor storm water plan.*

*The application can be supported with conditions."*

Council's Landscape and Tree Assessment Officer has provided the following comment on the amended proposal:

*"The proposed driveway reconfiguration will result in the removal of the most significant tree located on Council's nature strip. The tree in question is a mature Araucaria heterophylla (Norfolk Island Pine) approximately 20m high in excellent condition, which is visually significant within the streetscape and surrounding area. Due to the tree's health, ongoing viability and significance within the landscape, the removal of the tree cannot be supported.*

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*Discussion with Council's Development Engineer, has looked at alternatives, and it is concluded that it is possible to retain the tree with adequate setbacks and provide vehicular access from Bruce Ave with acceptable grades.*

*To adequately retain the tree with minimal impacts it is required that the proposed driveway be relocated with a minimum setback of 5.0m as measured from the outside of the trunk on one side only. It is preferred that a greater setback be provided if possible."*

Conditions 76 -88, 92, 108 -113, 125 -129, 152, 153, are recommended, pursuant to the Landscape and tree Assessment Officer's suggestions.

### Engineering

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

*"The application is supported, subject to conditions.*

#### **Stormwater management**

*The site is traversed by a 750mm diameter Council pipe. The applicant proposes to relocate the pipe clear of the basement excavation. A detailed hydraulic design will have to be submitted with the application to relocate the pipe and easement, and Council's approval will have to be obtained for the works before the consent can operate, so a deferred commencement consent is recommended. It is noted that the exact location of the pipe is not known and it is not necessarily within the easement along the western boundary of the property 23 Bruce Avenue. The exact location of the pipe can be determined during the design stage.*

*The generous setback on the eastern boundary means that overland flow will not be likely to affect the habitable floor levels of the proposed development, nor the existing properties to the east.*

*The design shows the on site retention/ detention tank under the driveway which was to have been off Greengate Lane. The driveway location has been moved to Bruce Avenue and the site levels indicate that the tank may be located under the driveway and have gravity fall to the street drainage system. Re-use of roofwater for toilet flushing, clothes washing and irrigation is specified on the drawing and this is as required by DCP 47.*

#### **Traffic generation**

*The development is expected to generate some 31 additional vehicle trips per peak hour. With the access proposed off Bruce Avenue, the development will not generate additional traffic in Greengate Lane.*

#### **Vehicular access and parking**

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*Under LEP194, 106 resident and 15 visitor spaces are required. The development includes a total of 118 resident and 15 visitor spaces and therefore complies.*

*The entry driveway will be curved to retain the street tree. This is feasible. Longitudinal sections can be submitted with the Construction Certificate drawings to confirm that the grades are satisfactory for the waste collection vehicle whilst maintaining the required headroom.*

*Dimensions comply with AS2890.1:2004. Manoeuvring is adequate throughout the carpark.*

**Waste collection**

*The waste collection area is located on Level 2 adjacent to the entry driveway. There is adequate space for the small waste collection vehicle to enter and leave the site in a forward direction. No security doors or gates are shown which would impede access.*

**Construction management**

*A detailed construction management plan will be required prior to the commencement of any works on site. It is expected that a Works Zone will be required in Bruce Avenue for some of the construction period. Employee parking in the basement will be required, with a definite timeframe to be given.*

**Geotechnical and environmental investigation**

*Six boreholes were drilled for the geotechnical investigation, with a further 11 shallow boreholes drilled for environmental sampling. The site is underlain by a thin layer of fill and elevated levels of the contaminants polycyclic aromatic hydrocarbons (PAH) and Benzo(a)Pyrene (B(a)P) were only detected in BH101, towards the lower front of the site. Further investigation including sampling under the existing buildings after demolition and remediation in the vicinity of BH101 is recommended and this has been included in the engineering conditions.*

*The site is underlain by relatively deep clay and weathered shales, with interbedded shale and sandstone below basement level. Dilapidation reporting of the neighbouring structures will be required. The report also contains recommendations for further works such as vibration monitoring and groundwater monitoring. Seepage was noted into the boreholes, however the report states that removal of seepage from the basement is not expected to affect groundwater flow or neighbouring properties."*

**Conditions 59 -74, 101-107, 120 – 124, 130 -136, 140 -151** address the matters raised by the Development Engineer.

**Environment**

Council's Environment Officer, Ben Armstrong, has commented on the proposal as follows:

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*"I have read the Environmental and Site Screening Report by EIS dated August 2005 (REF. E19649F-RPT) and agree with the conclusion that the site can become suitable for its proposed development after the following issues have been addressed:*

- *Further investigation to assess the horizontal and vertical extent of the contamination in the vicinity of BH101;*
- *Sampling beneath the existing buildings after they are demolished;*
- *Site remediation works followed by appropriate validation sampling in the vicinity of BH101; and waste classification sampling and analyses undertaken prior to offsite disposal of the fill soil.*

*A standard condition should be placed on the DA asking that all relevant reports be given to Council for its records.*

Conditions 117 and 139 are recommended to address the above.

## STATUTORY PROVISIONS

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

#### Context:

The proposed development is located within an area recently rezoned Residential 2(d3) for multi unit housing and is part of the transition from existing development that comprises one to three storey development to the future context of the area characterised by five storey development.

The proposal responds to the context through the use of three buildings using a variety of materials in earthy tones and through setbacks which provide adequate space for the planting of tall trees consistent with the landscaped character that currently exists. The proposal provides satisfactory future amenity to residents of the site and the surrounding area.

#### Scale:

The proposal complies with the building envelope requirements of LEP 194 that apply to the site, including perimeter ceiling height, deep soil landscaping and site coverage. The perceived scale of the development site is reduced by the use of 3 buildings, extensive modulation, the incorporation of extensive landscaping areas and the large setback to Greengate Lane.

#### Built form:

The use of three buildings, appropriately set back, reduces the apparent visual bulk of the development. The bulk is further broken up by the recessive 5<sup>th</sup> storey, recessed balconies, vertical and horizontal modulation and the mix of sandstone block/facing, face brick and render. While the buildings do not comply with the Residential Flat Design Code control for a maximum depth of 18 metres, and separation distances of 12 metres, they nevertheless provide for satisfactory daylight access, natural ventilation and common open space areas.

#### Density:



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The floor space ratio of 1.254:1 is below the DCP 55 maximum of 1.3:1 and the number of units reflects the desired future character of the area. The density responds to the regional context, availability of infrastructure, public transport and community facilities.

**Resource, energy and water efficiency:**

As noted by the Urban Design Consultant, the use of voids for natural light and ventilation for study areas is undesirable. **Conditions 96 to 98** are recommended in this regard.

Appropriate recycling of demolition materials and selection of appropriate materials for construction ensure that efficient use is made of natural resources. The use of passive solar design principles, efficient appliances and mechanical services, adequate deep soil zones for vegetation and the reuse of water ensure that energy and water are conserved.

**Landscape:**

The deep soil areas are compliant, suitably located and the proposed landscape works, which are consistent with the character of the locality, will soften the built form, minimise privacy impacts and help to provide amenity for residents. The design of the deep soil area allows the establishment of canopy trees in excess of the requirements of DCP 55.

**Amenity:**

The development provides for a mix of two to three bedroom units. The dwelling layout, design and orientation ensure adequate levels of acoustic and visual privacy, private open space areas, storage areas and access to natural light. The design of the common areas includes a swimming pool, barbecue facilities and adequate landscaped area.

An accessibility report has been provided which demonstrates that the proposal provides a high degree of adaptability and flexibility in terms of access for people with disabilities. All units are "visitable", 10% of units are designated as "adaptable". The pool and barbecue areas are also accessible and there is ample space around the pool to allow for the future provision of a pool hoist, should this be required.

**Safety and security:**

Subject to **Condition No. 99** to provide gates to the side setbacks facing Bruce Avenue, the proposal will provide adequate external safety and security, providing clear, safe access points and definition of public and private spaces. The proposal allows passive surveillance of communal spaces, while maintaining adequate internal privacy.

The proposal provides for good pedestrian access within the site for users of varying mobility. A condition is recommended to require construction of a footpath for the two frontages of the development and carriageway works on Greengate Lane (**Condition No. 102**).

Vehicular access is via Bruce Avenue. While the Residential Flat Code recommends laneway access for vehicles, Greengate Lane is not sufficiently wide to cater for the additional traffic from the subject development under existing flow conditions.

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**Social dimensions:**

There is an adequate mix of unit sizes, to cater for a social mix within the development. The proposal provides on-site recreation facilities, adding to the range of lifestyle activities available in the area.

**Aesthetics:**

The proposal provides an appropriate composition of building elements, textures, materials and colours and reflects the use, internal design and structure of the development. The aesthetics of the buildings responds satisfactorily to the environment and context, and to the desired future character of the area.

**State Environmental Planning Policy No 10 - Retention of Low Cost Rental Accommodation**

The aim of the Policy is to provide a mechanism for the retention of low cost rental accommodation. The Policy does not apply to the proposed development as it does not affect any existing low cost rental accommodation.

The proposed subdivision is acceptable and will not result in any significant adverse impacts.

**State Environmental Planning Policy No 55 - Remediation of Land**

Under Clause 7 of SEPP 55-Remediation of land, a consent authority must not consent to the carrying out of any development on land unless it has considered:

*a) whether the land is contaminated*

The Environmental Site Screening Report by "EIS" has identified elevated levels of Polycyclic Aromatic Hydrocarbons (PAHs) including Benzo(a)pyrene forward of proposed Building C.

*b) whether Council is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out,*

The proposed purpose is for residential flat buildings. Remediation therefore needs to be carried out.

*(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, whether Council is satisfied that the land will be remediated before the land is used for that purpose.*

Council's Environment Officer is satisfied that the site can become suitable for its proposed development after the following issues have been addressed:

- o Further investigation to assess the horizontal and vertical extent of the contamination in the vicinity of BH101;
- o Sampling beneath the existing buildings after they are demolished;

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- o Site remediation works followed by appropriate validation sampling in the vicinity of BH101; and waste classification sampling and analyses undertaken prior to offsite disposal of the fill soil.

**Conditions 119 and 139** are recommended in this regard. Reporting requirements are also addressed in the conditions.

Accordingly, the development application is satisfactory having regard to the relevant matters for consideration under the State Environmental Planning Policy No 55.

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

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

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

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 2400 m <sup>2</sup> (for 5 storeys)	6724.3m <sup>2</sup>	YES
Deep landscaping (min): 50%	50.5%	YES
Street frontage (min): 30m	106+m	YES
Number of storeys (max): 5	5	YES
Site coverage (max): 35%	34.7%	YES
Top floor area (max): 60% of level below	Building A: 45.5% Building B: 34.9% Building C: 45.5%	YES
Storeys and ceiling height (max): 4 storeys and 13.4m	4 storeys 13.4m to NE corner of Building C	YES
Car parking spaces (min):		
• 15 (visitors)	15	YES
• 106 (residents)	108	YES
• 121 (total)	123	YES
Manageable housing (min): 10% - 6 units	6 units	YES
Lift access: required if greater than three storeys	6 lifts, 2 per building	YES

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

It is noted that the site adjoins only 2(d3) zoned sites and roadways. However, Greengate Lane is very narrow and it is therefore appropriate to consider the setback to the boundaries of the properties to the south of Greengate Lane which are zoned 2(c2) and 2(b). The development is set back a minimum of 19 metres to these boundaries and therefore easily complies.

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## Heritage /conservation areas (cl.61D – 61I):

A heritage impact statement has been provided. Council's Heritage Advisor, Paul Dignam, has assessed the proposal in light of the statement and considers the demolition of the items is acceptable given the rezoning of the land. Given the separation distances, setbacks, proposed landscaping and design of the development, Council's Heritage Advisor is satisfied that the proposal will not result in significant impacts on the heritage settings or significance of 20 Greengate Road or the Greengate Hotel.

## Residential zone objectives and impact on heritage:

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

## POLICY PROVISIONS

## Development Control Plan No 55 - Railway/Pacific Highway Corridor &amp; St Ives Centre

COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Part 3 Local context:</b>		
<b>Development adjacent to a heritage item:</b>		
• 10m setback (1 <sup>st</sup> & 2 <sup>nd</sup> storeys)	>19m to 20 Greengate Road >75m to Greengate Hotel	YES YES
• 15m setback (3 <sup>rd</sup> & 4 <sup>th</sup> storeys)	>19m to 20 Greengate Road >75m to Greengate Hotel	YES YES
<b>Part 4.1 Landscape design:</b>		
<b>Deep soil landscaping (min)</b>		
• 150m <sup>2</sup> per 1000m <sup>2</sup> of site area = 1008.6m <sup>2</sup>	1329m <sup>2</sup>	YES
<b>No. of tall trees required (min): 22 trees</b>	>22 trees	YES
<b>Part 4.2 Density:</b>		
<b>Building footprint (max):</b>		
• 35% of total site area	34.7%	YES
<b>Floor space ratio (max):</b>		
• 1.3:1	1.254:1	YES
<b>Part 4.3 Setbacks:</b>		
<b>Street boundary setback (min):</b>		
• 10-12 metres (<40% of the zone occupied by building footprint)	Buildings A & C: 13m -15.6m Building B: 13m-13.3m 35% of zone occupied by building footprint	YES YES YES
<b>Rear boundary setback (min):</b>		
• 6m	10.44m	YES
<b>Side boundary setback (min):</b>		
• 6m	East 6.26m West 6.17m	YES YES

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Setback of ground floor courtyards to street boundary (min): • 11m	11m	YES
% of total area of front setback occupied by private courtyards (max): • 15%	15%	YES
<b>Part 4.4 Built form and articulation:</b>		
<b>Façade articulation:</b> • Wall plane depth >600mm	>600mm	YES
• Wall plane area <81m <sup>2</sup>	<81m <sup>2</sup>	YES
<b>Built form:</b> • Building width < 36m	26m	YES
• Balcony projection < 1.2m	<1.2m	YES
<b>Part 4.5 Residential amenity</b>		
<b>Solar access:</b> • >70% of units receive 3+ hours direct sunlight in winter solstice	66%	NO
• >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice	>50%	YES
• <15% of the total units are single aspect with a western orientation	0%	YES
<b>Visual privacy:</b> Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 4 • 12m b/w habitable rooms • 9m b/w habitable and non-habitable rooms  • 6m b/w non-habitable rooms	9.6m to 7 Bruce Ave (existing dwelling) 8.8m to 25 Bruce Ave 9.4m to 24 Greengate Lane Building A-B: 11.295m Building B-C: 11.205  >6m	NO  NO  YES

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5th Storey		
<ul style="list-style-type: none"> <li>18m b/w habitable rooms</li> </ul>	Building A-B: 13.6m (balcony to balcony) 15.4m between bedroom windows Building B-C: 13.4m (balcony to balcony) 15.3m between bedroom windows Building A - 8.4m - minor window – existing dwelling 7 Bruce Ave Building A -proposed units at 7 Bruce: 13.2 (balcony to balcony) 10m from trafficable balcony to 25 Bruce Ave 10.4m from trafficable balcony to 24 Greengate Lane	NO
<ul style="list-style-type: none"> <li>13m b/w habitable and non-habitable rooms</li> </ul>	>13m	YES
<ul style="list-style-type: none"> <li>9m b/w non-habitable rooms</li> </ul>	>9m	YES
<b>Internal amenity:</b>		
<ul style="list-style-type: none"> <li>Habitable rooms have a minimum floor to ceiling height of 2.7m</li> </ul>	2.7m	YES
<ul style="list-style-type: none"> <li>Non-habitable rooms have a minimum floor to ceiling height of 2.4m</li> </ul>	2.7m	YES
<ul style="list-style-type: none"> <li>1-2 bedroom units have a minimum plan dimension of 3m in all bedroom</li> </ul>	>3m	YES
<ul style="list-style-type: none"> <li>3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms</li> </ul>	>3m	YES
<ul style="list-style-type: none"> <li>Single corridors:                             <ul style="list-style-type: none"> <li>- serve a maximum of 8 units</li> </ul> </li> </ul>	5 units	YES
<ul style="list-style-type: none"> <li>- &gt;1.5m wide</li> </ul>	1.5m	YES
<ul style="list-style-type: none"> <li>- &gt;1.8m wide at lift lobbies</li> </ul>	>1.8m	YES
<b>Outdoor living:</b>		
<ul style="list-style-type: none"> <li>ground floor apartments have a terrace or private courtyard greater than 25m<sup>2</sup> in area</li> </ul>	>25m <sup>2</sup>	YES
<ul style="list-style-type: none"> <li>Balcony sizes:                             <ul style="list-style-type: none"> <li>- 12m<sup>2</sup> – 2 bedroom unit</li> <li>- 15m<sup>2</sup> – 3 bedroom unit</li> </ul> </li> </ul>	15.3m <sup>2</sup> 15.3m <sup>2</sup>	YES YES
NB. At least one space >10m <sup>2</sup>		
<ul style="list-style-type: none"> <li>primary outdoor space has a minimum dimension of 2.4m</li> </ul>	>2.4m	YES
<b>Part 4.7 Social dimensions:</b>		
<b>Visitable units (min):</b>		

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• 70%	100%	YES
<b>Housing mix:</b> • Mix of sizes and types	36 x 3 bedroom, 9 x 3 bedroom with study, 2 x 3 bedroom with 2 studies, 12 x 2 bedroom with study Sizes varying from 97.7m <sup>2</sup> to 147.7m <sup>2</sup>	YES
<b>Part 4.8 Resource, energy and water efficiency:</b>		
<b>Energy efficiency:</b> • >65% of units are to have natural cross ventilation • single aspect units are to have a maximum depth of 10m • 25% of kitchens are to have an external wall for natural ventilation and light • >90% of units are to have a 4.5 star NatHERS rating • 10% achieving a 3.5 star rating	>65%  11m (6 north-facing units)  >25%  4.5 star rating = 91.5%  3.5 star rating = 8.5%	YES  NO  YES  YES  YES
<b>Part 5 Parking and vehicular access:</b>		
<b>Car parking (min):</b> • 15 visitor spaces • 106 resident spaces • 121 total spaces	15 spaces 108 spaces 123 spaces	YES YES YES

**Part 4.5 Residential amenity:**

***Solar access***

A total of 39 units receive a minimum of 3 hours direct solar access midwinter between 9am and 3pm to a reasonable portion of living areas or courtyards, where 42 units are required by DCP 55 to achieve this. Of these, 35 receive access virtually all day. A further 6 units receive between 2.5 and 3 hours of direct solar access, which exceeds the requirements of the Residential Flat Design Code. Given the compliance with the Residential Flat Code, the high level of solar access for a large number of the units, and near compliance for a further 6 units, solar access is satisfactory.

**Privacy**

***Between the subject buildings:***

The fifth floor balconies between the buildings fail to comply with the separation requirements of the DCP. Most of the terrace area is narrow pathway and separated by planter boxes along the edge. The wider terraces in the rear corners without planters have privacy screens.

The terraces of the penthouses of Buildings A and C are divided by planters. **Condition No. 95** is recommended to provide a built divider to 1.6 metres to ensure security and privacy between the

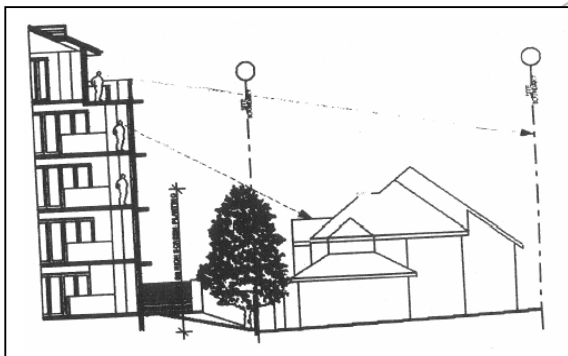
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units. The non-compliant bedrooms on this level are separated by a planter to improve privacy. It is also noted that the primary windows for these rooms are located to the north and south.

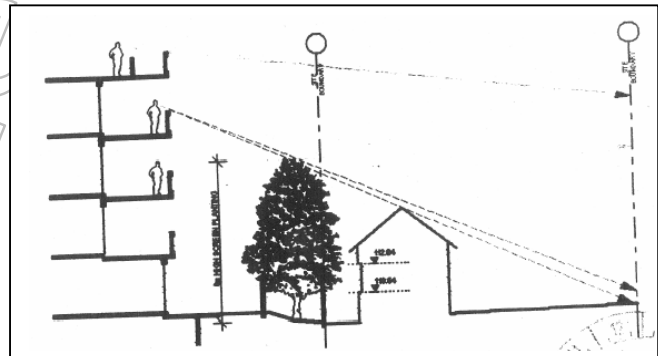
On the ground floor, privacy is maintained by the use of courtyard walls. The trees in the planters between the buildings will further improve privacy over time for the ground and first floors. Privacy between the bedrooms and the balconies that are non-compliant on the first, second and third floors has been addressed by the use of translucent glass.

*To adjacent development:*

A similar combination of planters and privacy screens on the top floor has been used to protect neighbouring privacy, in conjunction with the use of screen planting along the side boundaries. Given the rezoning to allow residential flat development, it is not possible to retain the same level of privacy as to which single dwellings in this area are accustomed. To the west, a 5 storey unit development has already been approved. To the east, the owners have expressed a desire to retain the dwellings rather than re-develop at this stage. Sections (see figure below) have been provided, demonstrating that the combination of screen planting, setbacks and existing trees on the neighbouring sites maintains a reasonable level of amenity for the residents of the existing dwellings at No. 25 Bruce Avenue and 24 Greengate Lane.



Section – 25 Bruce Avenue



Section – 24 Greengate Lane

**Part 4.6 Safety and security:**

The pool fence is only 1 metre high where 1.2 metres is required for safety. **Condition No. 7** is recommended to ensure compliance with relevant safety standards.

**Part 4.7 Social dimensions:**

Although there are no one bedroom units, there is a mix of unit sizes, from smaller 2 bedroom to large 3 bedroom units with large outdoor areas with jacuzzi and barbecue areas. There is also a mix of orientations and layouts.

**Part 4.8 Resource, energy and water efficiency:**



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There is a minor non-compliance with unit depth requirements. The proposal complies with most of the resource energy and water efficiency requirements of the DCP, and provides a number of photo-voltaic cells to further reduce long term energy use.

**Part 5 Parking and vehicular access:**

The original vehicular access was from Greengate Lane in line with the requirements of DCP 55 and the Residential Flat Design Code. Greengate Lane is not sufficiently wide to cater for two way traffic flow (as currently exists) to an additional 59 units as well as the remaining dwellings and the previously approved residential flat buildings adjoining the lane. Accordingly, the access has been changed to Bruce Avenue. Pedestrian access to both roads is maintained.

To retain the Norfolk Island Pine on the nature strip, a condition is recommended requiring the driveway to start at approximately 1.2 metres from the side boundary (**Condition No. 92**). This would not comply with the requirement to locate vehicular access away from the side setback. The driveway curves away from the side boundary, entering the building from the front. The proposed alignment improves on the existing configuration, in that planting width is extended. The existing dense hedgerow provides adequate screening and will be retained and supplemented if pipe location allows. Alternatively, new screen planting will be provided, extending to the new deep soil area.

The driveway fails to meet the 6 metre minimum width requirement. A condition is recommended to further reduce its width to 5.5 metres beside the Norfolk Island Pine to protect the roots of the tree. (**Condition No. 92**) Council's engineer is satisfied that adequate sight lines and visibility are maintained for safe access to and from the site.

**Development Control Plan 31 - Access**

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

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

Matters for assessment under DCP 40 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

**Development Control Plan No 43 - Car Parking**

Matters for assessment under DCP 43 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

**Development Control Plan 47 - Water Management**

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

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**Section 94 Plan**

The development attracts a Section 94 contribution of \$1,139,737.34, which is required to be paid by **Condition No. 118**.

This figure is calculated on the following basis, utilising the Ku-ring-gai Section 94 Contributions Plan 2004-2009 Residential Development as of 30 June 2004:

56 large, 3 medium dwellings less 7 existing dwellings ( 6 very large, 1 large) = \$1,139,737.34

**LIKELY IMPACTS**

All likely impacts have been addressed elsewhere in this report.

**SUITABILITY OF THE SITE**

The site can be made suitable for the proposed development with appropriate remediation works. There are no site or locality constraints which would preclude the development.

**ANY SUBMISSIONS**

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

**PUBLIC INTEREST**

The proposal is considered to be in the public interest.

***ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED***

There are no other matters for consideration.

**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 983/05 for the demolition of 7 single dwellings and construction of 3 x 5 storey buildings containing 59 units, associated basement car parking and strata subdivision on land at 9-23 Bruce Avenue Killara for a period of two (2) years on a deferred commencement basis, subject to the following conditions:

SCHEDULE A

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1. Prior to the consent being operative, the Applicant shall obtain a resolution from Ku-ring-gai Council that it will consent to the relocation of the existing Council easement(s) for drainage and underground pipe. Council's Technical Services Department will be responsible for preparing the necessary report to Council regarding the relocation of the easement burdening the site, subject to payment of the adopted fee for the preparation of such reports.

A full hydraulic design for the relocation of the pipe is to be prepared in accordance with the requirements of Chapter 9 of Council's DCP 47 *Water Management* and submitted to Council with the application.

Details are to be included of the proposed overland flowpath around the western side of the building to demonstrate that the ground floor units will not be subject to inundation and flood levels will not be raised in the adjacent property. The location of the on site detention/retention systems for the site is to be shown on the plans and they are to be beneath proposed hard surface areas to maintain deep soil planting area and minimise impacts on existing trees to be retained.

To ensure neighbouring amenity, the location of the pipe and easement is to be designed to retain the existing screen planting to 25 Bruce Avenue within the front setback if at all possible, in accordance with other conditions of this consent. Council's approval for the relocation of the pipe and easement is to be obtained prior to the operation of the consent. Such approval is not guaranteed.

SCHEDULE B

GENERAL

1. The development must be carried out in accordance with plans numbered 703 D/A02D, D/B01C-17C, D/B18B, D/B19C, D/B20B, D/B 21-22C, D/C01C - D/C08C, D/D01C, D/D02C dated 2 December and 13 December 2005, drawn by Drew Dickson Architects and lodged with Council 5 December & 13 December 2005, and endorsed with Council's approval stamp, except where amended by the following conditions:
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or stormwater drainage system is prohibited. These waters are to discharge via a permanent drainage line into the Sydney

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Water's sewer. Permission is to be obtained from the Sydney Water prior to the emptying of any pool to the sewer.

7. To ensure compliance with the relevant standards, an effective and approved 1.2 metre safety fence with self closing gate complying with the minimum requirements of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools" shall be provided to the Principal Certifying Authority's satisfaction in the location indicated on the approved plans prior to any water being placed in the pool.
8. For stormwater control, provision shall be made for the collection and disposal of all run-off surface waters from paved areas, recontoured areas, pool overflow and higher levels. All collected waters are to be dispersed without causing nuisance to the adjoining properties.
9. For safety purposes, depth markers shall be provided at both ends of the pool.
10. For safety purposes, prior to the pool being filled a weather resistant poster detailing expired air resuscitation (mouth to mouth) methods shall be affixed within plain sight of the pool. A sign/notice with the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" shall be erected in clear view and in close proximity to the pool.
11. All filtration equipment shall be located a minimum of 2.5 metres from any bedroom. Where the filtration and electrical equipment is located near a boundary, such equipment shall be positioned not closer than 150mm from the boundary fencing, if any, and electrical conduits and fittings or circulation pipes shall not be attached to any part of the fencing. Filtration or other equipment shall not be installed in the area of the side boundary setback of the dwelling or outbuilding unless that side boundary setback is greater than 1500mm. For the purpose of residential amenity, the filtration motor pump unit shall be housed in a sound attenuating enclosure and located where indicated on the approved plans or as varied by this consent.
12. A balustrade shall be provided where the pool concourse stands more than 1.0 metre above the finished ground level.
13. To ensure structural stability wherever the soil conditions so require, a retaining wall or other approved method of preventing the movement of soil shall be provided and adequate provision shall be made for drainage.
14. The swimming pool is to be made safe during construction by the erection of temporary safety fence to the satisfaction of the Principal Certifying Authority.
15. 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.
16. 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.

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17. 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.

18. 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.
19. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
20. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
21. 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.
22. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
- a. The type and size of machinery proposed.
  - b. The routes of all trucks to convey material to and from the site.
  - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.
23. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
24. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

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25. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- must preserve and protect the building from damage, and
  - if necessary, must underpin and support the building in an approved manner, and
  - must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

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

26. 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.
27. To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the Subdivision Certificate.
28. If the work involved in the erection or demolition of a building:
- is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, 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.

29. The developer shall submit to Council a letter from the energy supply authority and either Telstra or Optus, confirming that satisfactory arrangements have been made for the provision of underground telephone and power services, prior to the release of the Subdivision Certificate or Occupation. Application may be made to Energy Australia Phone No. 13 1525 and either Optus, Network Operations, Facsimile No 9837 9060, Phone No 9837 9010, or Telstra Phone No 12 455.

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30. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
31. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
32. 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.
33. 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.
34. 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.
35. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
36. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
  - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
    - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
    - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
    - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
  - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
37. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.

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38. 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.
39. 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.
40. 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.
41. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
42. Fire hoses are to be maintained on site during the course of demolition.
43. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
44. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
45. 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.
46. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
47. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - a. stating that unauthorised entry to the work site is prohibited, and
  - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- a. building work carried out inside an existing building, or
  - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
48. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.



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49. The applicant's attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owner/s which may arise from this application and it is advised that enquiries in this regard may be made at the nearest Local Court.
50. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
51. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.
52. To prevent pollution, any areas cleared of vegetation where there is a flowpath greater than 12.0 metres in length shall have a properly constructed silt fence erected to intercept runoff.
53. To prevent pollution, all disturbed areas which are not to be built upon or otherwise developed within 14 days shall be stabilised with mulch, woodchip or other rehabilitation methods to provide permanent protection from soil erosion.
54. Topsoil shall be stripped from areas to be developed and stock-piled within the site. Stock-piled topsoil on the site shall be located outside drainage lines and be protected from run-on water by suitably positioned diversion banks. Where the period of storage will exceed 14 days stock-piles are to be sprayed with an appropriate emulsion solution or seeded to minimise particle movement.
55. 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.
56. All footings shall be entirely constructed within the boundaries of the property.
57. To conserve water, the following shall be installed in the new bathroom and toilet:
  - a. maximum 6/3 litre dual flush cisterns;
  - b. shower heads with reduced water flow devices.
58. To protect the character of the street, the proposal is to be consistent with the colour and material schedule lodged with Council on 6 September 2005.

*Engineering conditions*

59. Staging of trunk drainage diversion works must take place in the following sequence:
  1. Ku-ring-gai Council approves through resolution the relocation of the Council drainage easement through the site (in accordance with schedule A condition).
  2. Plans for the relocation of the pipeline are approved (under Schedule A) and stamped by Council Technical Services Department prior to commencement of any works within site (except demolition) and prior to issue of the Construction Certificate by the Principal Certifying Authority. Plan assessment and inspection fees paid to Council.

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3. The new pipeline is installed by the Applicant in accordance with the approved drawings and any conditions required by Council and in conjunction with basement excavation works. A flowpath through the site is maintained during pipelaying works.
4. The redundant Council drainage line is decommissioned and the new drainage line made operative.
60. Stormwater runoff from all hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped and connected to the Council drainage system within the site or the street drainage system in Bruce Avenue. Drainage line connections to the system shall conform and comply with the relevant detail within Council's Plan No82/024 ["Connections of Drainage Lines to Kerb and R.C. Pipe"] which is provided in Councils Water Management DCP 47 (available on the Council website).
61. A mandatory rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the development. The total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy the requirements specified in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47 (DCP47).
62. In addition to the mandatory rainwater retention and re-use system provided, an on-site stormwater detention system must be provided for the development to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.
63. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanized grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.
64. To control surface runoff all new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details for such measures shall be shown on the approved Construction Certificate issue drawings, to the satisfaction of the Principal Certifying Authority.
65. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.

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66. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.
67. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of eth development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.
68. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) *"Traffic Control Devices for Work on Roads"*. **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
69. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
70. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".
71. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. The Applicant is to refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-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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72. In order to allow **unrestricted access at all times** for Ku-ring-gai Council waste collection vehicles into the basement garbage collection area - no doors, grilles, gates or other devices are to be provided in the access driveways to the basement carpark preventing this service.
73. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.
74. The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by Jeffery and Katauskas and subsequent reports. Over the course of the works a qualified Geotechnical/ hydrogeological Engineer must complete the following:
- Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
  - Vibration monitoring during the initial stages of rock excavation using rock hammers;
  - Groundwater monitoring to assess groundwater levels during and after construction and determine ways to ameliorate effects of development,
  - Review and endorse the design for excavation support,
  - Further monitoring and inspection as recommended in the above report(s) and as determined necessary,
  - Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.

*Landscaping conditions*

76. Removal, or pruning of the following trees is not approved as part of this Development Application:

Tree/ Location

*Angophora costata* (Sydney Redgum)

Centrally located adjacent to Greengate Lane site boundary

#49 *Unidentified* tree

Centrally located adjacent to southern boundary

77. 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 inspections and documentation from the Arborist to the Principal Certifying Authority are required at the following times or phases of work.

Tree/location

All existing trees to be retained on site

Time of inspection

Prior to demolition

After completion of demolition

Prior to excavation

After completion of excavation works

Prior to construction

At monthly intervals during construction

At the completion of all work on site

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78. REMOVAL of the existing tree/s from Council's nature strip shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000,000.
79. If tree roots are required to be severed for the purposes of constructing the approved works they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate
80. No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
#22 <i>Araucaria hetrophylla</i> (N.I. Pine) Bruce Ave nature strip	9.0m
#23 <i>Eucalyptus spp.</i> (Eucalypt) Bruce Ave nature strip	5.0m
#27 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary in neighbouring property	4.0m
#40 <i>Sapium sebiferum</i> (Chinese Tallow) Adjacent to eastern site boundary in neighbouring property	3.0m
#42 <i>Liriodendron tulipifera</i> (Tulip Tree) Adjacent to southern site boundary	4.0m
#43 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#44 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#45 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#46 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#49 <i>Unidentified tree</i> Centrally located adjacent to southern boundary	4.0m
#57 <i>Angophora costata</i> (Sydney Redgum) Adjacent to southern site boundary	7.5m
#65 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	6.0m
#66 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	7.0m
#67 <i>Camellia japonica</i> (Japanese Camellia) Adjacent to western site boundary	3.0m
#68 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m

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#68a *Acer palmatum 'Dissectum'* (Weeping Maple)

Adjacent to northern site boundary

3.0m

#69 *Magnolia soulangeana* (Soul's Magnolia)

Adjacent to northern site boundary

4.0m

#71 *Cupressus spp.* (Cypress)

Adjacent to northern site boundary

3.0m

#72 *Magnolia soulangeana* (Soul's Magnolia)

Adjacent to northern site boundary

3.5m

81. All excavation carried out within the specified radius of the trunk/s of the following tree/s shall be hand dug:

Tree/Location

Radius From Trunk

#22 *Araucaria hetrophylla* (N.I. Pine)

9.0m

Bruce Ave nature strip

#23 *Eucalyptus spp.* (Eucalypt)

5.0m

Bruce Ave nature strip

#27 *Liquidambar styraciflua* (Sweet Gum)

4.0m

Adjacent to western site boundary in neighbouring property

#40 *Sapium sebiferum* (Chinese Tallow)

3.0m

Adjacent to eastern site boundary in neighbouring property

#42 *Liriodendron tulipifera* (Tulip Tree)

4.0m

Adjacent to southern site boundary

#43 *Jacaranda mimosifolia* (Jacaranda)

4.0m

Adjacent to southern site boundary

#44 *Jacaranda mimosifolia* (Jacaranda)

2.0m

Adjacent to southern site boundary

#45 *Jacaranda mimosifolia* (Jacaranda)

2.0m

Adjacent to southern site boundary

#46 *Jacaranda mimosifolia* (Jacaranda)

2.0m

Adjacent to southern site boundary

#49 *Unidentified tree*

4.0m

Centrally located adjacent to southern boundary

#57 *Angophora costata* (Sydney Redgum)

7.5m

Adjacent to southern site boundary

#65 *Jacaranda mimosifolia* (Jacaranda)

6.0m

Adjacent to southern site boundary

#66 *Jacaranda mimosifolia* (Jacaranda)

7.0m

Adjacent to southern site boundary

#67 *Camellia japonica* (Japanese Camellia)

3.0m

Adjacent to western site boundary

#68 *Jacaranda mimosifolia* (Jacaranda)

4.0m

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Adjacent to southern site boundary

#68a *Acer palmatum 'Dissectum'* (Weeping Maple) 3.0m

Adjacent to northern site boundary

#69 *Magnolia soulangeana* (Soul's Magnolia) 4.0m

Adjacent to northern site boundary

#71 *Cupressus spp.* (Cypress) 3.0m

Adjacent to northern site boundary

#72 *Magnolia soulangeana* (Soul's Magnolia) 3.5m

Adjacent to northern site boundary

82. 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 level to minimise damage to tree/s root system

Tree/Location	Radius From Trunk
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#22 <i>Araucaria hetrophylla</i> (N.I. Pine)	9.0m
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Bruce Ave nature strip

#23 <i>Eucalyptus spp.</i> (Eucalypt)	5.0m
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Bruce Ave nature strip

#27 <i>Liquidambar styraciflua</i> (Sweet Gum)	4.0m
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Adjacent to western site boundary in neighbouring property

#42 <i>Liriodendron tulipifera</i> (Tulip Tree)	4.0m
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Adjacent to southern site boundary

#43 <i>Jacaranda mimosifolia</i> (Jacaranda)	4.0m
--	------

Adjacent to southern site boundary

#57 <i>Angophora costata</i> (Sydney Redgum)	7.5m
--	------

Adjacent to southern site boundary

#65 <i>Jacaranda mimosifolia</i> (Jacaranda)	6.0m
--	------

Adjacent to southern site boundary

#66 <i>Jacaranda mimosifolia</i> (Jacaranda)	7.0m
--	------

Adjacent to southern site boundary

83. The applicant shall ensure that at all times during the site works no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.

84. Following removal of the *Jacaranda mimosifolia* (Jacaranda) from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council at no cost to Council.

85. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

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86. The trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.
87. To maximise landscape and neighbour amenity, the existing screening shrub planting located adjacent to the eastern side site boundary adjoining #25 Bruce Ave within the front setback is to be retained if possible, given the proposed drainage works. If the existing planting is to be removed, proposed tree and shrub planting is to have a minimum height of 2.5m at the time of planting.
88. To maximise landscape amenity the proposed 1.8m lap and capped paling fence in front of the building setback to Bruce Ave is to be deleted.

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

89. 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.

90. 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.
91. The development is to comply with the AS4299/1428 as outlined in the Access Report by Mark Relf dated 16 August 2005 and including access to the pool and barbecue area. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to release of Construction Certificate.
92. The entry drive is to be offset to preserve the Norfolk Island Pine, as shown on the sketch "Alternative Driveway Location" by Drew Dickson Architects dated 13 December 2005. The vehicular crossing is to have a minimum width of 5.5 metres. To adequately retain the tree with minimal impacts, it is required that the proposed driveway be relocated with a minimum setback of 5.0m as measured from the outside of the trunk. It is preferred that a greater setback be provided if



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possible. To minimise the excavation and the severance of tree roots, the crossover 'slab' is to be constructed at, or on top of existing grade. The amended details are to be shown on the Construction Certificate drawings and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.

93. The development is to provide night lighting along all driveways and footpaths throughout the site such that the full length of travel paths is illuminated. Lighting is to be shielded so that neighbouring residences are not adversely affected. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
94. The development is to comply with the minimum insulation and glazing requirements specified in the NatHERS Assessment by Natural Integrated Living, dated August 2005 and lodged with Council on 6 September 2005. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
95. To minimise privacy impacts and improve security, a privacy screen to 1.6 metres above terrace level is to be constructed to divide the planters between Units 20 and 21 of Building A and Units 58 and 59 in Building C. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
96. To avoid adverse aural and visual privacy impacts, the windows to the voids in Apartments 1, 4, 5, 8, 10, 13, 15, 18, 39, 42, 43, 46, 48, 51, 53, 56, 58 and 59 are to be non-openable and of glass brick construction. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
97. To ensure adequate ventilation and access to daylight, the wall and door between the study and the dining room are to be deleted in Apartments 5, 8, 10, 13, 15, 18, 47, 52, and 57 so that the area becomes a study nook of the dining room. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
98. To ensure resident amenity, the studies in Apartments 9, 14 and 19 are to be deleted. The kitchen is to be extended and/or re-positioned a distance of one metre towards the lift lobby and the lift lobby is to be widened. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
99. For improved security to the common open spaces along the eastern and western boundaries, security gates are to be provided between the courtyard walls of Units 1 and 42 and the side boundaries. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.

*Heritage conditions*

100. A report is to be submitted to, and endorsed by, Council's Heritage Advisor satisfaction prior to commencement of the work and prior to issue of a Construction Certificate.

The report is to be prepared by a heritage consultant included in the NSW Heritage Office list of recognised consultants or other suitably qualified consultants who have knowledge and experience in preparing archival recording documents.

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The report is to be a bound A4 report. Three copies of the report must be submitted, one copy with negatives.

All photographs to be mounted, labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. Photographs of the following:

- Each elevation and selected interiors.
- Photographs of specific details nominated by Council
- All structures on site such as sheds, outhouses and significant landscape features
- Several photographs of house from public streets or laneways including several views showing relationship to neighbouring buildings.

Minimum requirements:

- Title page
- Statement of reasons the recording was made
- Site plan showing all structures and site elements
- Sketch of the floor plan showing the location of the camera for each photograph.
- Black & White archival quality photographs, contact prints with negatives and selected prints (one copy of negatives other copies with contact sheets and selected prints)

Digital images and CDs may be submitted as supplementary information.

*Engineering conditions*

101. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.

102. The Applicant must carry out the following infrastructure works in the Public Road:

- Construct new concrete footpath for the Bruce Avenue frontage of the development.
- Construct 5.5 metre width road pavement and 1 metre width footpath in Greengate Lane for the full frontage of the development, including new upright kerb and gutter.

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

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

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

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

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

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

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

- All parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply in full with Australian Standard 2890.1 – 2004 "Off-street car parking".
- A clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement.
- No doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area.

The vehicle access and accommodation arrangements are to be constructed in accordance with the certified plans.

104. Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document "*Managing Urban Stormwater – Soils and Construction, Volume 1*" (2004). A qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management Development Control Plan 47.

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

- Exact location and reduced level of discharge point to the public drainage system.
- Full layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).
- Location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems. Where proprietary products are to be used, manufacturer specifications or equivalent shall be provided.
- Specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments.
- Details of the required **on-site detention** tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, locations, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements).
- The required basement stormwater pump-out system to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).
- Water quality measures as required by DCP 47 Chapter 8.

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The plans may be generally based on Drawings 205014 by Demlakian submitted for Development Application approval, which are to be advanced as necessary for construction issue purposes.

106. Prior to issue of the Construction Certificate the Applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.

107 Prior to issue of the Construction Certificate the applicant must make contact with all relevant utility providers whose services will be impacted upon by the approved development. A written copy of the requirements of each provider, as determined necessary by the Principal Certifying Authority, must be obtained. All utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage must be provided by the developer in accordance with the specifications of those supply authorities.

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*Landscaping conditions*

108. Paving works within the specified radius of the trunk/s of the following tree/s shall be of type and construction to ensure that existing water infiltration and gaseous exchange to the tree/s root system is maintained. Details for the paving shall be prepared by a suitably qualified professional and submitted to and approved by the Principal Certifying Authority prior to the release of the Construction Certificate:

Tree/Location	Radius From Trunk
#49 <i>Unidentified</i> tree Centrally located adjacent to southern boundary	4.0m
#57 <i>Angophora costata</i> (Sydney Redgum) Adjacent to southern site boundary	7.5m
#68a <i>Acer palmatum 'Dissectum'</i> (Weeping Maple) Adjacent to northern site boundary	3.0m
#69 <i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to northern site boundary	4.0m
#71 <i>Cupressus spp.</i> (Cypress) Adjacent to northern site boundary	3.0m
#72 <i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to northern site boundary	3.5m

109. To preserve the following tree/s, footings of the proposed fence shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 30mm shall be severed or injured in the process of any site works during the construction period. The beam/s shall be located on or above existing soil levels.

The location and details of the footings shall be submitted to the Principal Certifying Authority and be approved prior to release of the Construction Certificate.

Tree/Location	Radius in Metres
#42 <i>Liriodendron tulipifera</i> (Tulip Tree) Adjacent to southern site boundary	4.0m
#43 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#44 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#45 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#46 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
# 49 <i>Unidentified</i> tree Centrally located adjacent to southern boundary	4.0m

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#57 *Angophora costata* (Sydney Redgum)  
Adjacent to southern site boundary

7.5m

#65 *Jacaranda mimosifolia* (Jacaranda)  
Adjacent to southern site boundary

6.0m

#66 *Jacaranda mimosifolia* (Jacaranda)  
Adjacent to southern site boundary

7.0m

#68 *Jacaranda mimosifolia* (Jacaranda)  
Adjacent to southern site boundary

4.0m

110. To preserve the following tree/s, footings of the proposed retaining wall shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 30mm shall be severed or injured in the process of any site works during the construction period. The beam/s shall be located on or above existing soil levels.

The location and details of the footings shall be submitted to the Principal Certifying Authority and be approved prior to release of the Construction Certificate.

Tree/Location	Radius in Metres
#68a <i>Acer palmatum 'Dissectum'</i> (Weeping Maple) Adjacent to northern site boundary	4.0m
#69 <i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to northern site boundary	5.0m
#71 <i>Cupressus spp.</i> (Cypress) Adjacent to northern site boundary	4.0m
#72 <i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to northern site boundary	4.5m

111. The submitted landscape plan LDA401 Rev B, LDA402 Rev A, LDA501 Rev A, LDA502 Rev A prepared by Site Image and dated 23/09/05 & 17/08/05 is not approved. An amended, detailed plan of the proposed landscape works for the site shall be prepared by a Landscape Architect or qualified Landscape Designer. The plan must be submitted to, and approved by the Principal Certifying Authority prior to the release of the Construction Certificate. The landscape works shall be carried out and installed in accordance with the approved landscape plan/s.

The following amendments to the plan shall apply:

- The proposed planting of BAK - *Bambusa Alphonse Karr*, is to be deleted and replaced with a shrub species capable of attaining a minimum height of 2.0m, and a maximum height of 4.0m.
- The proposed planting of 270 *Lomandra longifolia* adjacent to the south west site corner/Greengate Lane frontage is to be deleted and replaced with screening shrubs able to attain a minimum height of 2.0m.
- The proposed planting of ten *Corymbia maculata* (Spotted Gum) adjacent to the western site boundary is to be reduced to a maximum of five tall trees with a minimum spacing of 6.0m. Proposed tree species are to include endemic species such as *Angophora costata*

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(Sydney Redgum), *Angophora floribunda* (Rough Barked Apple), and *Eucalyptus paniculata* (Grey Ironbark). The planting of *Corymbia maculata* (Spotted Gum) is not approved.

- The proposed tree planting within the Bruce Ave street frontage is to include a minimum 40% of tree species that are exotic deciduous tree species that are reflective of the broader Killara landscape character. Species are to include; *Nyssa sylvatica* (Tupelo), *Pyrus spp* (Ornamental Pear), *Ginkgo biloba* (Maidenhair tree), *Liriodendron tulipifera* (Tulip Tree), *Michelia champaca* (Golden Champaca), and *Quercus palustris* (Pin Oak).
112. A CASH BOND/BANK GUARANTEE of \$10,000.00 shall be lodged with Council as a Landscape Establishment Bond prior to release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan/s and other landscape conditions.

Fifty percent (50%) of this bond will be refunded upon verification by Council that the landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after the initial satisfactory inspection, where landscape works have 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.

113. A CASH BOND/BANK GUARANTEE of \$12,000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

The bond will be returned following issue of the Occupation Certificate, 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	Bond Value
#22 <i>Araucaria hetrophylla</i> (N.I. Pine) Bruce Ave nature strip	\$3 000.00
#42 <i>Liriodendron tulipifera</i> (Tulip Tree) Adjacent to southern site boundary	\$2 000.00
#57 <i>Angophora costata</i> (Sydney Redgum) Adjacent to southern site boundary	\$5 000.00
#65 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	\$1 000.00
#66 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	\$1 000.00

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CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

114. 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.
115. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
  - A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
  - Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
  - Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
116. To ensure structural stability, engineer's details (in duplicate) of retaining walls, prepared by a qualified practicing structural engineer, shall be submitted to the Principal Certifying Authority for consideration prior to the issue of the Construction Certificate.
117. The following are required details and must be submitted to the Principal Certifying Authority *prior to the works relating to the detail being carried out*. 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 Registered Surveyor's set out report.
118. 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 52 ADDITIONAL DWELLINGS IS CURRENTLY \$1,139,737.34. 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 30 June 2004, calculated for additional person as follows:

1. Community Facilities	\$1 117.76
2. Park Acquisition and Embellishment Works - Killara	\$6 384.75
3. Sportsgrounds Works	\$1 318.32



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4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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)	1.27 persons
Medium dwelling (75 - under 110 sqm)	1.78 persons
Large dwelling (110 - under 150sqm)	2.56 persons
Very Large dwelling (150sqm or more)	3.48 persons
New Lot	3.48 persons
SEPP (Seniors Living) Dwelling	1.3persons

119. Prior to the commencement of **any excavation works** on site the Applicant must carry out further environmental inspection and investigation as recommended in the report by EIS (ref. E19649RPT, dated August 2005), including assessment of the extent of contamination near BH101 and sampling at building locations. The site is to be remediated as recommended by the consultant and then validated by further sampling. All monitoring and validation reports are to be in accordance with relevant guidelines and Council's Contaminated Land Policy. All relevant reports shall be given to Council for its records.

*Engineering conditions*

120. Prior to the commencement of **any excavation works** on site the Applicant must submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of the residences at 25 Bruce Avenue and 24 Greengate Lane. The report must be completed by a consulting structural/geotechnical engineer. Upon submitting a copy of the dilapidation report to Council, a written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site. If a residence has been demolished under a separate approval, no dilapidation report is required.
121. Prior to the commencement of **any** works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:

**A plan view of the entire site and frontage roadways indicating:**

- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
- Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
- The locations of proposed Work Zones in the frontage roadways,
- Location of any proposed crane standing areas
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries

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- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible

**Traffic Control Plan(s) for the site**

- All traffic control devices installed in the road reserve must be in accordance with the RTA publication "Traffic Control Worksite Manual" and be designed by a person licensed to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- Traffic controllers are to be stationed at the intersection(s) of Bruce Avenue and Greengate Lane and at the bend when construction vehicles are approaching the site from Greengate Lane.
- Consideration should be given to using an existing driveway off Bruce avenue for some site access.
- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

**A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided.**

- Light traffic roads and those subject to a load or height limit must be avoided at all times.
- A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.

In addition, the plan must address:

- Evidence of RTA concurrence where construction access is provided directly or within 20m of an Arterial Rd.
- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.
- For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.
- Employee parking is to be provided in the basement as soon as practicable and a timeframe is to be given for this.

The *Construction and Traffic Management Plan* shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation. As the plan has a direct impact on the local road network, the plan shall be

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submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site. A fee is payable for the assessment of the plan by Ku-ring-gai Council.

122. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. The application must be made at least 15 days prior to the commencement of any works on site approved under this consent. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.

123. Prior to the commencement of any works on site the applicant shall submit to Ku-ring-gai Council a full dilapidation report on the visible and structural condition (**including a photographic record**) of the following public infrastructure:

- Full road pavement width, including kerb and gutter, of Bruce Avenue over the site frontage.
- All driveway crossings and laybacks opposite the subject site, including rear accesses and fences to Greengate Road properties.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both via photo and in written format) *existing* damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

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

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

- How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road
- That the locations of the rock anchors are registered with Dial Before You Dig

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- That approval of all utility authorities likely to use the public road has been obtained. All temporary rock anchors are located outside the allocations for the various utilities as adopted by the Streets Opening Conference.
- That any remaining de-stressed rock anchors are sufficiently isolated from the structure that they cannot damage the structure if pulled during future excavations or work in the public road.
- That signs will be placed and maintained on the building stating that de-stressed rock anchors remain in the public road and include a contact number for the building manager. The signs are to be at least 600mm x 450mm with lettering on the signs is to be no less than 75mm high. The signs are to be at not more than 60m spacing. At least one sign must be visible from all locations on the footpath outside the property. The wording on the signs is to be submitted to Council's Director Technical Services for approval before any signs are installed.

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

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

*Landscaping conditions*

125. 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/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in Metres
#22 <i>Araucaria hetrophylla</i> (N.I. Pine) Bruce Ave nature strip (pedestrian access to be maintained at all times)	9.0m
#23 <i>Eucalyptus spp.</i> (Eucalypt) Bruce Ave nature strip	4.0m
#27 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary in neighbouring property	4.0m
#40 <i>Sapium sebiferum</i> (Chinese Tallow) Adjacent to eastern site boundary in neighbouring property	3.0m
#42 <i>Liriodendron tulipifera</i> (Tulip Tree) Adjacent to southern site boundary	4.0m
#43 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#44 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#45 <i>Jacaranda mimosifolia</i> (Jacaranda)	4.0m

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- |   |      |
|---|------|
| Adjacent to southern site boundary                    |      |
| #46 <i>Jacaranda mimosifolia</i> (Jacaranda)          | 4.0m |
| Adjacent to southern site boundary                    |      |
| # 49 <i>Unidentified</i> tree                         | 4.0m |
| Centrally located adjacent to southern boundary       |      |
| #57 <i>Angophora costata</i> (Sydney Redgum)          | 6.0m |
| Adjacent to southern site boundary                    |      |
| #65 <i>Jacaranda mimosifolia</i> (Jacaranda)          | 6.0m |
| Adjacent to southern site boundary                    |      |
| #66 <i>Jacaranda mimosifolia</i> (Jacaranda)          | 7.0m |
| Adjacent to southern site boundary                    |      |
| #67 <i>Camellia japonica</i> (Japanese Camellia)      | 3.0m |
| Adjacent to western site boundary                     |      |
| #68 <i>Jacaranda mimosifolia</i> (Jacaranda)          | 4.0m |
| Adjacent to southern site boundary                    |      |
| #68a <i>Acer palmatum 'Dissectum'</i> (Weeping Maple) | 3.0m |
| Adjacent to northern site boundary                    |      |
| #69 <i>Magnolia soulangeana</i> (Soul's Magnolia)     | 4.0m |
| Adjacent to northern site boundary                    |      |
| #71 <i>Cupressus spp.</i> (Cypress)                   | 3.0m |
| Adjacent to northern site boundary                    |      |
| #72 <i>Magnolia soulangeana</i> (Soul's Magnolia)     | 3.5m |
| Adjacent to northern site boundary                    |      |
126. 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.
127. Prior to works commencing tree protection signage is to be attached to each tree Protection Zone and displayed in a prominent position and the sign repeated at 10m intervals or closer where the fence changes direction. Each sign shall advise in a clearly legible form, the following minimum information:
1. Tree Protection Zone
  2. This fence has been installed to prevent damage to the trees and their growing environment both above and below ground, and access is restricted.
  3. If encroachment or incursion into this Tree Protection Zone is deemed to be essential the consulting Arborist should be informed prior to the undertaking of such works
  4. Name, address, and telephone number of the developer/principal certifying authority.
128. Prior to works commencing the area of the Tree Protection Zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood, The depth of mulch and type as indicated, to be maintained for the duration of the project & Principal Certifying Authority.

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129. Upon completion of the installation of the required tree protection measures you are required to arrange for an inspection of the site by the Principal Certifying Authority to verify that tree protection measures comply with all relevant conditions. 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 THE ISSUE OF A SUBDIVISION CERTIFICATE

130. The final plans of subdivision are to be consistent with the approved architectural plans. All parking spaces and all areas of common property, including visitor car parking spaces and on-site detention facilities, which are to be common property, must be included on the final plans of strata subdivision.
131. The applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council.
132. The applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council.
133. An easement for waste collection is to be created. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection.
134. For endorsement of the linen plan/issue of the subdivision certificate, the Applicant shall submit an original plan of subdivision plus six (6) copies, suitable for endorsement by the consent authority. The following details **must** be submitted with the plan of Subdivision and its (5) copies, where Council is the consent authority:
- The endorsement fee current at the time of lodgment.
  - The 88B Instruments plus six (6) copies,
  - A copy of the Occupation Certificate,
  - The Consulting Engineer's certification of the on-site stormwater detention facility. This must be on the standard Council on-site detention certification sheet, available from Council's customer services.
  - A copy of all works-as-executed plans required under the consent,
  - All Surveyor's and/or Consulting Engineer's certification(s) required under this consent,

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- g. The Section 73 (Sydney Water) Compliance Certificate.

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

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

Note 2: Council will not accept bonds in lieu of completing subdivision works.

Note 3: If the certifying authority is not Council, then a copy of all of the above must be provided to Council

135. Prior to release of the linen plan/issue of the subdivision certificate, the Section 73 Sydney Water compliance certificate **which refers to the subdivision application** must be obtained and submitted to the Council.
136. Prior to release of the linen plan/issue of the subdivision certificate, the applicant shall create all burdens including but not limited to drainage easements, easements for services and rights-of-carriageway, as required. A registered surveyor is to certify, prior to release of the linen plan/issue of the subdivision certificate, that all existing interallotment drainage lines, services and/or driveways are fully contained within the proposed burdens and/or that future provision of such are fully covered by the proposed burdens. Alternatively, where the surveyor is of the opinion that no interallotment easements or rights-of-carriageway are required, then certification to this effect must be submitted to the Principal Certifying Authority (PCA).

**CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION**

137. 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.

138. 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.

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139. Notices and reports on the remediation work, in accordance with Clauses 17 and 18 of State Environmental Planning Policy No. 55 and Council's Contaminated Land Policy, must be submitted to Council within 30 days after the completion of the work and prior to occupation. These documents must demonstrate that the site has been remediated to a standard suitable for residential land use.

*Engineering conditions*

140. The relocation of the Council stormwater pipeline is to be completed in accordance with the approved plans and any conditions imposed by Council. Works-as-executed drawings are to be prepared by a registered surveyor and the designing engineer is to certify that the works have been carried out in accordance with the design. Council's approval of the works is to be obtained and submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.
141. Prior to issue of the Occupation Certificate, the applicant is to submit documentary evidence that the relocated easement has been registered on the title of the property. A registered surveyor is to certify that the pipe is wholly contained within the easement.
142. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:
- New concrete footpath along the Bruce Avenue frontage of the site.
  - New road pavement, footpath and kerb and gutter in Greengate Lane in accordance with the plans approved by Council under the Roads Act.
  - Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter. 1 (Reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials).
  - Full repair and resealing of any road surface damaged during construction.
  - Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

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

143. Prior to issue of the Occupation Certificate the following must be provided to Council (attention Development Engineer):
- A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
  - A copy of any works-as-executed drawings required under this consent
  - The Engineer's certification of the as-built system.



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This condition is required so Council may maintain its database of as-constructed on-site stormwater detention systems, and applies particularly where the appointed Principal Certifying Authority (PCA) is not Ku-ring-gai Council.

144. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority.
145. Prior to issue of an Occupation Certificate the applicant must submit certification from a suitably qualified and experienced traffic/civil engineer to the Principal Certifying Authority. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:
  - That the as-constructed car park complies with the approved Construction Certificate plans,
  - That the completed vehicle access and accommodation arrangements comply in full with Australian Standard 2890.1 – 2004 "Off-Street car parking" in terms of minimum parking space dimensions provided,
  - That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
  - That no doors, gates, grilles or other structures have been provided in the access driveways to the basement car park, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.
  - That the vehicular headroom requirements of:
    - a) Australian Standard 2890.1 - "Off-street car parking",
    - b) 2.44m height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement carpark.
146. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:
  - That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
  - That the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Council Water Management DCP 47 respectively, have been achieved in full.
  - That retained water is connected and available for uses including toilet flushing, laundry and garden irrigation.
  - That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.
  - That all grates potentially accessible by children are secured.
  - That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 2003 and the BCA, and

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

The following certification sheets **must be accurately completed and attached** to the certification:

- Rainwater retention certification sheet contained at appendix 13 of Water Management DCP 47
  - On-site detention certification sheet contained at appendix 4 of Water Management DCP 47.
147. Prior to issue of the Occupation Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage and management systems. The WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. The WAE survey must indicate:
- As built (reduced) surface and invert levels for all drainage pits.
  - Gradients of drainage lines, materials and dimensions.
  - As built (reduced) level(s) at the approved point of discharge to the public drainage system.
  - As built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site.
  - The achieved storage volumes of the installed retention and detention storages and derivative calculations.
  - As built locations of all access pits and grates in the detention and retention system(s), including dimensions.
  - The size of the orifice or control fitted to any on-site detention system.
  - Dimensions of the discharge control pit and access grates.
  - The maximum depth of storage possible over the outlet control.
  - Top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system.
- The WAE plan(s) must show the as-built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked **in red** on a copy of the Principal Certifying Authority stamped construction certificate stormwater plans.
148. Prior to issue of the Occupation Certificate a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority. The regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.
149. Prior to issue of the Occupation Certificate a suitably qualified and consulting geotechnical engineer is to provide certification to the Principal Certifying Authority that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out :

- According the relevant Australian Standards and guidelines, and

Item 1

- According to any approved Geotechnical report undertaken for the development, and
  - In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.
150. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the Report on Geotechnical Investigation by Davies Geotechnical and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
151. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the residences at 25 Bruce Avenue and 24 Greengate Lane.

The Report must be completed by a practicing consulting structural engineer and be submitted for Council records prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate. If a residence has been demolished under a separate approval, no follow-up report is required.

*Landscaping conditions*

152. The landscape works, shall be installed in accordance with the approved plan/s and/ or conditions of consent, be completed prior to release of Occupation Certificate and be maintained in a healthy and vigorous condition at all times.
153. The Principal Certifying Authority shall ensure that the landscape works, have been installed correctly, consistent the approved landscape plan(s), specification and the conditions of consent prior to release of the Occupation Certificate.

T Southwell  
Development Assessment Officer

R Kinninmont  
Team Leader  
Development Assessment - South

M Miocic  
Director  
Development & Regulation

M Prendergast  
Manager  
Development Assessment Services

Attachments:

Location plans – 576031  
Site Analysis – 577466  
Architectural plans – 576035  
Shadow diagrams – 576035

Landscape plan - 576033  
Appendix 1 - 576052

Assessment Report

Terri Southwell

DA 983/05  
13 February 2006

Drew Dickson Architects P/L  
2 Grandview Grove  
SEAFORTH NSW 2092

Dear Sir

**NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION  
SECTION 81(1)(A) ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979  
DEVELOPMENT APPLICATION N<sup>o</sup> 983/05**

<b>Applicant's Name and Address:</b>	Drew Dickson Architects P/L 2 Grandview Grove SEAFORTH NSW 2092
<b>Land to be Developed:</b>	Lot 11, 12, 13, 14 and 4, 5 6, DP 4362 and DP 13657, 9-23 Bruce Avenue, Killara
<b>Proposed Development:</b>	Demolish and construct residential flat building comprising 59 units, basement car parking, landscaping, pool and strata subdivision
<b>Date of Determination:</b>	7 February 2006
<b>Date from which Consent Operates:</b>	Deferred Commencement
<b>Date of Expiry:</b>	2 years and 1 day from date of completion of Schedule A
<b>Other Approvals Integrated with this Consent:</b>	Nil

This determination is granted as a **DEFERRED COMMENCEMENT APPROVAL** in accordance with provisions of Section 80(3) of the Environmental Planning & Assessment Act 1979, and Clause 95 of the Environmental Planning & Assessment Regulation 2000 subject to the condition/s in Schedule A being resolved to the satisfaction of Council's Director Environment & Regulatory Services. Upon completion of the Schedule A requirements the applicant is to obtain written notification from Council that works can commence on site, referring to the attached Schedule B.

You are advised of your right of review of this determination by Council under Section 82A of the Environmental Planning and Assessment Act 1979.

You are advised that if you are dissatisfied with the determination you have a right of appeal to the Land and Environment Court within 12 months of the date you receive this Notice.

Yours faithfully

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

**Attachments**

**DEVELOPMENT APPLICATION N<sup>O</sup> 983/05**  
**PREMISES: LOT 3, DP 22054, 9-23 BRUCE AVENUE, KILLARA**

**SCHEDULE A**

1. Prior to the consent being operative, the Applicant shall obtain a resolution from Ku-ring-gai Council that it will consent to the relocation of the existing Council easement(s) for drainage and underground pipe. Council's Technical Services Department will be responsible for preparing the necessary report to Council regarding the relocation of the easement burdening the site, subject to payment of the adopted fee for the preparation of such reports.

A full hydraulic design for the relocation of the pipe is to be prepared in accordance with the requirements of Chapter 9 of Council's DCP 47 *Water Management* and submitted to Council with the application.

Details are to be included of the proposed overland flowpath around the western side of the building to demonstrate that the ground floor units will not be subject to inundation and flood levels will not be raised in the adjacent property. The location of the on site detention/ retention systems for the site is to be shown on the plans and they are to be beneath proposed hard surface areas to maintain deep soil planting area and minimise impacts on existing trees to be retained.

To ensure neighbouring amenity, the location of the pipe and easement is to be designed to retain the existing screen planting to 25 Bruce Avenue within the front setback if at all possible, in accordance with other conditions of this consent. Council's approval for the relocation of the pipe and easement is to be obtained prior to the operation of the consent. Such approval is not guaranteed.

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.

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 Development Application.

**SCHEDULE B**

**GENERAL CONDITIONS**

*The issue of this consent does not permit any construction work to commence on the site until such time as a construction certificate has been obtained.*

*Detailed working drawings and specifications, which are consistent with the Development Consent and conditions, must be submitted for consideration of the issue of a construction certificate.*

*Alterations, modification or variations to this consent can only be effected where Council approves an application to modify the Consent under Section 96 of the Environmental Planning and Assessment Act.*

*This consent shall lapse and be void if the building work or use to which it refers is not physically commenced prior to the date of expiry of the consent.*

1. The development must be carried out in accordance with plans numbered 703 D/B18B and D/B 20B, dated 15 August 2005 and 703 D/A02D, D/B01C-17C, D/B19C, D/B 21-22C, D/C01C - D/C08C, D/D01C, D/D02C dated 2 December and 13 December 2005, drawn by Drew Dickson Architects and lodged with Council 5 December & 13 December 2005, and endorsed with Council's approval stamp, except where amended by the following conditions:
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or stormwater drainage system is prohibited. These waters are to discharge via a permanent drainage line into the Sydney Water's sewer. Permission is to be obtained from the Sydney Water prior to the emptying of any pool to the sewer.
7. To ensure compliance with the relevant standards, an effective and approved 1.2 metre safety fence with self closing gate complying with the minimum requirements of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools" shall be provided to the Principal Certifying Authority's satisfaction in the location indicated on the approved plans prior to any water being placed in the pool.
8. For stormwater control, provision shall be made for the collection and disposal of all run-off surface waters from paved areas, recontoured areas, pool overflow and higher levels. All collected waters are to be dispersed without causing nuisance to the adjoining properties.
9. For safety purposes, depth markers shall be provided at both ends of the pool.
10. For safety purposes, prior to the pool being filled a weather resistant poster detailing expired air resuscitation (mouth to mouth) methods shall be affixed within plain sight of the pool. A sign/notice with the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" shall be erected in clear view and in close proximity to the pool.

11. All filtration equipment shall be located a minimum of 2.5 metres from any bedroom. Where the filtration and electrical equipment is located near a boundary, such equipment shall be positioned not closer than 150mm from the boundary fencing, if any, and electrical conduits and fittings or circulation pipes shall not be attached to any part of the fencing. Filtration or other equipment shall not be installed in the area of the side boundary setback of the dwelling or outbuilding unless that side boundary setback is greater than 1500mm. For the purpose of residential amenity, the filtration motor pump unit shall be housed in a sound attenuating enclosure and located where indicated on the approved plans or as varied by this consent.
12. A balustrade shall be provided where the pool concourse stands more than 1.0 metre above the finished ground level.
13. To ensure structural stability wherever the soil conditions so require, a retaining wall or other approved method of preventing the movement of soil shall be provided and adequate provision shall be made for drainage.
14. The swimming pool is to be made safe during construction by the erection of temporary safety fence to the satisfaction of the Principal Certifying Authority.
15. 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.
16. 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.
17. **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.
18. 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.
19. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
20. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.



21. 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.
22. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
  - a. The type and size of machinery proposed.
  - b. The routes of all trucks to convey material to and from the site.
  - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.

23. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
24. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

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

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

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

26. 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.
27. To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the Subdivision Certificate.

28. 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.

29. The developer shall submit to Council a letter from the energy supply authority and either Telstra or Optus, confirming that satisfactory arrangements have been made for the provision of underground telephone and power services, prior to the release of the Subdivision Certificate or Occupation. Application may be made to Energy Australia Phone No. 13 1525 and either Optus, Network Operations, Facsimile No 9837 9060, Phone No 9837 9010, or Telstra Phone No 12 455.

30. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.

31. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.

32. 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.

33. 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.

34. 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.

35. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.

36. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
  - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
    - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
    - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
    - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
  - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
37. 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.
38. 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.
39. 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.
40. 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.
41. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
42. Fire hoses are to be maintained on site during the course of demolition.
43. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
44. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
45. 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.
46. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.

47. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- stating that unauthorised entry to the work site is prohibited, and
  - showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- building work carried out inside an existing building, or
  - building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
48. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
49. The applicant's attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owner/s which may arise from this application and it is advised that enquiries in this regard may be made at the nearest Local Court.
50. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
51. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.
52. To prevent pollution, any areas cleared of vegetation where there is a flowpath greater than 12.0 metres in length shall have a properly constructed silt fence erected to intercept runoff.
53. To prevent pollution, all disturbed areas which are not to be built upon or otherwise developed within 14 days shall be stabilised with mulch, woodchip or other rehabilitation methods to provide permanent protection from soil erosion.
54. Topsoil shall be stripped from areas to be developed and stock-piled within the site. Stock-piled topsoil on the site shall be located outside drainage lines and be protected from run-on water by suitably positioned diversion banks. Where the period of storage will exceed 14 days stock-piles are to be sprayed with an appropriate emulsion solution or seeded to minimise particle movement.
55. 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.
56. All footings shall be entirely constructed within the boundaries of the property.
57. To conserve water, the following shall be installed in the new bathroom and toilet:
- maximum 6/3 litre dual flush cisterns;
  - shower heads with reduced water flow devices.

58. To protect the character of the street, the proposal is to be consistent with the colour and material schedule lodged with Council on 6 September 2005.

*Engineering conditions*

59. Staging of trunk drainage diversion works must take place in the following sequence:
1. Ku-ring-gai Council approves through resolution the relocation of the Council drainage easement through the site (in accordance with schedule A condition).
  2. Plans for the relocation of the pipeline are approved (under Schedule A) and stamped by Council Technical Services Department prior to commencement of **any** works within site (except demolition) and prior to issue of the Construction Certificate by the Principal Certifying Authority. Plan assessment and inspection fees paid to Council.
  3. The new pipeline is installed by the Applicant in accordance with the approved drawings and any conditions required by Council and in conjunction with basement excavation works. A flowpath through the site is maintained during pipelaying works.
  4. The redundant Council drainage line is decommissioned and the new drainage line made operative.
60. Stormwater runoff from all hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped and connected to the Council drainage system within the site or the street drainage system in Bruce Avenue. Drainage line connections to the system shall conform and comply with the relevant detail within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe") which is provided in Council's Water Management DCP 47 (available on the Council website).
61. A mandatory rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the development. The total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy the requirements specified in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47 (DCP47).
62. In addition to the mandatory rainwater retention and re-use system provided, an on-site stormwater detention system must be provided for the development to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.
63. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanized grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.
64. To control surface runoff all new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details for such measures shall be shown on the approved Construction Certificate issue drawings, to the satisfaction of the Principal Certifying Authority.

65. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.
66. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.
67. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of eth development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.
68. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
69. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
70. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".
71. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. The Applicant is to refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-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.

72. In order to allow **unrestricted access at all times** for Ku-ring-gai Council waste collection vehicles into the basement garbage collection area - no doors, grilles, gates or other devices are to be provided in the access driveways to the basement carpark preventing this service.
73. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.
74. The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by Jeffery and Katauskas and subsequent reports. Over the course of the works a qualified Geotechnical/ hydrogeological Engineer must complete the following:
  - Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
  - Vibration monitoring during the initial stages of rock excavation using rock hammers;
  - Groundwater monitoring to assess groundwater levels during and after construction and determine ways to ameliorate effects of development,
  - Review and endorse the design for excavation support,
  - Further monitoring and inspection as recommended in the above report(s) and as determined necessary,
  - Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.

*Landscaping conditions*

76. Removal or pruning of the following trees is not approved as part of this Development Application:

Tree/ Location

*Angophora costata* (Sydney Redgum)

Centrally located adjacent to Greengate Lane site boundary

#49 *Unidentified* tree

Centrally located adjacent to southern boundary

77. 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 inspections and documentation from the Arborist to the Principal Certifying Authority are required at the following times or phases of work.

Tree/location

All existing trees to be retained on site

Time of inspection

Prior to demolition

After completion of demolition

Prior to excavation

After completion of excavation works

Prior to construction

At monthly intervals during construction

At the completion of all work on site

78. REMOVAL of the existing tree/s from Council's nature strip shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000,000.
79. If tree roots are required to be severed for the purposes of constructing the approved works they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate
80. No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

<b>Tree/Location</b>	<b>Radius From Trunk</b>
#22 <i>Araucaria hetrophylla</i> (N.I. Pine) Bruce Ave nature strip	9.0m
#23 <i>Eucalyptus spp.</i> (Eucalypt) Bruce Ave nature strip	5.0m
#27 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary in neighbouring property	4.0m
#40 <i>Sapium sebiferum</i> (Chinese Tallow) Adjacent to eastern site boundary in neighbouring property	3.0m
#42 <i>Liriodendron tulipifera</i> (Tulip Tree) Adjacent to southern site boundary	4.0m
#43 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#44 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#45 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#46 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#49 <i>Unidentified tree</i> Centrally located adjacent to southern boundary	4.0m
#57 <i>Angophora costata</i> (Sydney Redgum) Adjacent to southern site boundary	7.5m
#65 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	6.0m
#66 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	7.0m



#67 <i>Camellia japonica</i> (Japanese Camellia) Adjacent to western site boundary	3.0m
#68 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#68a <i>Acer palmatum</i> 'Dissectum' (Weeping Maple) Adjacent to northern site boundary	3.0m
#69 <i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to northern site boundary	4.0m
#71 <i>Cupressus spp.</i> (Cypress) Adjacent to northern site boundary	3.0m
#72 <i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to northern site boundary	3.5m
81. All excavation carried out within the specified radius of the trunk/s of the following tree/s shall be hand dug:	
Tree/Location	Radius From Trunk
#22 <i>Araucaria heterophylla</i> (N.I. Pine) Bruce Ave nature strip	9.0m
#23 <i>Eucalyptus spp.</i> (Eucalypt) Bruce Ave nature strip	5.0m
#27 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary in neighbouring property	4.0m
#40 <i>Sapium sebiferum</i> (Chinese Tallow) Adjacent to eastern site boundary in neighbouring property	3.0m
#42 <i>Liriodendron tulipifera</i> (Tulip Tree) Adjacent to southern site boundary	4.0m
#43 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#44 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	2.0m
#45 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	2.0m
#46 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	2.0m

#49	<i>Unidentified tree</i> Centrally located adjacent to southern boundary	4.0m
#57	<i>Angophora costata</i> (Sydney Redgum) Adjacent to southern site boundary	7.5m
#65	<i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	6.0m
#66	<i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	7.0m
#67	<i>Camellia japonica</i> (Japanese Camellia) Adjacent to western site boundary	3.0m
#68	<i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#68a	<i>Acer palmatum 'Dissectum'</i> (Weeping Maple) Adjacent to northern site boundary	3.0m
#69	<i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to northern site boundary	4.0m
#71	<i>Cupressus spp.</i> (Cypress) Adjacent to northern site boundary	3.0m
#72	<i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to northern site boundary	3.5m
82.	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 level to minimise damage to tree/s root system	
	Tree/Location	Radius From Trunk
#22	<i>Araucaria hetrophylla</i> (N.I. Pine) Bruce Ave nature strip	9.0m
#23	<i>Eucalyptus spp.</i> (Eucalypt) Bruce Ave nature strip	5.0m
#27	<i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary in neighbouring property	4.0m
#42	<i>Liriodendron tulipifera</i> (Tulip Tree) Adjacent to southern site boundary	4.0m
#43	<i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m

#57 <i>Angophora costata</i> (Sydney Redgum) Adjacent to southern site boundary	7.5m
#65 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	6.0m
#66 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	7.0m

83. The applicant shall ensure that at all times during the site works no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
84. Following removal of the *Jacaranda mimosifolia* (Jacaranda) from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council at no cost to Council.
85. 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.
86. The trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.
87. To maximise landscape and neighbour amenity, the existing screening shrub planting located adjacent to the eastern side site boundary adjoining #25 Bruce Ave within the front setback is to be retained if possible, given the proposed drainage works. If the existing planting is to be removed, proposed tree and shrub planting is to have a minimum height of 2.5m at the time of planting.
88. To maximise landscape amenity the proposed 1.8m lap and capped paling fence in front of the building setback to Bruce Ave is to be deleted.

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

89. 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.

90. 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.

91. The development is to comply with the AS4299/1428 as outlined in the Access Report by Mark Relf dated 16 August 2005 and including access to the pool and barbecue area. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to release of Construction Certificate.
92. The entry drive is to be offset to preserve the Norfolk Island Pine, as shown on the sketch "Alternative Driveway Location" by Drew Dickson Architects dated 13 December 2005. The vehicular crossing is to have a minimum width of 5.5 metres. To adequately retain the tree with minimal impacts, it is required that the proposed driveway be relocated with a minimum setback of 5.0m as measured from the outside of the trunk. It is preferred that a greater setback be provided if possible. To minimise the excavation and the severance of tree roots, the crossover 'slab' is to be constructed at, or on top of existing grade. The amended details are to be shown on the Construction Certificate drawings and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
93. The development is to provide night lighting along all driveways and footpaths throughout the site such that the full length of travel paths is illuminated. Lighting is to be shielded so that neighbouring residences are not adversely affected. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
94. The development is to comply with the minimum insulation and glazing requirements specified in the NatHERS Assessment by Natural Integrated Living, dated August 2005 and lodged with Council on 6 September 2005. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
95. To minimise privacy impacts and improve security, a privacy screen to 1.6 metres above terrace level is to be constructed to divide the planters between Units 20 and 21 of Building A and Units 58 and 59 in Building C. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
96. To avoid adverse aural and visual privacy impacts, the windows to the voids in Apartments 1, 4, 5, 8, 10, 13, 15, 18, 39, 42, 43, 46, 48, 51, 53, 56, 58 and 59 are to be non-openable and of glass brick construction. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
97. To ensure adequate ventilation and access to daylight, the wall and door between the study and the dining room are to be deleted in Apartments 5, 8, 10, 13, 15, 18, 47, 52, and 57 so that the area becomes a study nook of the dining room. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
98. To ensure resident amenity, the studies in Apartments 9, 14 and 19 are to be deleted. The kitchen is to be extended and/or re-positioned a distance of one metre towards the lift lobby and the lift lobby is to be widened. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
99. For improved security to the common open spaces along the eastern and western boundaries, security gates are to be provided between the courtyard walls of Units 1 and 42 and the side boundaries. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.

### *Heritage conditions*

100. A report is to be submitted to, and endorsed by, Council's Heritage Advisor satisfaction prior to commencement of the work and prior to issue of a Construction Certificate.

The report is to be prepared by a heritage consultant included in the NSW Heritage Office list of recognised consultants or other suitably qualified consultants who have knowledge and experience in preparing archival recording documents.

The report is to be a bound A4 report. Three copies of the report must be submitted, one copy with negatives.

All photographs to be mounted, labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. Photographs of the following:

- Each elevation and selected interiors.
- Photographs of specific details nominated by Council
- All structures on site such as sheds, outhouses and significant landscape features
- Several photographs of house from public streets or laneways including several views showing relationship to neighbouring buildings.

Minimum requirements:

- Title page
- Statement of reasons the recording was made
- Site plan showing all structures and site elements
- Sketch of the floor plan showing the location of the camera for each photograph.
- Black & White archival quality photographs, contact prints with negatives and selected prints (one copy of negatives other copies with contact sheets and selected prints)

Digital images and CDs may be submitted as supplementary information.

### *Engineering conditions*

101. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.

102. The Applicant must carry out the following infrastructure works in the Public Road:

- Construct new concrete footpath for the Bruce Avenue frontage of the development.
- Construct 5.5 metre width road pavement and 1 metre width footpath in Greengate Lane for the full frontage of the development, including new upright kerb and gutter.

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

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

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

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

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

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

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

- All parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply in full with Australian Standard 2890.1 – 2004 "Off-street car parking".
- A clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement.
- No doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area.

The vehicle access and accommodation arrangements are to be constructed in accordance with the certified plans.

104. Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document "*Managing Urban Stormwater – Soils and Construction, Volume 1*" (2004). A qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management Development Control Plan 47.

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

- Exact location and reduced level of discharge point to the public drainage system.
- Full layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).
- Location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems. Where proprietary products are to be used, manufacturer specifications or equivalent shall be provided.
- Specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments.
- Details of the required **on-site detention** tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, locations, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements).
- The required basement stormwater pump-out system to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).
- Water quality measures as required by DCP 47 Chapter 8.

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The plans may be generally based on Drawings 205014 by Demlakian submitted for Development Application approval, which are to be advanced as necessary for construction issue purposes.

106. Prior to issue of the Construction Certificate the Applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.

107. Prior to issue of the Construction Certificate the applicant must make contact with all relevant utility providers whose services will be impacted upon by the approved development. A written copy of the requirements of each provider, as determined necessary by the Principal Certifying Authority, must be obtained. All utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage must be provided by the developer in accordance with the specifications of those supply authorities.

*Landscaping conditions*

108. Paving works within the specified radius of the trunk/s of the following tree/s shall be of type and construction to ensure that existing water infiltration and gaseous exchange to the tree/s root system is maintained. Details for the paving shall be prepared by a suitably qualified professional and submitted to and approved by the Principal Certifying Authority prior to the release of the Construction Certificate:

Tree/Location	Radius From Trunk
#49 <i>Unidentified</i> tree Centrally located adjacent to southern boundary	4.0m
#57 <i>Angophora costata</i> (Sydney Redgum) Adjacent to southern site boundary	7.5m
#68a <i>Acer palmatum</i> 'Dissectum' (Weeping Maple) Adjacent to northern site boundary	3.0m
#69 <i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to northern site boundary	4.0m
#71 <i>Cupressus spp.</i> (Cypress) Adjacent to northern site boundary	3.0m
#72 <i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to northern site boundary	3.5m

109. To preserve the following tree/s, footings of the proposed fence shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 30mm shall be severed or injured in the process of any site works during the construction period. The beam/s shall be located on or above existing soil levels.

The location and details of the footings shall be submitted to the Principal Certifying Authority and be approved prior to release of the Construction Certificate.

Tree/Location	Radius in Metres
#42 <i>Liriodendron tulipifera</i> (Tulip Tree) Adjacent to southern site boundary	4.0m
#43 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#44 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#45 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m



#46 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
# 49 <i>Unidentified tree</i> Centrally located adjacent to southern boundary	4.0m
#57 <i>Angophora costata</i> (Sydney Redgum) Adjacent to southern site boundary	7.5m
#65 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	6.0m
#66 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	7.0m
#68 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m

110. To preserve the following tree/s, footings of the proposed retaining wall shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 30mm shall be severed or injured in the process of any site works during the construction period. The beam/s shall be located on or above existing soil levels.

The location and details of the footings shall be submitted to the Principal Certifying Authority and be approved prior to release of the Construction Certificate.

Tree/Location	Radius in Metres
#68a <i>Acer palmatum 'Dissectum'</i> (Weeping Maple) Adjacent to northern site boundary	4.0m
#69 <i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to northern site boundary	5.0m
#71 <i>Cupressus spp.</i> (Cypress) Adjacent to northern site boundary	4.0m
#72 <i>Magnolia soulangeana</i> (Soul's Magnolia) Adjacent to northern site boundary	4.5m

111. The submitted landscape plan LDA401 Rev C, LDA402 Rev B, LDA501 Rev A, LDA502 Rev A prepared by Site Image and dated 23/09/05 & 17/08/05 is not approved. An amended, detailed plan of the proposed landscape works for the site shall be prepared by a Landscape Architect or qualified Landscape Designer. The plan must be submitted to, and approved by the Principal Certifying Authority prior to the release of the Construction Certificate. The landscape works shall be carried out and installed in accordance with the approved landscape plan/s.

The following amendments to the plan shall apply:

- The proposed planting of BAK - *Bambusa Alphonse Karr*, is to be deleted and replaced with a shrub species capable of attaining a minimum height of 2.0m, and a maximum height of 4.0m.
- The proposed planting of 270 *Lomandra longifolia* adjacent to the south west site corner/Greengate Lane frontage is to be deleted and replaced with screening shrubs able to attain a minimum height of 2.0m.
- The proposed planting of ten *Corymbia maculata* (Spotted Gum) adjacent to the western site boundary is to be reduced to a maximum of five tall trees with a minimum spacing of 6.0m. Proposed tree species are to include endemic species such as *Angophora costata* (Sydney Redgum), *Angophora floribunda* (Rough Barked Apple), and *Eucalyptus paniculata* (Grey Ironbark). The planting of *Corymbia maculata* (Spotted Gum) is not approved.
- The proposed tree planting within the Bruce Ave street frontage is to include a minimum 40% of tree species that are exotic deciduous tree species that are reflective of the broader Killara landscape character. Species are to include; *Nyssa sylvatica* (Tupelo), *Pyrus spp* (Ornamental Pear), *Ginkgo biloba* (Maidenhair tree), *Liriodendron tulipifera* (Tulip Tree), *Michelia champaca* (Golden Champaca), and *Quercus palustris* (Pin Oak).

112. A CASH BOND/BANK GUARANTEE of \$10,000.00 shall be lodged with Council as a Landscape Establishment Bond prior to release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan/s and other landscape conditions.

Fifty percent (50%) of this bond will be refunded upon verification by Council that the landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after the initial satisfactory inspection, where landscape works have 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.

113. A CASH BOND/BANK GUARANTEE of \$12,000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

The bond will be returned following issue of the Occupation Certificate, 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	Bond Value
#22 <i>Araucaria hetrophylla</i> (N.I. Pine) Bruce Ave nature strip	\$3 000.00

#42 <i>Liriodendron tulipifera</i> (Tulip Tree) Adjacent to southern site boundary	\$2 000.00
#57 <i>Angophora costata</i> (Sydney Redgum) Adjacent to southern site boundary	\$5 000.00
#65 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	\$1 000.00
#66 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	\$1 000.00

#### **CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING**

114. 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.
115. 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.
116. To ensure structural stability, engineer's details (in duplicate) of retaining walls, prepared by a qualified practicing structural engineer, shall be submitted to the Principal Certifying Authority for consideration prior to the issue of the Construction Certificate.
117. The following are required details and must be submitted to the Principal Certifying Authority *prior to the works relating to the detail being carried out*. 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 Registered Surveyor's set out report.
118. 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 52 ADDITIONAL DWELLINGS IS CURRENTLY \$1,139,737.34. 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 30 June 2004, calculated for additional person as follows:

1. Community Facilities	\$1,117.76
2. Park Acquisition and Embellishment Works - Killara	\$6,384.75
3. Sportsgrounds Works	\$1,318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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)	1.27 persons
Medium dwelling (75 - under 110 sqm)	1.78 persons
Large dwelling (110 - under 150sqm)	2.56 persons
Very Large dwelling (150sqm or more)	3.48 persons
New Lot	3.48 persons
SEPP (Seniors Living) Dwelling	1.3persons

119. Prior to the commencement of **any excavation works** on site the Applicant must carry out further environmental inspection and investigation as recommended in the report by EIS (ref. E19649RPT, dated August 2005), including assessment of the extent of contamination near BH101 and sampling at building locations. The site is to be remediated as recommended by the consultant and then validated by further sampling. All monitoring and validation reports are to be in accordance with relevant guidelines and Council's Contaminated Land Policy. All relevant reports shall be given to Council for its records.

#### *Engineering conditions*

120. Prior to the commencement of **any excavation works** on site the Applicant must submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of the residences at 25 Bruce Avenue and 24 Greengate Lane. The report must be completed by a consulting structural/geotechnical engineer. Upon submitting a copy of the dilapidation report to Council, a written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site. If a residence has been demolished under a separate approval, no dilapidation report is required.
121. Prior to the commencement of **any** works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:

#### **A plan view of the entire site and frontage roadways indicating:**

- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,

- Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
- The locations of proposed Work Zones in the frontage roadways,
- Location of any proposed crane standing areas
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible

#### **Traffic Control Plan(s) for the site**

- All traffic control devices installed in the road reserve must be in accordance with the RTA publication “Traffic Control Worksite Manual” and be designed by a person licensed to do so (minimum RTA ‘red card’ qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- Traffic controllers are to be stationed at the intersection(s) of Bruce Avenue and Greengate Lane and at the bend when construction vehicles are approaching the site from Greengate Lane.
- Consideration should be given to using an existing driveway off Bruce avenue for some site access.
- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

#### **A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided.**

- Light traffic roads and those subject to a load or height limit must be avoided at all times.
- A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.

In addition, the plan must address:

- Evidence of RTA concurrence where construction access is provided directly or within 20m of an Arterial Rd.
- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.
- For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel’s vehicles do not impact on the current parking demand in the area.
- Employee parking is to be provided in the basement as soon as practicable and a timeframe is to be given for this.

The *Construction and Traffic Management Plan* shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation. As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site. A fee is payable for the assessment of the plan by Ku-ring-gai Council.

122. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. The application must be made at least 15 days prior to the commencement of any works on site approved under this consent. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.
123. Prior to the commencement of any works on site the applicant shall submit to Ku-ring-gai Council a full dilapidation report on the visible and structural condition (**including a photographic record**) of the following public infrastructure:
- Full road pavement width, including kerb and gutter, of Bruce Avenue over the site frontage.
  - All driveway crossings and laybacks opposite the subject site, including rear accesses and fences to Greengate Road properties.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both via photo and in written format) *existing* damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

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

124. If the use of temporary rock anchors extending into the road reserve is proposed, then approval must be obtained from Council in accordance with Section 138 of the Roads Act 1993. The Applicant is to submit details of all the work that is to be considered, and the works are not to commence until approval has been granted. The designs are to include details of the following:
- How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road

- That the locations of the rock anchors are registered with Dial Before You Dig
- That approval of all utility authorities likely to use the public road has been obtained. All temporary rock anchors are located outside the allocations for the various utilities as adopted by the Streets Opening Conference.
- That any remaining de-stressed rock anchors are sufficiently isolated from the structure that they cannot damage the structure if pulled during future excavations or work in the public road.
- That signs will be placed and maintained on the building stating that de-stressed rock anchors remain in the public road and include a contact number for the building manager. The signs are to be at least 600mm x 450mm with lettering on the signs is to be no less than 75mm high. The signs are to be at not more than 60m spacing. At least one sign must be visible from all locations on the footpath outside the property. The wording on the signs is to be submitted to Council's Director Technical Services for approval before any signs are installed.

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

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

#### *Landscaping conditions*

125. 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/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in Metres
#22 <i>Araucaria hetrophylla</i> (N.I. Pine) Bruce Ave nature strip (pedestrian access to be maintained at all times)	9.0m
#23 <i>Eucalyptus spp.</i> (Eucalypt) Bruce Ave nature strip	4.0m
#27 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary in neighbouring property	4.0m
#40 <i>Sapium sebiferum</i> (Chinese Tallow) Adjacent to eastern site boundary in neighbouring property	3.0m
#42 <i>Liriodendron tulipifera</i> (Tulip Tree) Adjacent to southern site boundary	4.0m
#43 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m
#44 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	4.0m

- |   |      |
|---|------|
| #45 <i>Jacaranda mimosifolia</i> (Jacaranda)<br>Adjacent to southern site boundary          | 4.0m |
| #46 <i>Jacaranda mimosifolia</i> (Jacaranda)<br>Adjacent to southern site boundary          | 4.0m |
| # 49 <i>Unidentified</i> tree<br>Centrally located adjacent to southern boundary            | 4.0m |
| #57 <i>Angophora costata</i> (Sydney Redgum)<br>Adjacent to southern site boundary          | 6.0m |
| #65 <i>Jacaranda mimosifolia</i> (Jacaranda)<br>Adjacent to southern site boundary          | 6.0m |
| #66 <i>Jacaranda mimosifolia</i> (Jacaranda)<br>Adjacent to southern site boundary          | 7.0m |
| #67 <i>Camellia japonica</i> (Japanese Camellia)<br>Adjacent to western site boundary       | 3.0m |
| #68 <i>Jacaranda mimosifolia</i> (Jacaranda)<br>Adjacent to southern site boundary          | 4.0m |
| #68a <i>Acer palmatum</i> 'Dissectum' (Weeping Maple)<br>Adjacent to northern site boundary | 3.0m |
| #69 <i>Magnolia soulangeana</i> (Soul's Magnolia)<br>Adjacent to northern site boundary     | 4.0m |
| #71 <i>Cuppressus spp.</i> (Cypress)<br>Adjacent to northern site boundary                  | 3.0m |
| #72 <i>Magnolia soulangeana</i> (Soul's Magnolia)<br>Adjacent to northern site boundary     | 3.5m |
126. 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.
127. Prior to works commencing tree protection signage is to be attached to each tree Protection Zone and displayed in a prominent position and the sign repeated at 10m intervals or closer where the fence changes direction. Each sign shall advise in a clearly legible form, the following minimum information:
1. Tree Protection Zone
  2. This fence has been installed to prevent damage to the trees and their growing environment both above and below ground, and access is restricted.
  3. If encroachment or incursion into this Tree Protection Zone is deemed to be essential the consulting Arborist should be informed prior to the undertaking of such works
  4. Name, address, and telephone number of the developer/principal certifying authority.



128. Prior to works commencing the area of the Tree Protection Zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood, The depth of mulch and type as indicated, to be maintained for the duration of the project & Principal Certifying Authority.
129. Upon completion of the installation of the required tree protection measures you are required to arrange for an inspection of the site by the Principal Certifying Authority to verify that tree protection measures comply with all relevant conditions. 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 THE ISSUE OF A SUBDIVISION CERTIFICATE**

130. The final plans of subdivision are to be consistent with the approved architectural plans. All parking spaces and all areas of common property, including visitor car parking spaces and on-site detention facilities, which are to be common property, must be included on the final plans of strata subdivision.
131. The applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council.
132. The applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council.
133. An easement for waste collection is to be created. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection.
134. For endorsement of the linen plan/issue of the subdivision certificate, the Applicant shall submit an original plan of subdivision plus six (6) copies, suitable for endorsement by the consent authority. The following details **must** be submitted with the plan of Subdivision and its (5) copies, where Council is the consent authority:
  - a. The endorsement fee current at the time of lodgment.
  - b. The 88B Instruments plus six (6) copies,
  - c. A copy of the Occupation Certificate,

- d. The Consulting 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.
- e. A copy of all works-as-executed plans required under the consent,
- f. All Surveyor's and/or Consulting Engineer's certification(s) required under this consent,
- g. The Section 73 (Sydney Water) Compliance Certificate.

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

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

Note 2: Council will not accept bonds in lieu of completing subdivision works.

Note 3: If the certifying authority is not Council, then a copy of all of the above must be provided to Council

- 135. Prior to release of the linen plan/issue of the subdivision certificate, the Section 73 Sydney Water compliance certificate **which refers to the subdivision application** must be obtained and submitted to the Council.
- 136. Prior to release of the linen plan/issue of the subdivision certificate, the applicant shall create all burdens including but not limited to drainage easements, easements for services and rights-of-carriageway, as required. A registered surveyor is to certify, prior to release of the linen plan/issue of the subdivision certificate, that all existing interallotment drainage lines, services and/or driveways are fully contained within the proposed burdens and/or that future provision of such are fully covered by the proposed burdens. Alternatively, where the surveyor is of the opinion that no interallotment easements or rights-of-carriageway are required, then certification to this effect must be submitted to the Principal Certifying Authority (PCA).

## CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

- 137. 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.
- 138. 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.

139. Notices and reports on the remediation work, in accordance with Clauses 17 and 18 of State Environmental Planning Policy No. 55 and Council's Contaminated Land Policy, must be submitted to Council within 30 days after the completion of the work and prior to occupation. These documents must demonstrate that the site has been remediated to a standard suitable for residential land use.

*Engineering conditions*

140. The relocation of the Council stormwater pipeline is to be completed in accordance with the approved plans and any conditions imposed by Council. Works-as-executed drawings are to be prepared by a registered surveyor and the designing engineer is to certify that the works have been carried out in accordance with the design. Council's approval of the works is to be obtained and submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.
141. Prior to issue of the Occupation Certificate, the applicant is to submit documentary evidence that the relocated easement has been registered on the title of the property. A registered surveyor is to certify that the pipe is wholly contained within the easement.
142. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:
- New concrete footpath along the Bruce Avenue frontage of the site.
  - New road pavement, footpath and kerb and gutter in Greengate Lane in accordance with the plans approved by Council under the Roads Act.
  - Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter. 1 (Reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials).
  - Full repair and resealing of any road surface damaged during construction.
  - Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

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

143. Prior to issue of the Occupation Certificate the following must be provided to Council (attention Development Engineer):
- A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
  - A copy of any works-as-executed drawings required under this consent
  - The Engineer's certification of the as-built system.

This condition is required so Council may maintain its database of as-constructed on-site stormwater detention systems, and applies particularly where the appointed Principal Certifying Authority (PCA) is not Ku-ring-gai Council.

144. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority.
145. Prior to issue of an Occupation Certificate the applicant must submit certification from a suitably qualified and experienced traffic/civil engineer to the Principal Certifying Authority. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:
- That the as-constructed car park complies with the approved Construction Certificate plans,
  - That the completed vehicle access and accommodation arrangements comply in full with Australian Standard 2890.1 – 2004 “Off-Street car parking” in terms of minimum parking space dimensions provided,
  - That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
  - That no doors, gates, grilles or other structures have been provided in the access driveways to the basement car park, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.
  - That the vehicular headroom requirements of:
    - a) Australian Standard 2890.1 - “Off-street car parking”,
    - b) 2.44m height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement carpark.
146. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:
- That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
  - That the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Council Water Management DCP 47 respectively, have been achieved in full.
  - That retained water is connected and available for uses including toilet flushing, laundry and garden irrigation.
  - That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.
  - That all grates potentially accessible by children are secured.
  - That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 2003 and the BCA, and
  - All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The following certification sheets **must be accurately completed and attached** to the certification:

- Rainwater retention certification sheet contained at appendix 13 of Water Management DCP 47.
  - On-site detention certification sheet contained at appendix 4 of Water Management DCP 47.
147. Prior to issue of the Occupation Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage and management systems. The WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. The WAE survey must indicate:
- As built (reduced) surface and invert levels for all drainage pits.
  - Gradients of drainage lines, materials and dimensions.
  - As built (reduced) level(s) at the approved point of discharge to the public drainage system.
  - As built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site.
  - The achieved storage volumes of the installed retention and detention storages and derivative calculations.
  - As built locations of all access pits and grates in the detention and retention system(s), including dimensions.
  - The size of the orifice or control fitted to any on-site detention system.
  - Dimensions of the discharge control pit and access grates.
  - The maximum depth of storage possible over the outlet control.
  - Top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system.

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

148. Prior to issue of the Occupation Certificate a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority. The regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.
149. Prior to issue of the Occupation Certificate a suitably qualified and consulting geotechnical engineer is to provide certification to the Principal Certifying Authority that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out :
- According the relevant Australian Standards and guidelines, and
  - According to any approved Geotechnical report undertaken for the development, and
  - In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.
150. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the Report on Geotechnical Investigation by Davies Geotechnical and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.

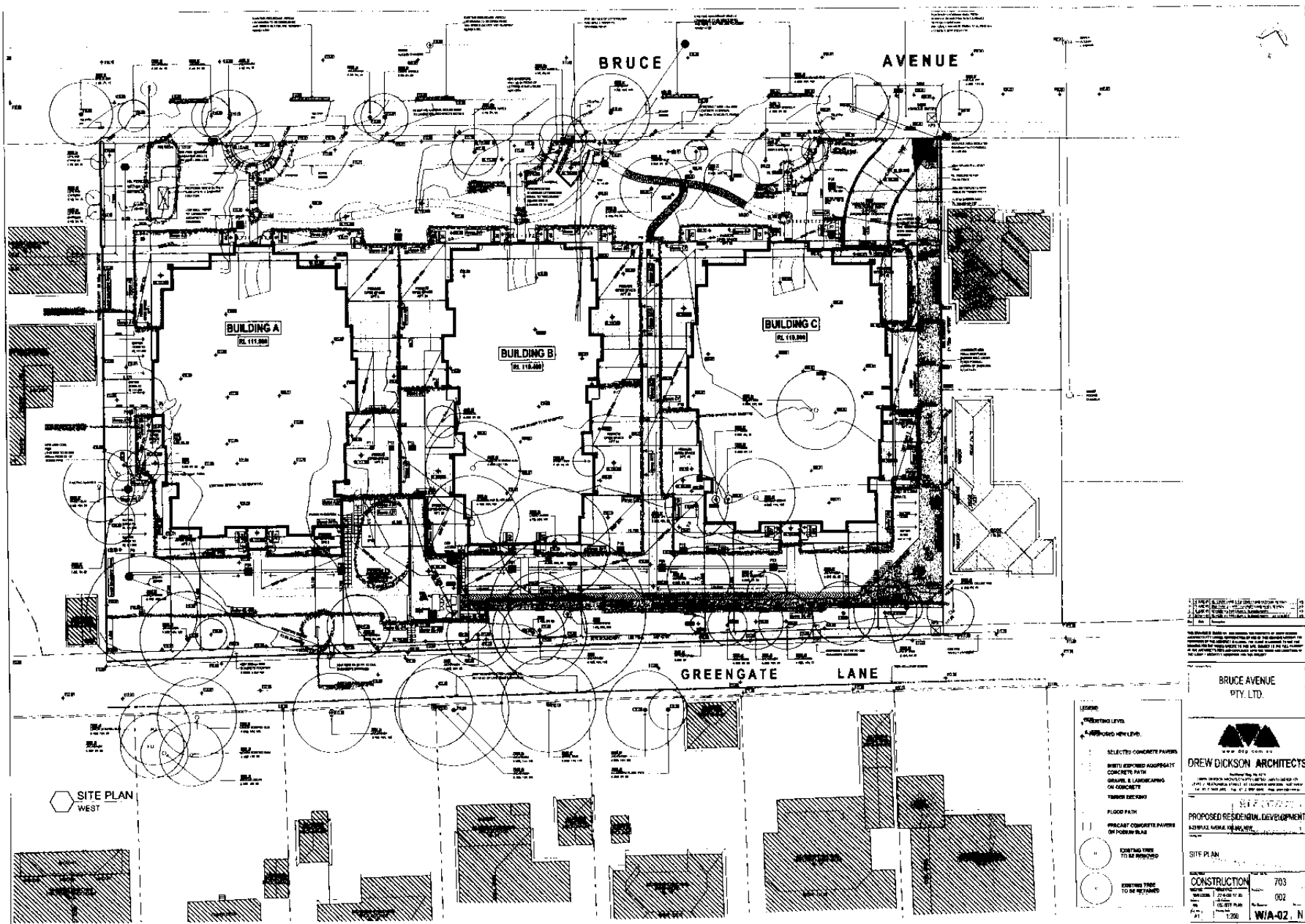
151. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the residences at 25 Bruce Avenue and 24 Greengate Lane.

The Report must be completed by a practicing consulting structural engineer and be submitted for Council records prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate. If a residence has been demolished under a separate approval, no follow-up report is required.

*Landscaping conditions*

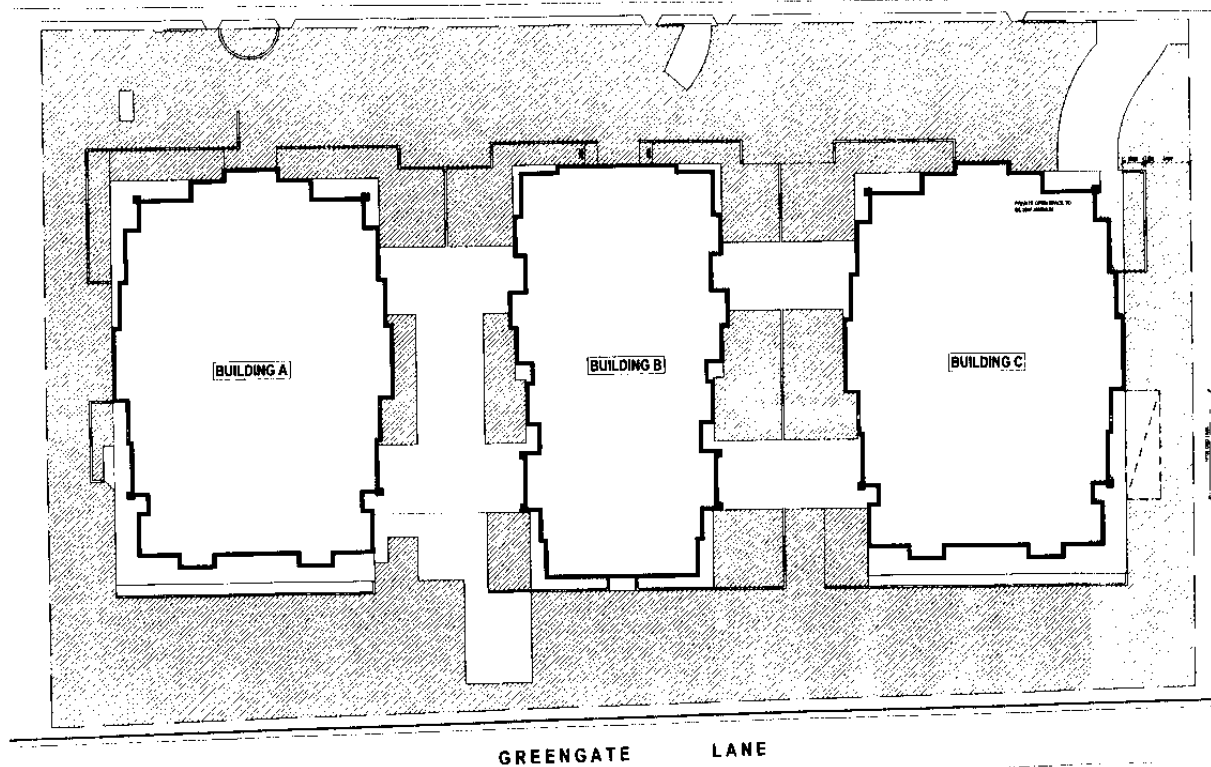
152. The landscape works, shall be installed in accordance with the approved plan/s and/ or conditions of consent, be completed prior to release of Occupation Certificate and be maintained in a healthy and vigorous condition at all times.
153. The Principal Certifying Authority shall ensure that the landscape works, have been installed correctly, consistent the approved landscape plan(s), specification and the conditions of consent prior to release of the Occupation Certificate.

**\*\*\*END OF CONDITIONS\*\*\***



BRUCE

AVENUE



DEEP SOIL LANDSCAPING  
DEEP SOIL LANDSCAPING AREA  
SITE AREA  
TOTAL DEEP SOIL LANDSCAPING  
= 3,364.20M<sup>2</sup>  
= 8724.36M<sup>2</sup>  
= 50.03%

COMMON PROPERTY  
COMMON PROPERTY AREA  
SITE AREA  
% COMMON PROPERTY  
= 2755.18M<sup>2</sup>  
= 8724.36M<sup>2</sup>  
= 40.87%

150mm THICK RETAINING WALLS  
(NOT INCLUDED IN DEEP SOIL LANDSCAPING)

DEEP SOIL LANDSCAPING - LEVEL 1

ARCHITECT'S STATEMENT

THIS IS TO CERTIFY THAT THE DEEP SOIL LANDSCAPING AND CALCULATIONS SHOWN ON THIS DRAWING ARE IN ACCORDANCE WITH THE REQUIREMENTS CONTAINED IN THE BUILDING AND COUNCIL REGULATIONS (DEVELOPMENT CONTROL) PLAN NO. 57.

DEEP SOIL LANDSCAPING MEANS PART OF A SITE AREA THAT IS NOT OCCUPIED BY ANY STRUCTURE AND REMAINS UNALTERED BELOW OR ABOVE SURFACE OF THE GROUND (EXCEPT PATHS UP TO 100MM DEEP) (THIS NOT USED FOR CAR PARKING).

SIGNED:

*David Dickson*  
OWNER/TECHNICAL ARCHITECT

ARCHITECT'S STATEMENT

THIS IS TO CERTIFY THAT THE SUMMARY AREA CALCULATIONS SHOWN ON THIS DRAWING ARE IN ACCORDANCE WITH THE REQUIREMENTS CONTAINED IN THE BUILDING AND COUNCIL REGULATIONS (DEVELOPMENT CONTROL) PLAN NO. 57.

COMMON PROPERTY AREAS TO THAT PART OF THE SITE NOT SUBJECT TO EXCLUSIONS OR PRIVATE USE OR NOT FULLY OR PARTIALLY EXCLUDED BY THE BUILDING.

SIGNED:

*David Dickson*  
OWNER/TECHNICAL ARCHITECT

BRUCE AVENUE  
PTY. LTD.

BRUCE AVENUE  
PTY. LTD.

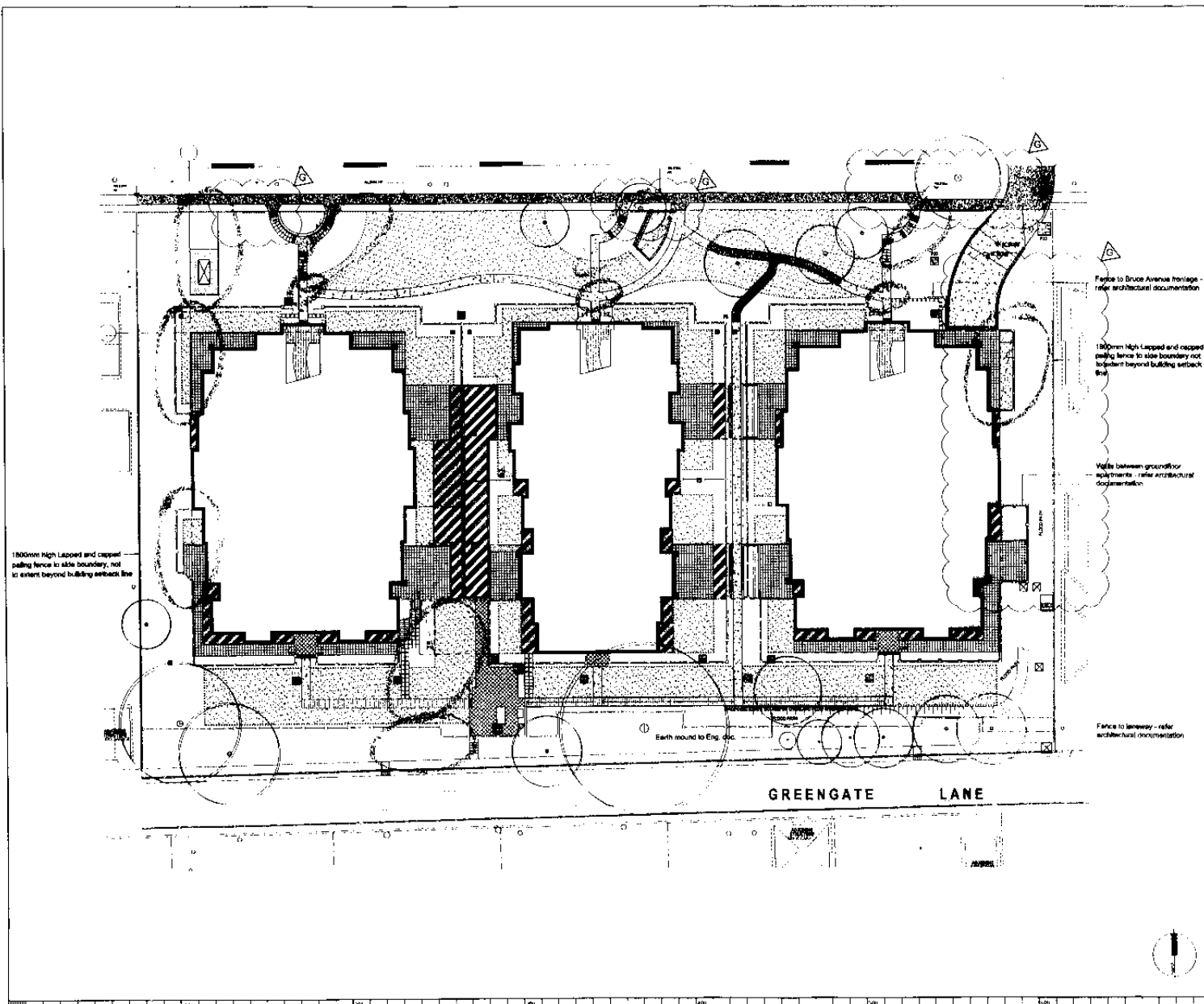
DREW DICKSON ARCHITECTS

PROPOSED RESIDENTIAL DEVELOPMENT  
122 BRUCE AVENUE, KELLS, VIC 3176

DEEP SOIL LANDSCAPING  
CALCULATIONS  
CONSTRUCTION  
703  
DWA-05  
1:200

NOTE:  
THIS DEEP SOIL PLAN IS BASED  
ON WIA-02 REVISION N





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NOTE: The contractor shall ensure that all work is done in accordance with the relevant standards and specifications. All dimensions are to be measured to the finished surface unless otherwise specified. All dimensions are to be measured to the finished surface unless otherwise specified. All dimensions are to be measured to the finished surface unless otherwise specified.

Item	Description	Quantity	Unit	Price	Total
1	Plan material	100	m <sup>2</sup>	10.00	1000.00
2	Plan material	100	m <sup>2</sup>	10.00	1000.00
3	Plan material	100	m <sup>2</sup>	10.00	1000.00
4	Plan material	100	m <sup>2</sup>	10.00	1000.00
5	Plan material	100	m <sup>2</sup>	10.00	1000.00
6	Plan material	100	m <sup>2</sup>	10.00	1000.00
7	Plan material	100	m <sup>2</sup>	10.00	1000.00
8	Plan material	100	m <sup>2</sup>	10.00	1000.00
9	Plan material	100	m <sup>2</sup>	10.00	1000.00
10	Plan material	100	m <sup>2</sup>	10.00	1000.00

Item	Description	Quantity	Unit	Price	Total
1	Private Courtyards, Private concrete ground on pattern stone - Refer landscape specification	100	m <sup>2</sup>	10.00	1000.00
2	Private Courtyards, Private concrete ground on stone - Refer landscape specification	100	m <sup>2</sup>	10.00	1000.00
3	Private Courtyards, Private concrete ground on stone - Refer landscape specification	100	m <sup>2</sup>	10.00	1000.00
4	Private Courtyards, Private concrete ground on stone - Refer landscape specification	100	m <sup>2</sup>	10.00	1000.00
5	Private Courtyards, Private concrete ground on stone - Refer landscape specification	100	m <sup>2</sup>	10.00	1000.00
6	Private Courtyards, Private concrete ground on stone - Refer landscape specification	100	m <sup>2</sup>	10.00	1000.00
7	Private Courtyards, Private concrete ground on stone - Refer landscape specification	100	m <sup>2</sup>	10.00	1000.00
8	Private Courtyards, Private concrete ground on stone - Refer landscape specification	100	m <sup>2</sup>	10.00	1000.00
9	Private Courtyards, Private concrete ground on stone - Refer landscape specification	100	m <sup>2</sup>	10.00	1000.00
10	Private Courtyards, Private concrete ground on stone - Refer landscape specification	100	m <sup>2</sup>	10.00	1000.00

Private Courtyards, Private concrete ground on stone - Refer landscape specification

Private Courtyards, Private concrete ground on stone - Refer landscape specification

Private Courtyards, Private concrete ground on stone - Refer landscape specification

Private Courtyards, Private concrete ground on stone - Refer landscape specification

Private Courtyards, Private concrete ground on stone - Refer landscape specification

Private Courtyards, Private concrete ground on stone - Refer landscape specification

Private Courtyards, Private concrete ground on stone - Refer landscape specification

Private Courtyards, Private concrete ground on stone - Refer landscape specification

Private Courtyards, Private concrete ground on stone - Refer landscape specification

Private Courtyards, Private concrete ground on stone - Refer landscape specification



# For sheets LDA401 & LDA 402

Plant Schedule	Plant Name	Common Name	Approx. mature height (m)	Approx. mature width (m)	Approx. mature spread (m)
<b>Ground Level</b>					
AF	Argemone mexicana	Black Seed Poppy	0.50 x 0.50	0.50	0.50
BA	Banksia integrifolia	Native Tree	10.00 x 0.50	0.50	1.00
BP	Banksia pedunculata	Grey Banksia	4.00 x 0.50	0.50	1.00
EP	Eucalyptus parramattensis	Blackbutt	4.00 x 0.50	0.50	1.00
ER	Eucalyptus regnans	Mountain Ash	4.00 x 0.50	0.50	1.00
ES	Eucalyptus saligna	Blue Gum	4.00 x 0.50	0.50	1.00
GP	Grevillea robusta	Silky Oak	4.00 x 0.50	0.50	1.00
HA	Hamamelis virginica	Witch Hazel	4.00 x 0.50	0.50	1.00
LI	Ligustrum lucidum	Chinese Privet	4.00 x 0.50	0.50	1.00
LS	Lonicera japonica	Japanese Honeysuckle	4.00 x 0.50	0.50	1.00
MC	Myrica carolinensis	Common Myrica	4.00 x 0.50	0.50	1.00
NE	Nerium oleander	oleander	4.00 x 0.50	0.50	1.00
PC	Photinia fraseri	Red Tip Dogwood	4.00 x 0.50	0.50	1.00
PI	Pinus strobus	Pinus	4.00 x 0.50	0.50	1.00
PP	Prunella domestica	Common Plum	4.00 x 0.50	0.50	1.00
QP	Quercus pedunculata	White Oak	4.00 x 0.50	0.50	1.00
SD	Sorbus domestica	European Hawthorn	4.00 x 0.50	0.50	1.00
SP	Sorbus aucuparia	Common Hawthorn	4.00 x 0.50	0.50	1.00
<b>Plant Schedule</b>					
AA	Acacia saligna	Black Wattle	1.00 x 0.50	0.50	1.00
AB	Abutilon hybridum	Common Mallow	0.50 x 0.50	0.50	1.00
AC	Adiantum species	Adiantum	0.50 x 0.50	0.50	1.00
CA	Calluna heisteria	Heather	0.50 x 0.50	0.50	1.00
CB	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CC	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CD	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CE	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CF	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CG	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CH	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CI	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CJ	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CK	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CL	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CM	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CN	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CO	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CP	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CQ	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CR	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CS	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CT	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CU	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CV	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CW	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CX	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CY	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
CZ	Ceanothus speciosus	Blueberry	0.50 x 0.50	0.50	1.00
DA	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DB	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DC	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DD	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DE	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DF	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DG	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DH	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DI	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DJ	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DK	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DL	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DM	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DN	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DO	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DP	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DQ	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DR	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DS	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DT	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DU	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DV	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DW	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DX	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DY	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
DZ	Daphne genkwa	Edgewood	0.50 x 0.50	0.50	1.00
EA	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EB	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EC	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
ED	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EE	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EF	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EG	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EH	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EI	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EJ	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EK	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EL	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EM	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EN	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EO	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EP	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EQ	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
ER	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
ES	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
ET	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EU	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EV	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EW	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EX	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EY	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
EZ	Elaeagnus argentea	Silver Cholla	0.50 x 0.50	0.50	1.00
FA	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FB	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FC	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FD	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FE	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FF	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FG	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FH	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FI	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FJ	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FK	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FL	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FM	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FN	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FO	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FP	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FQ	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FR	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FS	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FT	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FU	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FV	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FW	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FX	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FY	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
FZ	Ficus religiosa	Fig	0.50 x 0.50	0.50	1.00
GA	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GB	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GC	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GD	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GE	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GF	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GG	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GH	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GI	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GJ	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GK	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GL	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GM	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GN	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GO	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GP	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GQ	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GR	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GS	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GT	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GU	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GV	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GW	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GX	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GY	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
GZ	Ginkgo biloba	Ginkgo	0.50 x 0.50	0.50	1.00
HA	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HB	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HC	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HD	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HE	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HF	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HG	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HH	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HI	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HJ	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HK	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HL	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HM	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HN	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HO	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HP	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HQ	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HR	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HS	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HT	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HU	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HV	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HW	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HX	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HY	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
HZ	Hamelia patens	Scarlet Bush	0.50 x 0.50	0.50	1.00
IA	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IB	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IC	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
ID	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IE	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IF	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IG	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IH	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
II	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IJ	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IK	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IL	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IM	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IN	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IO	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IP	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IQ	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IR	Impatiens	Impatiens	0.50 x 0.50	0.50	1.00
IS					

[illegible]

**NOTES:** The contractor shall check and verify all marks on the existing work by others before commencing any work. All dimensions are to be measured to the finished line unless otherwise specified. All dimensions are to be measured from the existing conditions unless otherwise specified. All dimensions are to be measured from the existing conditions unless otherwise specified. All dimensions are to be measured from the existing conditions unless otherwise specified.

[illegible]

Index	Age	Herbaceous Character	Upper	Lower	Fl.
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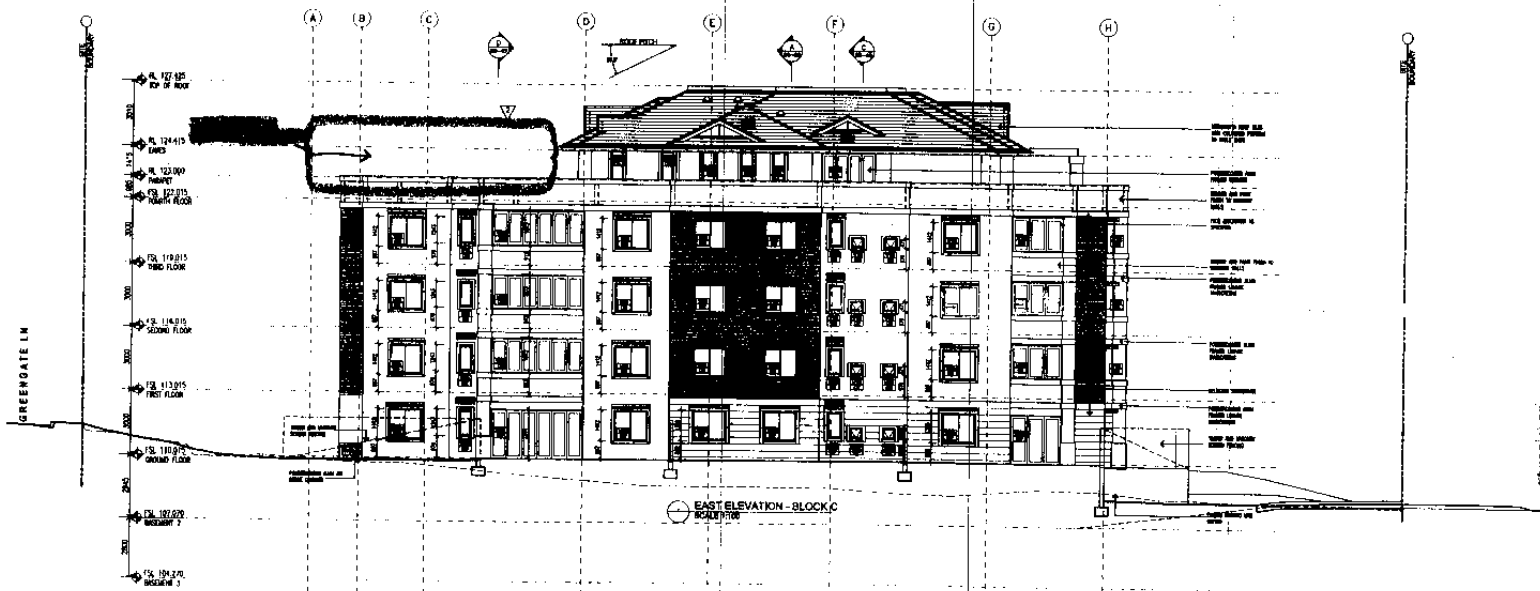
BRUCE AVE  
P/L

Project  
BRUCE AVENUE  
KILLARA

15 Columbia Street  
East Melbourne VIC 3002  
Australia  
Tel: (61) 3 9662 1847  
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www.abdnimage.com.au  
Edu@abdnimage.com.au

LANDSCAPE DETAILS 3

State		As Shown	
Date		03.01.08	
Drawn	NBA	Coordinated	
Checked		Approved	
Job Number	X1363	Drawing Number	LCC503



1 BUILDING C EAST ELEVATION  
SCALE 1:100

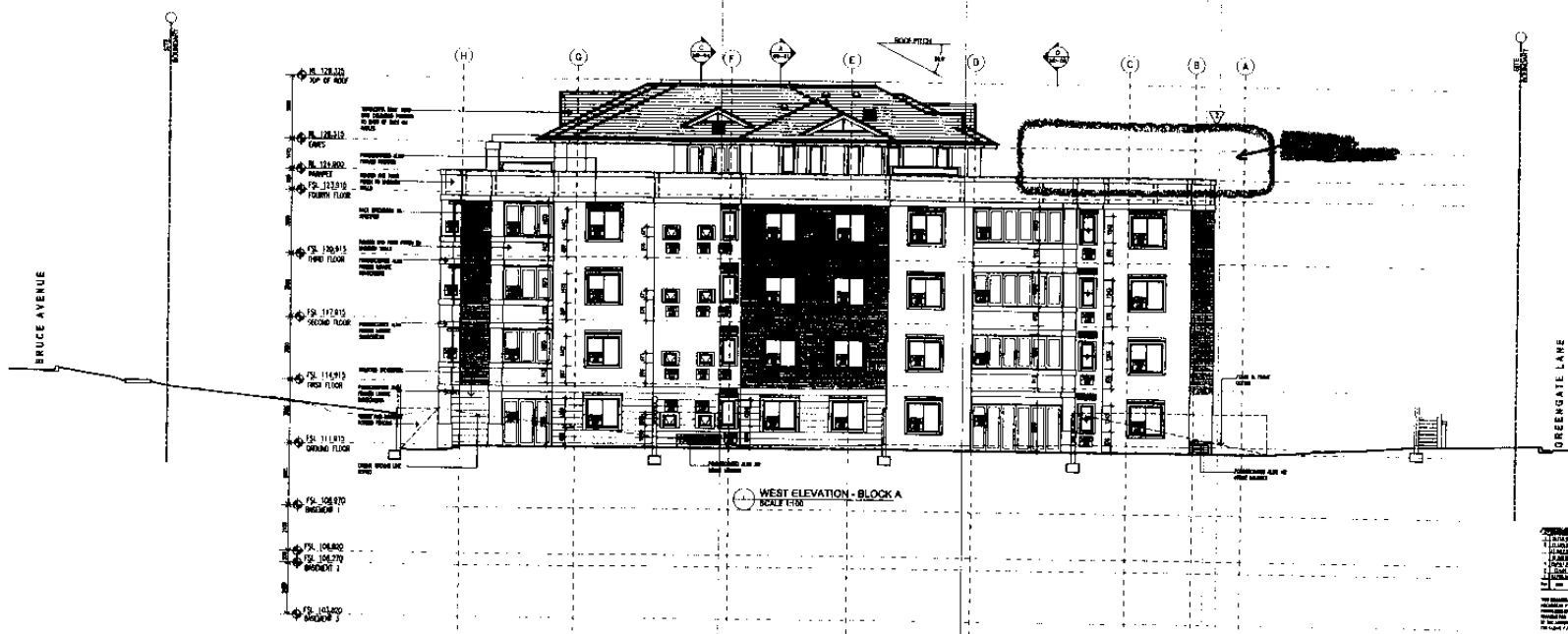
1. BUILDING C EAST ELEVATION	1:100
2. BUILDING C WEST ELEVATION	1:100
3. BUILDING C NORTH ELEVATION	1:100
4. BUILDING C SOUTH ELEVATION	1:100
5. BUILDING C SECTION	1:100
6. BUILDING C DETAIL	1:100
7. BUILDING C DETAIL	1:100
8. BUILDING C DETAIL	1:100

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27 FEB 2009

PROPOSED RESIDENTIAL DEVELOPMENT	703
27 FEB 2009	260
BUILDING C EAST ELEVATION	W/C-10
CONSTRUCTION	703
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W/C-10	W/C-10



1 BUILDING A WEST ELEVATION  
SCALE 1:100

1. BUILDING A WEST ELEVATION	1:100
2. BUILDING A WEST ELEVATION	1:100
3. BUILDING A WEST ELEVATION	1:100
4. BUILDING A WEST ELEVATION	1:100
5. BUILDING A WEST ELEVATION	1:100
6. BUILDING A WEST ELEVATION	1:100
7. BUILDING A WEST ELEVATION	1:100
8. BUILDING A WEST ELEVATION	1:100
9. BUILDING A WEST ELEVATION	1:100
10. BUILDING A WEST ELEVATION	1:100

NOTES: 1. BUILDING A WEST ELEVATION: 1:100 SCALE. 2. BUILDING A WEST ELEVATION: 1:100 SCALE. 3. BUILDING A WEST ELEVATION: 1:100 SCALE. 4. BUILDING A WEST ELEVATION: 1:100 SCALE. 5. BUILDING A WEST ELEVATION: 1:100 SCALE. 6. BUILDING A WEST ELEVATION: 1:100 SCALE. 7. BUILDING A WEST ELEVATION: 1:100 SCALE. 8. BUILDING A WEST ELEVATION: 1:100 SCALE. 9. BUILDING A WEST ELEVATION: 1:100 SCALE. 10. BUILDING A WEST ELEVATION: 1:100 SCALE.

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**DREW DICKSON ARCHITECTS**  
www.drewdickson.com.au  
10/100 DICKSON STREET, SYDNEY NSW 1585  
TEL: 02 9550 1234 FAX: 02 9550 1235  
EMAIL: info@drewdickson.com.au

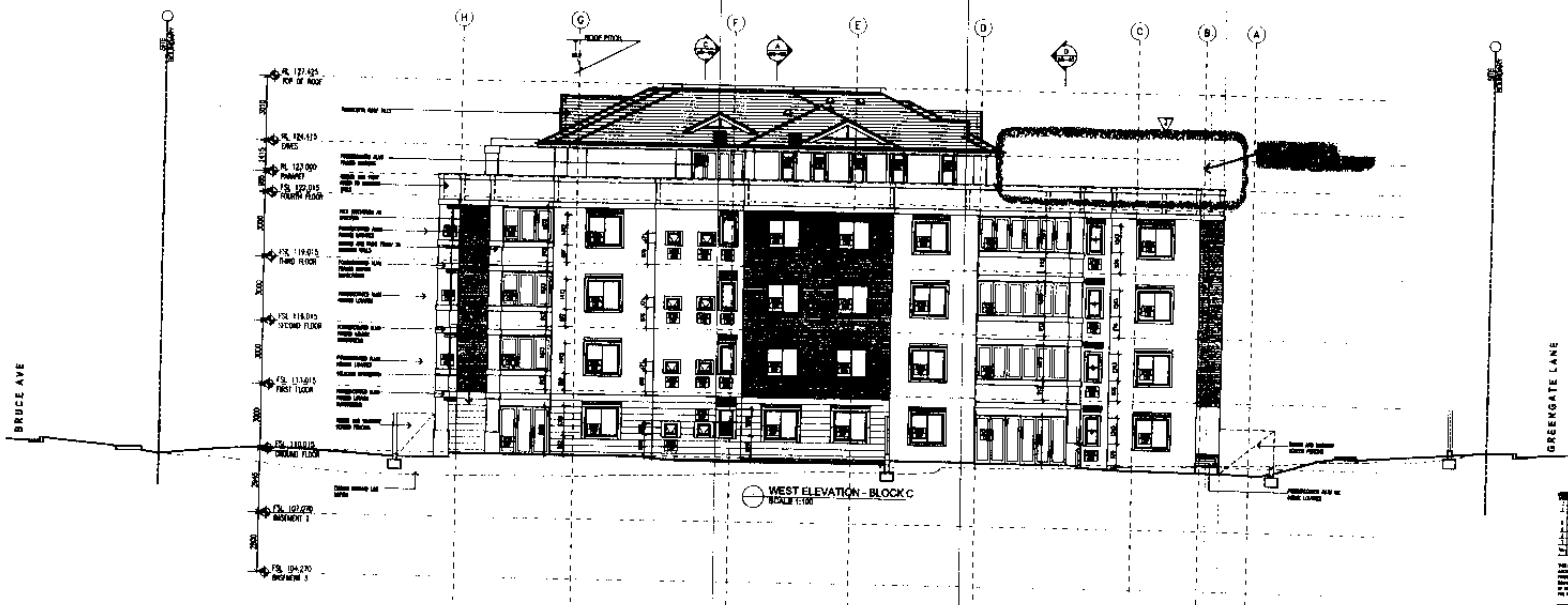
PROPOSED RESIDENTIAL DEVELOPMENT  
870 Bruce Avenue, Greengate NSW 1585  
DATE: 27 FEB 2009  
BUILDING A WEST ELEVATION

CONSTRUCTION	703
DATE: 27 FEB 2009	252
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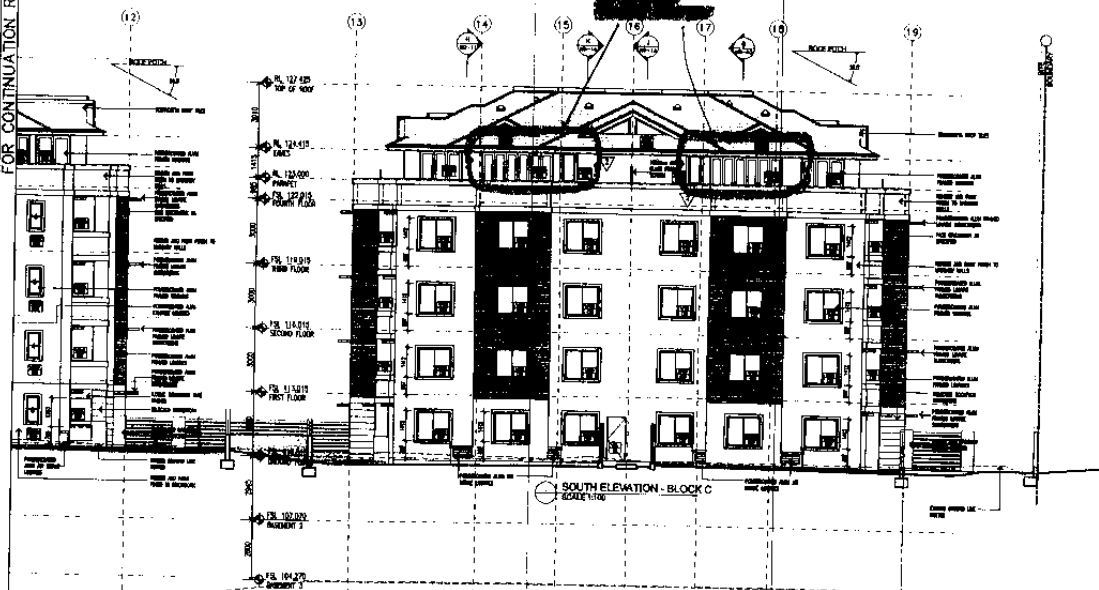
1 BUILDING C WEST ELEVATION  
SCALE 1:100

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PROPOSED RESIDENTIAL DEVELOPMENT  
27 FEB 2008  
BUILDING C WEST ELEVATION  
CONSTRUCTION 703  
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FOR CONTINUATION REFER TO DWG WC-03



1 BUILDING C SOUTH ELEVATION  
SCALE 1/160

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8. BUILDING C SOUTH ELEVATION	1/160
9. BUILDING C SOUTH ELEVATION	1/160
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BRUCE AVENUE  
PTY. LTD.

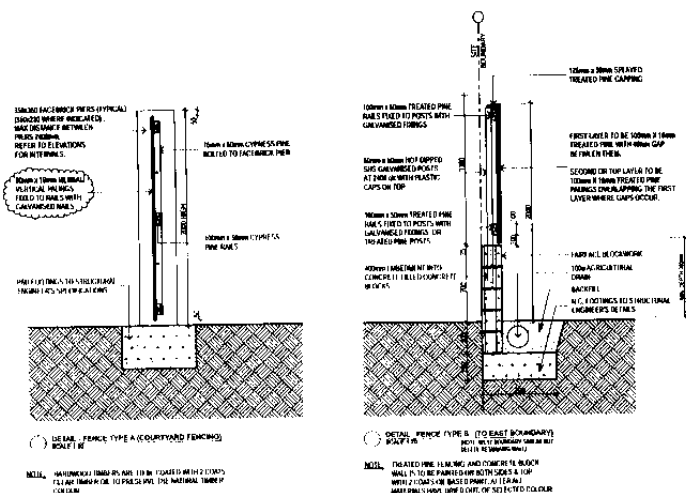


DREW DICKSON ARCHITECTS  
777 E. 1000 S. SUITE 200  
SALT LAKE CITY, UT 84143  
TEL: 313.333.3333 FAX: 313.333.3333  
WWW.DREW-DICKSON.COM

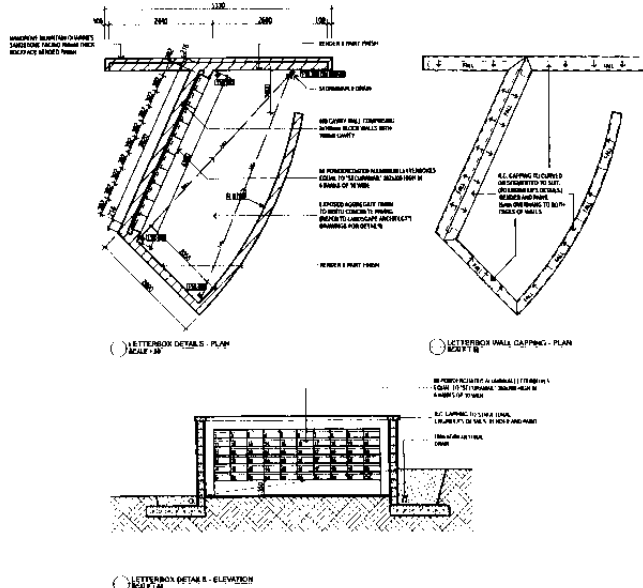
PROPOSED RESIDENTIAL DEVELOPMENT  
777 E. 1000 S. SUITE 200  
SALT LAKE CITY, UT 84143  
777 E. 1000 S. SUITE 200  
SALT LAKE CITY, UT 84143

BUILDING C SOUTH ELEVATION

CONSTRUCTION	703
DATE	259
W/C-09	200

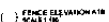
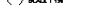
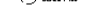
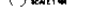


**NOTE:**  
THE PAILING SIDE OF FENCES IS TO BE GENERALLY BE  
VISIBLE FROM WITHIN EACH PRIVATE COURTYARD,  
WHICH MEANS THAT THE RAILS WILL BE VISIBLE  
FROM COMMON AREAS.  
SIMILARLY, BRICK PIERIS ARE TO BE FLUSH WITH  
THE ADJACENT WALLS ON PRIVATE COURTYARD  
SIDE.  
BOUNDARY PERIMETER FENCING IS TO HAVE RAILS  
VISIBLE FROM ADJOINING PROPERTY SIDE.  
FACE BRICK PIERIS ARE GENERALLY TO BE  
2400mm x 200mm, EXCEPT WHERE SUPPORTED ON  
CONCRETE BLOCK RETAINING WALLS WHEREBY  
THEY REDUCE TO 2400mm x 220mm.

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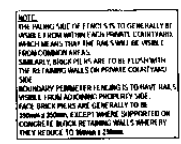
1990, p. 214] [Google Scholar](#) [CrossRef](#)

[illegible]

PROPOSED RESIDENTIAL DEVELOPMENT  
6-29 Bruce Building, ELIJAH, 107th

RECEIVED  
27 FEB 2009  
FENCE ELEVATIONS 2

Point No.	Point Description	Point Elevation
1	CONSTRUCTION	703
2	CONSTRUCTION	2002
3	CONSTRUCTION	2002
4	CONSTRUCTION	2002
5	CONSTRUCTION	2002
6	CONSTRUCTION	2002
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8	CONSTRUCTION	2002
9	CONSTRUCTION	2002
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95	CONSTRUCTION	2002
96	CONSTRUCTION	2002
97	CONSTRUCTION	2002
98	CONSTRUCTION	2002
99	CONSTRUCTION	2002
100	CONSTRUCTION	2002



**NOTE:**  
THE FALLOUT SHIELD OF FANCI 5'S IS GENERALLY BY  
DESIGN A NON-RETAINING FANCI 5 WALL. CONTINGENCIES  
WHICH MEANS THAT THE FANCI 5 WALLS BE VISIBLY  
FANCI 5 COMMON AREAS.  
SIMILARLY, BLOCK 11'S ARE TO BE PLUGH WITH  
THE RETAINING WALLS ON PRIVATE COLONY FANCI  
SIDE.  
BOUNDARY PERIMETER FENCING IS TO REMAIN HAS  
VISIBLY A FANCI 5 ADJOINING PROPERTY SIDE.  
FACE BLOCK 11'S ARE GENERALLY TO BE  
200mm x 200mm, EXCEPT WHERE SUPPORTED ON  
CONCRETE BLOCK RETAINING WALLS WHEREBY  
THEY REDUCE TO 200mm x 230mm.

**BRUCE AVENUE  
PTY LTD**  
Lot 102, off Pacific Highway 14 Lismore, NSW 2480.

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REW DICKSON ARCHITECT

**FACSIMILE MAIL PERMITTED**

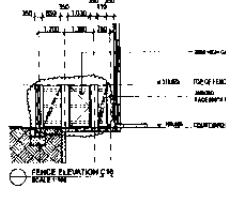
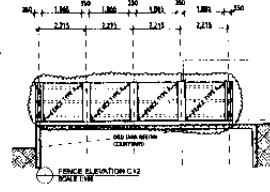
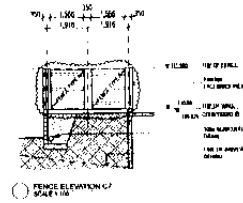
Source: *U.S. Census Bureau, 1997*

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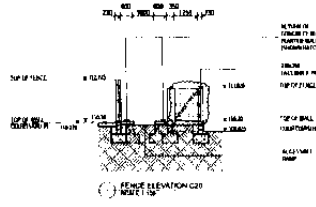
27 FEB 2000

INSTRUCTION 703

Year	2003
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**NOTES:**  
THE FINISH SIDE OF FIELDS IS TO GENERALLY BE  
VISIBLE FROM THE MAIN PRIVATE COURTYARD.  
WHICH MEANS THAT THE RAIL IS NOT TO BE VISIBLE  
FROM COTTAGE AREAS.  
SIMILARLY, GRASS PASSES ARE TO BE LUSH WITH  
THE FINISH PLANTING ON PRIVATE COTTAGE  
SIDE.  
BOUNDARY PERIMETER FINISHING IS TO HAVE RAIL  
VISIBLE FROM ADJOINING PROPERTY SIDE.  
PLANTING PANELS ARE GENERALLY TO BE  
300mm x 230mm, EXCEPT WHEN SUPPORTED ON  
CONCRETE BLOCK OR FINISH WALLS WHERE THEY  
ARE REDUCED TO 300mm x 230mm.



BRUCE AVENUE  
PTY LTD  
Suite 402, 404 Pacific Highway, St Leonards, NSW, 2058

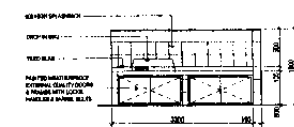
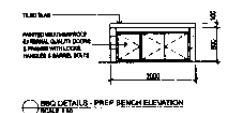
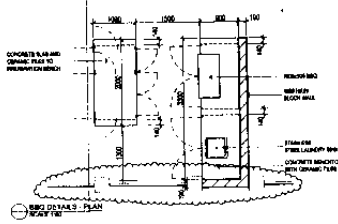
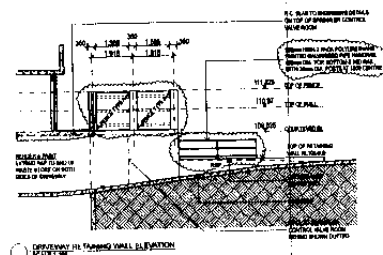
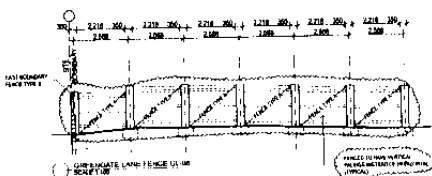
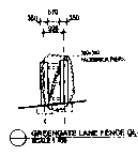
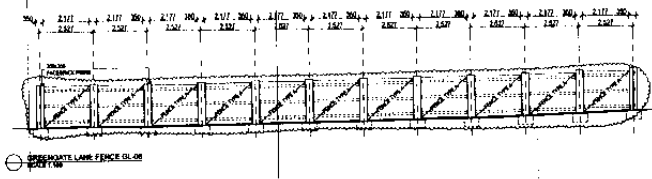
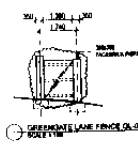
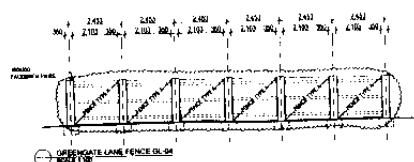
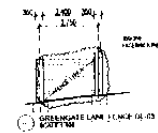
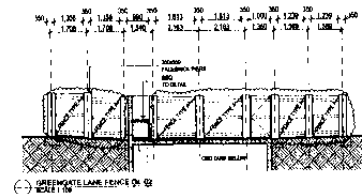
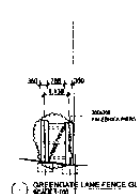


**DREW DICKSON ARCHITECT**  
Architects, Inc. 4218  
10701 W. ALKALIFE AVENUE, FORT WORTH, TEXAS 76116  
TEL: 817-335-1111 FAX: 817-335-1112

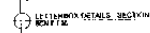
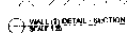
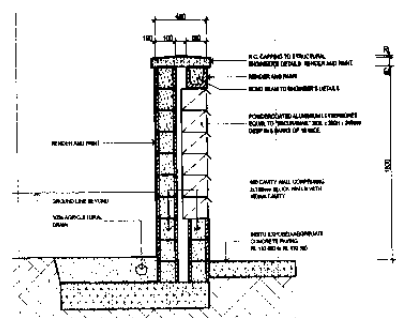
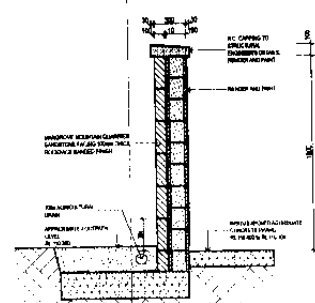
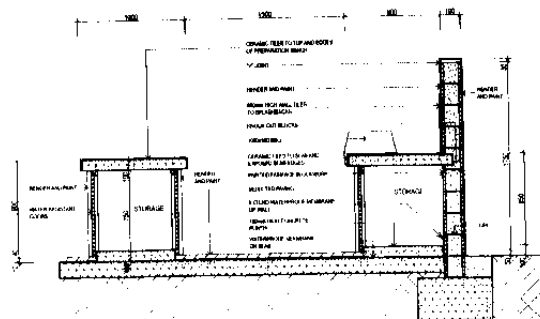
PROPOSED RESIDENTIAL DEVELOPMENT

27 FEB 2009

FENCE ELEVATIONS		703	
CONSTRUCTION		2004	
W/A-07		F	



**NOTE:**  
THE INSIDE SIDE OF FENCING IS TO GENERALLY BE  
VISIBLE FROM WITHIN EACH PRIVATE COURT (NOTE:  
THIS MEANS THAT THE RAILS WILL BE VISIBLE  
FROM COMMON AREAS).  
SOLID BRICK PIERS ARE TO BE FLUSH WITH  
THE FREIGHTWAY WALLS ON PRIVATE COURT/STAYED  
ROADWAYS. HERETOFORE FENCING IS TO HAVE WALLS  
VISIBLE FROM ADJOINING PROPERTY SIDE.  
FACE BRICK PIERS ARE GENERALLY TO BE  
300mm x 300mm, IF ACCEPT WARRIORS SUPERSTED ON  
CONCRETE, IN BLOCK RETAINING WALLS WHEREBY  
THEY'RE 400mm x 300mm x 300mm.



**BRUCE AVENUE  
PTY LTD**

2000 CEF LAM A

**DREW DICKSON ARCHITECTS**

Architects Reg No 177

177/179 Bruce Avenue, Suite 107, West Perth, WA 6009  
 Tel: 08/9437 1111 Fax: 08/9437 1112  
 E-mail: [info@drewdickson.com.au](mailto:info@drewdickson.com.au)  
 Web: [www.drewdickson.com.au](http://www.drewdickson.com.au)

**PROPOSED RESIDENTIAL DEVELOPMENT**

620/626 Bruce Avenue, CLAYTON, VIC 3168

**27 FEB 2006**

**FENCE ELEVATIONS**

**CONSTRUCTION**

703

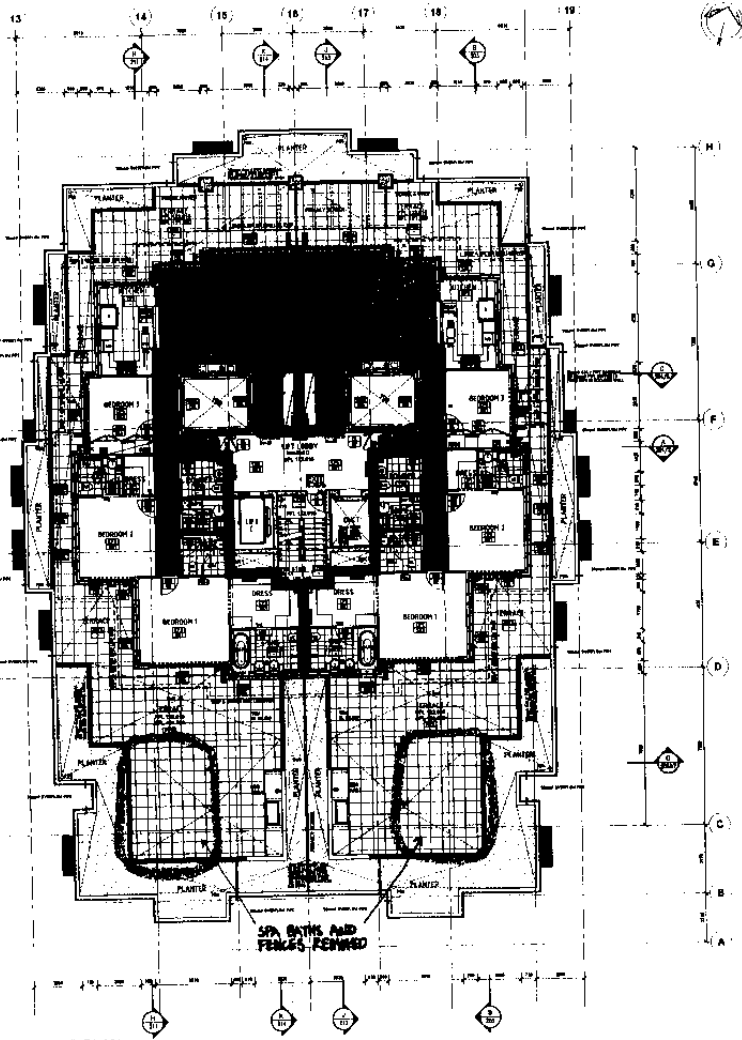
**WA/8-H**







FOR CONTINUATION REFER TO DWG 104W



**WALL BOUND INSULATION RATING:**

WALL TYPE	INSULATION RATING
Exterior Wall	R-15
Interior Wall	R-5
Basement Wall	R-10

**NOTES:**

- 1. All dimensions are in feet and inches.
- 2. All walls are to be finished with 1/2" gypsum board.
- 3. All floors are to be finished with 1/2" gypsum board.
- 4. All ceilings are to be finished with 1/2" gypsum board.
- 5. All doors are to be finished with 1/2" gypsum board.
- 6. All windows are to be finished with 1/2" gypsum board.
- 7. All stairs are to be finished with 1/2" gypsum board.
- 8. All balconies are to be finished with 1/2" gypsum board.
- 9. All patios are to be finished with 1/2" gypsum board.
- 10. All pergolas are to be finished with 1/2" gypsum board.

**LEGENDS:**

Symbol	Description
[Symbol]	Door
[Symbol]	Window
[Symbol]	Stair
[Symbol]	Balcony
[Symbol]	Patio
[Symbol]	Pergola

**BUILDING C FOURTH FLOOR PLAN EAST**

**FLOOR FINISHES**

- 1. Concrete Slab: 4" thick, finished with 1/2" gypsum board.
- 2. Concrete Wall: 8" thick, finished with 1/2" gypsum board.
- 3. Concrete Ceiling: 4" thick, finished with 1/2" gypsum board.
- 4. Concrete Floor: 4" thick, finished with 1/2" gypsum board.
- 5. Concrete Wall: 8" thick, finished with 1/2" gypsum board.
- 6. Concrete Ceiling: 4" thick, finished with 1/2" gypsum board.
- 7. Concrete Floor: 4" thick, finished with 1/2" gypsum board.
- 8. Concrete Wall: 8" thick, finished with 1/2" gypsum board.
- 9. Concrete Ceiling: 4" thick, finished with 1/2" gypsum board.
- 10. Concrete Floor: 4" thick, finished with 1/2" gypsum board.

- 11. Concrete Slab: 4" thick, finished with 1/2" gypsum board.
- 12. Concrete Wall: 8" thick, finished with 1/2" gypsum board.
- 13. Concrete Ceiling: 4" thick, finished with 1/2" gypsum board.
- 14. Concrete Floor: 4" thick, finished with 1/2" gypsum board.
- 15. Concrete Wall: 8" thick, finished with 1/2" gypsum board.
- 16. Concrete Ceiling: 4" thick, finished with 1/2" gypsum board.
- 17. Concrete Floor: 4" thick, finished with 1/2" gypsum board.
- 18. Concrete Wall: 8" thick, finished with 1/2" gypsum board.
- 19. Concrete Ceiling: 4" thick, finished with 1/2" gypsum board.
- 20. Concrete Floor: 4" thick, finished with 1/2" gypsum board.

- 21. Concrete Slab: 4" thick, finished with 1/2" gypsum board.
- 22. Concrete Wall: 8" thick, finished with 1/2" gypsum board.
- 23. Concrete Ceiling: 4" thick, finished with 1/2" gypsum board.
- 24. Concrete Floor: 4" thick, finished with 1/2" gypsum board.
- 25. Concrete Wall: 8" thick, finished with 1/2" gypsum board.
- 26. Concrete Ceiling: 4" thick, finished with 1/2" gypsum board.
- 27. Concrete Floor: 4" thick, finished with 1/2" gypsum board.
- 28. Concrete Wall: 8" thick, finished with 1/2" gypsum board.
- 29. Concrete Ceiling: 4" thick, finished with 1/2" gypsum board.
- 30. Concrete Floor: 4" thick, finished with 1/2" gypsum board.

- 31. Concrete Slab: 4" thick, finished with 1/2" gypsum board.
- 32. Concrete Wall: 8" thick, finished with 1/2" gypsum board.
- 33. Concrete Ceiling: 4" thick, finished with 1/2" gypsum board.
- 34. Concrete Floor: 4" thick, finished with 1/2" gypsum board.
- 35. Concrete Wall: 8" thick, finished with 1/2" gypsum board.
- 36. Concrete Ceiling: 4" thick, finished with 1/2" gypsum board.
- 37. Concrete Floor: 4" thick, finished with 1/2" gypsum board.
- 38. Concrete Wall: 8" thick, finished with 1/2" gypsum board.
- 39. Concrete Ceiling: 4" thick, finished with 1/2" gypsum board.
- 40. Concrete Floor: 4" thick, finished with 1/2" gypsum board.

**EXPLANATION NOTES:**

- 1. The floor plan is shown in accordance with the requirements of the Building Code of the City of Toronto.
- 2. The floor plan is shown in accordance with the requirements of the Building Code of the City of Toronto.
- 3. The floor plan is shown in accordance with the requirements of the Building Code of the City of Toronto.
- 4. The floor plan is shown in accordance with the requirements of the Building Code of the City of Toronto.
- 5. The floor plan is shown in accordance with the requirements of the Building Code of the City of Toronto.
- 6. The floor plan is shown in accordance with the requirements of the Building Code of the City of Toronto.
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**ABBREVIATION LEGEND**

Abbreviation	Description
AC	Acoustic Ceiling
AD	Acoustic Door
AF	Acoustic Floor
AW	Acoustic Wall
BC	Basement Ceiling
BD	Basement Door
BF	Basement Floor
BW	Basement Wall
CC	Concrete Ceiling
CD	Concrete Door
CF	Concrete Floor
CW	Concrete Wall
EC	Exterior Ceiling
ED	Exterior Door
EF	Exterior Floor
EW	Exterior Wall
IC	Interior Ceiling
ID	Interior Door
IF	Interior Floor
IW	Interior Wall
LC	Light Ceiling
LD	Light Door
LF	Light Floor
LI	Light Wall
MC	Mechanical Ceiling
MD	Mechanical Door
MF	Mechanical Floor
MW	Mechanical Wall
OC	Office Ceiling
OD	Office Door
OF	Office Floor
OW	Office Wall
PC	Public Ceiling
PD	Public Door
PF	Public Floor
PW	Public Wall
SC	Storage Ceiling
SD	Storage Door
SF	Storage Floor
SW	Storage Wall
TC	Trunk Ceiling
TD	Trunk Door
TF	Trunk Floor
TW	Trunk Wall
WC	Wardrobe Ceiling
WD	Wardrobe Door
WF	Wardrobe Floor
WW	Wardrobe Wall

**KEY OF SYMBOLS**

Symbol	Description
[Symbol]	Door
[Symbol]	Window
[Symbol]	Stair
[Symbol]	Balcony
[Symbol]	Patio
[Symbol]	Pergola

**BRUCE AVENUE PTY. LTD.**

**CREW DICKSON ARCHITECTS**

27 FEB 2009

**PROPOSED RESIDENTIAL DEVELOPMENT**

**BUILDING C FOURTH FLOOR PLAN**

**CONSTRUCTION**

**703**

**104E**

**1:100**

**W/B-16**



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## 35 TO 45 WATER STREET, WAHROONGA - PART 3A APPLICATION FOR A HOSPITAL FACILITY - SUPPLEMENTARY REPORT

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To refer the matter back to full Council for determination as to whether or not Council wishes to endorse the supplementary report(s) for inclusion in Council's submission to the NSW Department of Planning in respect of the Part 3A application for 35 Water Street, Wahroonga in accordance with Council's resolution of 28 July 2009.

**BACKGROUND:**

On 28 July, 2009 Council resolved (in part):

*D. That Council request Ecological Consultant, Dr Peter Smith, to prepare a further supplementary report providing the following:*

- (i) Clarification as to which previous DA was referred to in his comparison with the current Part 3A application.*
- (ii) A contemporary review of his assessment of the current condition and significance of the regenerating area of BGHF in the light of the recommendations provided by Ecological Consultant Teresa James regarding to the need to maintain and manage this area.*

*Subject to endorsement, the supplementary report is to form part of Council's submission to the NSW Department of Planning Part 3A application for 35 Water Street, Wahroonga.*

**COMMENTS:**

Supplementary reports by Dr Peter Smith and Teresa James are attached for endorsement by Council.

**RECOMMENDATION:**

That Council resolves whether it wishes to endorse the supplementary report by Dr Smith for inclusion in its submission to the Department of Planning on the Part 3A application for 35 Water Street, Wahroonga.

## PURPOSE OF REPORT

To refer the matter back to full Council for determination as to whether or not Council wishes to endorse the supplementary report(s) for inclusion in Council's submission to the NSW Department of Planning in respect of the Part 3A application for 35 Water Street, Wahroonga in accordance with Council's resolution of 28 July 2009.

## BACKGROUND

On 28 July 2009 Council considered a report in respect of a Part 3A application to the Department of Planning for the development of a hospital at 35 Water Street, Wahroonga.

At this meeting Council resolved as follows:

- A. *That Council adopt this report and attachments as the basis for its submission to the Department of Planning.*
- B. *That the final submission be submitted to the Department of Planning prior to 30 July 2009.*
- C. *That the submission be released on Council's website, to enable the public to use it as a basis for their own submissions.*
- D. *That Council request Ecological Consultant, Dr Peter Smith, to prepare a further supplementary report providing the following:*
  - i. *Clarification as to which previous DA was referred to in his comparison with the current Part 3A application;*
  - ii. *A contemporary review of his assessment of the current condition and significance of the regenerating area of BGHF in light of the recommendations provided by Ecological Consultant Teresa James regarding the need to maintain and manage this area.*

*Subject to endorsement, the supplementary report is to form part of Council's submission to the NSW Dept of Planning Part 3A application for 35 Water Street, Wahroonga.*

The final submission (as per part B of the resolution) has not yet been sent to the Department of Planning pending the need for Dr Smith to visit the site and prepare his supplementary report. Dr Smith's supplementary report has now been prepared. Moreover, a further supplementary report has also been prepared by Teresa James.

## COMMENTS

The attached supplementary report by Dr Peter Smith provides a review of his assessment of the current concentration and significance of the regenerating Critically Endangered Blue Gum High Forest. Dr Smith has had the benefit of discussing the matter with Teresa James at a recent site meeting which took place on 3 August 2009 and involved Dr Smith, Teresa James, Council staff and the applicant's project manager and ecologist and three representatives from the Department of Planning.

Item 5

Dr Smith maintains that the development will not have a significant adverse impact on the Blue Gum High Forest, provided the mitigation measures and vegetation management plans proposed are implemented.

Dr Smith does not consider that the additional area Blue Gum High Forest mapped by Teresa James satisfies the NSW Scientific Committee's (2007) definition of the community.

It is agreed that it would be beneficial to retain a 10m or better 20m buffer around the Blue Gum High Forest which would reduce edge effects and assist in long term maintenance.

Whilst not required by Council's resolution, Teresa James also prepared a supplementary report indicating her position in respect of the extent of the Critically Endangered Blue Gum High Forest which is **attached**.

She maintains her position as to the extent of regeneration of the Blue Gum High Forest and that it occurred beyond the area mapped by Dr Smith. She also reiterates her concerns regarding edge effects, the lack of buffer zones for protection of the forest, the need for substantial on-going maintenance and that the particular species on site was representative of the rarest form of Blue Gum High Forest.

The Council report of 28 July, 2009 is also attached.

## RECOMMENDATION

That Council resolves whether it wishes to endorse the supplementary report by Dr Smith for inclusion in its submission to the Department of Planning on the Part 3A application for 35 Water Street, Wahroonga.

G Stewart  
**Executive Assessment Officer**

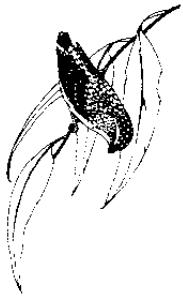
S Segall  
**Team Leader  
Development Assessment - North**

C Swanepoel  
**Manager  
Development Assessment Services**

M Miocic  
**Director  
Development & Regulation**

**Attachments:**

- 1. Supplementary Report by Dr Peter Smith - 2009/150070**
- 2. Supplementary Report by Teresa James - 2009/150071**
- 3. Original Council Report considered on 28 July 2009 - 2009/119455**



# P & J SMITH ECOLOGICAL CONSULTANTS

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P.J. SMITH B.Sc.Hons, Ph.D.  
J.E. SMITH B.Sc.Agr.Hons, Dip.Ed., Ph.D.

44 Hawkins Parade, Blaxland NSW 2774  
Phone/Fax: (02) 4739 5312  
Email: [smitheco@ozemail.com.au](mailto:smitheco@ozemail.com.au)  
ABN: 81 751 396 499

## **Supplementary Report**

### **Part 3A Major Project Environmental Assessment**

#### **Proposed Private Hospital Development**

**35 Water Street, Wahroonga**

**Peter Smith**

**September 2009**

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### 1. Introduction

I have been engaged by Ku-ring-gai Council to review and comment on ecological issues in the Part 3A Major Project Environmental Assessment for a proposed private hospital development at 35 Water Street, Wahroonga. I prepared a report (Smith 2009), which was considered by Council at its meeting on 28 July 2009. Council have now requested that I prepare a supplementary report providing the following:

- I. Clarification as to which previous DA [development application] was referred to in his comparison with the current Part 3A application;
- II. A contemporary review of his assessment of the current condition and significance of the regenerating area of BGHF [Blue Gum High Forest] in light of the recommendations provided by Ecological Consultant Teresa James regarding the need to maintain and manage this area.

These issues are addressed below.

### 2. Previous Development Application

In my report (Smith 2009), I referred to a previous development application for 35 Water Street and 64 Billyard Avenue, and compared its impact with that of the current Part 3A application. This was development application 855/06 lodged on 4 August 2006. Council refused the application, which was then the subject of an appeal in the NSW Land and Environment Court (Proceedings No. 11193 of 2006). The Court upheld Council's refusal (Murlan Consulting Pty Limited v Ku-ring-gai Council [2007] NSWLEC 374). I was the Court-appointed ecological expert in these proceedings (Smith 2007a-b), having previously prepared a report on the site for the then Commonwealth Department of the Environment and Heritage in relation to the same development application (Smith 2006). I concluded that the proposed development would have a significant impact on the critically endangered ecological community, Blue Gum High Forest, in terms of the NSW legislation.

### 3. Teresa James Report

As part of my assessment of the previous development application, DA 855/06, I prepared a map showing the distribution of Blue Gum High Forest at 35 Water Street (Figure 1 of Smith 2007a). This map is reproduced below as Figure 1. Subsequently, in 2008, flora consultant Teresa James prepared a report for Ku-ring-gai Council reviewing flora issues in relation to another development



application for 35 Water Street, DA 1300/07. She concluded in that report that Blue Gum High Forest occurs more extensively at the site than was shown in my map. The additional area that she considered to be Blue Gum High Forest is shown in Figure 1 below.

I have considered Ms James' report and map. I have also met with her and with the proponent's ecologist, Dr David Robertson, on-site on 3 September 2009, to discuss the issue. Representatives from Murlan Consulting, Ku-ring-gai Council, NSW Department of Planning and NSW Department of Environment, Climate Change and Water also attended the meeting.

I do not consider that the additional area mapped by Ms James represents Blue Gum High Forest as defined in the final determination of the NSW Scientific Committee (2007). She states in her report that she identified the Blue Gum High Forest community "by the occurrence of characteristic canopy trees (particularly *Eucalyptus saligna*, *E. pilularis* and *E. paniculata*) and/or understorey species. Areas of canopy only, canopy and understorey or understorey only (including ground cover) were included." I agree that areas with a BGHF canopy, with or without a native understorey, satisfy the Scientific Committee's definition of the community, but not areas where there is no BGHF canopy and the BGHF species are only a minor component of vegetation that is dominated by introduced garden plantings and weeds, which is the situation in the additional area mapped by Ms James. The group of three BGHF trees that are separate from the main BGHF stand can be classed as BGHF, but not the areas that lack a BGHF canopy.

In support of her inclusion of areas without a BGHF canopy, Ms James refers in her report to paragraph 3 of the Scientific Committee's determination, which reads:

"The total species list of the community is considerably larger than that given above [referring to the list of 53 characteristic BGHF plant species in the preceding paragraph], with many species present in only one or two sites or in low abundance. The species composition of a site will be influenced by the size of the site, recent rainfall or drought condition and by its disturbance (including fire) history. The number of species, and the above ground relative abundance of species will change with time since fire, and may also change in response to changes in fire regime (including fire frequency). At any one time, above ground individuals of some species may be absent, but the species may be represented below ground in the soil seed banks or as dormant structures such as bulbs, corms, rhizomes, rootstocks or lignotubers. The list of species given above is of vascular plant species; the community also includes micro-organisms, fungi, cryptogamic plants and a diverse fauna, both vertebrate and invertebrate. These components of the community are poorly documented."

This paragraph does not indicate that areas without BGHF trees form part of the listing. Elsewhere in the determination, the presence of BGHF trees is repeatedly mentioned as a feature identifying the community. Paragraph 4 states that "Blue Gum High Forest is dominated by a tall canopy of eucalypts that may exceed 30 m in height ..... Most stands of the community are in a state of regrowth after past clearing or logging activities, and consequently trees may be shorter, less dense or more dense than less disturbed stands." Paragraph 9 states that "The distribution [of Blue Gum High Forest] comprises a series of small remnant patches, the largest of which is less than 20 ha. Highly modified relics of the community also persist as small clumps of trees without a native understorey." Paragraph 11 states that "Changes in structure of Blue Gum High Forest have occurred as a consequence of the extensive removal of large old trees. A number of stands of Blue Gum High Forests have highly modified understoreys, in which the native woody component has been largely replaced by woody exotic species or by increased abundance of native and exotic grasses."

These paragraphs indicate that stands of BGHF trees without a native understorey are included in the listing, and also stands of young, low trees. But nowhere is it stated or implied that areas without BGHF trees form part of the listing.

My original mapping of Blue Gum High Forest at the site was based on the presence of a BGHF tree canopy. Having revisited the site and discussed the issue with Ms James, I do not consider that the mapping should be extended to include adjacent areas where there is no BGHF canopy and the vegetation is dominated by introduced garden plantings and weeds. These areas do not satisfy the NSW Scientific Committee's (2007) definition of the community. The presence of a number of native species is encouraging for the prospects of restoring Blue Gum High Forest, but these areas do not represent Blue Gum High Forest in their current condition.

I recall that there were several very young eucalypt saplings (roughly 1 m tall) within the area mapped by Ms James when last I visited the site in 2007. I did not see any of these during the site visit on 3 September 2009 and they appear to have been removed or to have died. Their loss is regrettable, and I hope it has not been the result of deliberate removal.

I would also note that there are other parts of 35 Water Street, outside the area mapped by Ms James, where the vegetation consists predominantly of garden plantings and weeds, but several native species are present, including some characteristic BGHF understorey species such as *Pittosporum undulatum* and *Oplismenus aemulus*. This is typical of old gardens in the area. These are highly resilient species and their presence does not have the same significance as the presence of remnant BGHF trees.

Another issue that arose during the discussion on 3 September 2009 is the benefit of buffers. I agree that it would be beneficial to retain a 10 m or, better, a 20 m buffer around the Blue Gum High Forest. This should be measured from the edge of the BGHF canopy, including the separate group of three trees. The buffer should be revegetated with BGHF species (trees, shrubs and ground covers). The buffer would reduce edge effects and assist in the long-term maintenance and viability of the BGHF stand. However, it would still be necessary to manage the stand, particularly weed control, in perpetuity. It would also probably be necessary, in the absence of fires, to undertake pile burns to promote regeneration. In this situation, it is highly unlikely that a completely self-sustaining stand of Blue Gum High Forest can be achieved, even with a 20 m buffer. A commitment to on-going management will be essential.

#### **4. Conclusions**

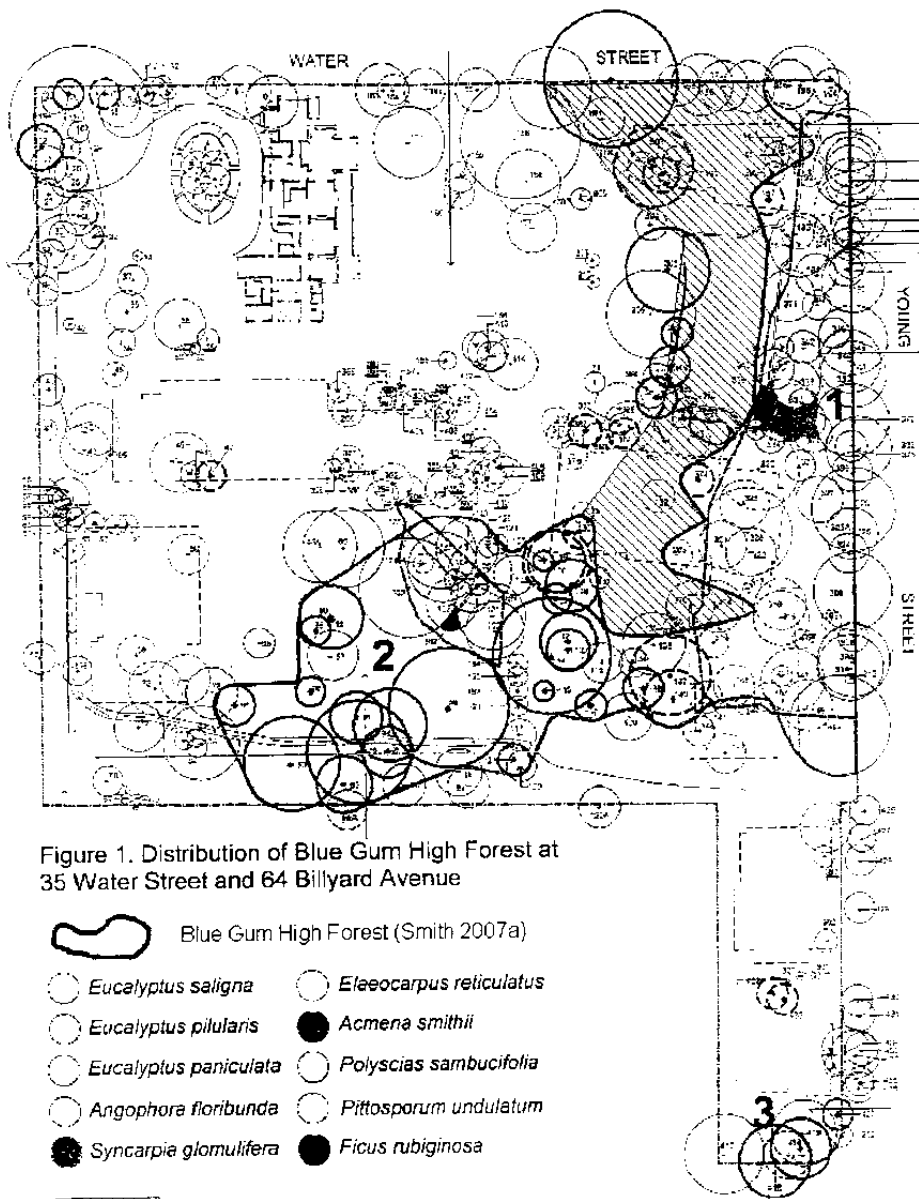
In my review of the Part 3A environmental assessment for the current development proposal (Smith 2009), I concluded, with some provisos, that if the mitigation measures proposed in the species impact statement (Cumberland Ecology 2009) and vegetation management plan (UBM Ecological Consultants 2009) are implemented, then the proposed development will not have a significant adverse impact on the Blue Gum High Forest at the site. That remains my assessment.

I have considered the additional area mapped as Blue Gum High Forest by James (2008). Because it lacks a BGHF canopy, it does not satisfy the NSW Scientific Committee's (2007) definition of the community. I consider that my original mapping, which was based on the presence of a BGHF canopy, and including the separate group of three trees away from the main stand, is a better representation of the occurrence of Blue Gum High Forest at the site.

I agree that it would be beneficial to retain a 10 m or, better, a 20 m buffer around the Blue Gum High Forest. This should be measured from the edge of the BGHF canopy, including the separate group of three trees. The buffer should be revegetated with BGHF species (trees, shrubs and ground covers). The buffer would reduce edge effects and assist in the long-term maintenance and viability of the BGHF stand. However, it would still be necessary to manage the stand in perpetuity. A commitment to on-going management will be essential.

## References

- Cumberland Ecology (2009). 35 Water Street, Wahroonga, species impact statement, final report. Prepared for Murlan Consulting, March 2009. Cumberland Ecology, Carlingford Court.
- James, T. (2008). Proposed seniors living development at 35 Water Street, Wahroonga - review of flora issues. Prepared for Ku-ring-gai Council, April 2008. Teresa James Flora Consultant, Baulkham Hills.
- NSW Scientific Committee (2007). Final determination to list the Blue Gum High Forest in the Sydney Basin Bioregion as a critically endangered ecological community, April 2007. NSW Scientific Committee, Hurstville.
- Smith, P. (2006). Identity and condition of native vegetation at Water Street, Wahroonga. Prepared for Department of the Environment and Heritage, Australian Government, December 2006. P & J Smith Ecological Consultants, Blaxland.
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- UBM Ecological Consultants (2009). Vegetation management plan for Blue Gum High Forest habitat: a guide to the rehabilitation and reconstruction of a native vegetation community at 35 Water Street, Wahroonga. Prepared for Murlan Consulting Pty Ltd and Waterbrook at Wahroonga Pty Ltd, February 2009. UBM Ecological Consultants Pty Ltd, Richmond.



## **Key issues relating to proposed development at 35 Water Street, Wahroonga**

Teresa James - 03 September, 2009

1. It is my opinion that Blue Gum High Forest (BGHF) occurs beyond the area mapped by Smith (2007, 2009) including the NE corner, croquet lawn and in the vicinity of the proposed east wing building. Although these areas are beyond the present Blue Gum canopy they are contiguous, predominantly within 10 m of existing canopy trees and have the capacity to regenerate to a structure and composition consistent with this community. Regeneration has been observed of ground, shrub/small tree & canopy species within these areas and is indicative of ongoing ecological processes. It is noted that there has been some removal of young Blue Gum saplings since my last inspection of the Site in the vicinity of the former croquet lawn.

The Final Determination for BGHF as a critically endangered community identifies in paragraph 11 that changes to BGHF have occurred as a consequence of the removal of large, old trees. Examples are provided of highly modified understories where exotic species may dominate (partly due to an opening up of the canopy) and open conditions that are maintained by management practices eg mowing. It does not state or imply that such areas are no longer BGHF but identifies the processes involved as threats to the community. It is accepted by all consultants involved that areas with understory dominated by exotics is included within the definition of BGHF. The small areas identified in point 1 are similarly modified by removal of canopy trees and subsequent management including slashing or mowing.

Dr. Peter Smith in his evidence to the Land & Environment Court in relation to this site (11193 of 2006) stated that *there is nothing in the original determination to indicate how severely disturbed the vegetation must be before it no longer represents BGHF. In my opinion unless specifically excluded.....a stand of vegetation that retains a Blue Gum canopy, even when the original understorey has been lost, has high conservation value because of its restoration potential, and should be considered part of the endangered ecological community.* This statement is equally applicable to the current determination and in respect of open areas contiguous with more intact vegetation. Paragraph 3 of the current determination also states that *at any one time, above ground individuals of some species may be absent, but the species may be represented below ground in the soil seed banks or as dormant structures...* It does not specify that Sydney Blue Gum *Eucalyptus saligna* is an exception and consequently lack of trees of this species within the open areas at the present time does not preclude the areas from being BGHF. Again I refer to the earlier occurrence of Blue Gum saplings within the former croquet lawn area.

2. The lack of buffer zones to protect BGHF, particularly in the SE section in the vicinity of the proposed east wing, is unacceptable adjacent to a critically endangered community and sensitive habitat. Indirect impacts will occur as identified by Dr. Smith (2009) who concludes that *edge effects, overshadowing, hydrological changes and storm-water impacts will extend the impact of the proposed development beyond its immediate footprint. This has been recognized and various measures have been proposed to reduce edge effects, but there will still be residual, largely unavoidable impacts.* I consider the lack of buffer zones to be unacceptable due to the high conservation value of the vegetation (see point 3) and the opportunity that exists to mitigate the impacts by provision of a buffer zone. A primary objective when designing conservation areas should be to improve resilience of the vegetation rather than create a system that requires ongoing intensive input and maintenance. Although a buffer zone cannot be expected to remove the need for management within the BGHF it would provide some level of amelioration and reduce the degree of habitat modification and dependency on intensive management. Furthermore, areas identified as BGHF outside of the existing canopy could perform a dual purpose in protecting more intact BGHF and providing a source of seed and vegetative material for restoration purposes.

3. Recent mapping within Ku-ring-gai endorses the high conservation significance of BGHF present at the site.

- Part of the biggest occurrence of BGHF (14ha) on non-protected lands within the LGA
- Connectivity value on shale soils linking two significant sandstone environments (Pennant Hills Park & Ku-ring-gai Chase NP)
- Representative of the rarest form of BGHF identified within the LGA
- Although highly modified the BGHF contains 77 native species

Relative to other BGHF remnants within the LGA, BGHF at the site is considered to be within the top 30% in respect of canopy cover, connectivity, vegetation structure and native species composition. Inadequate protection of a remnant of this significance is incompatible with overall protection and recovery of this community.

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## **35 TO 45 WATER STREET, WAHROONGA - PART 3A APPLICATION FOR A HOSPITAL FACILITY**

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### **EXECUTIVE SUMMARY**

#### **PURPOSE OF REPORT:**

To provide a submission to the NSW Department of Planning on the proposed development of 35-45 Water Street, Wahroonga for the purposes of a hospital, lodged under the provisions of Part 3A of the Environmental Planning and Assessment Act, 1979.

#### **BACKGROUND:**

The Minister of Planning declared the proposed development at 35-45 Water Street, Wahroonga for the purposes as a hospital to be a Major Project under Part 3A of the Environmental Planning and Assessment Act 1979. The declaration was made on 3 December 2008 at which time the Director General's requirements were issued.

The proponent has prepared an Environmental Assessment (EA) to support the development proposal and submitted the Project to the Department of Planning for their consideration.

The proposal was on exhibition from 17 June to 17 July 2009.

#### **COMMENTS:**

The proposal seeks Major Project approval under Part 3A of the EP & A Act, 1979 for the purposes of a hospital including the adaptive re use of the existing heritage item.

#### **RECOMMENDATION:**

That Council make a submission to the Department of Planning as outlined in the report.

## PURPOSE OF REPORT

To provide a submission to the NSW Department of Planning on the proposed development of 35-45 Water Street, Wahroonga for the purposes of a hospital, lodged under the provisions of Part 3A of the Environmental Planning and Assessment Act, 1979.

## BACKGROUND

On the 11 December 2007, the Director General of the NSW Department of Planning formed the opinion that the development at 35-45 Water Street and 64 Billyard Avenue for the purposes of a proposed hospital for the aged, infirm and or/ disabled, including 130 to 160 rooms, refurbishment of identified heritage item and other ancillary development, was of a kind that is a 'Major Project'.

Since the issuing of the above declaration, the Department of Planning continued consultation with external agencies. In a letter, dated 30 April 2008, the Department of Planning, as advised by NSW Health wrote to the applicant (BBC Consulting Planners) noting that the proposal did not appear to be a 'hospital' but an aged care facility. Partly based on this advice and in consideration of additional information, the Director General's requirements were reviewed and modified. The modifications included a new section called 'Hospital Land Use'.

The proponent, in a letter dated 22 October 2008, requested the Director General to form a new opinion and consider 'minor modifications' to the application. The modifications sought to exclude 64 Billyard Avenue, remove the proposed new building at the corner of Young and Water Street and no longer limit the provision of health care services to the aged, infirm and/ or disabled. The Director General formed a further opinion that the proposed development continues to be a 'Major Project' which was communicated via a letter, dated 3 December 2008.

This Part 3A proposal was on public exhibition from 17 June to 17 July 2009. Council sought and was granted an extension by the Department of Planning until 30 July 2009 to make its submission.

## HOW THIS REPORT IS SET OUT

This report is set out into the following headings:

**Part 1** Legislative framework

**Part 2** Development application history

**Part 3** The site and surrounding development

**Part 4** The proposal

**Part 5** Environmental impact assessment and key issues

**Part 6** Consultation

**Part 7** Financial considerations



*Summary and recommendation***PART 1 – LEGISLATIVE FRAMEWORK****A. Part 3A of the Environmental Planning and Assessment Act and State Environmental Planning Policy (Major Projects)**

In accordance with the provisions of s75B of Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act) and Clause 6 of the State Environmental Planning Policy (Major Projects) 2005, the proposed 'hospital' project was declared a Major Project by the Director General on 3 December 2008. In accordance with the provisions of s75D of the EP&A Act, the Minister for Planning is the approval authority.

Part 3A of the EP&A Act provides that:

*75B Projects to which Part applies**(1) General*

*This Part applies to the carrying out of development that is declared under this section to be a project to which this Part applies:*

- (a) by a State environmental planning policy, or*
- (b) by order of the Minister published in the Gazette (including by an order that amends such a policy).*

*The carrying out of particular or a class of development, or development for a program or plan of works or activities, may be so declared.*

and

*75D Minister's approval required for projects*

- (1) A person is not to carry out development that is a project to which this Part applies unless the Minister has approved of the carrying out of the project under this Part.*
- (2) The person is to comply with any conditions to which such an approval is subject.*

and

*75F Environmental assessment requirements for approval*

- (1) The Minister may after consultation with the Minister for the Environment, publish guidelines in the Gazette with respect to environmental assessment requirements for the purpose of the Minister approving projects under this Part (including levels of assessment and the public authorities and others to be consulted)*

## Item 7

S07617  
15 July 2009

- (2) *When an application is made for the Minister's approval for a project, the Director-General is to prepare environmental assessment requirements having regard to any such relevant guidelines in respect of the project.*
- (3) *The Director-General is to notify the proponent of the environmental assessment requirements. The Director-General may modify those requirements by further notice to the proponent.*
- (4) *In preparing the environmental assessment requirements, the Director-General is to consult relevant public authorities and have regard to the need for the requirements to assess any key issues raised by those public authorities.*
- (5) *The environmental assessment requirements may require an environmental assessment to be prepared by or on behalf of the proponent in the form approved by the Director-General.*
- (6) *The Director-General may require the proponent to include in an environmental assessment a statement of the commitments the proponent is prepared to make for environmental management and mitigation measures on the site.*
- (7) *This section is subject to section 75P.*

The Minister has authorised the submission of an application and issued environmental assessment requirements in accordance with Section 75F of the EP&A Act 1979 for the purpose of a hospital. This includes restoration of the identified heritage significant item, demolition of non heritage significant buildings and other ancillary development.

#### **B. Federal, state, regional and local planning framework**

The following Federal, State and Regional Policies and legislation apply to the proposed concept plan and future development on the site:

- Environmental Planning and Assessment Act 1979
- Threatened Species Conservation Act 1995
- Environmental Protection & Biodiversity Conservation Act 1999
- Protection of Environment Operations Act 1997
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 19 - Bushland in Urban Areas
- State Environmental Planning Policy 55 - Remediation of Land
- State Environmental Planning Policy - Major Projects 2005
- Sydney Regional Environmental Plan - Sydney Harbour Catchment 2005
- Ku-ring-gai Planning Scheme Ordinance (as amended)
- Ku-ring-gai Municipal Council Biodiversity Strategy (2006)

## **PART 2 – DEVELOPMENT APPLICATION HISTORY**

### **DA0855/06**

Development application 855/06 lodged on 4 August 2006, sought consent for the proposed restoration and adaptive reuse of the heritage item and construction of 78 self care units, under the provision of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (previously known as SEPP Seniors Living 2004) within 6 buildings and other associated works on the subject site. The proposal with an officer recommendation of refusal was

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considered by Council at its meeting on 12 December 2006. Council supported the officer's recommendation and the application was refused.

Class 1 proceedings in action No 11193/2006 were brought by Murlan Consulting Pty Limited on 11 December 2006 in relation to Council's refusal of the proposal. The appeal was heard by Commissioner Watts and the then Acting Commissioner Taylor sitting on 30 April, 1-2 and 28 May 2007. The judgment was given on 26 June 2007 and the Court upheld Council's refusal and dismissed the appeal.

The Court concluded that:

*"the application must fail as it would not respond appropriately to the heritage significance of 'Rippon Grange' or its setting and the Blue Gum High Forest, (BGHF). Some of the proposed buildings would be too large and too close to the heritage item and adversely impact on its setting."*

In evidence it was found that:

*"There are two major constraints on the development of the land. One is the extent and constraints on development, imposed by the heritage curtilage of 'Rippon Grange', the other is the Blue Gum High Forest (BGHF) identification and extent. When both these constraints are understood and complied with, the extent of development on the land would be very much less than that proposed."*

In respect of the Blue Gum High Forest the Court concluded:

*"that the remnant bushland on 'Rippon Grange' as identified by Smith (2007) [Note: Exhibit 9, Vol 1], is BGHF as per the definition given in the Threatened Species Conservation Act 1995. Consequently, it needs to be afforded appropriate protection and that the assessment of impacts as detailed in the EPA Act 1979 need to be undertaken in advance of any further development application. Therefore the development application must fail."*

and

*"The BGHF needs to be afforded the maximum protection given its perilous remnant state and spatial coverage. For the reasons discussed below a range of steps need to be undertaken and considered to ensure the continued health and vigour of BGHF. These include:*

*The development of buildings and related infrastructure outside of the footprint of the Blue Gum High Forest. Any such future development would need to have a minimum buffer determined by the canopy spread or 3m from the trunk as per the council's tree preservation order [Note: Referred to in Exhibit 1, pp. 82-83], whichever is the greater.*

*An applicant should avoid development that would truncate, fragment or disconnect a BGHF stand at 'Rippon Grange'."*

The applicant appealed the Commissioners' decision to a judge under section 56A, of the Land and Environment Court Act and this appeal was heard by Justice Pain J on 18 October 2007. Her

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Honour gave judgment on 29 October 2007, dismissing the appeal. The Judgement is attached as **Annexure 4** to this report.

**DA1333/07**

A second Development Application (DA1333/07) was lodged with Council on 20 December 2007. This application proposed the partial restoration and adaptive reuse of the heritage item and construction of 61 self care dwellings and associated communal facilities under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004. A report recommending refusal was presented to the Ku ring gai Planning Panel on 25 June 2008. The Panel supported the officer's recommendation and the application was refused.

The applicant then filed a Notice of Motion in the proceedings under section 56A of the Land and Environment Court Act, seeking orders that the decision of the commissioners in respect of DA0855/06 be set aside on various grounds, including apprehended bias on the part of one of the commissioners. The Motion was heard by Justice Pain J on 17-18 November 2008 and, in a judgment published on 4 December 2008, Her Honour dismissed the motion.

An appeal against the decision of Pain J given on 4 December 2008 was lodged by the applicant with the Court of Appeal in action No 40054/2009. However, these proceedings were discontinued on 27 May 2009 after the applicant realised that it did not have a right of appeal but needed to first seek leave of the Court.

An application for leave to appeal the decision of Pain J given on 4 December 2008 was filed with the NSW Court of Appeal in proceedings 40127/2009. This application for leave was lodged after the time for seeking leave to appeal under the Court's rules had expired and is listed for 21 July 2009 and a provisional hearing date of 7 August 2009 has been given, subject to whether leave is granted. Council's position is that it opposes the granting of leave and will oppose the substantive appeal also if leave is granted.

**PART 3 – THE SITE AND SURROUNDING DEVELOPMENT****A. Site description**

The development site is of rectangular configuration and comprises Lot 1 in DP 375262 (No.35 - 45 Water Street, Wahroonga).

The site is zoned Special Uses 5(a)(Hospital) under the KPSO. It has an area of 2.132 hectares with frontages of 151.841 metres to Water Street and 135.128 metres to Young Street.

The site is heritage listed and specifically contains a number of local heritage items being the original house ('Rippon Grange'), its associated stables, various hospital additions, swimming pool, glass house, garden, garden structures and a grove of eucalypts.

The site also contains a number of significant trees and vegetation including a Bunya Pine and Blue Gum High Forest species. Blue Gum High Forest is recognised as a critically endangered ecological community under the NSW Threatened Species Conservation Act 1995.

The last use of the site was as the John Williams Memorial Hospital which ceased in 1999.

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The surrounding area is predominantly comprised of dwelling houses. Typically, the dwellings are two storeys in height and vary in scale from the larger Federation era 'mansion style' to a smaller conservative domestic size. Buildings within the area are primarily of masonry construction, with hipped and gabled tiled roofs. The ages of the dwellings vary from late 19<sup>th</sup> / early 20<sup>th</sup> century and later. Scattered throughout the greater area are numerous schools and churches.

Landscaping dominates the surrounding sites, with a large band of contiguous Blue Gum High Forest and large native trees dominating the local area.

To the north-east of the site is Wahroonga Public School, known as the 'Bush School'. To the north are larger scale single dwelling houses. Adjoining the site to the south and west are mostly single dwelling houses, which also prevail to the east, along Young Street.

**PART 4 – THE PROPOSAL****A. Description of the proposed works**

Under the Provisions of Part 3A (Major Projects) of the Environmental Planning and Assessment Act 1979, approval is sought from the Minister for Planning to include the site as a state significant site in Schedule 3 of SEPP Major Projects 2005 for the purposes of a hospital on the site, which will provide rehabilitation, medical, psychiatric and post natal health services to in-patients accommodated in wards containing 129 patient care suites or rooms. The hospital facilities will, for the most part, be contained within two new 3 - 6 storey buildings to be constructed towards the rear of the site.

The existing heritage building 'Rippon Grange' is proposed to be restored for use as a café, (with public access) chapel, offices, consulting and conference rooms. Such restoration will include the removal of later intrusive additions to the heritage building. The hospital buildings will consist of a main building extending east-west to the south of (behind) "Rippon Grange" with a west wing extending to the south (rear) of the site and an east wing linked by bridges. The maximum height of this building will be the ridge height of 'Rippon Grange' at RL210.82. It will have a maximum of 6 storeys (above ground) and a minimum of 3 storeys. The east wing building will be 5 storeys with a maximum height of RL201.35.

Parking and loading areas will be located and linked below each building, with vehicular access being from both Water and Young Streets.

A detailed description of the proposed works is as follows:

- demolition of some existing structures including later (intrusive) additions to Rippon Grange
- provision of a total of 129 patient care suites and associated hospital services
- erection of 2 buildings, interconnected at two levels, in the south-western and central parts of the site

The Main Building is L-shaped, with a north wing and a west wing. The north wing comprises two basement parking levels (including two loading spaces and ambulance bays); a rehabilitation centre with hydrotherapy pool and associated patient care suites; a main entry level with

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admissions clinic, consulting rooms, administration and staff training areas; and three upper levels of patient care rooms, each with nurse stations, dining areas and associated service areas.

The west wing of the Main Building comprises a basement level containing the hospital services such as central kitchen, store, laundry and plant rooms and four levels or part levels containing patient care rooms.

The East Building is to be located to the south of the former croquet lawn and comprises basement parking (linked to the Main Building basement car park); and five levels of patient care rooms, each with nurse stations, dining areas and associated service areas.

Construction of interconnected basement car parking, containing a total of 79 parking spaces plus 2 spaces for loading/unloading and an ambulance bay.

- restoration of the former croquet lawn
- restoration of the former tennis courts
- repairs to the existing pool for ongoing use and installation of new roof structure
- stabilisation and restoration of the former stables
- reconstruction of the former summer house
- reconstruction of Killara Cottage (a children's cubby house)
- conservation and adaptation of 'Rippon Grange' for communal facilities including:
  - a chapel
  - offices
  - a café (note: the café will be available for patients and their visitors but will also be accessible to the public, in order that the restored Rippon Grange can be more widely appreciated).

Total on-site parking will be 92 spaces (comprising 79 basement level spaces, 11 at-grade spaces adjacent to the Young Street access, and 2 at-grade spaces within the carriage loop) plus an ambulance bay and 2 loading bays.

The basement and at grade car parks are to provide for doctors, staff and visitors. The maximum number of staff during daytime mid week periods is estimated to be 79.

The applicant has provided 16 architectural plans, 8 civil services drawings, 11 landscape plans, a survey plan together with a number of figures which indicate the site, location, aerial photographs, zoning, bushfire prone lands and reserves.

Vehicular access to the development is via a proposed main entry and exit off Water Street approximately 6 metres. This driveway will provide access to the interconnected underground car park to the Main and East Buildings. An additional driveway 5 to 6 metres wide will also be provided off Young Street. It will provide access into the basement car park beneath the East Building, which is interconnected with the basement car park under the Main Building.

It is proposed to provide 6 to 18 patient care suites or beds for each ward. Each patient will have their own room and their own en-suite bathroom. Allocation of the hospital services is to be as follows:

- medical services - 21 beds

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- psychiatric services - 36 beds
- postnatal services - 30 beds
- rehabilitation centre - 42 beds

Other services will include an admissions clinic and medical consulting rooms.

Documentation submitted with the application includes:

Environmental assessment  
Director General's environmental assessment requirements  
Health services plan  
Architectural design statement  
Scope of works to Rippon Grange  
Schedule of materials  
Urban design analysis  
Landscape design report  
Blue Gum High Forest overlays  
Drainage concept plans  
Hydraulic services report  
Electrical supply energy efficiency report  
BCA report  
Waste management plan  
Construction management plan  
Traffic impact assessment  
Acoustics impact assessment  
Heritage impact statement  
Aboriginal impact assessment  
Species impact statement  
Vegetation management plans  
Preliminary environment investigation, prepared by the Department of Aging Disability and Home Care  
Geotechnical investigation  
Hydrogeology investigation.

**B. Capital investment value (CIV)**

The Capital Investment Value (CIV) is taken into consideration by the Minister for Planning when determining if a project falls within the parameters of a Major Project application. The minimum CIV for a 'hospital' to be considered a major project is \$15 million. The proponent has stated that the project has a capital investment value of \$44.2 million.

**PART 5 – ENVIRONMENTAL IMPACT ASSESSMENT & KEY ISSUES**

The project was referred to a number of specialist officers to identify the key issues with the application, critically review the information lodged with the proposal and to assess the impacts of the proposal. The specialist officer's comments have formed the basis of the following assessment. Where appropriate, the Director General's requirements have been used as a basis for considering the environmental impacts of the project. The following matters are identified as being determinative to the proposed project.

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## 1. PART A HEADS OF CONSIDERATION

***Suitability of the site***

The proponent is of the view that the site has all the characteristics that make it suitable for the proposed development. The opinion is based on the following, which is an extract from the proponent's environmental assessment:

*"The site is not constrained by contamination or by any other physical impediments to development. Significant impact on any threatened species, populations or ecological communities can be managed by implementation of the measure proposed in this Environmental Assessment. The architectural design response has appropriately integrated new buildings into the existing topography, ensuring a stepping and modulation of the building mass and appropriate setbacks to street frontages, boundaries and existing heritage items on the site. Combined with the comprehensive landscaping proposed, this ensures that the perception of bulk when seen from surrounding properties and streets and from Rippon Grange will be reasonable."*

It is not agreed that the proposed project is suitable for the subject site. As is demonstrated throughout this submission, the project will have a significant detrimental impacts in a number of areas in particular heritage, urban design and amenity. There is also uncertainty in relation to the impacts of reduced groundwater for the protection of the Blue Gum High Forest. This issue needs to be resolved prior to any determination of the application given the status of Blue Gum High Forest as a critically endangered ecological community.

Based on the significant concerns raised within this submission, the Department of Planning should as a minimum require that the proponent amend the application and provide further detailed information to address the outstanding issues and allow a fully informed decision to be made. Alternatively, the application in its current form should be refused.

***Likely environmental, social and economic impacts***

The proposed major project will have significant environmental, social and economic impacts for the reasons discussed throughout this report. Particular issues raised within this submission may be resolved through further studies and responding to the information by implementing suitable mitigative measures such as the impact of groundwater flow to the Blue Gum High Forest (BGHF). Other impacts such as the bulk and scale, amenity and detrimental heritage impact both built and natural forms will require considerable design amendments.

***Justification for undertaking the project, including evidence of need for hospital in local area***

Within their environmental assessment report, the proponent has provided the following justification for undertaking the project:

- *"the proposal is permissible with consent under the zoning*
- *There is a substantial demand for the type of high level care that will be provided in the proposed hospital*
- *There are increasing expectations for quality facilities and extra services of the type to be provided in the proposed hospital*



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- *The site has a long history of association with hospital and health care uses*
- *The potential adverse environmental impacts arising out of the proposed development can be adequately mitigated, ensuring that the resultant long term impacts are not unreasonable."*

The proponent has not provided evidence to support the claim that there is a need for a hospital of this type in this location. Moreover, a number of outstanding issues remain in relation to environmental impacts, as discussed within this submission. Consequently, for these reasons, it is not agreed that the proponent has provided suitable justification for undertaking the project. The proponent should be required to address the issues raised within this submission to ensure minimal impacts to the local area.

### ***Consideration of alternatives***

The submission notes that the current 5(a) Special Uses (Hospital) zoning under the KPSO limits the type of development of the site to such purposes as utility installations and special events. It is also noted by the proponent that SEPP (Housing for Seniors or People with a Disability) 2004 applies, which permits seniors housing development, subject to the provisions of the Policy. The proponent's submission further notes that

*'as proposals for seniors housing have twice been refused by the Council, the proponent has decided to pursue the only other available land use alternative which is a hospital'.*

The proponent's submission does not demonstrate adequate consideration of alternatives to the development of the site as a hospital. The submission merely notes permissible uses as prescribed within KPSO and acknowledges two previous applications that were refused, which were not refused on the grounds of inappropriate uses but on ecological, heritage, urban design and amenity grounds. The proponent's rationale does not demonstrate in any way due consideration of alternative development. In addition, the proponent has not considered clause 61H of KPSO, which states:

*"61H(1) Nothing in this Ordinance prevents the Council from granting consent to-*

- (a) The use, for any purpose, of a building that is a heritage item or the land on which the building is erected; or*
- (b) The use, for any purpose, of a building, within a conservation area or the land on which the building is erected,*

*If it is satisfied that –*

- (c) the proposed use would have little or no adverse effect on the amenity of the area; and*
- (d) conservation of the building depends on the Council granting consent under this clause."*

The clause also goes further and under circumstances excludes from calculation the floor space of the buildings erected on the land the floor space of the item, providing Council is satisfied that the conservation of the building depends on the Council granting consent under this clause.

Based on the above, it is clear that the proponent has failed to consider any alternative development of the land.

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The public interest is best served with consistency in the application of relevant statutory provisions relevant to the type of development. As demonstrated within this submission, the proposed project lacks sufficient information and will result in significant adverse impacts on the natural and built environment. Consequently, it is concluded that, in its present form the proposed development is not in the public interest.

*Ku-ring-gai Planning Scheme Ordinance*

Hospitals are a permissible use within the 5(a) Special Uses (Hospital) zone under the KPSO. However, the proposed opening of the café to the public is a commercial use that is prohibited within the Special Uses zone.

**2. CAR PARKING AND ACCESS**

Council's Traffic Engineer, Joseph Picoli, has considered the proposal against the relevant matters in DCP 43 and has made the following comments:

*Parking provision*

The proposed parking provision of 92 spaces satisfies Council's DCP43 requirements, however, the RTA guidelines provide additional information and guidance in relation to provision of parking for hospitals and their characteristics. It suggests that car parking should be provided in accordance with the peak parking accumulation, with due consideration being given to reducing the parking required if convenient and safe on-street parking is available, provided that the use of such parking does not adversely affect the amenity of the surrounding area.

According to the RTA guidelines, 111 spaces would be required, which includes provision for patients/visitors, as well as staff. However, the applicant argues that the information is based on older surveys, peaks have spread and that a reduction in the parking provision would therefore be warranted.

To support a reduction, the applicant surveyed parking demands at Lady Davidson Hospital, located at North Turramurra (a hospital with similar characteristics to the proposal but with higher staff numbers) and found that the peak demand was 126 spaces, which closer aligns to the RTA guidelines than Council's. It is also noted that there was use of on-street parking (presumably on Bobbin Head Road). However, a reduction to the parking requirement is advocated by the proponent on the basis that the demands at Wahroonga are expected to be 30% lower. While it is acknowledged that the proposed staff numbers would be approximately 20% lower than Lady Davidson Hospital, it is noted that the staff component of the parking for hospitals represents a smaller proportion of the total allocation of parking to a hospital.

Furthermore, it is considered that there is extremely limited on street parking in the vicinity of the subject site and adverse impacts on traffic, circulation and amenity could result if parking associated with the hospital occurs on-street. There would also be conflicts with the parking demands associated with the nearby Bush School during school peak times. As a result, it is recommended that parking be provided in accordance with the RTA guidelines so as not to adversely affect amenity, local access and circulation.

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AS2890.1 (Table 1.1) requires short term parking spaces for hospitals to be 2.6m wide, with an aisle width of 5.8m. Particularly on Basement Floor Plan L3, a significant number of spaces were measured to be either 2.4m wide or 2.5m wide and adjacent to 5.7m wide aisles, which do not meet the requirements of Table 1.1 and Figure 2.2 of AS2890.1. The width of the spaces (2.4m) at the at-grade car park off Young Street would also be narrower than the minimum required for short stay parking at hospitals. While 2.4m wide parking spaces would be acceptable for employee (all day) parking, there needs to be clarification as to which spaces would be allocated for employees and visitors. Also, where 2.4m wide spaces are located, the minimum aisle width required would be 5.8m and ideally should be 6.2m in critical areas such as car park entrances and near ramps.

The blind aisle extension at the western end of Basement Floor Plan L3 was measured to be 0.8m, which does not comply with the 1.0m requirement of Figure 2.3 of AS2890.1.

*Access points*

The access point off Young Street appears to be the absolute minimum width of 6.0m. Given the narrow road width in Young Street that the access point would also provide access to 48 parking spaces, the final width should be wider than 6.0m. Given that it is to also serve as an access point for the loading area in the basement, the access point should be wider than the 6m minimum required to allow for swept paths larger than a passenger vehicle and it is recommended that the width should tend towards the middle of the required width range (6.0m-9.0m). This will also help to overcome issues with vehicles manoeuvring into/out of the site due to the relatively narrow width of Young Street.

In order to maintain adequate sight distances and sight lines to pedestrians, there should be low fences at the access points within the 2m wide x 5m long sight line triangle specified in DCP43.

**3. TRAFFIC GENERATION**

Council's Traffic Engineer also commented on the traffic implications of the proposal as follows:

*Existing traffic conditions*

Traffic count figures obtained by Council staff in March/April 2006 for the surrounding roads are shown below:

Location	am peak hour (8am-9am) traffic volumes (two-way)	pm peak hour (5pm-6pm) traffic volumes (two-way)	Hospital/school pm peak hour (3pm-4pm) traffic volumes (two-way)
Billyard Avenue (west of Young Street)	521	388	390
Water Street (west of Young Street)	225	98	163
Young Street (between Water Street and Billyard Avenue)	135	37	98

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Weekend flows in these sections of road are substantially lower than those recorded during weekday peaks.

Traffic counts were undertaken by the applicant during the morning peak hour (8am-9am) in March 2006 to assess the extent of existing traffic flows and intersection performance. These volumes are generally consistent with Council's traffic count data.

Based on the recorded traffic volumes, analysis of the surrounding intersections was undertaken. The analysis found that the intersection of Young Street with Water Street the intersection of Young Street with Billyard Avenue currently operate at Level of Service 'A' (good operation, minimal delays).

***Likely future traffic conditions***

Traffic generation analysis has been undertaken by the applicant for the morning and evening peak hours. During the morning peak hour, additional traffic generation of 56 vehicles per hour is estimated (compared with 12 vehicle per hour or 1 trip every 5 minutes for the previous proposal for retirement housing). This is equivalent to an average of 1 trip per minute and would occur during the peak student drop off time. In this respect, the proposed hospital would have a higher traffic impact than the former retirement complex proposal during the morning peak hour.

During the evening peak, additional traffic generation of 64 vehicles per hour is estimated, or an average of just over 1 trip per minute. Similarly, the proposed hospital would have a higher traffic impact than the former retirement complex proposal during the evening peak hour, although existing traffic volumes on surrounding roads during this peak are substantially lower than the other 2 peaks, therefore the additional traffic in the evening peak hour could be accommodated.

More importantly, the RTA guidelines indicate that the peak hour for traffic generation of a hospital is typically between 3pm and 4pm, which also coincides with the school pm peak hour. The applicant has not considered this situation. From the RTA guidelines, the traffic generation at this time is expected to be in the order of 100 vehicles per hour. There is a localised background peak in the surrounding road network at this time, and the introduction of 100 vehicles per hour during the school pick up time would have a noticeable impact on traffic volumes in the surrounding road network and may impact on the school pick-up operation. In fact, due to the nature of admissions and discharges, as well as visitor and staff arrival and departures, traffic generation can be expected to be relatively consistent between the morning peak and the school pm peak, which would result in a noticeably different traffic environment to that currently experienced in the surrounding roads.

Inspections during the morning peak hour on 18 March 2008 revealed minor pedestrian activity along Water Street, gradually increasing at around 9am, which is when the bulk of student arrivals occurred. Observations indicate that the majority of students arriving at the school via the Water Street entrance did so by car, with the majority of these being set down on the Water Street school frontage. Minor use of the pedestrian crossing facility was observed.

Compared to the previous proposal for retirement housing and its relatively low traffic generation, there is concern that the proposed hospital is likely to result moderately higher traffic impacts in surrounding roads, particularly during the school drop off and pick up times (which is not desirable).

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The width of the road pavement in Water Street and Young Street outside the site is generally 5.5m, with a gravel shoulder on the northern side of Water Street increasing its width by about 1m. There is a concrete kerb, gutter and footpath on the southern side of Water Street along the length of the site. The western side of Young Street has a combination of asphalt/concrete path and asphalt kerb/open shoulder drain. Power poles in the footpath area on the western side restrict pedestrian movement. The eastern side of Young Street is unkerbed and has no footpath.

AMCORD guidelines suggest that, for roads carrying 300-1000 vehicles per day, the road pavement width should be 5m-5.5m. Recent traffic volume counts by Council staff in Water Street and Young Street recorded daily traffic volumes of 1180 vehicles and 660 vehicles, respectively. This suggests that the current road pavement width is generally adequate for the current traffic volumes. However, given that the site is located in close proximity to a school and the opportunity would arise to undertake road and footpath improvements as a result of the development, the proponent should be required to undertake localised improvements. This would include kerb and gutter construction in Young Street (between Water Street and Billyard Avenue) as well as footpath improvements along the site frontage in Young Street. Undergrounding of power lines between the main vehicular entrance and Water Street should also be a condition of consent, to improve pedestrian access on the western side of Young Street.

Parking restrictions currently exist in Water Street outside and opposite the site. In Young Street, there are peak school time 'No Parking' restrictions between Water Street and Randolph Avenue. These restrictions should be extended to include the whole site frontage on Young Street, as well as the eastern side of Young Street (subject to consultation with directly affected residents), at least during the period of standard school zone times.

***Accident history***

A check of the most recent available accident history for the intersection of Young Street with Water Street and Billyard Street was undertaken. These are crashes which Police attend and involve vehicles which had to be towed from the site or where either injuries or a fatality has occurred. Minor self-reporting crashes are not recorded.

For the 5 year period from July 2003 to June 2008 (inclusive), there were no recorded collisions at the intersection of Young Street and Water Street. There has been 1 recorded accident at the intersection of Young Street and Billyard Avenue. This generally indicates that motorists are travelling in this area with care.

***Integration of land use and transport***

There is considerable concern that the proposed scale of the development and its location relative to quality, frequent and reliable transport is not a satisfactory integration of land use and transport.

A bus service in Eastern Road connects Wahroonga to Turrumurra station but the bus stops are further than 400m from the site. The frequency of this service is not such that it would encourage use of public transport and minimisation of private vehicle use. The site is also a significant distance from the Turrumurra town centre, where a suite of core services currently exist.

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Construction access is anticipated to be primarily from the Water Street frontage, although the traffic report states that access would be required from all current access points.

To test the suitability of Young Street or Water Street as a construction access point, a check was undertaken of the swept path of a "truck and dog" articulated vehicle entering and leaving the site from the Young Street frontage. It was found that turning manoeuvres would occupy the full width of the road carriageway which could result in conflicts with passing traffic. This was also under the assumption that the construction access in Young Street (or Water Street) would be widened significantly to accommodate the swept path of the articulated vehicle. Conflicts would also exist during the school peak times, and the high footpath/shoulder on the western side of Young Street would also cause access difficulties. Similar issues would result from a construction access from the Water Street frontage.

A check was also undertaken of the swept path for a similar articulated vehicle travelling south in Young Street and turning left into Billyard Avenue (to proceed to Eastern Road). This showed that the swept path required would effectively occupy the full width of Billyard Avenue, which would result in conflicts with vehicles waiting at the Stop signs in Billyard Avenue.

Therefore, heavy vehicle construction access from Young Street or Water Street would not be supported, and the issue relating to a satisfactory construction access point for the site remains outstanding.

Construction traffic routes using Young Street or the steep section of Water Street would be inappropriate and would not be supported. Also, the use of Burns Road/Junction Road is not supported, as these are load limited roads. Heavy vehicles should travel along Eastern Road directly to Pacific Highway.

Construction employee parking will be required to be contained on-site. To reinforce this, prior to demolition and construction, it is recommended that narrow sections of Water Street/Young Street and Randolph Street be approved by the Ku-ring-gai traffic Committee to be signposted with full-time No Parking restrictions. It should be noted that a Works Zone on the Water Street or Young Street frontage would not be supported, due to the relatively narrow road width. Furthermore, due to the presence of nearby schools, restrictions on truck movements during School Zone times should be imposed.

In addition, the following anomalies in the proponent's documentation have been identified:

- It is noted that the hours of work proposed in the construction management plan are 7am to 6pm weekdays and 8am to 1pm Saturdays. Council's standard hours of work are 7am to 5pm weekdays and 8am to 12noon Saturday.
- Appendix 8 of the vegetation management plan recommends construction parking be provided off-site, although Commitment C7 in the environmental assessment states that no use off on-street parking is expected.

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- There is concern about the adequacy of on-site parking – parking should be provided in accordance with RTA guidelines to minimise spillover and impacts to adjoining residential areas.
- Parking space dimensions and aisle widths appear to be inadequate in certain sections, and clarification is required as to the allocation of spaces for employees and visitors, as this would determine the required width of the spaces and aisles.
- The Young Street access point width is considered to be barely adequate for the number of car spaces it services and should be widened to improve manoeuvrability into and out of the site.
- To maintain sight distances and sight lines to pedestrians, there should be low fences at the access points within the 2m wide x 5m long sight line triangle specified in DCP43.
- The traffic generation from the site would be of greater impact compared to the previous proposal for retirement housing. There is concern that the additional traffic generation and its characteristics would have a noticeable impact on the surrounding roads.
- There is considerable concern that the proposal and its location relative to quality, frequent and reliable transport and core services is not a satisfactory integration of land use and transport.
- The applicant should be required to prepare a construction traffic management plan addressing factors such as site access points, heavy vehicle movements and deliveries, pedestrian movements and employee parking.
- No heavy construction vehicles should be permitted to access the site during the standard School Zone times.
- The applicant is to seek Ku-ring-gai Traffic Committee approval for the installation of full-time 'No Parking' restrictions in Water Street, Young Street and Randolph Street for the duration of the works. The cost for processing, reporting and installing and maintaining and the signs for the duration of the works shall be at the applicant's expense.
- The applicant should be required to construct kerb, gutter and footpath on the western side of Young Street, and should be required to underground power/overhead communication lines on the site's frontage in Young Street to improve pedestrian access and safety around the site's frontage.

**4. HERITAGE**

Council's Heritage Adviser, Paul Dignam, has considered the proposal and made the following comments:

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Ku-ring-gai Council does not endorse conservation management plans (CMPs) or heritage impact statements (HIS). Information in a CMP or HIS is useful in providing information about an item and assisting in making an informed assessment of an application.

Endorsed CMPs generally have statutory implications if the site is listed on the State Heritage Register or subject to an Interim Heritage Order (IHO). In April 2005, the NSW Heritage Council adopted a policy on endorsement of CMPs which suggests that a CMP has status if an item is assessed as being of state significance and nominated for listing on the SHR (which is the case for this property). The Director of the Heritage Branch has some discretion on whether an endorsed CMP should be used as the basis of assessing heritage impacts, however, has not provided any direction to Ku-ring-gai Council on whether the CMP should be applied to the item.

***Proposed demolition***

A number of built elements are proposed to be demolished. Most of the structures are considered to be of minor significance and some are considered intrusive such as the hospital wing.

The brick classroom/play room is a relatively small building located near tennis court and is graded as medium significance. It has architectural and social significance. Its reuse is feasible and it should be retained on the site as physical evidence of the former children's hospital.

The application proposes rebuilding and relocating Killara Cottage which is a small timber cubby house associated with the children's hospital use of the site. No area on the site has been nominated for its relocation. It is very deteriorated, with extensive termite damage. It is considered that, due to its significance and condition, reconstruction is not necessary.

The proposed demolition is generally acceptable, provided archival recording is undertaken before demolition works commence.

***Proposed works***

The proposed works to the existing house would retain most of the important spaces, provide a suitable reuse and result in reconstruction of missing and altered elements of the building fabric. A positive aspect is retention of the item as one property. Most areas graded as high significance would be retained and areas of lower significance adapted. It is acknowledged that considerable funds are needed to conserve the house and grounds and provide continued care. If the work proceeds, further heritage advice should be sought during the physical conservation works and a specialised conservation architect should be retained for the project.

The proponent has prepared a heritage impact statement (HIS) – "Issue C", dated February 2009.

It claims that the development has been designed to limit disturbance of the site to relatively small compact footprints so that the new development might have minimal impact on the significance of the landscape. Notwithstanding the proponent's claims, it is considered that the scheme would result in a major impact to the item.



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As proposed, the main hospital building (Ward A) would be located across the site in an east-west orientation about 18m behind the main house, would be up to 5 storeys in height and would have a total length of over 70 metres. Its height is the same as the top of the roof of Rippon Grange and its lower floor is set down below the ground floor of Rippon Grange. The East Wing is located on a similar axis to Ward A and would extend the built form across the site. It is linked via an enclosed bridge at the first floor level. The footprints are very large and result in a very long and high built element in the centre of the site that would dominate the scale of Rippon Grange, dominate its garden setting and would terminate relationships between the entry area and from rooms within the house to the outbuildings and southern parts of the garden.

Rippon Grange is located on the highest part of the site and the landscape reflects the early character and plantings. The proponent claims that the house is deliberately orientated to take advantage of views across the site (east – west and north) but does not exploit the north – south orientation of the house on the site and notes that the south-western part of the site was given over to service functions. There is no agreement on this issue. The relationship of the house to the formal east – west axis is important but there is also a strong relationship on the north – south axis between the house, the service areas and informal garden. It is incorrect to dismiss the value of the north – south axis and service areas in a planned estate house as they are integral to its heritage significance. Such examples of planned estate houses in Ku-ring-gai and in the Sydney region are now rare. The only other comparable estate in Ku-ring-gai is “Mahratta” which is a 1940s house that retains most of its Federation period garden. It is this relationship between Rippon Grange and its garden that makes it a rare item and one of the factors that indicates the item has state heritage significance.

The new hospital buildings would be visually dominant, would compromise the historic relationships of the house to its garden, particularly the relationships between the entry loop, the house and the series of outbuildings and garden elements to the south. Effectively the new building would cut the site into two halves with the entrance, main house and eastern gardens being functionally and visually separated from the stables, service areas and bush garden on the southern side.

The proponent acknowledges there would be some impact on Rippon Grange and its setting to the south but justifies the impact with the following claims:

- *Maintaining a height that does not exceed the ridge height of “Rippon Grange”. The chimneys of “Rippon Grange” will remain the tallest built elements on the site;*
- *Modulation of building mass. This is achieved by reducing the overall heights of buildings in a stepped form in response to falls across the site. Cantilevered balconies and recessed and projecting building planes will provide areas of shadow and void.*
- *A carefully considered palette of building materials that conforms to the palette of traditional building materials that already exists across the site.*

The proponent claims that the links between Rippon Grange and the stables are maintained by siting the lobby of the hospital building in the location of the pathway which “allows interpretation of movement across the site in the past”. It is considered that this is a token attempt at interpretation and the relationship would be lost.

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The proposed use of the site as a hospital is acceptable as it continues a use that existed on the site for approximately half its life. The proponent claims that the proposed development is appropriate and –

*“unlike the earlier hospital demonstrates a greater understanding of the place and a sensitive approach to it”.*

It must be considered that the work that took place to convert the estate into a hospital in the 1950s was largely functional and resulted in reuse of the spaces in the main building and a functional addition. The eastern terrace area was compromised and minor intrusive infill and alterations occurred over time, however, the majority of the gardens, the outhouses, paths and other garden elements were retained and used by the hospital. By comparison, the proposed works would result in a high level of change and would have a permanent effect on the garden setting of the house. The house and garden would effectively provide service facilities to the new hospital as opposed to Rippon Grange and its garden being the main focus and identity of the site.

The proposal would result in removal of a number of trees, would impact on trees considered to have high significance and would also impact on Blue Gum High Forest. These issues are considered in the landscape report.

As proposed, there is some inconsistency in the documentation. The pool is shown to be retained but supporting information suggests it will be filled in and converted into a reflection pond. There is some confusion on the changes to the croquet lawn and stone retaining walls. The alterations to the stone retaining walls and use as a stormwater detention area are contrary to its cultural value.

The surrounding area is characterised by relatively large, mainly two storey, houses set into established garden settings, many containing tennis courts, pools and extensive landscaped areas. Many are individual heritage items. Despite some mitigation by tree screening, the scale of the new buildings is out of character and would have considerable adverse impact on the adjoining residential area which is classified as a National Trust UCA.

New, appropriately scaled development could be located on the southern parts of the site, provided physical links including paths and road connections and visual corridors from north to south were retained.

### ***Conclusions and recommendations***

The proposed works would have substantial adverse impacts on the heritage values of the main house, Rippon Grange, its garden setting, impacts on important trees and landscape items, impacts on Blue Gum High Forest, impacts on important visual relationships on the site, important spaces and elements forming its setting. The application is not supported in its current form and would need considerable amendment before the heritage aspects of the work could be regarded as acceptable.

The proposed hospital building, Ward A & B is too high, too long, dominates the main building and garden and would have an unacceptable impact. Its location across the site alters the historic relationships, eliminates the north – south view corridors from the house and entry loop area to the garden, former stables, service areas and tall eucalypts along the southern boundary. It also requires removal of significant paths/roads and removal of outbuildings.

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The proposed use of the site as a hospital is acceptable as it continues a use that existed on the site for approximately half its life. The proponent claims that the proposed development is appropriate and “unlike the earlier hospital demonstrates a greater understanding of the place and a sensitive approach to it”. While the work that took place to convert the site into a hospital is now considered intrusive, it did result in retaining the building, the majority of the gardens, the outhouses, paths and other garden elements. The scale of new buildings on the site was minimal with existing rooms and spaces, being largely reused to accommodate the hospital use, and despite loss of the eastern terraces, the 1950s building remained as a secondary built element to the main house. Identification of the place as a grand estate house and its relationship with its garden was retained. By comparison the proposed works would result in the new hospital facility being the dominant building on the site set within a garden setting with the existing house becoming a secondary support facility to it. This is contrary to heritage principles and practice.

There are some positive elements to the proposal, including managing the whole of the existing site as one property, repair and refurbishment of the main house, restoration/reconstruction of the main eastern gardens and rustic shelter. There are also some unresolved issues, such as the use of the pool which is to be converted to a reflection pond and croquet lawn being modified and serving as a water detention area.

The proponent has given considerable weight to the CMP that was endorsed by the NSW Heritage Council in 2008. How much weight Council can give to the policies in the CMP is not clear.

The scale and nature of the development is at odds with the character of the surrounding residential area which is a National Trust Urban Conservation Area of high cultural values.

Demolition of built elements as proposed is acceptable if archival recording is undertaken. However, the small brick children's classroom and playroom to the east of the main house should not be demolished. It is not considered necessary to retain “Killara Cottage”.

If amendments to the application were made they would need to be substantial to retain the relationship of the existing house as the major built element the site and retain the cultural significance of the landscape and probably could not be considered to be the same application. The hospital building forming Ward A & B would need to be at least one floor lower and should be broken into smaller discrete buildings to their reduce visual dominance, promote physical and visual connections through the site, particularly the north- south connection between Rippon Grange, the entry “loop” area, the stables and garden. Linking structure should be minimal and located below the entry loop area to preserve the garden area and relationships with the main building.”

## 5. HERITAGE LANDSCAPE

Council engaged Colleen Morris, Landscape Heritage Consultant, to undertake an assessment of the project.

Specific emphasis was placed on the consideration of the impacts to the landscape setting of the heritage listed site. The full assessment is attached as **Annexure 3**. The following is a critical review of the proponent's submission and concerns raised regarding significant detrimental impact that would result if the project was to be supported. The comments also offer some suggestions to reduce the impacts of the development.

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- Elsewhere new buildings should be no higher than the ridge line of "Rippon Grange" and should be sited in such a way that 'Rippon Grange' can be interpreted as a free standing building. "Rippon Grange" is the most significant built item, located on the highest part of the site, and has a major role in defining its visual character. By establishing this height restriction the prominence of "Rippon Grange" will be maintained and its visual relationship with the natural tree canopy, which forms an important part of views across the site from Water Street, will also be maintained. In particular,
- New development should not visually dominate the significant buildings and cultural landscape associated with "Rippon Grange". This will require careful consideration of the location, bulk, scale and visual impact of new buildings associated with development.

Landscape Drawing revision 02D(12.02.2009) reveals the impact of the main hospital building from Water Street. Strictly speaking, this development adheres to the development guidelines of the CMP in that the new main hospital building is not higher than the highest ridgeline of 'Rippon Grange'. However, this ridgeline presents as a narrow peak and small section of the viewing cone when Rippon Grange is viewed from the northern elevation (Water Street). The length of the east-west ridgeline is the predominant ridgeline from the northern elevation and a number of the principal viewpoints. The main hospital building extends above this for more than the full width of 'Rippon Grange'.

A building on this scale and at the height of the highest ridgeline cannot be subservient to the heritage item. The bulk and scale of the main hospital building when viewed from the north is more than double the width of Rippon Grange itself - approximately three times the width, therefore totally overwhelming Rippon Grange in size. It is difficult to see how this can possibly conform to the guidelines as outlined in the CMP.

The heritage impact statement (2009) states that 'in general terms the policies have been applied to the design of the proposed development'. Specifically, there is no reference to the visual impact of the new development in the heritage impact statement and as to whether the development conforms to the CMP guidelines as stated above. It is a design response that does not respect the context of the site and its significance.

Visual impact study 2, architectural drawing 15 is presented from a lower terrace on the site, therefore reducing the ability to see the uppermost storey of the new hospital building and representing the impact of the new main hospital building from one of the most favourable perspectives.

An important aspect of the guidelines is for Rippon Grange to maintain its visual relationship with the natural tree canopy, which forms an important part of views across the site from Water Street.

Despite changes in roof form and the location of a corridor designed to maximise the capacity for this to be achieved under the current proposal - the main hospital building is still effectively a wall to the south of the building, preventing the maintenance of the visual relationship with the natural tree canopy.

In my opinion, if one storey, the second storey, not the roof terrace and the upper storey which is designed to break up the scale of the building, was removed from the building the visual impact of

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the bulk and scale would be greatly reduced, Rippon Grange would remain the most significant built element on the site and its relationship with the tree canopy across the site would be maintained.

Section 2.3 above contains the CMP Policy 19, which pertains to the conservation and management of the grounds. In particular:

Should this restoration work be carefully and sympathetically completed, it is considered that the scale and relative intactness of the grounds and their ability to demonstrate the culture and lifestyle of affluent members of New South Wales society in the first half of the twentieth century would support or reinforce the future listing of the property as a whole as being of State significance. The significant landscape spaces and component elements of the grounds that contribute to this should therefore be conserved.

A development of the bulk, scale and overall impact on the grounds that is proposed, cannot conform to Policy 19 in general and the above clause in particular. This development will be a hospital in spacious grounds, it will not appear to be a grand house demonstrating 'the culture and lifestyle of affluent members of New South Wales society in the first half of the twentieth century.'

In my opinion, it would be misguided to believe that the above statement - 'relative intactness of the grounds' - could be upheld during the proposed construction process. A number of significant garden elements including, trees, shrubberies, pathway and garden layout and edging will not be conserved in the process. It will be instead an exercise in the reinstatement of some significant elements of the garden and grounds to the east and immediate west of the house.

The heritage impact statement (2009) states that *'in general terms the policies have been applied to the design of the proposed development'*. However, the crucial question is whether the proposal conforms to the general, overarching policy for the site. The development conforms to specific conservation policies, but, in my opinion, the size and scale of the hospital proposed precludes it conforming to Policy 19.

The arboricultural impact assessment by Tree Wise Men attributes a significance ranking, the highest significance on Tree 78, a mature *Araucaria bidwillii* (Bunya Bunya pine). It notes that there is a proposed stormwater incursion and a proposed building within the primary root zone, and potential cone drop from the tree that will require management.

This specimen of Bunya Bunya pine is a landmark planting on the site. Views to it are important and have been highlighted during previous applications. It is unacceptable to propose any incursions in either the critical root zone or the primary root zone of a tree that has been assessed with this level of significance.

Furthermore, if the building and associated roof terrace are constructed too close to the tree, there may be a perceived risk of cone drop in the future, placing the tree at threat of removal.

The impact on the grounds throughout the excavation and construction phase of the proposed development will be substantial. A similar process was undertaken around Tempe House in Arncliffe. At Tempe House, apartment buildings with underground parking behind 'Mt Olympus', which had in the section closest to the apartments constructed trees, which ranked among the most significant vegetation on the site - eucalypts, which were mature progeny (regrowth) of the original vegetation. Two of these trees survived the construction process but have since died.

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In my opinion, the west wing should be truncated to ensure it is beyond the primary root zone of Tree 78.

The final clause of Policy 19 states:

*The guiding considerations should be that any removal would not diminish but would uncover, restore or enhance the significance of the items of high significance and the ability of the latter to be fully understood and correctly interpreted.*

*The proposal will reinstate the austere character of the main lawn terraces to the east and uncover their significance as outlined. However, the overall development removes the shrubbery and intensively gardened areas to the south of the house - the busy horticultural interest in the garden, which provided the foil for the broad austere terraces. Until recently, this area gave a depth of meaning to the grounds of the 'grand house' and, together with the formal and recreational areas, provided a means of interpreting a past way of life.*

*It is remarkable that the house in its grounds, the layout of which survives under a tangle of unkempt vegetation, is still there. With all of Rippon Grange's components, the site, if appropriately cared for and conserved, did hold the 'ability to demonstrate the culture and lifestyle of affluent members of New South Wales society'. In my opinion, this capacity will be substantially lost in the proposed development.*

***Impact on the conservation area***

Rippon Grange is situated in the Burns Road/Water St Precinct of the Wahroonga Urban Conservation Area designated by Ku-ring-gai Council. Its southern and eastern boundaries form part of the boundary of the Conservation Area. The other very large heritage listed site within the precinct is Knox Grammar Preparatory School. In general, the area is mixed with large Federation houses some of them on a grand scale, a number of them designed by the architect Howard Joseland, some more modest Federation period buildings and a number of Inter-War period buildings. The area is characterised by large private gardens with dwellings nestled amongst richly varied landscapes.

The Ku-ring-gai Heights Heritage Study and Neighbourhood Character Study by Godden, Mackay, Logan, Keys and Young indicates at all times that building bulk and form must have regard to the scale of adjacent houses and to heritage considerations. In this precinct, the majority of houses are of one to two storeys with the potential of an additional level within the roof space.

The proposed development does not conform to the neighbourhood character. Although this proposal has reduced the bulk and scale of the new buildings in comparison to previous proposals, it still fails to respect the bulk and scale of either the heritage item on site or the general heritage character of the precinct. Despite the skill and best intentions of both architect and landscape architect to break up the bulk and scale of the proposed buildings, one cannot disguise the fact that they are still very large and cannot 'nestle' amongst richly varied landscapes.

The argument that the 'chimneys of 'Rippon Grange' will remain the tallest built elements on the site' (Rod Howard and Assocs HIS p39) indicates that only a very small element of the overall

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heritage item will project above the long mass of building that is substantially larger than the heritage item itself.

In my opinion, as it is proposed the development, particularly when viewed from Water Street, is not compatible with the primarily residential character of this part of the Conservation Area.

**Conclusion**

In 1999, when this site operated as the John Williams Hospital, the grounds were not well maintained but they were maintained and it was possible to appreciate the complexity of the layout and plantings of the gardens and grounds of Rippon Grange. That layout is still there under a mass of enveloping vegetation. It is remarkable that it survived through the John Williams Hospital period. The neglect that has ensued since 2001 should not be used as a justification for a development that is incompatible with the significance of the site.

However, considerable expenditure will be required to conserve Rippon Grange, its landscape elements and to ensure a high level of ongoing management. The proposal for a private hospital has some merit in that it maintains the site as one unit, some of the built form is sited in areas of lower impact on the heritage significance of the site, it proposes to recover the significance of the terraced garden areas to the east of the house and conserve the rustic summerhouse and it retains the carriage loop with appropriate plantings reinstated with the central oval bed. In addition, the swimming pool is to be retained. Overall, however, the significance of the grounds will be impacted by the new development and it will no longer be possible to appreciate the importance of the former estate and how it functioned in a physical sense.

The impact of the main hospital building, in particular, is in my opinion not an acceptable impact on the heritage significance of the site. In addition, the height, bulk and scale of the development in general is not acceptable.

If the Director General is of a mind to approve the development, in my opinion if one storey, the second storey, not the roof terrace and the upper storey which is designed to break up the scale of the building, was removed from the main hospital building the visual impact of the bulk and scale would be greatly reduced, Rippon Grange would remain the most significant built element on the site and its relationship with the tree canopy across the site maintained. In addition further modifications of the south- eastern corner of the West Wing would be required to ensure the protection of the mature and significant Bunya pine.

**6. URBAN FORM AND DESIGN**

Council engaged Scott Pedder from Worley Parsons to undertake an urban design assessment of the proposed project. Specifically, consideration was given to the bulk and scale of the project and amenity impacts to neighbouring properties. The full urban design assessment is attached as **Annexure 3**. The following is an extract from the consultant's assessment of the project.

***Bulk and scale***

It is recognised that the overall site constraints, in particular the extent of Blue Gum High Forest and the significant elements associated with the item of heritage significance limits areas of potential re-development. Notwithstanding these constraints, it is considered that the design

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approach in relation to bulk and scale sets out to provide an appropriate response to the local character both of the site and to its context and setting.

It is considered that the proposed hospital buildings introduce both a building mass and height that is greater than that characteristic of the site and location. Incorporating relatively large footprints and heights to 5 storeys (with flat roofs) the proposal does not reflect the prevailing architectural character or building typology (ie buildings with an all-round orientation) but introduces/establishes a new built form type in the locality.

The proposed main wing and eastern wing of the hospital will provide a substantial and solid built form backdrop to Rippon Grange. The conservation management plan guidelines provide that new construction take the form of freestanding buildings set within the landscape, where views through to the tree canopy would be possible, a more urban, institutional form is proposed.

This typology is reinforced by the consistent parapet height and flat roof. While the design incorporates a series of modulations in the form of stepping and fenestration treatments in elevation, the view from Water Street will be of a solid built form. Despite the height being consistent with the overall maximum height of the ridge of Rippon Grange, the parapet line established at this height for the main wing forms a strong built edge across the site. In my view, the large east-west footprint incorporating the main and eastern wings will effectively divide the site.

It is unclear why the Eastern Wing and Main Wing elevation drawings are separated in the documentation rather than showing them as complete northern and southern elevations. Similarly, it is difficult to clearly see the silhouette of Rippon Grange in the northern elevation. It would be beneficial to show the northern elevation of Rippon Grange as part of the northern elevation of the site to enable a much better reading of the overall development proposal.

At a height of five storeys and an uninterrupted length (estimated at approximately 70 metres), the proposed hospital Main Wing has the effect of creating an unbroken walled backdrop to the heritage item and edge to the western boundary. The effect is a large building mass and bulk which will have an adverse impact on the character of the site and the context.

***Amenity impact on neighbours***

As with the issue raised above in relation to the overall scale and relationship of the proposed built form to the key characteristics of the site and context, the proposal is significantly greater in bulk and scale to that of neighbouring sites. The proposed development would be visually prominent when viewed from the houses and yards of the neighbours to the west and to the south. While incorporating a generous setback of 10 metres to the western boundary, the overall height and length of the façade does not conform to the landscape character typical of the location.

In relation to privacy and overlooking, the 10 metres setback at the southern elevation where the proposed building is reduced to two storeys over a single level under-croft, should enable appropriate separation to the neighbour's rear yards. The greater height toward the centre of the site has required that the architect suggest the provision of privacy screens and limited window openings to limit overlooking. A lower building in this location would likely avoid the requirement for such measures.



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Based on the shadow drawings provided as part of the Part 3A exhibition, the proposed development will overshadow neighbours to the west in mid winter mornings and neighbouring properties along the southern boundary from mid winter, mid morning until later afternoon. The 10 metres setbacks at the west and south will assist in reducing the extent of overshadowing, however, the 5 storey height will provide an elongated shadow in the early mornings. The former stable located to the south of the main wing will be in shadow for the whole of the day at mid winter.

**Conclusion**

The impact of the introduction of the new built form will be significant because of the disruption of the relationship between the existing grounds, the neighbouring properties and to the setting of the heritage item, reducing significantly the visual permeability across the site and the nature of the setting of the site. In response to the key characteristics of the site and its locations an institutional form of development which would incorporate both lower buildings (in terms of storeys), and a series of freestanding structures (whether they be linked to suit building programme requirements or not) would enable a more appropriate solution to the site and location's key characteristics.

**7. BIODIVERSITY- ECOLOGY*****Dr. Peter Smith – Ecological Consultant***

Council has engaged the Dr Smith from P & J Smith Ecological Consultants to undertake a peer review of the proponent's ecological report, which was undertaken by Cumberland Ecology. Specifically, Dr Smith considered the potential impacts of the project on the Blue Gum High Forest (BGHF) located at the site, which is a critically endangered ecological community. A full reproduction of the review is included as part of **Annexure 3**.

The following is Dr Smith's assessment of the impact of the project, which includes further relevant extracts from the report:

***Impact of previous development proposal***

From my previous surveys of the site (Smith 2006, 2007a-b), I concluded that a stand of Blue Gum High Forest with a canopy of native trees, but a severely modified understorey consisting predominantly of exotic species, occurs along the eastern and southern sides of 35 Water Street, occupying an area of about 6350 m<sup>2</sup>. Three additional Blue Gum High Forest trees occur in 35 Water Street as isolated trees away from the main stand and another two trees occur in the adjoining 64 Billyard Avenue. This stand forms part of the critically endangered ecological community, Blue Gum High Forest, as listed under the NSW *Threatened Species Conservation Act 1995*, although not as listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, since the latter listing specifically excludes severely modified sites.

The previous development proposal would have involved clearing an area of about 1177 m<sup>2</sup> of the Blue Gum High Forest, or about 19% of the stand. Shading, hydrological changes and other edge effects would have extended the impact further. The clearing would also have had a fragmenting effect, dividing the stand in two. Of the 89 native trees within the stand, 21 trees would have been removed, representing 24% of the total. This includes the removal of 14 of the 54 *Eucalyptus*

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*saligna* (Sydney Blue Gum) trees in the stand, which is 26%. One of the five isolated Blue Gum High Forest trees outside the stand would also have been removed.

I concluded that this represented a significant impact on the critically endangered ecological community, Blue Gum High Forest, in terms of the NSW legislation. The NSW Land and Environment Court subsequently upheld Ku-ring-gai Council's refusal of the development application, in large part because of its impact on Blue Gum High Forest (*Murlan Consulting Pty Limited v Ku-ring-gai Council* [2007] NSWLEC 374).

### ***Impact of current development proposal***

From Figure 2.1 of Cumberland Ecology (2009), the current proposal will involve clearing about 116 m<sup>2</sup> of Blue Gum High Forest at 35 Water Street, representing about 2% of the total area of Blue Gum High Forest at the site (6350 m<sup>2</sup>). The areas to be cleared are on the edges of the east wing building footprint, on the proposed driveway to the east wing, and on the edges of the proposed extensions to the former stables building. This represents a considerable improvement over the previous development proposal, which would have involved clearing about 1177 m<sup>2</sup> of the Blue Gum High Forest, or about 19% of the stand.

From the Tree Wise Men (2009) tree schedule, a total of 89 native, locally indigenous trees occur in the Blue Gum High Forest stand, of which six are proposed for removal and another six are to be retained but will require protection measures because of disturbance to their root zone. The remaining 77 trees are to be retained away from the construction zone and do not require special protection measures (Table 1). Thus, 6 of the 89 native trees in the stand are to be removed, which is 7%. The trees to be removed include 4 of the 54 *Eucalyptus saligna* (Sydney Blue Gum) trees, which is again 7%. This is a distinct improvement on the previous development proposal, which would have meant removal of 21 of the 89 native trees in the stand (24%), including 14 of the 54 *Eucalyptus saligna* trees (26%).

**Table 1. Locally indigenous native trees in the Blue Gum High Forest stand at 35 Water Street**

Species		Number of trees and their proposed fate		
Scientific name	Common name	Retained	Retained but root zone disturbed	Removed
<i>Acmena smithii</i>	Lilly Pilly	1		
<i>Angophora floribunda</i>	Rough-barked Apple	9	1	
<i>Ceratopetalum gummiferum</i>	Christmas Bush	1		
<i>Elaeocarpus reticulatus</i>	Blueberry Ash	1		1
<i>Eucalyptus pilularis</i>	Blackbutt	4		
<i>Eucalyptus saligna</i>	Sydney Blue Gum	45	5	4
<i>Ficus rubiginosa</i>	Port Jackson Fig	2		
<i>Pittosporum undulatum</i>	Pittosporum	10		1
<i>Polyscias sambucifolia</i>	Elderberry Panax	1		
<i>Syncarpia glomulifera</i>	Turpentine	3		
<b>Total</b>		<b>77</b>	<b>6</b>	<b>6</b>

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The six trees to be removed include two small trees in the hospital east wing footprint - an *Elaeocarpus reticulatus* (tree 203) and a *Pittosporum undulatum* (tree 130) - and one small *Eucalyptus saligna* in the driveway footprint (tree 116). The other three trees to be removed are all moderately large *Eucalyptus saligna* trees and are proposed for removal on safety grounds (trees 105, 323 and 371). The need to remove these three trees should be reviewed and the trees retained if possible.

None of the other five Blue Gum High Forest trees mapped in Figure 1 as isolated trees away from the main Blue Gum High Forest stand are to be removed or disturbed.

Edge effects, including construction and operational disturbance, overshadowing, hydrological changes and stormwater impacts, will extend the impact of the proposed development beyond its immediate footprint. Section 6.4.3 of the species impact statement provides a discussion and assessment of edge effects and the various measures proposed to reduce their impact (Cumberland Ecology 2009). The proposed measures will reduce edge effects, but there will still be residual, largely unavoidable impacts.

Grey (2009) has reviewed the proposed mitigation measures in relation to hydrological impacts. He notes that construction of foundations and basements will create barriers to shallow groundwater flow that could impact on the Blue Gum High Forest. While it is likely that the proposed mitigation measures will be sufficient to prevent adverse impacts, Grey expresses concern that there is currently insufficient information to allow rigorous design and assessment of these measures. He makes specific recommendations on the further work that is required to characterise the shallow groundwater system fully in order to assess potential impacts and design appropriate mitigation measures. The additional work is not considered to be onerous in terms of cost or time. I support Grey's recommendations.

The proposed new driveway to the east wing of the hospital will cross and fragment the Blue Gum High Forest stand to some extent, especially the lower layers of vegetation (Figure 2). However, the fragmenting effect of the current proposal is much less than that of the previous development proposal, which involved construction of two large, tall buildings across the centre of the stand. The proposed driveway will be on grade, not excavated, and will have a porous surface to reduce hydrological impacts.

To compensate for the adverse impacts of the hospital development on Blue Gum High Forest, the existing stand of this community will be rehabilitated through weed control, assisted natural regeneration, and supplementary plantings of Blue Gum High Forest species. Additional areas adjoining the stand, totalling about 1770 m<sup>2</sup>, will be restored as Blue Gum High Forest, largely through plantings. Thus, a total of about 8004 m<sup>2</sup> at 35 Water Street will eventually be rehabilitated or restored, and managed in perpetuity, as Blue Gum High Forest in as good condition as possible in this situation. This compares with the current total of about 6350 m<sup>2</sup> of severely modified, unmanaged Blue Gum High Forest at the site. It represents an eventual increase in the area of the community at the site of about 26%, together with major improvements in vegetation condition and management. The vegetation management plan prepared by UBM Ecological Consultants (2009) describes how this will be achieved. The plan envisages rehabilitation and restoration work taking place over a period of at least 10 years.

I generally agree with the measures proposed in the vegetation management plan. However, the plan provides for the retention of non-indigenous garden plantings within the Blue Gum High Forest area on a heritage basis. I disagree with this approach. The existing Blue Gum High Forest

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stand, and the areas adjoining the stand that are proposed for restoration as this vegetation community, should be managed solely as native vegetation. These areas cannot effectively be managed as a heritage garden as well, since this conflicts with their management as Blue Gum High Forest. Retention of non-indigenous plantings detracts from the integrity of the Blue Gum High Forest community, without providing any real heritage benefits. Unless individual non-indigenous trees can be shown to have very special heritage significance, all non-indigenous plantings should be removed from the Blue Gum High Forest areas.

***Regenerating area***

James (2008) has suggested that an additional area of about 0.2 ha of Blue Gum High Forest occurs at 35 Water Street adjacent to the 0.635 ha mapped in Figure 1. The additional area is contiguous with the stand mapped in Figure 1 and consists of the old croquet lawn and the area north of the croquet lawn. She notes that this area, although it does not have an intact Blue Gum High Forest canopy, contains a good range of native groundcover species (including *Centella asiatica*, *Glycine* species, *Geranium homeanum*, *Poranthera microphylla*, *Euchiton sphaericus*, *Wahlenbergia gracilis*, *Desmodium varians*, *Parsonsia straminea*, *Microlaena stipoides* and *Oplismenus* species) as well as young saplings of canopy trees and regenerating shrubs of *Acacia* species and *Pittosporum*.

I agree that this area contains elements of Blue Gum High Forest. However, in view of the absence of a Blue Gum High Forest canopy and the general sparsity of native plants, I do not believe that it can be considered Blue Gum High Forest as defined by the NSW Scientific Committee (2007). Part of the area is proposed for restoration as Blue Gum High Forest, except for the croquet lawn. Although some native plants have regenerated on the croquet lawn, I do not consider that it is suitable for restoration as Blue Gum High Forest. The soil profile and ground topography have been radically altered during construction of the croquet lawn, making restoration of the original native vegetation highly problematic.

***Conclusions***

The proposed private hospital development would have a much reduced impact on the Blue Gum High Forest stand at 35 Water Street compared with the previous development proposal that was rejected by the NSW Land and Environment Court. The current proposal involves clearing about 116 m<sup>2</sup> of Blue Gum High Forest, or about 2% of the total area of 6350 m<sup>2</sup> of the community at the site (compared with 1177 m<sup>2</sup> or 19% under the previous proposal). Six of the 89 locally indigenous native trees in the stand are to be removed, representing 7% (compared with 21 trees, representing 24%, under the previous proposal). Three of these are small trees within the development footprint, while the other three are larger trees proposed for removal on safety grounds.

Edge effects, including construction and operational disturbance, overshadowing, hydrological changes and stormwater impacts, will extend the impact of the proposed development beyond its immediate footprint. This has been recognised and various measures have been proposed to reduce edge effects, but there will still be residual, largely unavoidable impacts. Grey (2009) has expressed concern that although the proposed mitigation measures to prevent adverse hydrological impacts are likely to be effective, there is insufficient information to allow rigorous design and assessment of these measures.

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The proposed new driveway to the east wing of the hospital will cross and fragment the Blue Gum High Forest stand to some extent, especially the lower layers of vegetation. However, the fragmenting effect of the current proposal is much less than that of the previous development proposal, which involved construction of two large, tall buildings across the centre of the stand.

To compensate for the adverse impacts of the hospital development on Blue Gum High Forest, the existing stand of this community will be rehabilitated to remove weeds and replace them with native species. Additional areas adjoining the stand, totalling about 1770 m<sup>2</sup>, will be restored as Blue Gum High Forest (Figure 2). Thus, a total of about 8004 m<sup>2</sup> at 35 Water Street will eventually be rehabilitated or restored, and managed in perpetuity, as Blue Gum High Forest in as good condition as possible in this situation. This represents an eventual increase in the area of the community at the site of about 26%, together with major improvements in vegetation condition and management.

I conclude that if the mitigation measures proposed in the species impact statement (Cumberland Ecology 2009) and vegetation management plan (UBM Ecological Consultants 2009) are implemented, then the proposed development will not have a significant adverse impact on the Blue Gum High Forest at the site. Indeed, the net impact should be distinctly beneficial.

However, I recommend that the following matters be addressed:

1. The need to remove the three Blue Gum High Forest trees on safety grounds should be reviewed. These trees, which are outside the development footprint, should be retained if possible.
2. I support Grey's (2009) recommendations for further work to characterise the shallow groundwater system fully in order to assess potential impacts on the Blue Gum High Forest and design appropriate mitigation measures more rigorously.
3. All non-indigenous plantings within the 8004 m<sup>2</sup> proposed for management as Blue Gum High Forest should be removed, except possibly for individual trees for which very special heritage significance can be demonstrated. The vegetation management plan seems to suggest that this area can be managed both as Blue Gum High Forest and as a heritage garden. This is neither desirable nor feasible. It will detract from the integrity of the Blue Gum High Forest, without providing any real heritage benefits.

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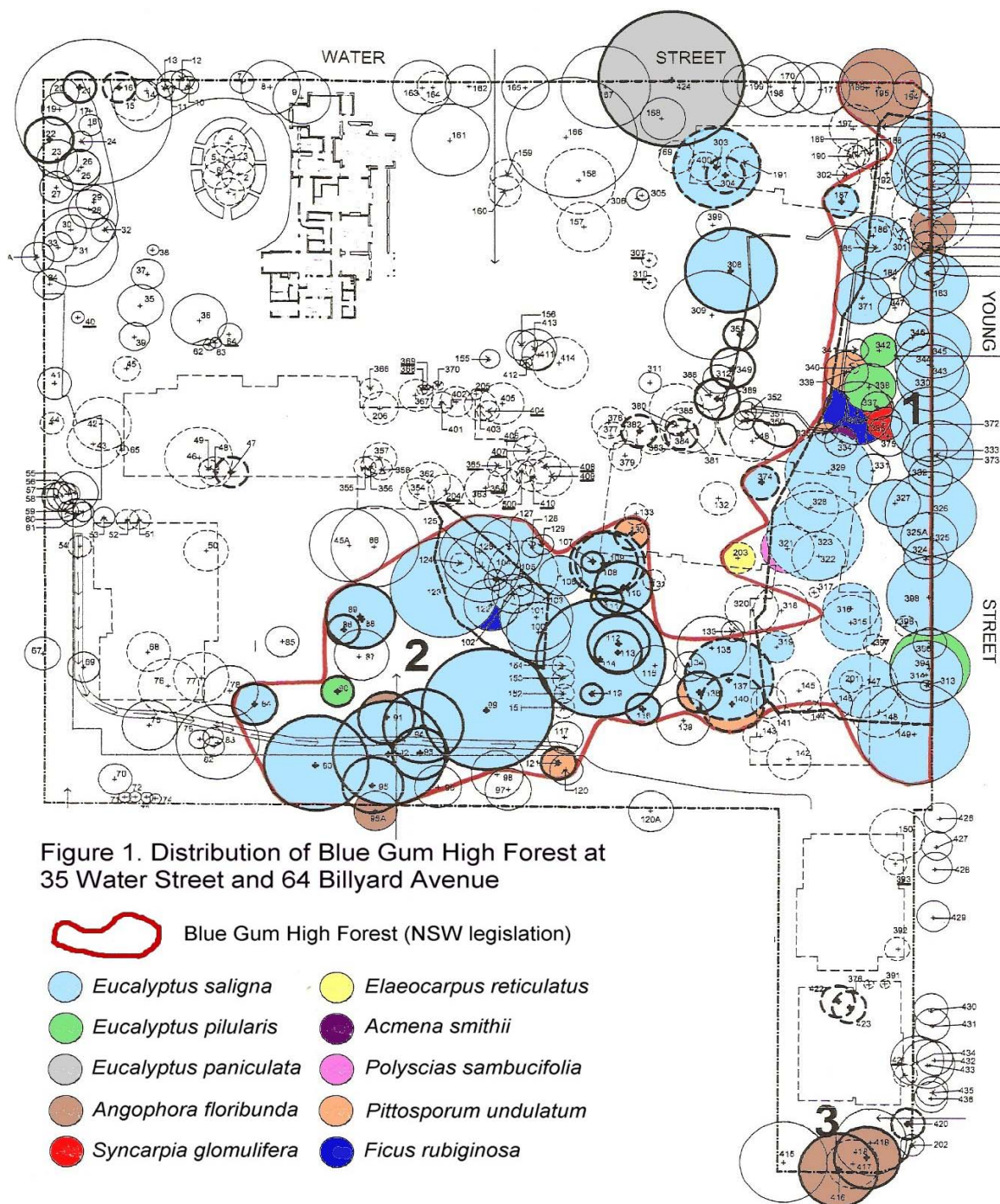
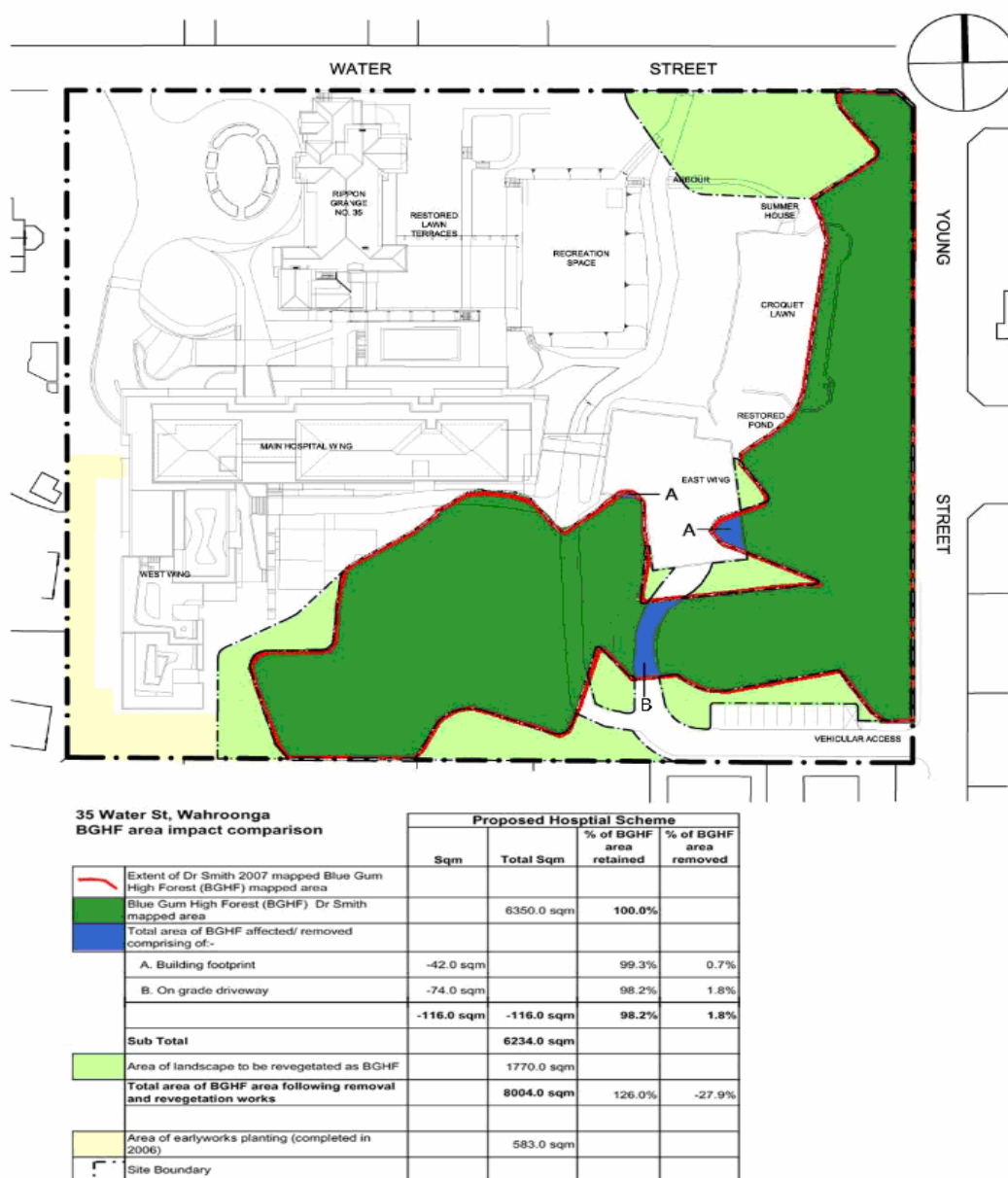
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Figure 1. Distribution of Blue Gum High Forest at 35 Water Street and 64 Billyard Avenue (Figure 1 of Smith 2007a)

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**Figure 2. Proposed clearing and restoration of Blue Gum High Forest at 35 Water Street (Figure 2.1 of Cumberland Ecology 2009)**

*Council's Ecological Assessment Officer*

Council's Ecological Assessment Officer, Penny Colyer, has considered the proposal and made the following comments:

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Remnant vegetation within 35 Water Street Wahroonga forms part of the Blue Gum High Forest (BGHF) vegetation community (listed under the Threatened Species Conservation Act 1995).

The Species Impact Statement (SIS) (Cumberland Ecology 2009) has based their report on BGHF mapping undertaken by Dr Smith (as used within *Murlan Consulting Pty Ltd v Ku-ring-gai Council* [2007] NSWLEC 374). The SIS fails to recognise more recent mapping undertaken by Teresa James Flora Consulting (TJ 2008), which shows a greater extent of BGHF within the site. Whilst we have some concerns regarding the SIS interpretation of mapping undertaken by Teresa James Flora Consulting (TJ 2008), it is recognised that the additional mapped non-canopied area is very highly disturbed.

Species identified within additional areas mapped by Teresa James Flora Consulting (TJ 2008) either:

- Align with BGHF or Sydney Turpentine Ironbark Forest (STIF) scientific determinations. STIF exists to the north-west of the site and as such it is relevant that species from STIF occur on the site as communities' grade.
- Have been identified through the Ku-ring-gai vegetation mapping (KMC 2009) as being present within the BGHF critically endangered ecological community. The evidence of additional species within this community has been supported by Draft Sydney Metropolitan mapping (*Pers Comm. Daniel Connolly, Department of Environment and Climate Change*).

It is recommended that native understorey and midstorey (including *Centella asiatica*, *Glycine* species, *Geranium homeanum*, *Poranthera microphylla*, *Euchiton sphaericus*, *Wahlenbergia gracilis*, *Desmodium varians*, *Parsonsia straminea*, *Microlaena stipoides*, *Oplismenus* species, *Pittosporum* and *Acacia* species (as noted by TJ 2008), be retained where outside the boundary of the croquet lawn, this may include a strip of vegetation to the north of the croquet lawns (proposed for revegetation), and along the western boundary of the croquet lawn. Additionally, trees along the eastern edge of the Croquet lawn should be maintained and protected (including over hanging branches).

It is agreed that BGHF on the site varies in condition from moderately to highly degraded and disturbed (as suggested, pg S9). However, the importance of this remnant needs to be considered on a broader scale. As shown in (Figures 3 and 4) below.

Draft mapping of threatened ecological communities within Ku-ring-gai (at a 1:2000 scale) (KMC 2009) has shown that this site forms part of a larger remnant BGHF patch covering 14ha (Figure 3). This is supported by P & J Smith 2006, who note "the site forms part of a cluster of BGHF remnant that has been identified as one of the five largest remaining areas of the community".

Within the Ku-ring-gai Local government area (LGA), this broad patch (including BGHF outside the Water street site) is the largest area of BGHF containing *scatters or dense native condition vegetation* within non-protected lands (i.e. outside DECC or Council estate).

The remnant also has a high ecological importance from a landscape perspective; being BGHF located on a secondary ridge line within on of the highest elevation areas within the LGA.



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An analysis of the Ku-ring-gai vegetation mapping project (KMC 2009) shows that remnants located on crests and ridgelines away from sandstone influences (such as gully areas) are less common as a result of clearing within the LGA.

The SIS notes that resultant impacts from historic use have “diminished the values of the area as a potential conservation reserve” and that “better quality vegetation with more intact understorey exists in the locality” (pg S10). Whilst agreeing with this assessment, it is also noted that BGHF on site contributes to an important urban remnant. This area provides a reduced ecological function compared to bushland, but facilitates genetic storage and pollination source, providing habitat areas for more mobile species. BGHF vegetation on the site adjoins to areas of higher quality (but still disturbed) BGHF (see **Figure 4**); Thereby supporting higher quality vegetation and assisting in natural genetic exchange.

The proposed works will not result in isolation of the site but will result in removal of vegetation due to the creation of the East Wing and formalisation of a break in understorey connectivity associated with the East Wing driveway. It is understood that an additional construction zone will exist around the East Wing footprint, adding additional impacts to existing BGHF.

The provision of buffer zones is a key consideration to the long term protection of threatened ecological communities. These areas play a key role in mitigating undesirable edge effects from development. Siting of the East Wing footprint fails to provide any buffer zone to BGHF on site. This is inconsistent with previous review of the site. Including:

- *Murlan Consulting Pty Ltd v Ku-ring-gai Council* [2007] NSWLEC 374 at 87, the Court recognised the need for a buffer to protect BGHF on the site.
- Recommendations of the establishment of at least a 20 m buffer zone between any development and the BGHF (TJ 2008).

(Scatters or dense native condition vegetation: a condition class mapped during field validation (KMC 2009). This category includes native, scattered, medium to dense tree overstorey, with native shrub and ground layers and native dominated within 2 layers).

It is considered that any proposed development should provide a minimum buffer zone of 10m.

Issues identified by P & J Smith Ecological Consultants should be addressed (P & J Smith Ecological Consultants 2009).

Good native regeneration has been noted during past surveys (TJ 2008), within management zone 3 (UBM Ecological Consultants Pty Ltd, 2009). Proposed management of zones 3,4 & 5 as identified within UBM Ecological Consultants Pty Ltd (2009), should be altered to minimise spraying within lawn areas (spot spray if necessary). Scalping should avoid areas of existing native vegetation where possible. Exotics within this area should be hand weeded. This is particularly relevant for zone 5 adjacent to zone 1 and areas with regenerating understorey in zone 3.

The proposal provides improved protection to BGHF within the site compared to previous development applications. It is acknowledged that additional revegetation / rehabilitation works are to be carried out to help offset proposed impact, provided this is undertaken appropriately and managed for long term protection.

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Draft mapping of threatened ecological communities within Ku-ring-gai (at a 1:2000 scale) (KMC 2009) has shown that 35 Water Street Wahroonga forms part of a larger remnant BGHF patch covering 14ha (See **Figure 3**). This remnant has a high ecological importance from a landscape perspective, being located on a secondary ridge line on the highest elevation areas within the LGA.

Within the Ku-ring-gai Local government area (LGA), this larger remnant forms the largest area of BGHF containing remnants with overstorey, shrub and ground layers (including 2 layers native dominated) within non protected lands (i.e. outside DECC or Council estate) (See **Figure 4**).

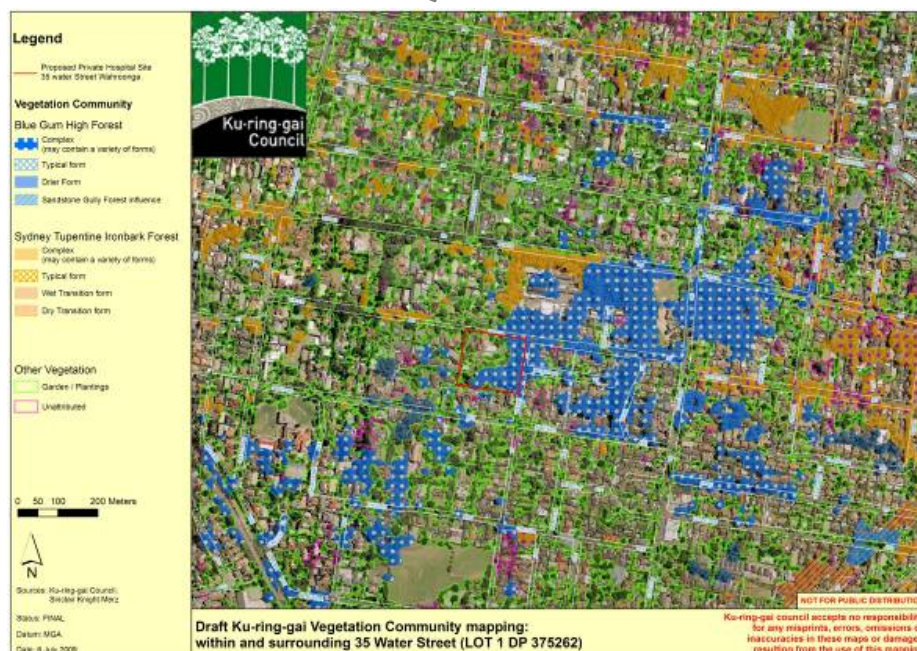
BGHF on site facilitates genetic storage, supporting higher quality vegetation and assisting in natural genetic exchange.

The SIS fails to recognise more recent mapping undertaken by Teresa James Flora Consulting (TJ 2008), which includes additional very highly disturbed areas of BGHF within the site. It is recommended that BGHF mapped by James Flora Consulting (TJ 2008), located outside proposed building footprints be retained and protected.

Siting of the East Wing footprint fails to provide any buffer zone to BGHF on site. This is inconsistent with previous review of the site (*Murlan Consulting Pty Ltd v Ku-ring-gai Council* [2007] NSWLEC 374 at 87, TJ 2008). It is considered that any proposed development should provide a minimum buffer zone of 10m.

UBM Ecological Consultants Pty Ltd (2009), vegetation management for zones 3,4 & 5 should be altered to minimise spraying within lawn areas (spot spray if necessary). Scalping should avoid areas of existing native vegetation where possible. Exotics within this area should be hand weeded. This is particularly relevant for zone 5 adjacent to zone 1 and areas with regenerating understorey in zone 3.

Figure 3



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Figure 4



## 8. BIODIVERSITY- GROUNDWATER

Council engaged the firm Ian Grey Groundwater Consulting (IGGC) Pty Ltd to undertake a peer review of the proponent's hydro-geological assessment of the project, which was undertaken by D.F Dickson & Associates. Particular emphasis was placed on groundwater hydro-geological impacts to the Blue Gum High Forest (BGHF) located at the site, which is a critically endangered ecological community. A full reproduction of the review is included in **Annexure 3**.

In summary, the review considers an earlier preliminary investigation by D.F Dickson & Associates submitted as part of the Development Application DA1333/08 for seniors housing and a subsequent investigation for the current project. It has been noted that the potential issues relating to groundwater are essentially the same for the current project and earlier proposal. Council's consultant's report highlights two potential impacts relating to groundwater:

- 1) The development has the potential to adversely affect the BGHF by reducing or altering flows and levels in the shallow groundwater system in rainfall recharge (increased hard surfaced area); and
- 2) Through cutting off groundwater flow by construction of foundations and basements extending through the entire weathered profile.

Essentially, the issue relates to the presence and nature of the shallow groundwater system within the residual clay profile and the potential for development to lead to adverse impacts to the BGHF by reducing shallow groundwater flows. IGGC considers the review of shallow groundwater flows to be critical in determining the impact of the development on the BGHF. Council's consultant is of the view that appropriate mitigations methods can be undertaken to prevent impacts on the BGHF however, to determine the measures appropriate preliminary studies on shallow groundwater are required and have not been put in place to date.

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The IGGC report questions the methodology of D.F Dickson & Associates to determine the impacts of shallow groundwater flow. The investigation by D.F Dickson & Associates included the installation of three piezometers drilled to depths of 9m with screened sections 800mm in length located at the base of each drill hole. Council's consultant notes that the piezometers were not designed to investigate or monitor shallow groundwater conditions in the residual clay profile. The report states the shallow groundwater system has not been adequately characterised at this time. As a consequence of this shortfall, there is insufficient information to allow a rigorous assessment of the impacts of the project. The lack of a full understanding fails to provide a basis for the appropriate design of mitigative measures to minimise impacts to the BGHF. Despite this conclusion, Council's consultant has been pro-active and suggested the following mechanisms to characterise the shallow groundwater system. This will allow the proper assessment of the potential impacts and lead to appropriate mitigation measures for the project:

- Installation of additional piezometers to allow monitoring of the perched groundwater system in the residual clay profile in the area(s) where construction will occur close to the BGHF. These should be drilled to the base of the clay profile/ top of bedrock or immediately below. Installation of at least two pairs of piezometers is recommended, with one located a few metres down slope of the other in each pair to allow accurate assessment of local hydraulic gradients.
- Hydraulic testing in all piezometers to allow estimation of hydraulic conductivity values of the shallow strata (note: it is acknowledged that interpretation of results of such testing in clay formations can carry uncertainty, but results will at least provide indicative values).
- Monitoring of groundwater levels, fluctuations and hydraulic gradients in the sensitive areas for a period of at least several months (ideally including one or more rain events).
- Characterisation of the shallow groundwater system, including existing groundwater level conditions and fluctuations, response to rainfall and quantification of the groundwater flux under a range of conditions.
- Assessment of potential losses due to the proposed development, mitigation measures required and design of such measures.
- Review of the potential losses and proposed mitigation measures by a suitably qualified ecologist for assessment of potential impacts to the BGHF and suitability of mitigation measures proposed.

It is also noted by Council's Groundwater Consultant that the use of soil moisture probes to provide background data and to allow monitoring during and after construction as recommended by D.F Dickson & Associates is appropriate.

## 9. WASTE, DRAINAGE & CLEANSING

Council's Manager Waste, Drainage & Cleansing, Colin Wright, has highlighted the following concerns and inconsistencies with the project:

The development shows inadequate provision for the storage and collection of waste and recyclables.

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One waste room has been provided adjacent to one kitchen; however no other waste storage facilities are indicated on the plan.

For a development of this size and type, the application should indicate sufficient storage for the number and size of waste and recycling containers to serve the buildings contained within this development. Separate areas for medical and hazardous waste should also be included in the design.

The application should demonstrate in the design of the access road the ability for an 11 metres long rigid waste and recycling collection vehicle to enter negotiate the access roads and exit the development. The plan does not indicate the locations where bins would be positioned for collection.

Waste management provisions have been mentioned in the proponent's waste management plan, however these have not been included in the design of the buildings.

The inclusion of these waste management provisions would be required before the application can be considered further regarding this aspect of the development.

As such, a favourable recommendation for this part of the assessment cannot be made.

## 10. STORMWATER

Council's Team Leader of Development Engineers, Kathy Hawken, has highlighted the following concerns and inconsistencies with the project:

### *General*

There are two discrepancies between the landscape and architectural/ stormwater plans.

1. The plant room either side of the basement driveway (as shown on stormwater concept plan C01) is shown on the landscape plans as being a landscaped area. No sections are provided to indicate the depth of soil etc over the slab.
2. The final levels for the croquet lawn and former tennis court are also inconsistent, with the stormwater plan showing a design surface level for the tennis court of RL194.60 and for the croquet lawn of RL190.10, whereas the landscape plan shows RL194.85 for the tennis court and RL 189.00 for the croquet lawn. If these areas are to be used for detention storage, this should be addressed in either the conservation plan or the flora and fauna assessment/ vegetation management plan. It is not likely that filling the croquet lawn by 1 metre would be desirable from either point of view and the installation of drainage pits and augmentation of retaining walls, bunds etc should be addressed from either the heritage or the ecological viewpoint, possibly both. It is noted that no sections are shown through the proposed storages. See discussion below on detention volumes.

### *Water management*

The development site no longer includes 64 Billyard Avenue. The stormwater management plans show the site to be drained to the street drainage system in Billyard Avenue through 64 Billyard Avenue. Therefore, the development site is Location D under DCP 47 and a drainage easement

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over 64 Billyard Avenue is required for legal gravity drainage. The plan shows a 1 metre wide easement proposed, however, Appendix 7 of DCP 47 requires a 1.5 metres wide easement over a 450mm diameter pipe.

The documentation does not indicate that the property 35 Water Street (Lot 1 DP375262) benefits from an easement over 64 Billyard Avenue, so it is considered that if a consent were to be issued, deferred commencement conditions would be required. The conditions would require the easement to be registered and a design for the interallotment drainage pipe to be approved before the consent could operate.

The drawings show the on site detention in two above ground storages, on the former tennis court and on the croquet lawn, and one below ground tank, beneath the parking area off Young Street. The outlet from the tennis court storage drains into the croquet lawn storage, and the outlet from the croquet lawn drains into the tank beneath the parking area. This is not considered to be an effective configuration as the attenuation is reduced by draining one storage into another.

The plans and report indicate that 458 cubic metres of on site detention is to be provided. This is considered to be excessive.

The engineer has been previously advised that a detention volume calculated using the actual hard surface area proposed for the site would be acceptable. Using the factors in DCP 47 for Lovers Jump catchment and the built-upon area shown in Taylor Brammer Drawing LS.DA.10 Revision E of 35% of the site area (site area 21,320 square metres less deep soil 13,858 square metres = 7,462 square metres), a volume of 310 cubic metres is obtained.

Using this volume, it would be possible to avoid any drainage works on the croquet lawn.

The report states that an ILSAX model was used by the engineers to calculate the optimal storage volume. The print-out attached to the report is dated 20/05/06 and refers to Building F. This seems to relate to the previous application and therefore be superseded. It is considered sensible to use the Council storage factor if a smaller volume is obtained and unnecessary works can be avoided.

The drainage concept plan calls for micro filtration and ultra violet sterilisation. This is also left over from the Seniors Living proposal – there is no need for these measures if the retained roofwater is only to be used for irrigation.

### ***Emergency access***

The floor area is given in the environmental assessment as 12,398 square metres. Under the BCA clause C2.4, when a building exceeds a floor area of 18,000 square metres, it is to be provided with a perimeter vehicular access, minimum unobstructed width of 6 metres.

However, when notified of the previous application, the NSW Fire Brigades (NSWFB) advised “To facilitate fire fighting operations to mid- and/ or high-rise buildings (ie buildings which have a rise in storeys greater than 3) minimum vehicular carriageway widths of 6 metres will be necessary.”

NSWFB Policy No. 4: Guidelines for Emergency Vehicle Access gives access requirements for the various types of emergency vehicles. However under Application is the statement “This document is ‘informative’ and does not replace any statutory requirement.”

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Therefore, it would appear that under the BCA, a perimeter vehicular access is not required."

## 11. ESD MEASURES

Council's Urban Planner Strategy has advised that sustainability requirements for the site should attain a 5-star Green Star design rating.

## 12. SERVICES

The site has access to utility services, although care will need to be taken during amplification of such services.

## 13. LANDSCAPE

Council's Landscape Assessment Officer, Stephen Fenn, has considered the proposal and made the following comments:

### *Landscape heritage*

The conservation management recommendations for the following heritage items relating to landscape elements within the site in the proponent's conservation management plan are generally agreed to, subject to modifications:

### *High significance*

Item 2 – Oval gardens, including the planted area adjacent to the carriage loop. The proposed restoration of the oval garden at the centre of the carriage loop incorporating lawn and period standard roses in context with its heritage status, proposed in-fill shrub and ground cover plantings immediately surrounding the carriage loop and conservation of the healthier trees and shrubs within the northern half of this garden are all appropriate.

Item 5 – Pair of Brushbox trees. T45A and 66: 2 *Lophostemon confertus* (Brushbox) are 26 and 25 metres high, 16 and 10 metres canopy spread, and in good condition and vigour. The conservation management plan recommends that these trees be conserved and maintained by a skilled arborist. The footprint of proposal Main Hospital Wing is upslope of and at the edge of the Critical Root Zone (CRZ) of Tree 45A and just inside the edge of the *Primary Root Zone (PRZ)* of T66. *This is a hardy species that will tolerate a reasonable amount of disturbance.*

However, having regard to their significant heritage status, the proposed Main Hospital Wing, positioned 7 metres upslope of these trees, will compromise the northern side both canopies and root systems, deprive both trees of their natural hydrology and thereby reduce their longevity. To conserve both trees, the Main Hospital Wing should be set back 3 metres beyond their canopy spreads and irrigated to ensure they receive the existing natural hydrology, however, it is appreciated that this may be dependent on other heritage considerations.

Item 6 – Formal lawn terrace. The proposed reinstatement of the formal lawn terrace across the eastern side of Rippon Grange will be in context with the residence's historical setting. The turf species will need to be wear and shade tolerant to cope with the increased usage.



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Item 9 – The pair of mature palms, which provide evidence of the style and character of the garden at its establishment, help frame the eastern façade of the house. T155 and 156: 2 *Livistona australis* (Cabbage Tree Palm) are identified in the proponent's tree report as *Washingtonia robusta* (Washington Palm) and *Washingtonia filifera* (Fan Palm). Retention of both palms within their existing settings is appropriate and proposed restoration to the adjoining heritage brick steps should not negatively impact them.

Item 11 – Tennis court. The proposed restoration of the lawn tennis court as active recreation space is appropriate. There is no objection to the removal of T157: *Araucaria heterophylla* (Norfolk Island Pine) and T158: *Liquidambar styraciflua* (Liquidambar) and installation of the proposed stormwater detention tank beneath.

Item 12 – Brick stairs forming part of the garden. Repair and conservation of these stairs is necessary as they are intrinsically linked with the 2 palms of Item 9 and provide access between the lower and upper parts of the garden.

Items 20 & 21 – Croquet lawn and associated stone retaining wall. The proposed restoration of Items 20 & 21 as a croquet lawn for the hospital conflicts with conservation of heritage Item 24 as regeneration of Blue Gum High Forest Critically Endangered Ecological Community (BGHFCEEC) is occurring on the croquet lawn.

The value of the croquet lawn would be somewhat diminished for its former purpose and it would most likely be utilised for passive recreation which would be consistent with regenerating the BGHFCEEC which is under severe threat of extinction from pressures including clearing and weed invasion and would benefit from additional area to be a viable representative of its community.

T335A: A developing *Ficus rubiginosa* (Port Jackson Fig). This tree should be removed to prevent further disintegration of the sandstone retaining wall at the croquet lawn's south-eastern corner. This tree is recommended for retention in the proponent's arboricultural report.

Item 28 – Bunya Pine. The arboricultural report gives the height and canopy spread of T78: *Araucaria bidwillii* as 26 metres and 10 metres, respectively. The tree's canopy spread is approximately 14 metres and its condition is healthy. The conservation management plan, recommends this tree be conserved and maintained by a skilled arborist and that no *construction should take place within 7 metres of its trunk. The eastern façade of the proposed West Wing is positioned 7 metres from the centre of its 1.4 metres diameter trunk.*

**Moderate significance**

Items 7, 14 & 26 – Garden steps from top to middle terrace to eastern façade of the house; service driveway from Water Street to Young Street and garden steps; and stone paths and edging forming part of the garden detail in the transition zone between the formal garden and bush garden in the southern section of the site. Restoration of these sandstone edgings, steps and paths, as recommended by the conservation management plan, is appropriate.

However, as the NSW Fire Brigade required access for provision of a 6 metres on-grade emergency road in the event of a fire emergency in the last application, the service road between Water Street and Young Street was to be widened by approximately 3 metres. Some alterations to



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the heritage infrastructures or realignment of the service road may be required to accommodate fire trucks.

Item 6a – Irish Strawberry Tree. T161: *Arbutus unedo*, of 10 metres, 12 metres canopy spread and general healthy condition is given moderate significance in the heritage impact statement due to its horticultural interest. This tree is recommended for retention although its northern trunk contains a cavity close to ground at its western side. This trunk should be propped for support rather than being retained unsupported or removed which would spoil the tree's appearance.

Item 8 – Middle terrace – grass terrace forming part of the establishment garden layout. The proposed restoration of Item 8 in conjunction with Items 6 (formal lawn terrace) and 11 (lawn tennis court) and embankments is supported as it will retain the conservation precinct to the east and downslope of Rippon Grange.

Item 19 – Interwar rockery and retaining wall. The proposed restoration of this feature between the upper (western) side of the croquet lawn and the service road is satisfactory.

Item 24 – Blue Gums, evidence of regrowth related to Blue Gum High Forest. The proposed regeneration of the Blue Gum High Forest community by the removal of noxious plant, environmental weed and other exotic species is necessary for its long term survival.

Item 25 – Gardens that form a transition zone between the formal gardens and the 'bush garden' in the southern section of the site. There is no objection to the replacement of these gardens by the Main Hospital Wing as they have long fallen into disrepair.

***Little significance***

Item 4 – Former potting garden, hothouses and sheds. These elements are in a highly dilapidated condition and enveloped by *Ficus pumila* (Creeping Fig). The retention and restoration would have little benefit to the site and they are located within the site of the Main Hospital Wing. There is no objection to the removal of these low value heritage items for construction of the Main Hospital Wing.

Item 15 – Arbor linking former driveway to lower portion of the eastern side of the site. Replacement of the arbor with another of similar design as recommended by the conservation management plan is acceptable.

Item 16 – Sandstone steps/path associated with summerhouse. Restoration and conservation of the sandstone steps and pathway should be carried out as recommended by the conservation management plan, together with reconstruction of the summerhouse as proposed on the landscape master plan.

Item 18 – Tree fern group, located at the centre of the northern end of the croquet lawn and at its northern access point. These ferns are in fair condition and are being enveloped by exotic climbers. These tree ferns should be retained in proximity to the proposed reconstructed summerhouse and maintained as recommended by the conservation management plan.

Item 22 – Former fish pond, located on the southern side of the croquet lawn. The proposed restoration of the fish pond, as suggested in the conservation management plan is supported although the proposed exotic species that could invade the adjacent Blue Gum High Forest

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Critically Endangered Ecological Community (BGHFCEEC) by seed or vegetatively should be replaced with more appropriate species.

Item 23 – Former plunge pool – former archaeological significance only. Retention of the former plunge pool site to show the former land-use pattern of the site is noted in the landscape design statement. The landscape master plan gives no indication of the plunge pool's former existence or location. The plunge pool's location could be commemorated by an etched graphic display produced from historic photographs.

### ***Tree and vegetation removal and impacts***

The site supports a variety of locally occurring and non-local native, evergreen and deciduous exotic tree, shrub and palm tree fern species. All 310 'trees': trees/ shrubs/palms/tree ferns are identified numerically in the arboricultural impact assessment report. All 'trees' are protected by Council's Tree Preservation Order.

Of the 310 trees shown on and adjoining the site, 73 are proposed to be removed and a further 23 shrubs, palms and tree ferns are proposed to be transplanted. Of the 237 trees to be retained, 173 are located clear of proposed structures and 24 require some construction or service installations within their Primary Root Zones (PRZ) and Critical Root Zones (CRZ).

A total of 68 trees are proposed to be removed and 20 trees are proposed to be transplanted for construction of the East, Main and West Hospital Wings and driveways. All 68 trees to be removed are located within and adjacent to building footprints. Some of these trees include dead, noxious plant and environmental weed species. One tree is located over proposed drainage lines, 2 trees are proposed to be removed from the tennis court site, 25 trees are exempt due to their weed status, dead, dying or dangerous condition, some of which have already been removed and 16 trees are inconsistent with the heritage values (6) and the Blue Gum High Forest (10) of the site. As 4 trees fit into 2 categories, a small numerical error is noted.

Some 73 trees, located within or adjacent to building footprints, roads and drainage lines, require removal or transplanting. Some additional trees require removal to widen the proposed service road to function as an emergency road depending on its route:

### ***West Wing***

There is no objection to the removal of the following 10 trees for construction of the West Hospital Wing: T50 & 68: *Jacaranda mimosifolia* (Jacaranda); T51, 52 & 53: *Camellia sasanqua* (Chinese Camellia); 54: *Cinnamomum camphora* (Camphor laurel); T69: *Grevillea robusta* (Silky Oak); T75: *Harpephyllum caffrum* (Kaffir Plum); T76: *Pinus radiata* (Monterey Pine) and T79: *Araucaria bidwillii* (Bunya Pine).

T76: Monterey Pine, 20 metres in height, is the most visually prominent of the 10 trees, although it has areas of die-back at the extremities of its canopy. This tree is assessed to be in fair rather than good condition as described in the arboricultural report. There is no objection to the removal of the above 10 trees for construction of the West Wing.

The West Wing is sited 7 metres from the trunk of heritage item 28 - T78: *Araucaria bidwillii* (Bunya Pine) of high significance heritage status in accordance with the recommendation in the conservation management plan. The arboricultural impact assessment does not include any

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comments regarding the likely impacts upon it by the construction of the proposed West Wing and installation of drainage works.

The Bunya Pine's propensity to shed large cones biennially would cause damage to both the building and occupants unless harvested. Cone monitoring will be required to ensure that falling cones do not become a critical issue.

T77: *Jacaranda mimosifolia* (Jacaranda) is proposed for retention at distances of 2 metres from the proposed West Wing and 1.4 metres from a 225 mm stormwater drainage line. It is unlikely this tree can be sustained due to its fair condition.

### **Main Hospital Wing**

There is no objection to the removal of the following 18 trees: 35 Trees - T46: *Tilia x europaea* (European Linden); T47 & 354: *Pittosporum undulatum* (Sweet Pittosporum); T48, 49, 406, 407, 408, 409, 410 & 500: *Rhododendron sp.* (Broad leaf Rhododendron); T65, 204, 205, 368, 369, & 370: *Cyathea australis* (Rough Treefern); T206: *Prunus serrulata* (Japanese Flowering Cherry); T355, 364, 365, 366 & 404: *Strelitzia nicolai* (Giant Strelitzia); T356 & 362: *Acacia baileyana* (Cootamundra Wattle); T357 & 358: *Abutilon x hybridum* (Chinese Lantern); T363: *Magnolia grandiflora* (Bull-bay Magnolia); T367, 401 & 402: *Lagerstroemia indica* (Crepe Myrtle); T377: *Phoenix canariensis* (Canary Island Palm) and T378, 403, & 405: *Camellia sasanqua* (Chinese Camellia). All these trees are of low landscape significance.

There is no objection to the transplanting of the following 17 trees: T65, 204, 205, 355, 364, 365, 366, 368, 369, 370, 404, 406, 407, 408, 409, 410, and 500.

Construction of the Main Hospital Wing is objected to for the following reasons:

High significance heritage item 5 - T45A and 66: 2 *Lophostemon confertus* (Brushbox) are located 7 metres from its southern (downslope) side. The Main Hospital Wing should be set back beyond the canopy of both trees to give them appropriate curtilage, to ensure that no soil level changes occur beneath their canopy spreads to avoid any compromise to their canopies and root systems, and to protect their longevity as a high significance heritage status items. The arboricultural impact assessment includes no comments regarding the heritage status of these trees in relation to likely impacts upon them by proposed Main Hospital Wing.

The proposed excavation, to approximately 4 metres depth immediately to the upslope and north of both trees, will most likely cause their early demise due to the severance of their existing hydrology despite the species being relatively tolerant to soil moisture changes.

### **East Wing**

There is no objection to the removal of the following 16 trees for construction of the East Wing: T130, 382 & 384: *Pittosporum undulatum* (Sweet Pittosporum); T131: unknown species; T132 & 135: *Liquidambar styraciflua* (Liquidambar); T133 & 136: *Brachychiton acerifolius* (Flame Tree); T318: *Cupressus* species (Cypress); T320: *Arbutus unedo* (Irish Strawberry Tree); T321: *Polyscias sambucifolia* (Elderberry Panax); T328: *Erythrina x sykesii* (Coral Tree); T348 & 381: *Cotoneaster sp.* (Cotoneaster); T379: *Rhododendron sp.* (Broad leaf Rhododendron) and T383: *Ginkgo biloba* (Maiden-hair Tree).

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The East Wing will encroach within and have a longterm negative impact upon regenerating Blue Gum High Forest. The proposed building site is located mostly within a clearing containing BGHF groundcover species and is surrounded on its eastern, southern and western sides by Blue Gum High Forest. The building will also disrupt the natural hydrology to the downslope portion of identified Blue Gum High Forest.

**Driveway**

There is no objection to the removal of the following 5 trees: T16: *Pittosporum undulatum* (Sweet Pittosporum) for widening at the Water Street vehicular entrance and T42 & 43: *Jacaranda mimosifolia* (Jacaranda) and transplanting of T15: *Strelitzia reginae* (Giant Strelitzia) for construction of the driveway to link the Main Hospital Wing with the existing Water Street entry to Rippon Grange or to the removal of T115: *Callistemon salignus* (Willow Bottlebrush) and T113: *Jacaranda mimosifolia* (Jacaranda). These trees are located within the and adjacent to the western side of the driveway ramp to the proposed East Wing and are of low landscape significance.

The proposed removal of T116: *Eucalyptus saligna* (Sydney Blue Gum) for the driveway to the East Wing site is inconsistent with the landscape management zone for Blue Gum High Forest that shows the area to be conserved.

T112 and 114: 2 *Eucalyptus saligna* (Sydney Blue Gum) appear to be incorrectly positioned on all plans as Tree 114 is located adjacent to the northern side of T119: *Ceratopetalum gummiferum* (NSW Christmas Bush) and adjacent to the eastern side of the existing driveway.

There is no objection to the removal of 16 other trees, being T40: *Camellia japonica* (Japanese Camellia) and T64: *Phoenix canariensis* (Canary Island Palm) are to be transplanted, and T67 & 164: *Ligustrum lucidum* (Large-leaved Privet); T82: *Brachychiton acerifolius* (Flame Tree); T151, 152, 153, 154 & 194: *Jacaranda mimosifolia* (Jacaranda); T146: *Juniperus sp.* (Juniper); T159, 160, 176 & 188 and T323: *Eucalyptus saligna* (Sydney Blue Gum), located east of the East Wing site. These trees are either noxious plants, incompatible with the Blue Gum High Forest values, dead or structurally unsound.

**Emergency road**

In the previous development application, the NSW Fire Brigade required a 6 metres wide on grade emergency road in the event of a fire emergency between Young and Water Streets. Widening of the existing service road from an average width of 3 metres would further deplete BGHF area and species.

To avoid damage to the root zone of T424: *Eucalyptus paniculata* (Grey Ironbark) located on the site's Water Street boundary, the exit point to Water Street is to be located at the eastern edge of the tree's root zone. Several additional trees would require removal to accommodate widening of the existing service road depending upon its final design.

**Drainage lines**

Proposed 225 mm and 300 mm drainage lines satisfactorily run against the façade of the proposed Main and West Wings, to and then along the site's southern boundary thereby avoiding additional negative impact over and above the negative impact that would be caused to T45A and 66: 2

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Brushbox, T78: Bunya Pine and Sydney Blue Gum trees within the Blue Gum High Forest revegetation area located south of the stables by excavation for the proposed buildings.

*Tennis court*

There is no objection to the removal of 2 trees: T157: *Araucaria heterophylla* (Norfolk Island Pine), of 15 metres height and healthy condition, and T158: *Liquidambar styraciflua* (Liquidambar), of 21 metres height and fair condition, from the centre and northern end of the tennis court as they are inconsistent with the heritage context of the garden and will permit restoration of the tennis court as a recreational facility.

The following 11 trees: T34: *Alnus jorullensis* (Evergreen Alder); T44: *Brachychiton acerifolius* (Flame Tree); T67 & 164: *Ligustrum lucidum* 'Variegatum' (Variegated Large-leaved Privet); T159, 160, 176 & 188: dead; T165: *Raphiolepis indica* (Indian Hawthorn); T381: *Cotoneaster* sp. (*Cotoneaster*) and T385: *Olea europaea* subsp. *africana* (African Olive); are not required to be removed for construction of proposed buildings, driveway and/or drainage lines although they should be removed due to their noxious plant, environmental weed and dead status:

There is no objection to the removal of the following 9 trees: T124 & 192: *Cupressus sempervirens* (Italian Cypress); T151, 152, 153 & 154: *Jacaranda mimosifolia* (Jacaranda); T186: *Strelitzia nicolai* (Giant Strelitzia); T301: *Cryptomeria japonica* (Japanese Cedar) and T396: *Pinus* sp. (Pine Tree); as they are inconsistent with the flora and value of the Blue Gum High Forest character at the site.

*Sewer service installation*

Installation of a sewer service into the site could be another likely impact upon the BGHFCEEC. In the previous application Sydney Water proposed 2 options:

Option 1: was directly across Young Street from its intersection with Randolph Street through BGHF. This option is the shorter distance although clearing for a service trench through the CEEC for installation of a sewer main will cause short-term negative impact upon the community by removal of native vegetation. Option 1 was not supported; however a survey of existing BGHF species along the proposed sewer main route would be required to determine whether it is a feasible option.

Option 2: a 72 metres long sewer main along Young Street and into the site. This option could enter the site within the existing driveway/parking area and across to the East Wing beneath the on grade driveway. Option 2 is less invasive to BGHF.

*Kerb and guttering and undergrounding of electric power*

Kerb and guttering along the western side of Young Street was proposed in the previous development application, although was not agreed with as excavation for installation of the infrastructure would, most likely, cause severance of main support roots of several mature BGHF trees, mostly *Eucalyptus saligna* (Sydney Blue Gum), located along the site's Young Street boundary. Root mapping should be conducted to determine the depth and size of tree roots prior to commencing engineering design work. In-ground installation of electric power lines should be carried out along the eastern side of Young Street to avoid damage to the above mentioned BGHF trees root systems.

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The proposed species selection for and arrangement of the ornamental gardens is generally appropriate and satisfactory. However, some of the exotic species and cultivated varieties of native species proposed to be planted adjacent to the existing Blue Gum High Forest and the area of Blue Gum High Forest to be reconstructed are likely to invade the bushland and pollute its gene pool.

*Stormwater plan*

The stormwater plan is not supported as some proposed drainage lines of 225 – 450 mm diameter will conflict with remnant Blue Gum High Forest (BGHF) and root zones of 3 high significance heritage trees that are to be preserved. The stormwater plan needs to be rethought to avoid damage to heritage trees and BGHF.

Unless the proposed drainage lines are of small diameter, excavation by thrust boring or hand is generally viewed as impractical. Ground penetration radar should reveal the existence of trees roots where it is critical for a drainage line to be positioned.

*Conclusion*

Subject to other heritage considerations, the proposed Main Hospital Wing should be set back at least to the edge of the canopy spreads of the 2 high significant heritage trees: 45A and 66 that will be negatively impacted to a significant degree by canopy and root pruning, and deprivation of their natural hydrology.

The proposed setback of the proposed West Hospital Wing from the high significant heritage tree: 78 is satisfactory.

The landscape plan for the site is satisfactory.

**PART 6 – CONSULTATION**

The Department of Planning has notified the proposal, in accordance with Council's Notification Policy, and Part 3A of the Environmental Planning and Assessment Act. The summary documents were located on the Department of Planning's website.

**PART 7 - FINANCIAL CONSIDERATIONS**

The costs of the submission are covered under the operating budget of the relevant Council Departments. The cost of consultants are covered by the Department of Strategy and Environment.

An integrated approach has been taken to the consideration of the proposal, with input from a number of Council staff and selected consultants.

**SUMMARY**

The Minister for Planning has declared the proposal to be a Major Project and, therefore, a project to which Part 3A of the Environmental Planning and Assessment Act 1979 applies.

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Having regard for the Director-General's requirements, the proposed hospital is not supported for the following key reasons:

**A. Permissibility of the proposed café**

The proposed public café, which is a commercial use, is prohibited in the Special Use Zone.

**B. Significant detrimental impact on the natural and built heritage values of the site and on the surrounding urban conservation area.**

- i) There would be substantial adverse impacts on the heritage values of the main house, Rippon Grange, its garden setting, impacts on important trees and landscape items, impacts on important visual relationships on the site, important spaces and elements forming its setting.
- ii) The proposed hospital building, Ward A & B is too high, too long, dominates the main building and garden and would have unacceptable impact. Its location across the site alters the historic relationships, eliminates the north-south view corridors from the house and entry loop area to the garden, former stables, service areas and tall eucalypts along the southern boundary. It also requires removal of significant paths/roads and removal of outbuildings.
- iii) The proposed works would result in the new hospital facility, being the dominant building on the site set within a garden setting, with the existing house becoming a secondary support facility to it. This is contrary to heritage principles and practice.
- iv) The scale and nature of the development is at odds with the character of the surrounding residential area which is a National Trust Urban Conservation Area of high cultural values.
- v) The significance of the grounds will be impacted by the new development and it will no longer be possible to appreciate the importance of the former estate and how it functioned in a physical sense.

**C. The development is out of context, inappropriately sited and is out of character with the surrounding low density residential area.**

- i) The proposed development is inappropriate in its bulk and scale, which is intrusive, overbearing and out of context with the lower density residential character of the area. It is inappropriately sited with respect to the surrounding low density residential area and the heritage building and would visually dominate the site and the immediate area.
- ii) The proposed development would be visually prominent when viewed from the houses and yards of the neighbouring properties to the west and to the south. The overall height and length of the façade does not conform to the landscape character typical of the location. These impacts are exacerbated by the inappropriate location of the main building (north and west wing) in close proximity to the lower scale dwellings at 3 and 5 Plymouth Close and 33 Water Street. The main building has a maximum top floor ceiling levels of RL 210.2 to 198.2, respectively, ranging from 5/6 storeys to 3 storeys. The rear private open space ground levels of 33 Water Street, 3 and 5 Plymouth Close vary because of the slope of the site but

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are approximately at RL 197.5, 191.5 and 187, respectively. The proposed buildings far exceed these levels and will appear overbearing when viewed from the main private open space of these properties.

- iii) The building mass and height is greater than that characteristic of the site and location. The large building footprints and heights up to 6 storeys, with flat roofs do not reflect the prevailing architectural character or building typology but establish a new built form that is alien to its context.
- iv) The proposed main wing and east wing of the hospital will provide a substantial and solid built form backdrop to 'Rippon Grange' and divide the site.
- v) The overall height and length of the façades does not conform to the landscape character typical of the location.
- vi) The impact of the introduction of the new built form will be significant because of the disruption of the relationship between the existing grounds, the neighbouring properties and to the setting of the heritage item, reducing significantly the visual permeability across the site and the nature of the setting of the site.

**C. Impacts on Blue Gum High Forest – Critically Endangered Ecological Community (BGHF-CEEC)**

- i) The proponent's SIS fails to recognise and retain additional very highly disturbed areas of BGHF within the site identified in more recent mapping undertaken by Teresa James Flora Consulting (TJ 2008).
- ii) The siting of the east wing footprint fails to provide any buffer zone to BGHF on the site. This is inconsistent with previous review of the site (*Murlan Consulting Pty Ltd v Ku-ring-gai Council* [2007] NSWLEC 374 at 87, TJ 2008).
- iii) The need to remove the three Blue Gum High Forest trees on safety grounds should be reviewed. These trees, are outside the development footprint and should be retained.
- iv) Insufficient detail has been provided to characterise the shallow groundwater system fully in order to assess potential impacts on the Blue Gum High Forest and design appropriate mitigation measures more rigorously.

**D. Privacy impacts**

The proposal will have adverse impacts on the privacy of the adjoining dwellings to the west of the proposed development and No. 44 Billyard Avenue.

**E. The proposal fails to satisfy the requirements of Development Control Plan No.40 and Policy for Construction and Demolition Waste Management**

- i) The proposal does not make adequate provision for the storage and collection of waste and recyclables.



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- ii) One waste room has been provided adjacent to one kitchen, however no other waste storage facilities are indicated on the plans.
- iii) In the design of the access road, the ability for an 11 metres long rigid waste and recycling collection vehicle to enter, negotiate the access roads and exit the development is not demonstrated. The plans do not indicate the locations where bins would be positioned for collection.
- iv) Waste management provisions have been mentioned in the waste management plan, however, these have not been included in the design of the buildings.
- v) The lack of detail in respect of waste management is likely to lead to storage of waste containers, such as skip bins, in the above ground carpark just inside the Young Street entrance. As well as reducing the amount of parking available on the site, this would be undesirable for reasons of streetscape and would be likely to lead to unacceptable amenity impacts on surrounding residents from compactor noise, flashing night and driving lights and engine noise of the waste vehicle reversing into and out of the waste collection area.

**F. The proposal fails to provide sufficient detail or information in regard to the hydrology of the site**

The following is required to characterise the shallow groundwater system fully and to allow potential impacts to be assessed:

- i) Additional piezometers, required to allow monitoring of the perched groundwater system in the residual clay profile in the areas where construction will occur close to the BGHF, have not been provided.
- ii) There has been no characterisation of the shallow groundwater system, including existing groundwater level conditions and fluctuations, response to rainfall and quantification of the groundwater flux under a range of conditions;
- iii) There has been no assessment of potential losses due to the proposed development, mitigation measures required and design of such measures;

**G. The proposal fails to provide sufficient detail or information in regard to traffic and parking on the site**

- i) There is concern about the adequacy of on-site parking – parking should be provided in accordance with RTA guidelines to minimise spillover and impacts to adjoining residential areas.
- ii) Parking space dimensions and aisle widths appear to be inadequate in certain sections, and clarification is required as to the allocation of spaces for employees and visitors, as this would determine the required width of the spaces and aisles.
- iii) The Young Street access point width is barely adequate for the number of car spaces it services and should be widened to improve manoeuvrability into and out of the site.
- iv) Methods to maintain sight distances and sight lines to pedestrians are not specified.

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- v) The traffic generation from the site would be of greater impact compared to the previous proposal for retirement housing. There is concern that the additional traffic generation and its characteristics would have a noticeable impact on the surrounding roads.
- vi) There is considerable concern that the proposal and its location relative to quality, frequent and reliable transport and core services is not a satisfactory integration of land use and transport.
- vii) A construction traffic management plan, addressing factors such as site access points, heavy vehicle movements and deliveries, pedestrian movements and employee parking has not been provided.

**H. The proposal fails to provide sufficient information or clarity in regard to the following matters**

- i) The final levels for the croquet lawn and former tennis court are inconsistent, with the stormwater plan showing a design surface level for the tennis court of RL194.60 and for the croquet lawn of RL190.10, whereas the landscape plan shows RL194.85 for the tennis court and RL 189.00 for the croquet lawn.
- ii) There are inconsistencies between the vegetation management plan and the commitments in the environmental assessment as to where construction parking is to take place, on site or on-street.
- iii) Perimeter vehicular access has not been provided to satisfy NSW Fire Brigade requirements, particularly in regard to the central pathway (service road) on the site which should be 6 metres in width.

**I. Landscaping**

- i) The main building will have an adverse impact on the canopy spreads of two highly significant heritage trees, Brush box, *lophostemon confertus*: Trees T45A and 66.
- ii) There is a conflict between the Blue Gum High Forest Critically Endangered Ecological Community (BGHFCEEC) and the proposed heritage conservation restoration of the croquet lawn.
- iii) The East Wing will encroach within and have a long term negative impact upon regenerating Blue Gum High Forest. The proposed building site is located mostly within a clearing containing BGHF groundcover species and is surrounded on its eastern, southern and western sides by Blue Gum High Forest. The building may also disrupt the natural hydrology to the down slope portion of identified Blue Gum High Forest.
- iv) The establishment of kerb and guttering along the western side of Young Street would most likely cause severance of main support roots of several mature BGHF trees, mostly *Eucalyptus saligna* (Sydney Blue Gum).

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- v) The stormwater plan is not supported as some of the proposed drainage lines of 225 – 450 mm diameter will conflict with remnant Blue Gum High Forest (BGHF) and root zones of 3 High Significance Heritage trees that are to be preserved.

If the Minister, notwithstanding the above stated issues, determines that the proposal has merit, the following modifications are recommended to mitigate the impacts of the proposal:

**1. Heritage**

- i) The proposed hospital buildings, forming Ward A & B, should be broken into two smaller discrete buildings.
- ii) Any linking structure should be minimal and could be below ground or elevated links, similar to the link between the East wing and Ward B.
- iii) Substantial amendments to the application are required to retain the relationship of Rippon Grange as the major built element on the site and to retain the cultural significance of the landscape.
- iv) The hospital building forming Ward A & B would need to be at least one floor lower (preferable the second storey, not the roof terrace or upper storey) and should be broken into smaller discrete buildings to their reduce the height bulk and scale, visual dominance, promote physical and visual connections through the site, particularly the north- south connection between Rippon Grange, the entry “loop” area, the stables and garden. Linking structure should be minimal and located below the entry loop area to preserve the garden area and relationships with the main building.”

**2. Heritage landscape**

- i) Modifications to the south- eastern corner of the west wing would be required to ensure the protection of the mature and significant Bunya pine.
- ii) The proposed location of the buildings on the site should be modified to reduce the effect on the canopy spreads of two highly significant heritage Brushbox, *Lophostemon confertus* trees. T45A and 66.

**3. Urban design**

- i) An institutional form of development which would incorporate both lower buildings (in terms of storeys), and a series of freestanding structures (wether they be linked to suit building programme requirements or not) would enable a more appropriate solution to the site and location's key characteristics.
- ii) Suitable treatments would need to be included to ameliorate amenity issues related to privacy on the western boundary and in the south-west corner of the site.

**4. Biodiversity - ecology**

- i) All non-indigenous plantings within the 8004 m2 proposed for management as Blue Gum High Forest should be removed, except possibly for individual trees for which very special

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heritage significance can be demonstrated. The vegetation management plan seems to suggest that this area can be managed both as Blue Gum High Forest and as a heritage garden. This is neither desirable nor feasible. It will detract from the integrity of the Blue Gum High Forest, without providing any real heritage benefits."

- ii) The SIS fails to recognise more recent mapping undertaken by Teresa James Flora Consulting (TJ 2008), which includes additional very highly disturbed areas of BGHF within the site. It is recommended that BGHF mapped by James Flora Consulting (TJ 2008), located outside proposed building footprints be retained and protected.
- iii) The siting of the East Wing footprint fails to provide any buffer zone to BGHF on site. This is inconsistent with previous review of the site (*Murlan Consulting Pty Ltd v Ku-ring-gai Council* [2007] NSWLEC 374 at 87, TJ 2008). It is recommended that any proposed development should provide a minimum buffer zone of 10m.

## 5. Hydrology

Further work, as indicated below, is required to characterise the shallow groundwater system fully in order to assess potential impacts on the Blue Gum High Forest and design appropriate mitigation measures more rigorously:

- a) Installation of additional piezometers to allow monitoring of the perched groundwater system in the residual clay profile in the areas where construction will occur close to the BGHF. These should be drilled to the base of the clay profile/ top of bedrock or immediately below. Installation of at least two pairs of piezometers is recommended, with one located a few metres down slope of the other in each pair to allow accurate assessment of local hydraulic gradients.
- b) Hydraulic testing in all piezometers to allow estimation of hydraulic conductivity values of the shallow strata (note: it is acknowledged that interpretation of results of such testing in clay formations can carry uncertainty, but results will at least provide indicative values).
- c) Monitoring of groundwater levels, fluctuations and hydraulic gradients in the sensitive areas for a period of at least several months (ideally including one or more rain events).
- d) Characterisation of the shallow groundwater system, including existing groundwater level conditions and fluctuations, response to rainfall and quantification of the groundwater flux under a range of conditions.
- e) Assessment of potential losses due to the proposed development, mitigation measures required and design of such measures.
- f) Review of the potential losses and proposed mitigation measures by a suitably qualified ecologist for assessment of potential impacts to the BGHF and suitability of mitigation measures proposed.

## 6. Landscaping

- a) Root mapping should be conducted to determine the depth and size of tree roots in the vicinity of any proposed kerb and guttering along the western side of Young Street prior to

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commencing engineering design work. In-ground installation of electric power lines should be carried out along the eastern side of Young Street to avoid damage to the above mentioned BGHF trees root systems.

**7. Traffic and parking**

- i) Parking on the site should be provided in accordance with RTA guidelines to minimise spillover and impacts to adjoining residential areas.
- ii) Parking space dimensions and aisle widths shall be provided in accordance with RTA guidelines. Clarification is required as to the allocation of spaces for employees and visitors, as this would control the width of the spaces and aisles.
- iii) To maintain sight distances and sight lines to pedestrians, there should be low fences at the access points within the 2m wide x 5m long sight line triangle specified in DCP 43.
- iv) The proponent should be required to prepare a construction traffic management plan addressing factors such as site access points, heavy vehicle movements and deliveries, pedestrian movements and employee parking.
- v) Heavy construction vehicles should not be permitted to access the site during the standard school zone times.
- vi) The proponent is to seek Ku-ring-gai Traffic Committee approval for the installation of full-time 'No Parking' restrictions in Water Street, Young Street and Randolph Street for the duration of the works.
- vii) The proponent should be required to construct kerb, gutter and footpath on the western side of Young Street, and should be required to underground power/overhead communication lines on the site's frontage in Young Street to improve pedestrian access and safety around the site's frontage.

**8. Waste services**

- i) Sufficient storage for the number and size of waste and recycling containers to serve the development should be contained within the buildings. Separate areas for medical and hazardous waste should also be included in the design.
- ii) The application must demonstrate in the design of the access road the ability for an 11 metres rigid waste and recycling collection vehicle to enter negotiate the access roads and exit the development.
- ii) The plans need to indicate the locations where bins would be positioned for collection.
- iv) Waste containers, such as skip bins, should not to be located in the ground level carpark just inside the Young Street entrance.

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**9. Engineering**

- i) To facilitate fire fighting operations to mid- and/ or high-rise buildings (ie buildings which have a rise in storeys greater than 3), the NSW Fire Brigades is to be consulted in regard to the minimum vehicular carriageway widths.
- ii) Documentary evidence is to be provided that a drainage easement has been created over 64 Billyard Avenue, and a design for the pipe within the easement has been prepared.
- iii) The construction management plan is to be amended to include a definite statement regarding construction employee parking, which is to be on- site in a designated area, and the location is to be to the satisfaction of the Council's Ecological Consultant.
- iv) The stormwater drainage documentation is to be amended to reflect Council's storage factor for the on site detention volume. It is expected that the only detention storage required will be in a below ground tank under the parking area off Young Street.
- v) The stormwater drainage documentation is to be amended to remove a reference to treatment of retained roofwater prior to re-use and to remove the superseded items.
- vi) The stormwater and/ or landscape plans are to be amended so that the proposed levels and future use of the tennis court and croquet lawn are consistent.
- vii) Council's Development Engineer has concerns in respect of the size of the easement over 64 Billyard Avenue and the attenuation of on-site above ground and below ground detention tanks. It is considered that the on-site detention is excessive.

**RECOMMENDATION**

- A. That Council adopt this report and attachments as the basis for its submission to the Department of Planning.
- B. That the final submission be submitted to the Department of Planning prior to 30 July, 2009.
- C. That the submission be released on Council's website, to enable the public to use it as a basis for their own submissions.

G Stewart  
**Executive Assessment  
Officer**

S Garland  
**Team Leader  
Development  
Assessment Team South**

M Miocic  
**Director  
Development &  
Regulation**

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Attachments:

1. Minister's major project declaration and application - 2009/109621, 2009/109623, 2009/109626, 2009/109633, 2009/109638
2. Director General's requirements - 2009/110552
3. Expert consultant's reports - P & J Smith Ecological Consultants, Worley Parsons, IGGC, Colleen Morris - 2009/110569, 2009/110579, 2009/110588, 2009/110607
4. Land and Environment Court judgement in respect of 11193/2006, DA855/06 - 2009/110611, 2009/110615
5. Plans of the proposed development - 2009/110620, 2009/110622, 2009/110625, 2009/110626

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	1 ELEGANS AVENUE, ST IVES - SECTION 82A REVIEW OF COUNCIL'S REFUSAL OF DA1326/08 PROPOSING DUAL OCCUPANCY DEVELOPMENT
<b>WARD:</b>	St Ives
<b>DEVELOPMENT APPLICATION NO:</b>	REV0015/09
<b>SUBJECT LAND:</b>	1 Elegans Avenue, St Ives
<b>APPLICANT:</b>	Mr Kenneth Scannell and Mrs Shirley Ann Scannell
<b>OWNER:</b>	Mr K & Mrs S A Scannell
<b>DESIGNER:</b>	Dennis Atterbury Architect
<b>PRESENT USE:</b>	Single occupancy dwelling
<b>ZONING:</b>	Residential 2(c)
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	SEPP 53 – Metropolitan Residential Development
<b>COUNCIL'S POLICIES APPLICABLE:</b>	Ku-ring-gai Planning Scheme Ordinance, Dual Occupancy Development Control Code, DCP 40 Waste Management, DCP 43 Car Parking Code, DCP 47 Water Management, DCP 56 Notification
<b>COMPLIANCE WITH CODES/POLICIES:</b>	No
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP 55 – Remediation of Land, SEPP (BASIX) 2004, SEPP 53 – Metropolitan Residential Development, SREP (Sydney Harbour Catchment) 2005
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	No
<b>DATE LODGED:</b>	4 June 2009
<b>40 DAY PERIOD EXPIRED:</b>	14 July 2009
<b>PROPOSAL:</b>	Section 82A Review of Council's refusal of DA1326/08 proposing dual occupancy development
<b>RECOMMENDATION:</b>	Refusal.





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The application was refused under officer delegation on 16 March 2009. The reasons for refusal were as follows:

1. **Bulk and scale:** - *The proposed new dwelling is excessive in terms of its visual bulk and scale, and would result in a development that is out of keeping with the character of the existing streetscape*

**Particulars:**

- a) *Height:* - *the proposed dwelling is excessive in terms of its height, and presents as a 3 storey development to the primary street frontage of Elegans Avenue.*
  - b) *Cut and fill:* - *the proposed development does not comply with cut and fill requirements, proposing in excess of 900mm cut and fill (up to 1.7metres) across numerous parts of the site.*
  - c) *First floor space ratio (FSR):* - *The proposed new dwelling (Dwelling 2) does not comply with Council's first floor FSR control proposing a first floor FSR of 48%.*
  - d) *Building envelope:* - *the proposed Dwelling 2 has a 4.5 metres breach to the required building envelop along the south-east elevation.*
2. **Building setbacks:** - *The proposed new dwelling fails to comply with Council's building setback requirements.*

**Particulars:**

- a) *Primary Street minimum setback:* - *Proposed Dwelling 2 does not comply with the 12 metres minimum front setback requirement, having a setback of 3 metres to Elegans Avenue.*
  - b) *Secondary Street minimum setback:* - *Proposed Dwelling 2 does not comply with either the 7 metres or 5 metres corner site setback requirements, having a minium setback of 3 metres from Cassandra Avenue.*
  - c) *Side setback:* - *Proposed Dwelling 2 does not comply with Council's side setback requirements at either the ground or first floor, having a side setback of 1.4 metres to both aspects along the south-east elevation.*
  - d) *Building separation:* - *Council's Dual Occupancy Code identifies that the setback between detached dual occupancy dwellings should be a minimum of 7 metres. The proposed development fails to satisfy this control, providing a separation of 2.6 metres between the dual occupancy dwellings.*
3. **Private open space:** - *Council's Dual Occupancy Code states that private open space areas of dual occupancy developments should be of a sufficient dimension to meet the needs and requirements of the dwelling's residents.*

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**Particulars:**

- a) *Private open space: - The proposal fails to meet the minimum requirement of 100 square metres for each dwelling, as proposed Dwelling 2 has been provided with only 35 square metres of private open space.*
- b) *Grade: The proposed development does not comply with Council's private open space grade control for either Dwelling 1 or 2, proposing grades of 1 in 2 and 1 in 3 for the proposed private open space areas of these dwelling, respectively.*
- 4. **Tree & vegetation removal & impacts:** - *The proposed development fails to satisfy Council's landscaping requirements in relation to tree and vegetation removal and impacts.*

**Particulars:**

- The applicant has failed to address the likely occurrence of the endangered ecological community Sydney Turpentine Ironbark Forest occurring on site or issues relating remnant vegetation on site consistent with this community and the impacts upon this community resulting from the proposed works.*
- 5. **Engineering:** - *The proposed development fails to satisfy Council's engineering requirements.*

**Particulars:**

- a) *On site retention: -the on-site retention (OSR) requirements for the site have not been satisfied. The OSR must satisfy the minimum water commitment in accordance with the BASIX requirements of 8,500L, hence a combined storage of 11,300L.*
- 6. **Insufficient/inadequate information:** -  
*The application is deficient in regard to providing adequate information for Council to be able to make an informed assessment.*

**Particulars:**

- a) *Statement of Environmental Effects (SEE) - the statement of environmental effects (SEE) submitted with the proposal fails to adequately address all aspects of SEPP No.53, KPSO and Council's Dual Occupancy Code.*
- b) *Built-upon area calculations: - the applicant did not provide coloured plans detailing built-upon area calculations to demonstrate compliance with this control, as per Council's DA Guide*
- c) *On-site retention: - revised section details of the tank with supporting calculations have not been provided.*
- d) *Solar access: - insufficient information has been provided in relation to solar access provision for the private open space for Dwelling 1.*

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- e) *Manoeuvrability/Site Plan: - the site plan has not been amended to show the turning path and manoeuvrability proposed for vehicles to safely enter and exit the north-eastern side garage parking space via the proposed driveway. The design provided must use the Australian Standard 2890.1 (2004) "Off-Street car parking" B85 design template.*
- f) *Driveway longitudinal section: - the applicant has failed to provide a driveway longitudinal section and any necessary cross-sections clearly demonstrating that the driveway complies with Australian Standards 2890.1 -2004 "Off Street car parking".*
- g) *Arborist/Ecological report: - an arborist's report addressing the issues as outlined has not been provided.*
- h) *Bushfire report: - a bushfire report, including details of vegetation removal/management has not been submitted.*
- i) *Landscape plan: - the landscape plan has not been amended so as to comply with both BASIX and bushfire management requirements (i.e. site to be maintained as an inner protection area).*
- j) *Rainwater tanks: - the overflow from the below ground 'raincycle' rainwater tank does not have gravity fall to the silt arrestor pit P1. The levels at the pit boundary are to be checked and verified prior to the submission of additional information. In addition, the location of the minimum 5,000L rainwater tank and the drainage pipelines for the existing residence are to be shown in accordance with Council's Water Management DCP No.47.*

**Current development application**

The current application (REV0015/09) seeks a review of Council's refusal of DA1326/08 for a dual occupancy development on the site. The review application proposed the following amendments to the refused proposal (DA1326/08).

- i) Reduction in the depth of proposed garage located on the lower ground floor by 500mm.
- ii) Inclusion of hipped upper gable and hipped roof to the entrance presenting to Elegans Avenue.
- iii) Deletion of the first floor upper level bay window along the eastern elevation of the master bedroom.

Following a preliminary assessment of REV0015/09, it was considered that the application did not adequately address the reasons for refusal of DA1326/09.

Council officers advised the applicant that the application was not supported on 25 July 2009 and also raised the following concerns:

- site suitability

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- bulk and scale
- front setback
- private open space
- inadequate information
- landscaping impacts
- engineering impacts

The applicant elected not to amend the proposal to address these concerns but instead lodged a class 1 appeal with the Land and Environment Court on 27 August 2009.

## THE SITE AND SURROUNDING AREA

### The site

Zoning:	Residential 2(c)
Visual Character Study Category:	1945–1968
Lot Number:	101
DP Number:	218856
Area:	1303m <sup>2</sup>
Frontage:	35.75m Elegans Avenue & 44.19m Cassandra Avenue, 15.76m splay
Heritage Affected:	No
Integrated Development:	No
Bush Fire Prone Land:	Yes – Bushfire prone vegetation buffer
Endangered Species:	Yes – Sydney Turpentine Ironbark Forest (potential impact to endangered ecological community)
Urban Bushland:	No
Contaminated Land:	No

### Site description

The site is a corner allotment located at the north-eastern corner of the intersection of Elegans Avenue and Cassandra Avenue, St Ives and sits on the high side of Elegans Avenue.

The site has an area of 1303m<sup>2</sup> and forms an irregular triangular shape, with a splayed corner adjacent to the intersection. The site contains two street frontages of approximately 44.19 metres to Elegans Avenue and 35.75 metres to Cassandra Avenue, with a splay of 15.76 metres to the junction. The site slopes from the south-west to the north-east, with a maximum 6.5 metres cross fall along the south-eastern property boundary.

Development on the site currently comprises a two (2) storey dwelling house with a swimming pool and cabana located within the north-eastern corner of the site. The site contains a driveway on natural slope, located towards the east of the site. A 800mm high retaining wall is located along the Elegans Avenue frontage. The dwelling presents to Elegans Avenue with a double carport and driveway located within the eastern side setback. Mature trees are located within the front, side and rear setbacks and within the Elegans Avenue nature strip.

1 Elegans Avenue – subject site (high side)



View context:

Southern end of subject site with existing dwelling viewed from Elegans Avenue.



Surrounding development:

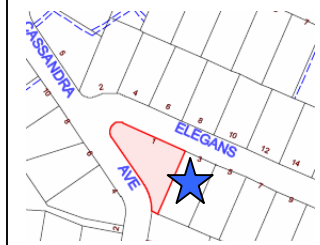
The locality is characterised by established gardens and open landscapes with a mixture of single and two (2) storey detached dwelling houses of varying architectural styles with predominantly uniform front building setbacks. The northern side of Cassandra Avenue is relatively steep, with swimming pools located within the front setback.

3 Elegans Avenue (high side)



View context:

3 Elegans Avenue adjacent south to the subject site viewed from Elegans Avenue.



5 Elegans Avenue (high side)



View context:

5 Elegans Avenue  
located to the south  
viewed from Elegans  
Avenue.



6 Elegans Avenue (low side)



View context:

6 Elegans Avenue,  
opposite to the east  
viewed from Elegans  
Avenue.



4 Elegans Avenue (low side)



View context:

4 Elegans Avenue to  
the north viewed from  
Elegans Avenue.



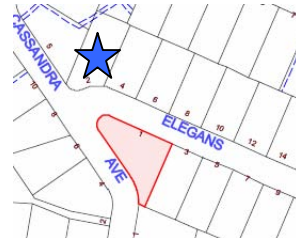


2 Elegans Avenue (low side)



View context:

2 Elegans Avenue to the north viewed from Elegans Avenue.



8 Cassandra Avenue

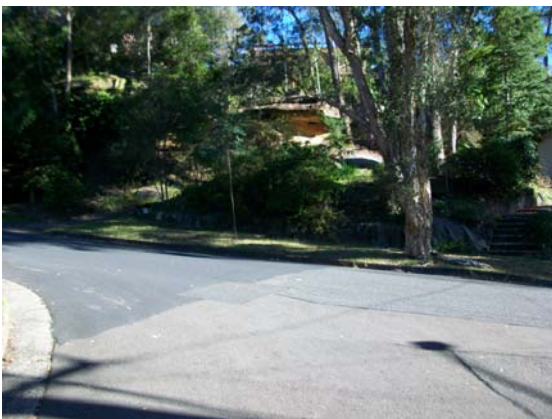


View context:

8 Cassandra Avenue to the west viewed from Cassandra Avenue.



6 Cassandra Avenue



View context:

6 Cassandra Avenue to the west viewed from Cassandra Avenue.





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4 Cassandra Avenue



View context:

4 Cassandra Avenue to the west viewed from Cassandra Avenue.

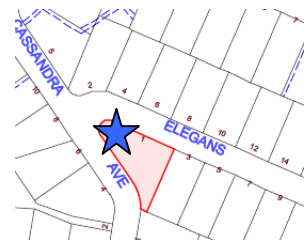


THE PROPOSAL



View context:

Northern end of Subject site 1 Elegans Avenue (location of proposed dual occupancy) viewed from Elegans Avenue



The proposal involves retention of the existing two (2) storey dwelling, the demolition of the existing swimming pool, cabana and removal of eleven (11) trees and the construction of a three (3) storey dwelling to create a detached dual occupancy development.

The details of the proposed dwelling are as follows;

- Construction of a three (3) storey detached dwelling, comprising of 3 bedrooms (one with ensuite), living room, dining room, kitchen and study adjacent to the sites existing two storey dwelling, with a separation of 2.6m between the dwellings. Vehicular access is proposed via a driveway from Elegans Avenue.

## CONSULTATION - COMMUNITY

In accordance with DCP No.56, owners of surrounding properties were given notice of the application and no submissions were received.

## CONSULTATION - WITHIN COUNCIL

### Landscaping

Council's Landscape Officer, Stephen Fenn commented on the amended proposal as follows:

*The proposal is not supported for the following reasons;*

*The discharge line from P1 to the kerb requires relocation to the western side of the driveway to avoid trenching through the root systems of T29: *Pittosporum undulatum* (Sweet Pittosporum) and T30: *Callistemon salignus* (Willow Bottlebrush) growing on the Elegans Avenue nature strip.*

*The Rural Fire Service's recommendations stated that the site be managed as an Inner Protection Zone. The landscape plan would not comply with bushfire management guidelines. Some necessary clearing of existing vegetation would affect amenity issues in relation to screening of the development.*

### Comment:

Council's Landscape Officer has also raised concern regarding the proposed continuous 1.5m screen planting located along the splay and along Cassandra Avenue. The Rural Fire Service has recommended that the site be managed as an Inner Protection Area, whereby planting forming a continuous canopy is discouraged.

In addition, Council's Development Engineer has raised vehicular manoeuvrability concerns regarding this portion of the proposed driveway and retaining wall.

The applicant has provided sufficient information to allow Council to undertake an assessment of potential threatened ecological communities on site. Council's Landscape Assessment Officer has not raised an objection to the removal of 3 trees identified as being from a Sydney Turpentine Ironbark Forest endangered ecological community or Sydney Sandstone Gully Forest due to their poor health.

However, Council's Landscape Officer has raised concerns regarding the proposed western side of the driveway affecting two significant trees (*Pittosporum undulatum* and *Callistemon salignus*) located on the Elegans Avenue nature strip.

### Engineering

Council's Development Engineer, Masa Kumira, commented on the amended plans as follows:

*Following a perusal of the submitted plans and site inspection, Development Engineers have the following concerns:*

***BASIX certificate***

*The BASIX Certificate is incomplete, and does not allow Council to make an informed assessment of the development. The submitted documents have pieced together 2 incomplete certificates.*

***Rainwater tank***

*The applicant has not provided a revised stormwater drainage plans detailing the location of the minimum required 5,000L rainwater tank and drainage pipelines for the existing residence in accordance with Council's Water Management DCP47. The rainwater tank storage for the proposed dwelling shall also be consistent with the revised BASIX Certificate required above.*

***Property drainage***

*The applicant has not provided revised stormwater drainage plans demonstrating gravity drainage from the rainwater tank to the street drainage system in accordance with Council's Water Management DCP47 and AS/NZS 3500 – Plumbing and Drainage Code. The outlets to the rainwater tank and Pit P1 are the same.*

*Attention should also be given to the proposed stormwater drainage line traversing the front of the garage. The invert level provided (RL 89.6) suggests that the pipe will run 600mm above the garage floor level.*

*Due to the presence of rock and the steepness of the site, additional pits will be required towards the rear to convey stormwater runoff around the property.*

***Geotechnical***

*The applicant has failed to submit a geotechnical report in accordance with Section 5K of Council's DA Guide. The proposed excavation for the site will be greater than 2 metres.*

***Vehicle manoeuvrability***

*The applicant has failed to submit turning circle templates for the B85 vehicle overlaid on the site plans which demonstrate that vehicles to exit the eastern garage space can adequately manoeuvre through the site. It is envisioned that vehicles will be damaged as a result of the required retaining walls adjacent to the proposed driveway.*

**Comment:**

Council's Development Engineer has raised numerous issues regarding the proposed works, seeking a revised BASIX Certificate and drainage plans. The applicant has also failed to provide a geotechnical report and collectively this lack of information impedes Council's ability to undertake an informed assessment.

## CONSULTATION – OUTSIDE COUNCIL

### Rural Fire Service

In accordance with the provisions of Section 79BA of the Environmental Planning and Assessment Act 1979, Council consulted with the Commissioner of the NSW Rural Fire Service, concerning measures to be taken with respect to persons, property and the environment from danger that may arise from a bushfire. The comments provided by the Rural Fire Service are consistent with the recommendations provided for DA1326/08. Their recommendations are as follows:

*In accordance with section 79BA of the Environmental Planning and Assessment Act 1979, The Service provides the following recommended conditions:*

#### ***Asset Protection Zone***

*The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with building.*

1. *At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area as outlined within Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service document 'Standards for asset protection zones'.*
  - *The Inner Protection Area should comprise of the following:*
    - *minimal fine fuel at ground level;*
    - *vegetation that does not provide a continuous path to building/s for the transfer of fire;*
    - *shrubs and trees that do not form a continuous canopy and vegetation;*
    - *planted/cleared into clumps rather than continuous rows;*
    - *species that retain dead material or deposit excessive quantities of ground fuel are avoided;*
    - *shrubs and trees are pruned or removed so they do not touch or overhang the building/s; and*
    - *vegetation is located far enough away from the building/s so that plants will not ignite the building/s by direct flame contact or radiant heat emission.*
2. *To allow for emergency service personnel and residents to undertake property protection activities, an unobstructed pedestrian access is to be provided around the buildings.*

#### ***Design and construction***

3. *New construction is to comply with Appendix 3 -Site Bush Fire Attack Assessment of Planning for Bush Fire Protection 2006. In this regard the*

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*following design standards for construction are to be incorporated into the development:*

- a) Roofing shall be gutter less or have leafless guttering and valleys to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.*

***Landscaping***

- 4. Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bush Fire Protection 2006. In this regard the following landscaping principles are to be incorporated into the development:*

- a) Suitable impervious areas being provided immediately surrounding the building such as courtyards, paths and driveways.*
- b) Grassed areas/mowed lawns/or ground cover plantings being provided in close proximity to the building.*
- c) Restrict planting in the immediate vicinity of the building which may over time and if not properly maintained come in contact with the building.*

**STATUTORY PROVISIONS**

The application was lodged under the provisions of s.82A of the EPA&A Act, consequently it must meet the following test;

*"82A Review of determination*

- (1) If the consent authority is a council, an applicant may request the council to review a determination of the applicant's application, other than;*

- (a) a determination to issue or refuse to issue a complying development certificate, or*
- (b) a determination in respect to designated development, or*
- (c) a determination in respect to integrated development*
- (d) a determination made by the council under section 116E in respect of an application by the Crown*

- (2) A request for a review may be made at any time, subject to subsection (2A)*

- (2A) A determination cannot be reviewed;*

- (a) after the time limited for the making of an appeal under section 97 expires, if no such appeal is made against the determination, or*
- (b) after an appeal under section 97 against the determination is disposed of by the Court, if such an appeal is made against the determination*
- (3) The prescribed fee must be paid in connection with a request for a review.*
- (3A) In requesting a review, the applicant may make amendments to the development described in the original application, subject to subsection (4) (c).*

- (4) The Council may review the determination if;*

- (a) if has notified the request for review in accordance with:*

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- (i) The regulations, if the regulations so require, or*
- (ii) A development control plan, if the council has made a development control plan that requires the notification or advertising of request for the review of its determinations, and*
- (b) it has considered any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan, as the case may be, and*
- (c) in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended is substantially the same development as the development described in the original application”.*

The proposal meets the above test, as follows:

- The application was not a complying development certificate, designated or integrated development or a determination under section 116E of the EP&A Act 1979 in relation to the Crown.
- The review has been lodged within sufficient time as required under section 82A(2)(2a) of the EP&A Act 1979.
- The applicable fee has been paid
- The application has been notified in accordance with the regulations and Council's Notification Policy DCP 56
- No submissions were received
- The application has been amended but remains substantially the same development as described in the original refused application.

### **State Environmental Planning Policy No 55 - Remediation of Land**

Given that the only known use of the site is for residential purposes, the land is unlikely to be contaminated and the provisions of SEPP 55 do not require any additional conditions to be imposed.

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

### **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The applicant has failed to provide a valid BASIX Certificate.

### **State Environmental Planning Policy No 53 - Metropolitan Residential Development**

Note: For the purposes of clarity, the existing dwelling of the site is referred to as 'Dwelling 1', the proposed Dwelling is referred to as 'Dwelling 2'.

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COMPLIANCE TABLE		
Development standards	Proposed	Complies
<b>Allotment size (cl.19(1)(a))</b> • 600m <sup>2</sup> attached dual occ. (min)	1303m <sup>2</sup>	YES
<b>Floor space ratio (cl.19(1)(b))</b> • 0.5:1 (max) (651.5 m <sup>2</sup> )	0.32:1 (417.7 m <sup>2</sup> )	YES
<b>Car parking (cl.20)</b> • Dwelling 1: 2 car spaces (min) • Dwelling 2: 2 car spaces (min)	Dwelling 1: 2 car spaces Dwelling 2: 2 car spaces	YES YES

The aims of SEPP No. 53 are outlined in clause 3(1) as follows:

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

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

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

The proposed development does not comply with objective 3(1)(d). The proposed development results in adverse streetscape impacts due to inadequate front setbacks and excessive bulk and scale. The proposal seeks the construction of a three (3) storey dwelling with a 3 metre minimum setback and average setback of 6.9 metres which is inconsistent of the predominant building alignment within Elegans Avenue.

The proposed dual occupancy is on the high side of Elegans Avenue. It has been demonstrated that all dwellings in the high side of Elegans Avenue have a front setback of at least 12 metres. As such, proposed dwelling will be distinctly out of character with the established streetscape of Elegans Avenue.

**Aerial Photograph of surrounding development**



**Minimum front setbacks of surrounding development**

Property Address	Minimum front setback of dwellings
3 Elegans Avenue	13m
5 Elegans Avenue	12m
6 Elegans Avenue	14m
4 Elegans Avenue	12m
2 Elegans Avenue	13m
8 Cassandra Avenue	12m
6 Cassandra Avenue	20m
4 Cassandra Avenue	8m

**Site analysis (cl.31):**

The documentation submitted with the application is acceptable with respect to the requirements of Clause 31 and Schedule 5 of the SEPP.

**Streetscape (cl.32(a)):**

The streetscape provisions of SEPP 53 state that dual occupancy development should:

- (i) *contribute to an attractive residential development, with clear character and identity, and*



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- (iii) *where possible, retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan.*

The proposed development is inconsistent with clause 32(a) (i) as it is incongruent with the prevailing surrounding streetscape character of the locality. The character is defined by large, landscaped front setbacks, featuring numerous canopy trees.

The proposed development has a minimum front setback of 3 metres to Elegans Avenue which is not acceptable. The minimal setback proposed to Elegans Avenue and Cassandra Avenue is not considered adequate to offset the bulk and scale of the development proposed. The impacts are exacerbated by the site's prominent corner location on the high side of Elegans Avenue.

**Visual privacy (cl.32(b)):**

The proposed development is unacceptable as a consequence of its privacy impacts due to the restriction of proposed screen planting located along the splay of the site. This is inconsistent with the NSW Rural Fire Service requirements for Asset Protection Zones that there should not be any shrubs or trees forming a continuous canopy.

**Acoustic privacy (cl.32(b)):**

The proposed development offers a reasonable level of acoustic privacy to the new dwellings and adjoining properties. The proposal entails adequate separation between the main living areas of each dwelling and the bedroom windows of adjoining dwellings.

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

The proposal has been designed to provide the new dwelling (Dwelling 2) with a north-facing living area. The design and siting of the proposed dwelling will provide sufficient levels of solar access to north-facing windows and private open space of adjoining properties. The proposed development would receive a compliant 3+ hours of solar access to its internal living areas and private open space areas during the winter solstice (June 22). The proposed works satisfy solar access requirements detailed within AMCORD.

**Stormwater (cl.32(d)):**

Council's Development Engineer has noted that the applicant has provided insufficient information. In this regard, the proposal is unacceptable with regard to stormwater.

**Crime prevention (cl.32(e)):**

The proposal is acceptable in terms of crime prevention.

**Accessibility (cl.32(f)):**

Council's Development Engineer has noted that the proposed driveway and retaining wall restrict vehicular manoeuvrability. In this regard, the proposal is unacceptable with regard to accessibility.

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Visual bulk (cl.32(h)):

Clause 32(h) of SEPP 53 states that the proposed development should, where practicable, maintain reasonable neighbour amenity and appropriate residential character by:

- (a) providing building setbacks that progressively increase as wall heights increase to reduce bulk and overshadowing, and*
- (b) using building form and siting that relates to the site's land form, and*
- (c) adopting building heights at the street frontage that are compatible in scale with adjacent development, and*

The proposed works fail to satisfy these objectives of the SEPP. The development which is constrained by the retention of the existing dwelling which occupies the vast majority (approximately 70%) of the total allotment size. The development area provided for Dwelling 2 only equates to approximately 30% of the existing site area, moreover, the location of the proposed dwelling is within the north-eastern portion of the site which is considered to be most sensitive due to its streetscape prominence.

The proposed dwelling progressively increases setbacks from the first floor however its bulk and scale are exacerbated due to the minimal 3 metres front setback proposed. In addition, the garage portion of the front façade is not and cannot be screened by vegetation which further contributes to adverse streetscape impacts.

The new dwelling requires excavation to 2.2 metres in depth in order to accommodate a double garage. Adjacent properties comprise two (2) storey dwellings with garages at or behind the building line. The garage is located forward of the building line and is unacceptable with regards to streetscape impact.

Significant excavation is proposed which results in poor amenity to the rear of the dwelling. This design is considered inappropriate and does not relate to the site's natural topography. The existing dwelling located on the subject site is stepped to accommodate the natural slope of the site and better integrates with the natural slope of the site.

The proposed dwelling will be three storeys with an excavated double garage. It measures 9.4 metres from the garage level to the ridge which is at RL98.70. The ridge height of the existing dwelling is at RL97.03 and the proposed dwelling exceeds the existing dwelling height by approximately 1.7 metres. The existing dwelling is set back a minimum 8 metres from Elegans Avenue which is more than twice the minimum 3 metres setback of the proposed dwelling. As such, the proposed dwelling will be unduly prominent in the context of the existing surrounding development.

The proposed first floor space ratio of the new dwelling is not commensurate with that of the existing dwelling, generating adverse visual bulk and scale impacts.

In addition, it is noted that matures trees are located within the front setback forward of the existing dwelling which help screen the proposed dwelling from the street. The proposal seeks

## Item 6

the removal of several mature trees within the front setback resulting in the reduced vegetative screening.

**Ku-ring-gai Planning Scheme Ordinance (KPSO)****Part A: Development standards**

COMPLIANCE TABLE		
Development standard	Proposed	Complies
<b>Building height</b> 8m (max)	Dwelling 1 : 5.7m (no change to existing condition) Dwelling 2: 7.9m	YES YES
<b>Built-upon area</b> 60% (max)	approx 41 % (535.2sqm)	YES
Notional built-upon area	Dwelling 1: 358.7sqm Dwelling 2: 176.4sqm	YES YES

**Part B: Aims and objectives for residential zones**

The development is unsatisfactory having regard to the following general aims and objectives for residential development as outlined in Clause 1 of Schedule 9:

- (a) to maintain and, where appropriate, improve the existing amenity and environmental character of residential zones*

The development is unsatisfactory with regard to the following objective specified in Clause 2 of Schedule 9:

- (e) all new dwelling-houses and additions to existing dwelling-houses are of a height, size and bulk generally in keeping with that of neighbouring properties and, where larger buildings are proposed, they are designed so as not to dominate and so far as possible to harmonise with neighbouring development.*

The proposed dwelling is considered to be inappropriate and detracts from the existing environmental character of the streetscape. The application proposes an additional three (3) storey dwelling, set 3 metres from the front boundary which would be incongruous with the existing streetscape in which there are no three (3) storey dwellings and in which the front setbacks range from 12 – 14 metres. The proposed garage is located at street level which necessitates unnecessary significant cut which is uncharacteristic of the streetscape where garages and carports are accommodated on the natural slope of the land.

**Part C: Heritage/conservation areas**

The subject site is not located within an Urban Conservation Area nor within the immediate vicinity of a heritage item.

## POLICY PROVISIONS

### Development Control Plan 40 - Construction and Demolition Waste Management

A Waste Management Plan has been provided and satisfies the requirement of DCP 40 - Construction and Demolition Waste Management.

### Development Control Plan No 43 - Car Parking

The proposal fails to provide adequate vehicular movement for the proposed two (2) parking spaces for Dwelling 2.

### Council's Dual Occupancy Development Control Code

COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>4.2 Streetscape:</b>		
<b>Roof pitch</b> <ul style="list-style-type: none"> <li>3m roof height-2 storey (max)</li> <li>Roof pitch 35° (max)</li> </ul>	Dwelling 1: Existing to be retained	Insufficient information
	Dwelling 2: 1.5m (max)	YES
	Dwelling 1: Existing to be retained	Insufficient information
	Dwelling 2: 19°	YES
<b>Fences</b> <ul style="list-style-type: none"> <li>Height: 0.9m (solid fence) (max)</li> <li>Height: 1.2m (transparent fence) (max)</li> </ul>	Dwelling 1: Not existing	N/A
	Dwelling 2: 1.2m retaining wall along Elegans Avenue, 1.8m timber lapped and capped timber fence existing along Cassandra Avenue. It is noted on the landscaping plan that the existing Colourbond fence is to be retained.	NO
	Dwelling 1: Not existing	N/A
	Dwelling 2: 1.2m Paling fence along splay and Cassandra Avenue	YES

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COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>4.3 Visual and acoustic privacy:</b>		
<b>Visual privacy</b>		
<ul style="list-style-type: none"> <li>Windows to habitable rooms set back 9m from neighbouring windows (min)</li> </ul>	Dwelling 1: Existing family room window along north-west elevation located within 9m of proposed neighbouring windows  Dwelling 2: Window proposed for first floor bedroom along south-east elevation	NO  NO
<b>4.4 Solar access and design for climate:</b>		
<b>Solar access</b>		
<ul style="list-style-type: none"> <li>Dual occupancy receives 3+ hours of solar access between 9am and 3pm (min)</li> </ul>	Dwelling 1: Sufficient levels of solar access achieved  Dwelling 2: Sufficient levels of solar access achieved	YES  YES
<ul style="list-style-type: none"> <li>Neighbouring properties receive 3+ hours of solar access between 9am and 3pm (min)</li> </ul>	All neighbouring properties receive 3+ hours solar access	YES
<b>Energy efficiency</b>		
<ul style="list-style-type: none"> <li>BASIX                             <ul style="list-style-type: none"> <li>40% reduction in water usage</li> <li>40% reduction in energy usage</li> </ul> </li> </ul>	BASIX Certificate not valid	NO
<b>4.7 Accessibility:</b>		
<b>Vehicular access and car parking dimensions</b>		
<ul style="list-style-type: none"> <li>Garage – 5.5m x 5.4m (min)</li> </ul>	Dwelling 1: 6.2 x 5.2m - existing carport to be retained  Dwelling 2: 5.8m x 5.4m	YES  YES
<b>4.9 Visual bulk:</b>		
<b>Building setbacks</b>		
<ul style="list-style-type: none"> <li>Front building line: Minimum setback: 12m</li> </ul>	Dwelling 1: 8m (existing building line)  Dwelling 2: 3m (ground floor balcony)	NO  NO

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COMPLIANCE TABLE		
Development control	Proposed	Complies
<ul style="list-style-type: none"> <li>Corner site street Frontage setback: 3.8 – 7.0</li> <li>Side setback: 2.6m (min) (between dwellings)</li> <li>Ground floor: 3.45m (min)</li> <li>1<sup>st</sup> floor 4.3m (min)</li> <li>Rear setback: 15% site depth : 3m</li> </ul>	Dwelling 1: Not situated on corner	N/A
	Dwelling 2: 3m	NO
	Dwelling 1: 1.2m (NW)	NO
	Dwelling 2: 1.4m (SE)	NO
	Dwelling 1: 1.2m (NW)	NO
	Dwelling 2: 1.4m (SE)	YES
	Dwelling 1: 2m (SE)	NO
	Dwelling 2: 1.4 (SE)	NO
	Dwelling 1: 12m No change to existing condition	YES
	Dwelling 2: N/A (site presents as two street frontages and side boundary)	N/A
<ul style="list-style-type: none"> <li>No garages, tennis courts, swimming pools, courtyard walls and other major built elements forward of the building line.</li> </ul>	Dwelling 1: Minor encroachment of carport eave located forward of the building line	NO
	Dwelling 2: Garage, balcony and external wall located forward of the building line	NO
<b>Building form</b> <ul style="list-style-type: none"> <li>Unrelieved wall length: 12m for walls less than 4m in height, 8m for walls more than 4m in height</li> <li>Total building length: 24m (max)</li> </ul>	Dwelling 1: compliant, existing to be retained	YES
	Dwelling 2: 9m x 5m along south western elevation	NO
	Dwelling 1: 23.4m – no change to existing condition	YES
	Dwelling 2: 15.8m	YES
<b>Built-upon area</b> <ul style="list-style-type: none"> <li>Total built upon area (max): 40%</li> <li>Notional built-upon area</li> </ul>	approx 41 % (535.2sqm)	NO
	Dwelling 1: 358.7sqm Dwelling 2: 176.4sqm	YES YES

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COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Floor space ratio</b> <ul style="list-style-type: none"> <li>FSR (max): 0.5:1</li> <li>1<sup>st</sup> floor – 40%</li> </ul>	<p>0.32:1</p> <p>Dwelling 1: No change to existing condition</p> <p>Dwelling 2: 86%</p>	<p>YES</p> <p>Insufficient information</p> <p>NO</p>
<b>Height of buildings</b> <ul style="list-style-type: none"> <li>Dwelling fronting street: 8m (max)</li> <li>Building envelope: 45° from horizontal at any point 3m above boundary</li> </ul>	<p>Dwelling 1: No change to existing condition</p> <p>Dwelling 2: 7.9m</p> <p>Dwelling 1: No change to existing condition</p> <p>Dwelling 2: Compliant with building height plane</p>	<p>Insufficient information</p> <p>YES</p> <p>Insufficient Information</p> <p>YES</p>
<b>Cut and fill (building works)</b> <ul style="list-style-type: none"> <li>Cut &amp; fill: 900mm &amp; Total 1800mm (max)</li> </ul>	<p>Dwelling 1: No change to existing condition</p> <p>Dwelling 2: 3200mm (max) cut proposed for lower ground floor area</p>	<p>Insufficient Information</p> <p>NO</p>
<b>Section 5: Landscaping &amp; Open Space</b>		
<b>Total soft landscaping : 60% (min)</b>	<p>59% (768.77m)</p>	<p>YES</p>
<b>Tree retention and refurbishment</b> <ul style="list-style-type: none"> <li>No. of Trees: Seven (7) (min)</li> </ul>	<p>Dwelling 1: 7 Trees</p> <p>Dwelling 2: 7 Trees</p>	<p>YES</p> <p>YES</p>
<b>Cut &amp; fill (landscaping)</b> <ul style="list-style-type: none"> <li>Cut &amp; Fill: 900mm &amp; Total 1800mm</li> </ul>	<p>Dwelling 1: No change to existing condition</p> <p>Dwelling 2: 3100mm</p>	<p>Insufficient Information</p> <p>NO</p>

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COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Open space provisions</b> <ul style="list-style-type: none"> <li>Area: 100m<sup>2</sup> or 2 x 75m<sup>2</sup> areas (min)</li> <li>Min dimension 5m x 5m (min)</li> <li>Grade: 1 in 8 (max) 12.5° (max)</li> <li>50% receives 3+ hours solar access (min)</li> </ul>	Dwelling 1: Greater than 100sqm	YES
	Dwelling 2: Not provided (elongated curtilage area within boundary setback), approx 35sqm	NO
	Dwelling 1: 18m x 18m (avg)	YES
	Dwelling 2: 6.5m x 4m (avg)	NO
	Dwelling 1: area to rear of existing dwelling at insufficient grade	NO
	Dwelling 2: 2.25 in 8 22.5° (max)	NO
	Dwelling 1: Sufficient levels of solar access provided, Open space receives 3 hours solar access	YES
	Dwelling 2: Sufficient levels of solar access provided, Open space receives 3 hours solar access	YES

### Building setbacks

DA1326/08 was refused on grounds of non-compliance of primary and secondary building setbacks. This issue has not been addressed in the current review application.

Council requires a minimum front setback of 12 metres for building works located on the high side of the street. Dwellings in Elegans Avenue present an established uniform front setback ranging from 12 to 14 metres. The existing dwelling located on the subject site has a minimum front setback of 8 metres. The proposed dwelling would have a minimum front setback of 3 metres which is out of character with the streetscape.

### Bulk and scale

DA1326/08 was also refused on grounds on bulk and scale. The amendments to the plans are very minor and include;

- 500 mm increase in front setback of garage wall located on the lower ground floor
- alteration of gable roof
- deletion of first floor bay window

These changes are minimal and insufficient to address the excessive the bulk and scale of the proposal and the inappropriate siting of Dwelling 2.



**Item 6**

The proposal fails to comply with Council's Dual Occupancy Control Code requirement which restricts the first floor FSR of any proposed dwelling to 40% of that of the lower floor.

The proposal seeks a first floor area of approximately 86% of the floor below, resulting in poor articulation and adverse visual bulk and scale impacts.

The proposed excavation works are excessive in relation to the existing dwelling whereby significant excavation is proposed to accommodate a three storey dwelling. By contrast, the existing dwelling is stepped in design and accommodates the natural slope of the site.

The three storey dwelling is of significant bulk and scale, is located well forward of the established building line and incorporates an insufficient setback which is out of keeping with the existing character along Elegans Avenue. Dwellings along the high side of Elegans Avenue comprise of single and two (2) storey dwellings on natural ground level with uniform front setback in excess of 12 metres. There are no three (3) storey dwellings within the immediate vicinity.

**Private open space**

DA1326/08 was refused on grounds of failure to provide sufficient private open space. This issue has not been addressed in the current review application.

Council's Dual Occupancy Control Code states that private open space areas of dual occupancy developments should be of sufficient dimensions to meet the requirements of the dwelling's residents.

Clause, 5.1.5 – Open Space Provision requires a minimum of 100sqm of private open space. The development proposes only 35m<sup>2</sup> located within the front setback which is both insufficient and poorly located.

The levelled turf area (forward for the family and study room) along the primary elevation is not directly accessible and located approximately 1 metre below the proposed principal living areas. private open space, as defined within Council's Dual Occupancy Control Code excludes narrow elongated curtilage areas within the front setback. The private open space has a grade over 22.5 degrees which is inconsistent with Council's requirement of 12.5 degrees (max). This further renders the proposed private open space unusable.

**LIKELY IMPACTS**

The proposed dwelling setback is not in keeping with the predominant setback pattern along Elegans Avenue. The proposed development is inconsistent with the landscape character of the locality which is mostly comprised of large, open front setbacks.

The design of the proposed dwelling is also inconsistent with the architectural character of the locality. The proposed dwelling is bulky and overbearing and does not relate to the scale of surrounding development.

The excessive bulk and scale of the proposed development, along with the inadequate front setback proposed would result in a discordant element which will have a detrimental impact on the streetscape which would set a poor planning precedent.

## **SUITABILITY OF THE SITE**

Whilst the site is suitable for residential development, the proposed design is unacceptable due to its various detrimental impacts.

## **ANY SUBMISSIONS**

No submissions were received.

## **PUBLIC INTEREST**

The approval of the application is not considered to be in the public interest.

## **ANY OTHER RELEVANT MATTERS/CONSIDERATIONS NOT ALREADY ADDRESSED**

There are no other matters for consideration.

## **CONCLUSION**

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

## **RECOMMENDATION**

Pursuant to Section 82(A) of the Environmental Planning and Assessment Act, 1979

That Council, as the consent authority, having considered the application for review of its determination, resolve to confirm its determination and refuse development consent to Development Application No. DA1326/08 for proposal of dual occupancy development on land at No.1 Elegans Avenue, St Ives.

### **AND**

That Council amend the reasons for refusal as follows:

- 1. The proposed front setback to Elegans Avenue is consistent with the prevailing setback along Elegans Avenue and results in a built form which is incompatible with the surrounding environment.**

Particulars:

- a. The proposed setback of 3 metres of dwelling 2 to Elegans Avenue is incongruent with the adjoining development. The proposed development does not have a harmonious relationship with surrounding development and will dominate the streetscape.

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- b. The proposal is inconsistent with the aims of SEPP 53 and outlined in Clause 1(d).
- c. The proposal fails to be of good design and is inconsistent with Clause 32(a) of SEPP 53.
- d. The proposal is inconsistent with the general aims and objectives for residential zones, as outlined in Schedule 9 – clauses 1 (a) and of the Kuring-gai Planning Scheme Ordinance.

**2. The proposal will result in a development of a bulk and scale which is excessive and inconsistent with the built form of the surrounding environment.**

Particulars:

- a. The proposed development is excessively bulky and does not provide adequate setbacks which increase with wall height. In particular, the proposal is overbearing in scale and does not articulate the corner site or relate to surrounding development. The excessive bulk of the proposed development is exacerbated by its prominent corner site location.
- b. The proposed 3 metres front setback of proposed dwelling does not allow sufficient area for landscaping to soften the bulk of the proposed three (3) storey dwelling.
- c. The proposal is inconsistent with the aims of SEPP 53 as outlined in Clause 1(d).
- d. The proposal fails to be of good design being inconsistent with Clauses 32(a) and (h) of SEPP 53.
- e. The proposal is inconsistent with the general aims and objectives for residential zones, as outlined in Schedule 9 – Clauses 1(a) and 2(e) of the Kuring-gai Planning Scheme Ordinance.

**3. The proposal is unacceptable with regard to engineering issues regarding property drainage, vehicular manoeuvrability and insufficient information.**

Particulars:

- a. The proposed works generate inadequate storm water drainage not in accordance with DCP47 Water Management and AS/NZS 3500
- b. The proposed driveway generates insufficient driveway vehicular manoeuvrability and is not in accordance with B85 turning template
- c. The proposal lacks sufficient information regarding BASIX Certificate and commitments of a rainwater tank to be detailed on plans and geotechnical report.

**4. The proposal is unacceptable with regard to landscaping issues regarding impact upon significant trees on Elegans Avenue nature strip and Inner Protection Zone requirements by the Rural Fire Service**

- a. The proposed works will result in adverse impacts to significant trees; T29: *Pittosporum undulatum* (Sweet Pittosporum) and T30: *Callistemon salignus* (Willow Bottlebrush) located on Elegans Avenue nature strip.

Item 6

- b. The proposed continuous screen planting located along Cassandra Avenue and the splay cannot be achieved due to the NSW Rural Fire Service requirements for Inner Protection Zones.

**5. The proposal does not provide sufficient or unusable private open space.**

- a. The proposed new dwelling does not provide a minimum 100sqm of private open space.
- b. The proposed new dwelling does not provide sufficient usable private open space at a maximum 1: 8 grade.
- c. Poor location in front yard and poor accessibility.

**6. The proposal is unacceptable with regard to inaccurate and incomplete information.**

Particulars:

- a. Invalid BASIX Certificate, generated from 2 incomplete BASIX Certificates.
- b. BASIX commitments are not detailed on the plans
- c. Elevations and Landscape plan are not to consistent scale.
- d. Inconsistencies noted within Landscape Plan
- e. Plans of existing dwelling

M Raymundo  
**Development Assessment Officer**

S Segall  
**Team Leader**  
**Development Assessment - North**

C Swanepoel  
**Manager**  
**Development Assessment Services**

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

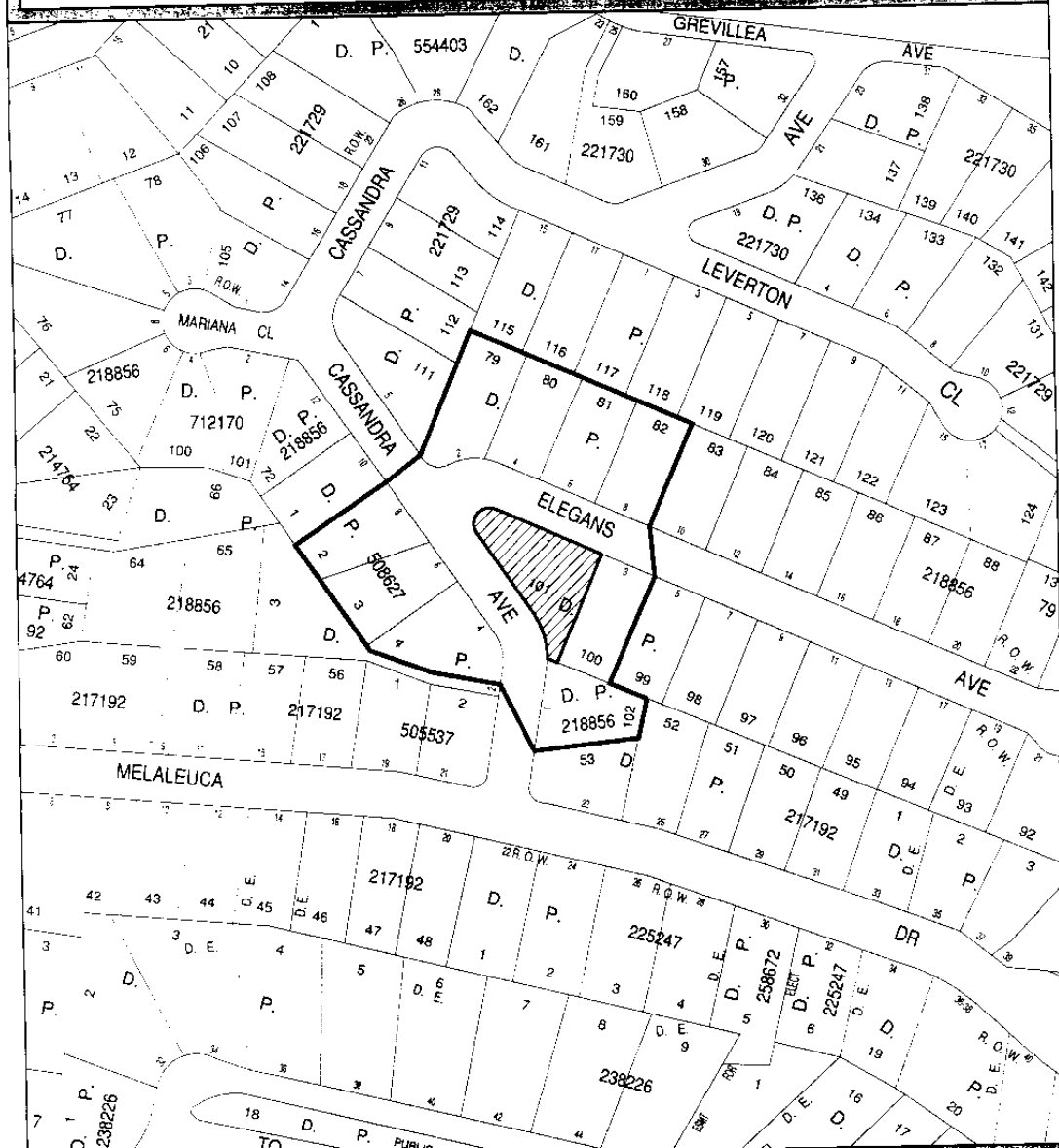
**Attachments:**

- Locality plan – 2009/150114
- Zoning extract – 2009/150115
- Site analysis – 2009/150116
- Architectural plans – 2009/150118
- Landscape plan – 2009/150120
- Shadow diagrams – 2009/150121

# LOCATION SKETCH

1 Elegans Avenue, ST IVES

REVIEW 0015/09 OF DEVELOPMENT APPLICATION No 1326/08



No Submissions Received



AGREEMENT



OBJECTION



SUBJECT LAND



PETITION



SUBMISSION



CIRCULATED AREA



Scale : 1:2000

20-08-2009

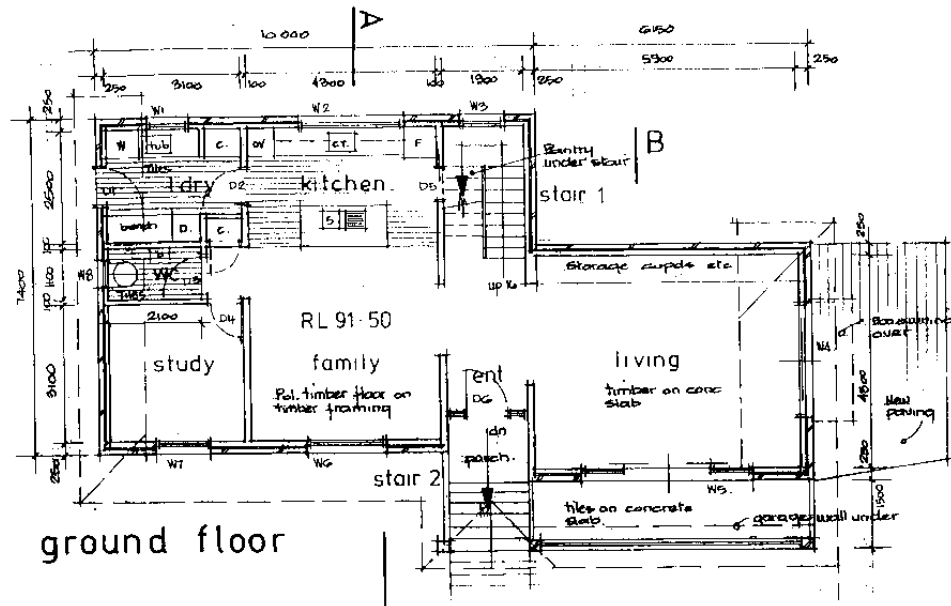
# Zoning Extract

1 Elegans Avenue, ST IVES - Rev 0015/09 of DA 1326/08

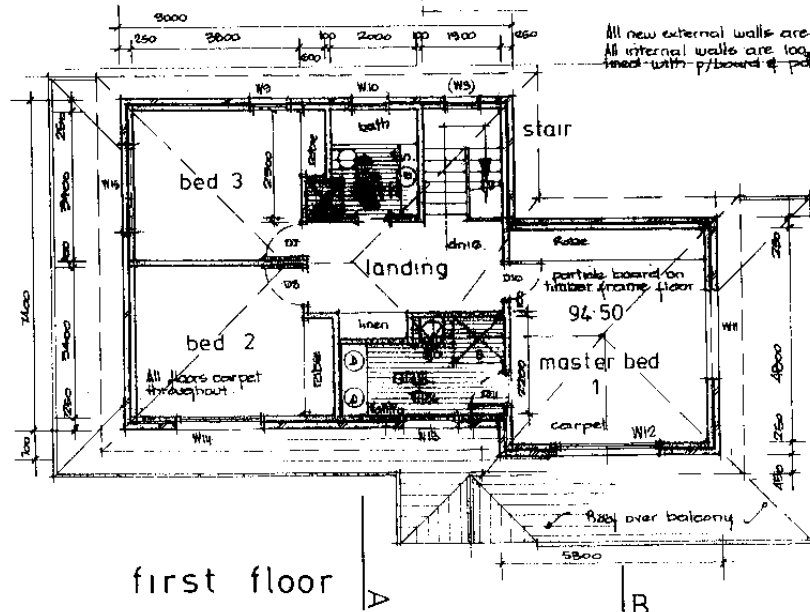
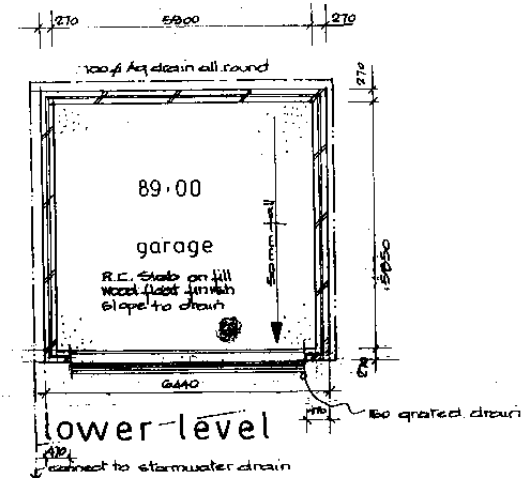


ZONES		RESERVATIONS	GENERAL
<b>2. RESIDENTIAL</b> (a) RESIDENTIAL A (b) RESIDENTIAL B (c) RESIDENTIAL C (d) RESIDENTIAL D (e) RESIDENTIAL E (f) RESIDENTIAL F (g) RESIDENTIAL G (h) RESIDENTIAL H		<b>OPEN SPACE</b> (a) OPEN SPACE (Public Parks & Recreation) (b) COUNTY OPEN SPACE  <b>SPECIAL USES</b> SPECIAL USES (Parking etc.)  <b>ROADS</b> (a) COUNTY ROAD PROPOSED (b) COUNTY ROAD WIDENING (c) LOCAL ROAD PROPOSED (d) LOCAL ROAD WIDENING	EXISTING COUNTY ROAD OTHER PLANNING INSTRUMENTS   Scale: 1:2000 Date: 20-08-2009
<b>3. BUSINESS</b> (a) RETAIL SERVICES  <b>FLOOR SPACE RATIOS</b> A1 2.0:1 A2 1.0:1 A3 0.75:1  (b) COMMERCIAL SERVICES  <b>FLOOR SPACE RATIOS</b> B1 1.0:1 B2 1.0:1		<b>5. SPECIAL USES</b> (a) SPECIAL USES A (Schools etc.) (b) SPECIAL USES A1 (c) SPECIAL USES (Railway)  <b>6. OPEN SPACE</b> (a) RECREATION EXISTING (b) RECREATION PRIVATE (c) RECREATION PROPOSED	



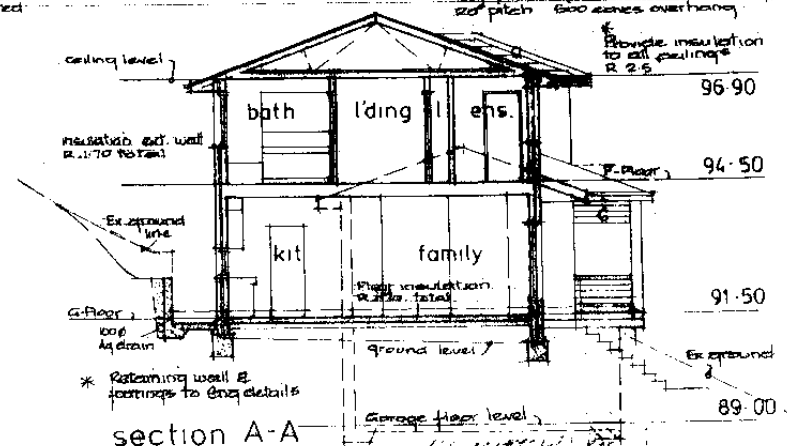


All new external walls are to be brick veneer, rendered & painted  
 All new internal walls are to be 100mm timber stud lined with plasterboard.  
 RL - Roof light  
 For insulation details see section.



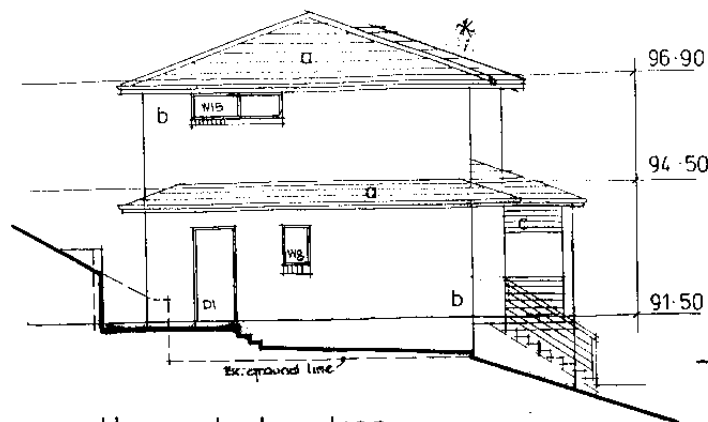
All new external walls are brick veneer - rendered &  
 All internal walls are 100 stud lined with p/bboard & painted

selected roofing tiles on standard roof trusses (double sided gable) 12/12 pitch 600 eaves overhang  
 Provide insulation to all ceilings R 2.5



SCANNELL 1:100  
 DA0809-3



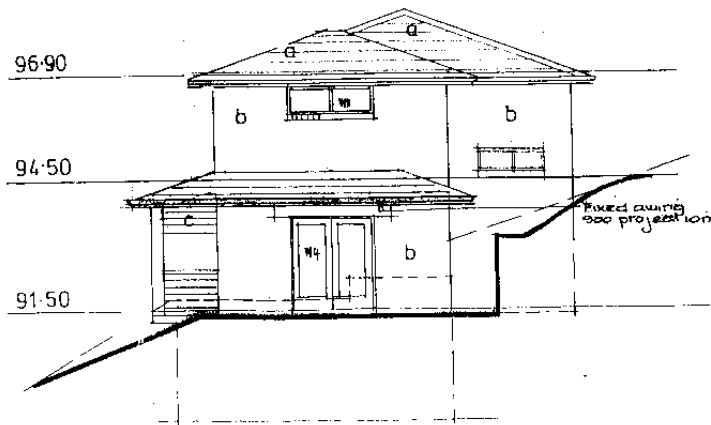


south-east elevation.

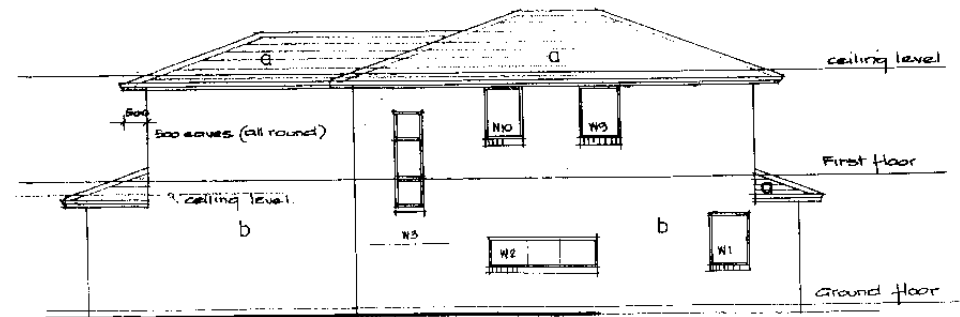
- a Selected concrete roofing tiles
- b Brick veneer rendered and painted.
- c Fibrous cement sheeting, boarding / blue board texture paint finish.



street elevation.

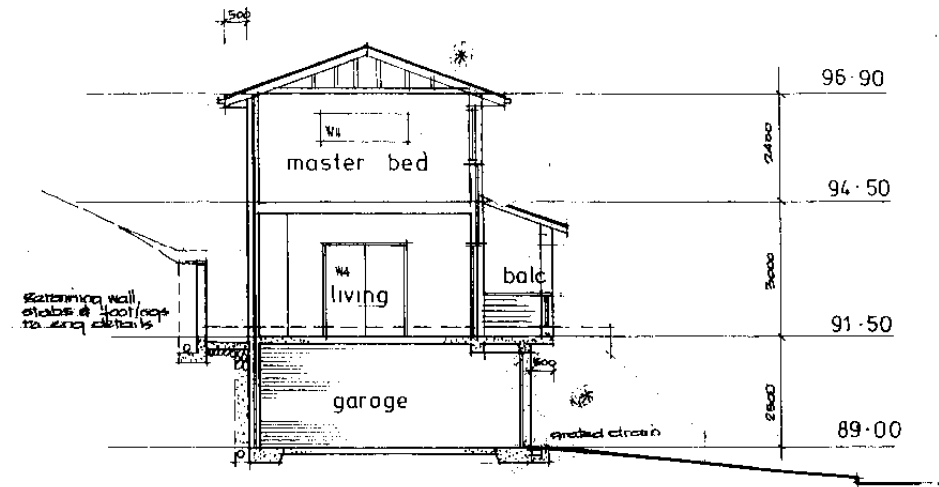


north-west elevation.

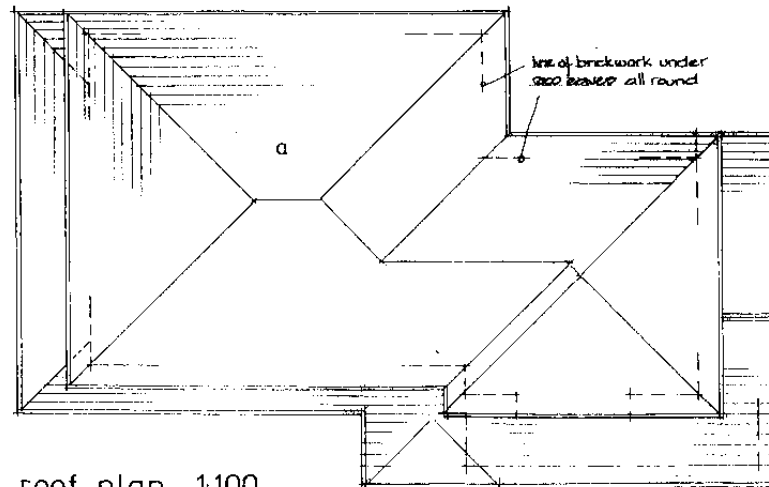


south-west elevation

\* Bay to M/Bed removed.  
 \* Roof over porch & M/Bed amended.  
 SCANNEL 1:100  
 DA0809-4 elevations



section B-B

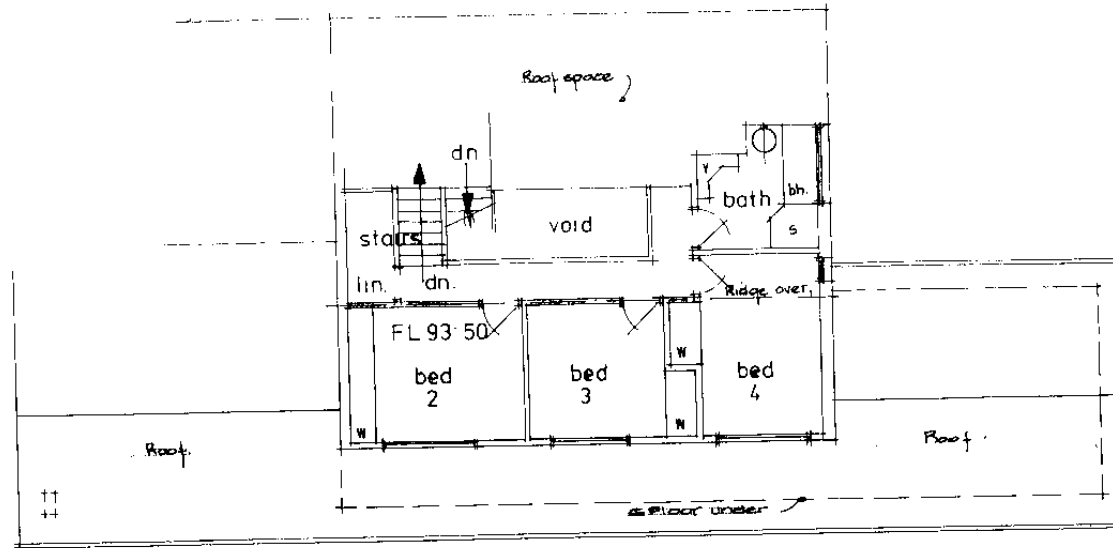


roof plan 1:100

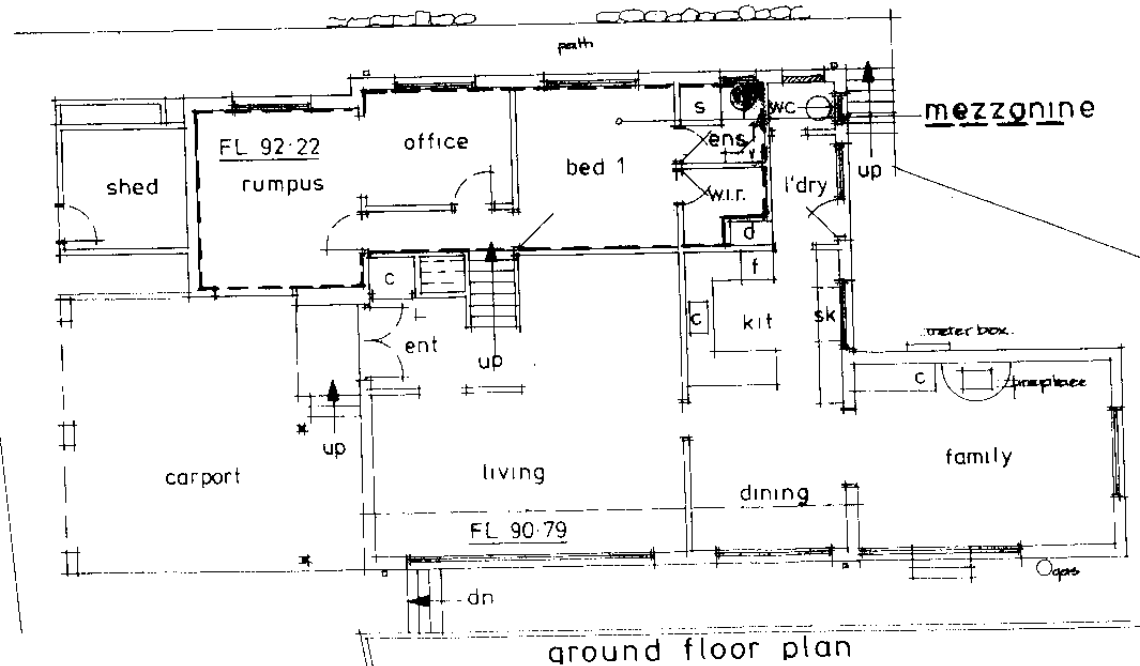


\* Garage length reduced by 500, Gable removed

**SCANNELL** 1:100  
**DA0809-5**

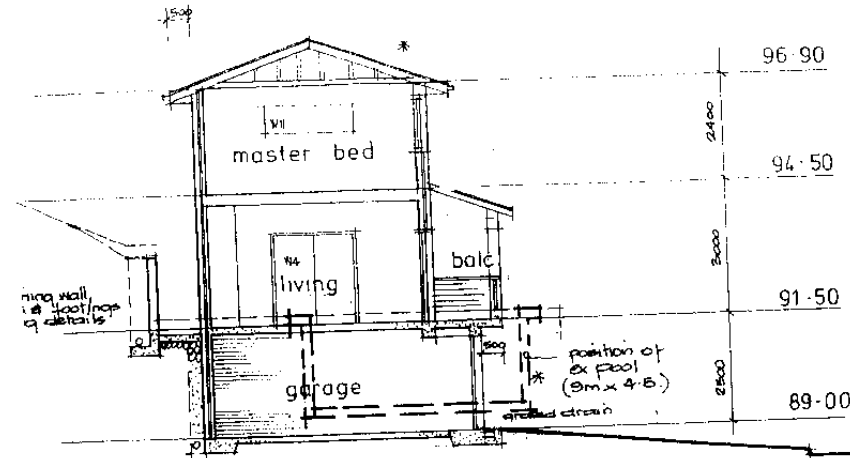


first floor

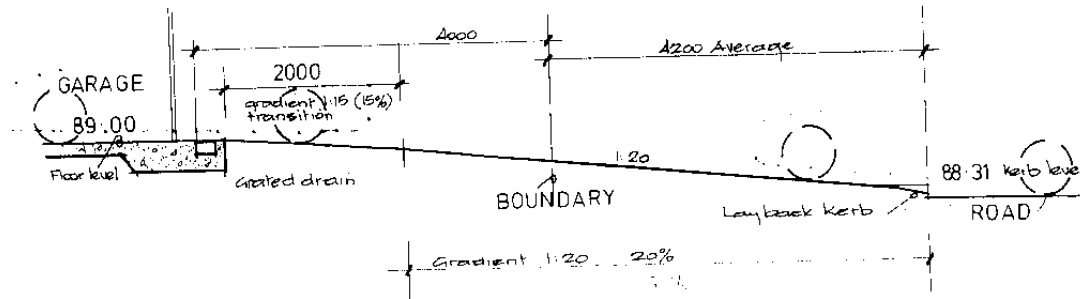


ground floor plan

SCANNELL 1:100  
DA0809-6 ex. plans

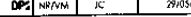


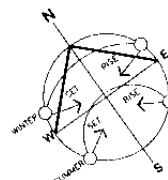
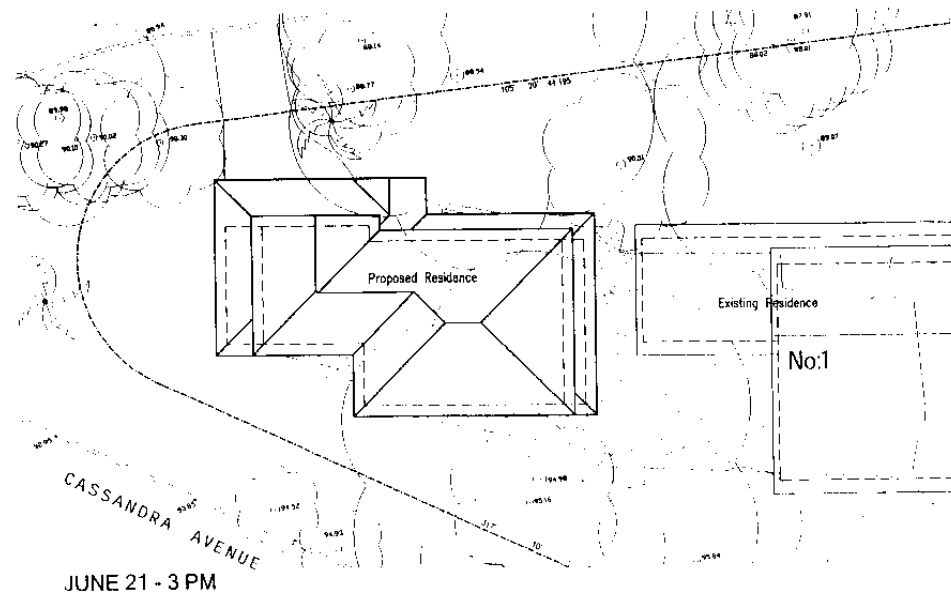
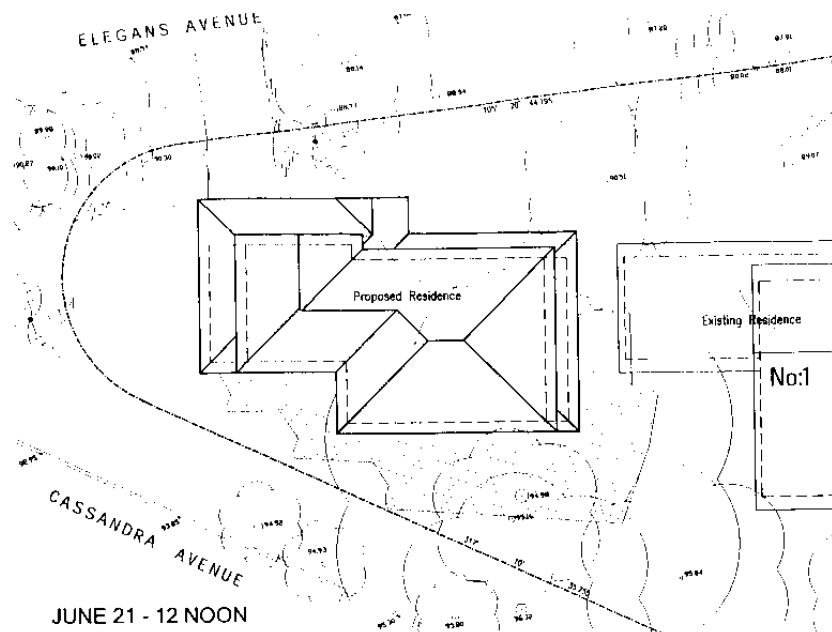
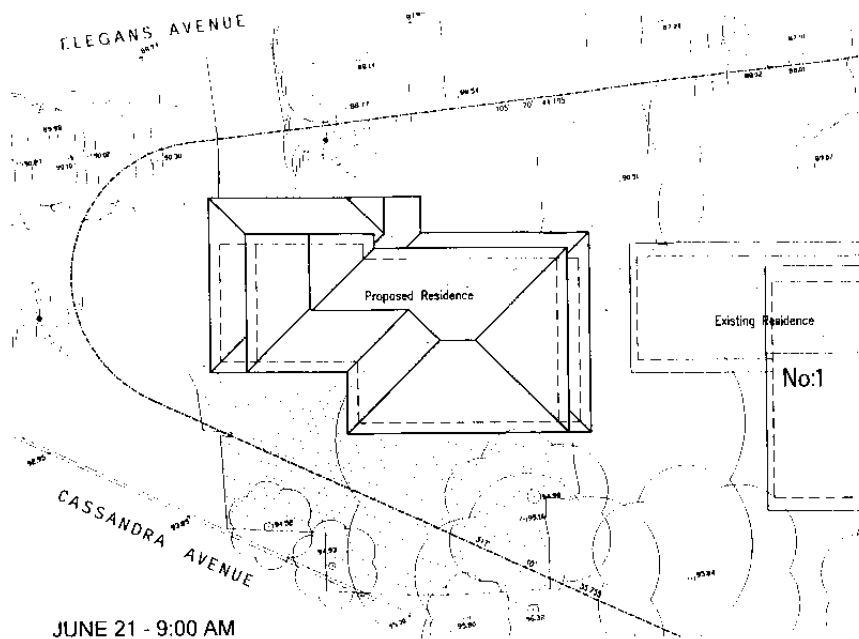
section B-B



DRIVEWAY SECTION 1:50

SCANNELL	1:100
DA0809-7	





SHADOW NOTES  
THE SHADOWS ARE DRAWN TO TRUE NORTH  
THE PROPOSED ADDITION TO THE RESIDENCE IS CONSIDERED  
TO PROVIDE MINIMAL IMPACT ON THE OVERSHADOWING OF THE  
NEIGHBOURING RESIDENCE WITH ONLY THE 3PM SHADOW

DATE	Amend.	Ph: 02 9452 4983
New Harvey - B Arch		Email: rhcadraw@bigpond.net.au
14 Turner Place, Frenchs Forest NSW 2086		
<b>PROPOSED DUAL OCCUPANCY</b>		
<b>Mr &amp; Mrs K. Scannell</b>		
<b>1 Elegans Avenue, St Ives 2075</b>		
<b>SHADOW DIAGRAMS</b>		
SCALE	1:200	
DRAWN	N. Harvey	JOB No 1708
DATE	24 Sept 2008	LOT REF: Lot 101 OP 218856
CHECKED:		SHEET: DA 0809-S1

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	763 PACIFIC HIGHWAY, LEVEL 1, GORDON - CHANGE OF USE TO BROTHEL AND ASSOCIATED FIT-OUT
<b>WARD:</b>	Gordon
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	0423/09
<b>SUBJECT LAND:</b>	763 Pacific Highway, Level 1, Gordon
<b>APPLICANT:</b>	Asia Aroma Pty Ltd
<b>OWNER:</b>	Mr Gaetano Zofrea & Mrs Sarafina Zofrea
<b>DESIGNER:</b>	Urban Realists Planning
<b>PRESENT USE:</b>	Vacant
<b>ZONING:</b>	Business 3(a)-(a1) retail services
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	KPSO, DCP 14 – Development in Business Zones, DCP 31 – Access, DCP 42 – Regulation of Brothels, DCP 43 – Car Parking, DCP 56 - Notification
<b>COMPLIANCE WITH CODES/POLICIES:</b>	No
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP 55 (remediation of land)
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Yes
<b>DATE LODGED:</b>	6 July 2009
<b>40 DAY PERIOD EXPIRED:</b>	15 August 2009
<b>PROPOSAL:</b>	Change of use to brothel and associated fit-out
<b>RECOMMENDATION:</b>	Refusal.

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**DEVELOPMENT APPLICATION N<sup>o</sup>** 0423/09  
**PREMISES:** 763 PACIFIC HIGHWAY (LEVEL 1),  
GORDON  
**PROPOSAL:** CHANGE OF USE TO BROTHEL AND  
ASSOCIATED FIT-OUT  
**APPLICANT:** ASIA AROMA PTY LTD  
**OWNER:** MR GAETANO ZOFREA & MRS SARAFINA  
ZOFREA  
**DESIGNER** URBAN REALISTS PLANNING

**PURPOSE FOR REPORT**

To determine development application No.0423/09 which seeks consent for the change of use of the premises to a brothel and associated fitout works.

The application was called to full council by Councillor Hall on 25 August 2009.

**EXECUTIVE SUMMARY**

<b>Issues:</b>	<ul style="list-style-type: none"><li>• location</li><li>• neighbourhood and residential amenity</li><li>• car parking</li><li>• safety and security</li></ul>
<b>Submissions:</b>	51
<b>Land &amp; Environment Court Appeal:</b>	Not applicable
<b>Recommendation:</b>	Refusal

**HISTORY**

The following development application history relates to the subject site:

**Previous development applications**

***87/00418 - Alterations***

The application was approved by Council on 25 March 1987.

***DA787/02- shop front***

The application was approved by Council on 24 July 2002.

***161/02/CK - (Complying Development) - construction internal wall commercial/retail premises.***

The complying development certificate was issued by Council on 3 December 2002.



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*4/03/CQ – (Complying Development) - new shop signs*

The complying development certificate was issued on 24 February 2003.

**Current application history**

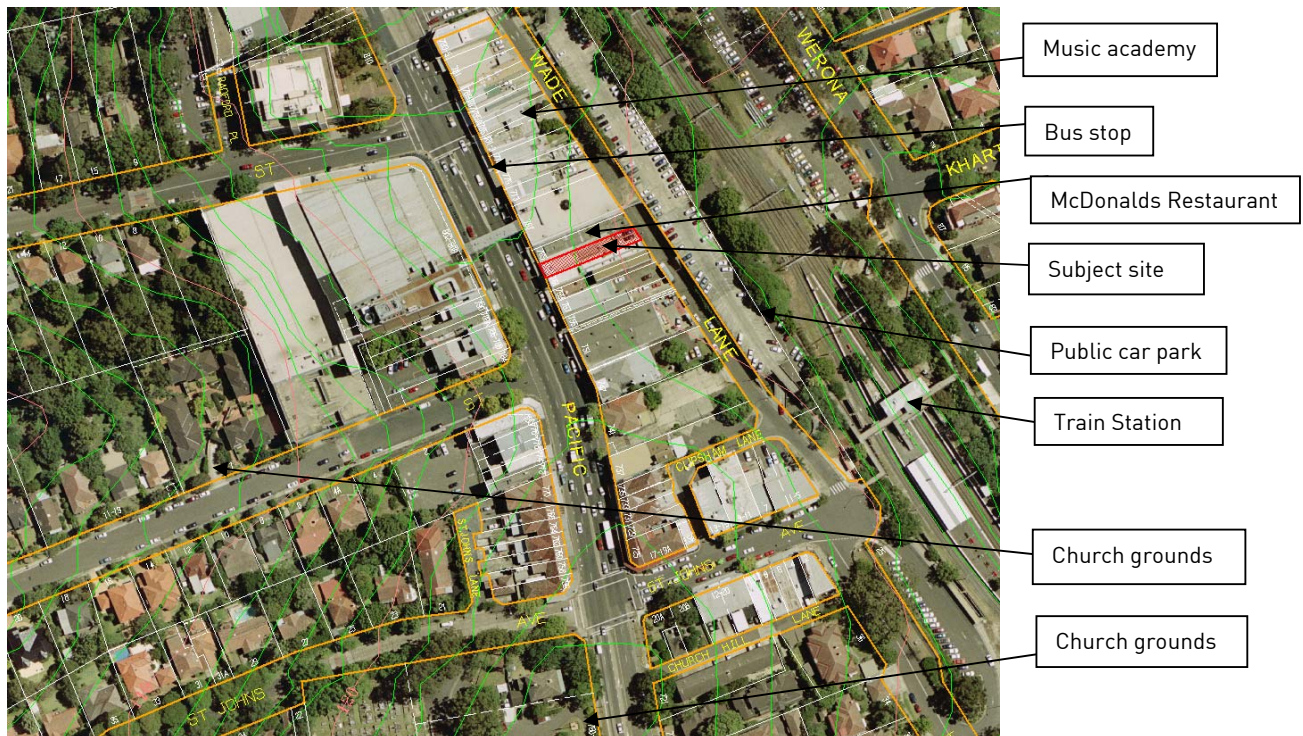
6 July 2009	Application lodged with Council
9 July 2009	Application reviewed by Council's Development Review Unit (DRU)
9 July 2009	Application referred to Council's Environmental Health Officer, Building Surveyor and Development Engineer
13 July 2009	Additional information requested as follows: <ul style="list-style-type: none"><li>• traffic and parking impact assessment report</li><li>• access report</li><li>• risk assessment report addressing safety and security in accordance with crime prevention and environmental crime principles</li></ul>
17 July 2009	Application advertised in the North Shore Times and notified for a period of 30 days
22 July 2009	Application was referred to the NSW Police
22 July 2009	Applicant submitted the required fees and responded to Council's request for additional information
29 July 2009	Site inspection was undertaken
26 August 2009	Comments received from NSW Police
27 August 2009	Applicant advised via letter that the development application was unsatisfactory
1 September 2009	Applicant responded to Council's letter

**THE SITE AND SURROUNDING AREA**

**The site**

Zoning:	Business 3(a)-(a1) retail services
Visual Character Study Category:	1920-1945
Lot Number:	1
DP Number:	650833
Area:	161.55m <sup>2</sup>
Side of Street:	Eastern
Stormwater Drainage:	Unaltered
Heritage Affected:	No

Required Setback:	Unaltered
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No



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There is a publicly owned car park within Wade Lane, directly adjacent to the Gordon Railway Station. The Gordon Railway Station is sited at a distance of 230.7 metres and 133.9 metres from the front and rear boundaries of the proposed brothel, respectively.

An Anglican Church is located at 754 Pacific Highway, Gordon, which is 175.9 metres from the proposed brothel. The Church of St Francis – Liberal Catholic is located at 21 St Johns Avenue, Gordon and is sited at a distance of 197.9 metres from the proposed brothel.

The closest educational establishment is a Music Academy located at 785A Pacific Highway, Gordon, at distance of 69.9 metres from the proposed brothel.

The Gordon Library, at 799 Pacific Highway, is located 123.5 metres to the nearest boundary of the brothel site.

A McDonald's restaurant, located at 765 Pacific Highway, adjoins directly to the north of the proposed brothel.

A bus stop is located along the eastern side of the Pacific Highway, sited at a distance of 39.7 metres from the proposed brothel.

## THE PROPOSAL

Consent is sought for the use of the premises as a sex services premises (commercial brothel) and associated fitout works. The premises would contain:

Ground: entrance foyer and stairway, garbage store at the rear of the premises and two (2) stacked car spaces.

First floor: four (4) service rooms, including shower and hand basin, two (2) client waiting rooms, a reception area, personnel private facility area including private shower and toilet, kitchenette, relaxation room, laundry and locker room and two (2) client toilets.

At any one time there would be a maximum of five (5) staff and six (6) clients on the premises, being a total of eleven (11) persons.

The proposed services offered include erotic massage, body slide and related services. Escort services (outcalls) are not proposed.

The brothel use is proposed to operate 7 days a week from 10am to 11pm daily.

The existing street number is to be retained. A sign will also be placed inside the entry foyer at street entry level providing the name of the business, telephone number and hours of operation including signage advising that access is prohibited to underage persons.

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**CONSULTATION - COMMUNITY**

In accordance with Council's Notification DCP, owners of surrounding properties were given notice of the application. The application was also advertised in the North Shore Times for a period of 30 days. In response, submissions from the following were received:

- |   |                                      |
|---|--------------------------------------|
| 1. Tao Te,  | No address provided                  |
| 2. Yaping Zhang (Hot Bargain Variety Store)       | 763 Pacific Highway, Gordon          |
| 3. Rhian Reade                                    | No address provided                  |
| 4. Barry O'Farrell (State Member for Ku-ring-gai) | 27 Redleaf Avenue, Wahroonga         |
| 5. Giovanna Zingarelli (Caranya Pty Ltd)          | 755 Pacific Highway, Gordon          |
| 6. E S Goh and family                             | No address provided                  |
| 7. H K Tay and family                             | No address provided                  |
| 8. R Goh and family                               | No address provided                  |
| 9. P. Culme Seymour                               | 7-26 Merriwa Street, Gordon          |
| 10. H K Tay and family                            | 11 Moree Street, Gordon              |
| 11. Katrina Ganin                                 | 37 Warwick Street, Killara           |
| 12. Jeremy and Jacqueline Tham                    | 12 McIntosh Street, Gordon           |
| 13. Adrienne Hunt                                 | No address provided                  |
| 14. Church of St Francis – Liberal Catholic       | 21 St Johns Avenue, Gordon           |
| 15. James Kan                                     | 31 Bromley Avenue, Pymble            |
| 16. Julie Johnston                                | 63 Arnold Street, Killara            |
| 17. Theresa and Simon Chan                        | No address provided                  |
| 18. Gordon Uniting Church and Highway Centre      | 18 Cecil Street, Gordon              |
| 19. Gordon Baptist Church                         | Cnr. Park Av. and Garden Sq., Gordon |
| 20. Ruth Goetze                                   | 14/646 Pacific Highway, Killara      |
| 21. M Notley                                      | 42 Norfolk Street, Killara           |
| 22. Lisa Geiger                                   | 46 Norfolk Street, Killara           |
| 23. Judith and Peter Scott                        | 4 Ormiston Avenue, Gordon            |
| 24. Kersten Mallesch                              | 21 Marian Street, Killara            |
| 25. Andrew Paynter                                | 47 Norfolk Street, Killara           |
| 26. Brad Walsh                                    | No address provided                  |
| 27. Ann Catanzariti                               | 24 Wembury Road, St Ives             |
| 28. Daniel Dahdah                                 | No address provided                  |
| 29. Susan Ottery                                  | 116 Pentecost Avenue, Turramurra     |
| 30. Sima Timssari (Petition – 35 signatures)      | 203/11 Moree Street, Gordon          |
| 31. Brett Ebbeck                                  | No address provided                  |
| 32. Jessica Thomas (McDonalds Australia Limited)  | 761 Pacific Highway, Gordon          |
| 33. Jane Lee                                      | 40 Powell Street, Killara            |
| 34. Nina Lim                                      | 70 Rosedale Road, Gordon             |
| 35. Richard and Jennifer Kaan                     | No address provided                  |
| 36. Karen Ho                                      | No address provided                  |
| 37. Susan Hutton                                  | No address provided                  |
| 38. Donald Everhart                               | 104A Livingstone Avenue, Pymble      |
| 39. Sheryll Young                                 | 33 Moree Street, Gordon              |
| 40. Edmon Wong and Amy Shiu                       | 29 St Johns Avenue, Gordon           |
| 41. Margot Brown (Music Makers)                   | 1/786 Pacific Highway, Gordon        |
| 42. Jessica Thomas (McDonald's Australia Limited) | 761 Pacific Highway, Gordon          |
| 43. Mary Chicherio                                | 14-16 Lorne Avenue, Killara          |

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- |   |                                 |
|---|---------------------------------|
| 44. Felicity Simpson (petition, 131 signatures)                     | 16 Lorne Avenue, Killara        |
| 45. Karen Robertson   | 93 St Johns Avenue, Gordon      |
| 46. Rev'd Dalby, Merchant, and Torres<br>(petition, 690 signatures) | Gordon                          |
| 47. Warren Cardwell, (Whittard of Chelsea)                          | 755 Pacific Highway, Gordon     |
| 48. N E Woodgate  | 16/646 Pacific Highway, Killara |
| 49. Petition (29 signatures)  |                                 |
| 50. Margot Brown (Music Makers Australia Pty Ltd)                   | 1/786 Pacific Highway, Gordon   |
| 51. Dr. Marcia Cameron  | 36 Elva Avenue, Killara         |

The submissions raised the following issues:

***the area is a family and student oriented part of Gordon and the brothel would result in a loss of amenity***

The proposed use is adjacent to and within proximity of a number of sensitive uses and would impact on the amenity of the area, contrary to DCP 42.

***the shops on the Pacific Highway are a conservative and genteel retail precinct, many shoppers may find coming to the area with children unacceptable.***

The proposed brothel would adversely affect the surrounding and adjoining land uses and businesses in the locality and the amenity of the area, contrary to section 2.2 Standards of DCP 42.

***inappropriate location (with the front door located between McDonald's and Hot Bargain), a known spot for young people to gather, often frequented by teenagers and children before and after school and on weekends***

The proposed use is adjacent to and within proximity of a number of sensitive uses and would impact on the amenity of the area, contrary to DCP 42.

***inappropriate location – within 80-100 metres of the entrance are several fast food shops, family restaurants, dental and medical practices, a music shop/academy and a coaching college, all used extensively by families and young people***

As stated within the body of the report, the proposed use is adjacent to and within proximity of a number of sensitive uses and would impact on the amenity of the area, contrary to DCP 42.

***inappropriate location - close to schools, churches, Gordon railway station, Gordon library and bus interchange and a bus stop within 50 metres.***

***very high volumes of children and young people pass by during school days, evenings and weekends as they go to and from sporting activities, medical consultations, church, youth functions and the like***

The Pacific Highway is a thoroughfare between public transport, namely the Gordon Railway Station and bus stops for school children, commuters and the community and access to local shops, restaurants, library etc. In this regard, given that sensitive uses are scattered along the

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main thoroughfare and throughout the Gordon Town Centre the proposed use is considered inappropriate and contrary to the provisions of DCP 42.

*inappropriate location - less than 250 metres from residences in Moree Street, Dumaresq, St Johns Avenue and Werona Street, among others*

The proposed brothel would not be in direct view of residential properties, with the closest residences located west of the Pacific Highway and east of the railway line. In this regard, the proposed brothel is considered adequately separated from residential uses.

*proposal contravenes Council's Development Control Plan - Church of St Francis - Liberal Catholic is 150 metres from the proposed brothel and St John the Evangelist is closer than 200 metres*

*the proposal is insensitive to the congregation attending these churches*

DCP 42 specifies that a brothel shall not be established within 200 metres of any church or place of public worship.

Walking distance from the proposal to the Anglican Church located at 754 Pacific Highway, Gordon which is 175.9 metres to the Church grounds. The Church of St Francis - Liberal Catholic Church is located at 21 St Johns Avenue and is 197.9 metres from the proposed brothel.

In this regard, the proposed brothel is located within 200 metres of a place of public worship and fails to satisfy the locational criteria in DCP 42.

*brothels are a necessary service for some but should be located in more appropriate places*

It is acknowledged that brothels are permissible in the 3a-(a1) zones. Notwithstanding the above, the proposed brothel is inappropriately located.

*the application is incapable of lawful determination, whether by approval or refusal, as brothels cannot be located within 200 metres of a place of public worship and therefore should be rejected*

The application is required to be assessed against the Heads of Consideration outlined within s79c of the Environmental Planning and Assessment Act 1979. The application has been assessed and considered to be inappropriately located given the brothel would be located adjacent to and within proximity of a range of sensitive uses, including places of public worship.

*security concerns from employees of adjoining businesses*

The NSW Land and Environment Court published planning principles to assist in determining the assessment criteria for locating brothels. One of the principles specifically relates to the issue of safety and security:

...'There is no evidence to suggest that brothels in general are associated with crime or drug use. Where crime or drugs are in contention in relation to a particular brothel, this should be supported by evidence'...

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There is no current direct or causal evidence to suggest that the proposed brothel would be associated with crime or drug use. The assessment undertaken by the NSW Police has suggested that the proposal is deficient when assessed against the provisions of the Crime Prevention and Environmental Design Policy. However, it was not suggested that the proposed brothel was associated with crime or drugs.

***potential for anti social behaviour, abuse of women and litter created by used needles***

As stated above, the NSW Police have suggested that the proposed development is deficient when assessed against the provisions of the Crime Prevention and Environmental Design Policy. However, it was not suggested that the proposed brothel was associated with crime or drugs.

***likelihood of sexually transmitted diseases especially for teenagers***

The proposed brothel although not supported, would restrict access to persons 18 and over. NSW Health and WorkCover provide a regulatory role in respect of human health and occupational health & safety matters.

***the development will create an area for loitering around the shopping strip and will require an increase in the safety and security procedures of the restaurant (McDonald's)***

As stated within the body of the report, the NSW Police have suggested that the proposed development is deficient when assessed against the provisions of the Crime Prevention and Environmental Design Policy.

***viability of local shops is under significant stress, given the difficult financial climate, it is likely that if the area is further eroded, value of investment properties will decline, with a related fall in Council revenue from rates***

It is acknowledged within the body of the report, that the proposed brothel would be sited adjacent to and within proximity of a range of uses, which is likely to impact on their business. However, the impacts on Council rates is not a relevant consideration under section 79(c) of the Environmental Planning and Assessment Act 1979.

***the proposed brothel will not look like any other premise***

From the exterior it is unlikely that the proposed brothel would be distinguished from any other commercial use. Minimal signage is proposed which is to be located within the front entry.

***concern that people may mistakenly enter the premises***

Given the proximity of the entries, there is potential that people may mistakenly enter the premises. However, of more concern is the unsuitable location of the proposal in the vicinity of and adjacent to sensitive uses.

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***McDonald's at Gordon employs a large number of youths and if the development is approved it will no longer be an appropriate location for the parents of these youths to allow them to work at night***

The NSW Land and Environment Court published planning principles to assist in determining the assessment criteria for locating brothels. Senior Commissioner Roseth considered in his judgement of *Martyn v Hornsby Shire Council* [2004] NSWLEC 614, that:

*...'the entrances are adjacent and it is likely that the students from the college would frequently encounter the brothel's clients on their way to and from the classes. I do not want to judge whether this in itself would have a corrupting effect on them. However, it is likely, that some of the parents would not like the proximity of the brothel and would look for other colleges for their daughters. The economic effect on the College could be serious. Instead of 30 students, they may find only 20 or fewer for their classes'...*

In this regard, the proposed brothel is located adjacent to and within proximity of a range of sensitive uses where children, school students and adolescents gather. It is also noted that McDonald's, which is sited directly adjacent to the proposed brothel, employs school aged students. In this regard, as stated in the judgement, it is highly likely some parents would not like the proximity of the brothel to sensitive land uses like McDonalds and would prevent them from working or accessing such areas.

***extended time periods in which the brothel will operate and 7 days a week and at the same time as other businesses in the area and will have a large impact on local restaurants***

Concern has been raised by the NSW Police regarding the hours of operation particularly as they coincide with the hours of operation of the McDonalds restaurant, located adjacent to the proposed brothel.

***occupational health and safety concerns in relation to the fire stairs and car parking, limited lighting for the area including the car park which is not sealed for safety and noise abatement***

The NSW Police have raised concern regarding the safety and security of the rear access and car park. It is unlikely that noise from the car park area would result in any additional noise above and beyond a commercial use.

***brothel patrons will use the Council car park***

Concern has been raised by Council's Team Leader of Engineering Services and the NSW Police regarding the lack of on site car parking and parking spill onto residential streets. This issue has been further discussed in the body of the report and the proposal found to be contrary to the requirements of DCP 42 in this regard.

***similar business operating again from 790A Pacific Highway***

Council officers are looking into this claim.



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*the brothel will be sharing the same stairwell with a guitar school, where young children go for lessons*

The proposed brothel has a separate staircase from the front entry on the Pacific Highway. It is noted, that the rear access is accessed by both the ground floor retail shop (Hot Bargain) and the proposed brothel. It has been advised by the applicant that the stairway would not be used by customers but by personnel only.

*scale of the proposed development (4 service rooms)*

DCP 42 permits a maximum of five (5) service rooms. In this regard, the proposed four (4) service rooms are compliant with this requirement.

## CONSULTATION - WITHIN COUNCIL

### Engineering

Council's Engineering Team Leader, Kathy Hawken, provided the following comments:

*Reasons for refusal*

*The application would result in a parking shortfall of five spaces. This would lead to an unacceptable spillover of parking onto local residential streets.*

*Particulars*

- 1. Council's DCP 42 requires car parking to be provided at the rate of one space per two employees plus one space per suite. The Plan of Management (POM) states that two receptionists (one per shift) will be employed, and four other employees. Four suites are shown on the drawings (although the POM in Section 2.2 states that there will be three). Therefore seven parking spaces are required.*
- 2. The proposal is for two spaces on site at the rear of the building, a shortfall of five spaces. The proposed hours of operation of the development are 10am to 11pm daily, which includes business hours. Therefore, the merit-based concession allowed under DCP 42 is not available.*
- 3. Parking surveys by Council indicate that the unrestricted parking in the vicinity is fully occupied between the hours of 8am and 2 to 3pm. This time effectively includes the first shift, which means that employee parking would spill over into nearby residential streets.*

### Health

Council's Environmental Health Officer, Trudi Coutts, provided the following comments:

*The proposed application is considered satisfactory in terms of health considerations, subject to conditions of consent.*

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**Building**

Council's Senior Building Surveyor, Amanda Hill, provided the following comments:

*The proposed development for a change of use to brothel and associated fit out has been assessed against the requirements of the Building Code of Australia and is satisfactory in this regard, subject to conditions, including providing appropriate disabled access to the first floor.*

**BCA Classification:** Class 5 – Type C construction

**CONSULTATION – OUTSIDE COUNCIL**

**New South Wales Police**

The development application was referred to the New South Wales Police. Senior Constable Paul Cleary, Crime Prevention Officer, Hornsby Police made the following comments:

*On receipt of the application I attended the location of the proposal where a (Safer by Design evaluation) was conducted of the site and surrounding area. Also in considering the application I take into account the local amenity of the area, its use and general expectations of the neighbourhood.*

*Police will be opposing the application on the following grounds, however should the application be approved or considered further recommendations are provided later in this report.*

***Opposing comments for this application***

*On reviewing Ku-ring-gai councils DCP 42 guidelines I refer to the following points:*

***Regulation of Brothels Ku-ring-gai Council Development Control Plan 42.***

***2.2 Standards***

- a. *The brothel is not to have an adverse affect on the amenity of the area.*
- b. *The brothel will not have an adverse affect on surrounding and adjoining land uses and business in the locality or within the same site.*

***2.4 Amenity***

*Objective:*

*To prevent brothels having an adverse affect on the amenity of the area.*

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***Comment***

*The proposal is located next door to a McDonald's restaurant. Cafés are either planned or have been established in the area. There is a Shopping centre in close proximity with an entry on the Pacific Highway and Wade lane. A fruit and vegetable shop is 2 doors away from the rear entrance. McDonalds restaurant is open for trade well within the same proposed hours for this application. McDonald's is frequented by children, families and school students. The restaurant also uses a staff of youths aged 16 and up. The restaurant is accessed from the Pacific highway with the rail station and rear commuter car park being the main areas for parking and travel to use the restaurant. The proposal is for access from the front of the building directly next to the McDonalds restaurant. As such the amenity of the area would be affected. The rear commuter car park is used day and night by all manners of people. The rear parking space and access door of the proposal face directly to all 3 levels of this commuter parking station. As such dozens of parking spaces and walk ways face the rear access passing pedestrians have an unobstructed view of the rear access.*

*Part 5.3.3 also refers to the installation of CCTV cameras which are to be installed to monitor the entrance and emergency egress points. As pointed out before this proposal adjoins a McDonald's restaurant which is frequented by families, children and other respected members of the community. Any installation of CCTV to 'monitor' access which would include people entering the building and passing pedestrians must be sensitive and not capture any images of those passing pedestrians.*

***Amenity (further comment)***

*In point 5.3.4 (Trial periods) the applicant makes reference to recent findings of the Land and Environment Court in the matter of Piao V Willoughby City Council 2008. The applicant prefers to utilise the findings of another body, this being the Land and Environment Court against a council decision then it is my proposal the term amenity to include a reference to the City of Sydney Draft Regulation of Sex Services DCP 2003.*

***Definitions***

*Sensitive Land Use: includes day care or child minding centres, primary or secondary schools, churches, parks, playgrounds, or any other place regularly frequented by children. Use of this term is specific in the proposed location being adjacent to the McDonalds restaurant which by nature is a place frequented at all opening times by children.*

*Also the DCP, Brothels & Sex Shops 9.3/11 Edition 3 of Sutherland Shire Council*

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**7. What are the Standards?**

**Brothels**

**1) Siting and Location - Brothels**

*Development for the purpose of a brothel may be carried out only with development consent and only if it is not located:*

*i. within 200m of any form of residential, open space or special uses zone or land where the activity is identified as a sensitive land use. Sensitive land uses include, but are not limited to, place of public worship, churches, schools, transport nodes, residential dwellings, child care centres, family health centres, senior citizens centres, licensed premises (licensed under the Liquor Act 1982) and facilities and places typically frequented by families or children;*

*Again referring to a place frequented by families and children (McDonalds).*

**2.6 Parking**

**Objective:**

*Ensure that any development provides adequate car parking facilities for the traffic it is likely to generate.*

**Standards:**

*On-site parking shall be provided at the rate of one space per two employees plus one space for each suite or workroom. However, if the brothel only operates after business hours Council may consider a lesser number of car spaces based on the merits of the case.*

**Comment:**

*(There are only 2 parking space provided on the application with the hours of operation being inclusive of business hour trade.) As the proposal includes 4 'service rooms' with a proposed 5 staff members (1 manager or receptionist and 4 sex workers) the parking provided does not cater for the staff. Although the application refers to only providing parking for staff only this section of DCP 42 specifically requires 6 or 7 spaces be provided. As there is no parking provisions for clients this would require them to utilise the commuter car park to the rear, therefore impacting on commuter parking spaces and the amenity of the area. There is also no provision for any waste or cleaning contractor to have suitable access to the bins provided.*

**3.2 Cleaning of Linen and Laundry Facilities**

*It is recommended that private contractors be used to launder towels, sheets and linen. When laundering is carried out on the premises, a properly constructed laundry room must be provided and commercial/industrial laundry equipment must be used.*

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**Comment:**

*(There is no information as to onsite cleaning or use of contractors to collect linen etc. As such any contractor would be forced to use the rear lane 'Wade lane' which would entail considerable waiting time in a very narrow laneway and causing undue congestion and inconvenience to other road users. This situation also poses a risk to pedestrians who would need to cross the lane whilst a truck blocked any clear site lines.)*

**Storage, Handling and disposal of Contaminated Waste**

**Comment**

*There are no details provided however a commercial type industrial waste bin facility does not include a provision for this to be stored and accessed by any contractor other than via the limited onsite car parking spaces.*

**Safety and Public Safety**

*Part 4.5 and 5.3.3 of the proposal makes reference to providing 'Security and Public Safety'. Specifically being able to provide "passive surveillance" from the premises, which is a requirement when considering this application and its application of CPTED principals.*

*On viewing the plans provided the front windows which have existing shade devises this proposal also includes the installation of (new dark curtains across window to be closed at all times) also the rear windows are toilets and a shower which are either curtained or frosted glass.. Therefore there is NO passive surveillance from the premises. Although service room 4 (front overlooking the Pacific highway) may have the heavy curtains opened to increase passive surveillance this is not practical in this application due to the type of expected activities and therefore cannot afford passive natural surveillances required by CPTED.*

*Part 5.3.3 also refers to the installation of CCTV cameras and are to be installed to monitor the entrance and emergency egress points. As pointed out before this proposal adjoins a McDonald's restaurant which is frequented by families, children and other respected members of the community. Any installation of CCTV to 'monitor' access which would include people entering the building and passing pedestrians must be sensitive and not capture any images of those passing pedestrians.*

**(considerations if the application is granted).**

*In April 2001 the NSW Minister for Planning introduced Crime Prevention Guidelines to Section 79C of the Environmental Planning and Assessment Act, 1979. These guidelines require consent authorities to ensure that development provides safety and security to users and the community. 'If a development*

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*presents a crime risk, the guidelines can be used to justify modification of the development to minimize crime risk, or, refusal of the development on the grounds that crime risk cannot be appropriately minimised'.*

*The Guidelines contain two parts. 'Part A details the need for a formal crime risk assessment (Safer by Design Evaluation) to be done in conjunction with trained police, and Part B outlines basic Crime Prevention Through Environmental Design (CPTED) principles and strategies that can be used by consent authorities to justify the modification proposals to minimize risk'. (DUAP 2001:2). Also in considering this application the social impact and amenity of the area is to be considered.*

***Crime Prevention Through Environmental Design (CPTED)***

*Crime Prevention Through Environmental Design (CPTED) is a crime prevention strategy that focuses on the planning, design and structure of cities and neighbourhoods. It reduces opportunities for crime by using design and place management principles that reduce the likelihood of essential crime ingredients from intersecting in time and space.*

*Predatory offenders often make cost-benefit assessments of potential victims and locations before committing crime. CPTED aims to create the reality (or perception) that the costs of committing crime are greater than the likely benefits. This is achieved by creating environmental and social conditions that:*

- *Maximize risk to offenders (increasing the likelihood of detection, challenge and apprehension).*
- *Maximise the effort required to commit crime (increasing the time, energy and resources required to commit crime)*
- *Minimise the actual and perceived benefits of crime (removing, minimizing or concealing crime attractors and rewards) and*
- *Minimise excuse making opportunities (removing conditions that encourage/facilitate rationalization of inappropriate behaviour)*

*CPTED employs four key strategies. These are surveillance, access control, territorial re-enforcement and space/activity management.*

***1.1. Site Description***

*The site is an existing building of brick / cement render construction it is located on the first floor of another existing shop within a row of shops. It fronts a major arterial road. The only proposed access door is located at street level and next to a McDonalds restaurant. There is a rear lane that is for staff parking and emergency egress.*

***1.2. Site Risk Rating***

*The NSW Police Safer by Design Evaluation process is based upon Australia and New Zealand Risk Management Standard ANZS4360:1999. It is a contextually*

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*flexible, transparent process that identifies and quantifies crime hazards and location risk. Evaluation measures include crime likelihood (statistical probability), consequence (crime outcome), distributions of reported crime (hotspot analysis), socio-economic conditions (relative disadvantage), situational hazards and crime opportunity.*

*After conducting this process the rating for this development has been identified as, Moderate-Significant crime risk.*

*With this in mind the following Crime Prevention Through Environmental Design (CPTED) treatments should be considered for the development in order to reduce opportunities for crime.*

- *Natural*
- *Organised (low)*
- *Technical/Mechanical (low)*
- *Technical/Mechanical (high)*

### **1.3. Surveillance**

*Natural surveillance is achieved when normal space users can see and be seen by others. This highlights the importance of building layout, orientation and location; the strategic use of design; landscaping and lighting. Natural surveillance is a by-product of well-planned, well-designed and well-used space.*

*Technical/mechanical Surveillance is achieved through mechanical/electronic measures such as CCTV, help points and mirrored building panels.*

*Technical/mechanical surveillance is commonly used as a 'patch' to supervise isolated, higher risk locations. Formal (or Organised) Surveillance is achieved through the tactical positioning of guardians. An example would be the use of on-site supervisors at higher risk locations.*

#### *General Comments in Design for Surveillance:*

- *Buildings facing 'outward' towards public and semi public areas provide natural surveillance and informal supervision (eyes on the street).*
- *Entry points should be designed so as to maximize surveillance opportunities to and from these areas from both inside as well as outside.*
- *The placement and orientation of common entry areas should maximize opportunities for natural supervision by staff and other guardians.*
- *Laminated glass walls and windows facilitate supervision of common entry areas.*

*There is no or very little provision for natural or passive surveillance as detailed in this application.*

### **1.4. Lighting**

*There is a proven correlation between poor lighting, fear of crime, the avoidance of public places and crime opportunity (Painter, 1997). Good lighting can assist in*

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*increasing the usage of an area. There is no information with the plans, which were reviewed to indicate the lighting proposals for the development.*

*General Comments in Design for Lighting:*

- *Lighting should be designed to the Australian and New Zealand Lighting Standards.*
- *Australia and New Zealand Lighting Standard 1158.1 – Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.*

*The lighting is not expected to be an issue from the front of the building however lighting to the rear is not clear and if consent is granted must conformed to provide suitable technical surveillance. The rear 'entry' emergency egress door and car park provide numerous concealment points for criminal and anti social behaviour and as such poses a risk to all users of this area. This are needs to have a full lighting and concealment audit done together with CCTV Coverage. A system of 2 persons exiting at night needs to be implemented in order to Minimise any risk.*

**1.5. Territorial Re-enforcement**

*Criminals rarely commit crime in areas where the risk of detection and challenge are high. People who have guardianship or ownership of areas are more likely to provide effective supervision and to intervene in crime than passing strangers. Effective guardians are often ordinary people who are spatially 'connected' to a place and feel an association with, or responsibility for it. Territorial Re-enforcement uses actual and symbolic boundary markers, spatial legibility and environmental cues to 'connect' people with space, to encourage communal responsibility for public areas and facilities, and to communicate to people where they should/not be and what activities are appropriate.*

*General Comments in Design for Territorial Re-enforcement:*

- *The boundaries of the development are reasonably well defined.*
- *Rear access should clearly define the territorial space of the development and be well secured.*
- *Effective signage within the premises and directions will provide guidance to visitors/customers in locating main areas and keep them away from restricted areas.*
- *Signs can also assist in controlling activities and movements throughout the premises.*

*Recommended Conditions of Consent:*

*Signage needs to be provided at entry/exit points and throughout the development to assist users and warn intruders they will be prosecuted.*



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Advised Conditions of Consent:

*Signage also needs to be provided on the fire exit doors warning users that the doors are to be used for emergency purposes only.*

**1.6. Environmental Maintenance**

*All space, even well planned and well-designed areas need to be effectively used and maintained to maximize community safety. Places that are infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.*

Advised Conditions of Consent:

*There is no information within the plans which indicate what maintenance policies will be included within this development. A maintenance policy needs to be established for this development.*

**1.7. Space/Activity Management**

*Space/Activity management strategies are an important way to develop and maintain natural community control. Space management involves the formal supervision, control and care of the development. All space, even well planned and well-designed areas need to be effectively used and maintained to maximize community safety. Places that are infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.*

General Comments in Design for Space/Activity Management:

*There is some street activity in the area at night due to the Pacific highway. The location is also nearby a major transport interchange. The rear access car park is of concern and a risk to users due to its concealment and lack of natural surveillance.*

**1.8. Access Control**

*Access control treatments restrict, channel and encourage people into, out of and around the development. Way-finding, desire-lines and formal/informal routes are important crime prevention considerations.*

*Access control is used to increase the time and effort required to commit crime and to increase the risk to criminals. Natural access control includes the tactical use of landforms and waterways features, design measures including building configuration; formal and informal pathways, landscaping, fencing and gardens. Technical/Mechanical access control includes the employment of security hardware and Formal (or Organised) access control includes on-site guardians such as employed security officers.*

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General Comments in Design for Access Control:

- *The proposed use of CCTV and manned reception area provide suitable access control but needs to be constantly reviewed and maintained.*
- *There is again little information to indicate the access control treatments in and around the development.*
- *Fire exit doors to the development should also be fitted with single cylinder locksets (Australia and New Zealand Standard – Lock Sets) to restrict unauthorized access to the development.*
- *Access control should be set in place to exclude unauthorized access to restricted areas.*

Recommended Conditions of Consent:

- *The main entry/exit points for this development should be fitted with single cylinder locksets (Australia and New Zealand Standards – Locksets), which comply with the Building Code of Australia.*
- *The windows should also be fitted with key operated locksets (Australia and New Zealand Standard – Lock Sets) to restrict unauthorized access to the development.*
- *Counters should be designed to reduce the opportunity for assault of staff and unauthorized access to behind counter areas. Consider adjustments to the width, height and location of the counter.*
- *Windows can also be re-enforced to restrict unauthorized access by:*
  - *Applying a shatter resistant film;*
  - *Replacing the existing glass with laminated glass*
- *A safe designed and installed to the Australian Standards can provide additional security to money and other valuables.*
- *To enhance the security of the business, a monitored intruder alarm system is proposed and recommended.*
- *This appears to incorporate a duress facility into the system to enable staff to activate the system manually in the event of an emergency, such as a robbery.*
- *Consideration should be taken to having some type of access control installed within the main customer entry/exit points so that staff can control customer entry within later hours of trading.*

**1.9. Conclusion**

*The New South Wales Police have a vital interest in ensuring the safety of members of the community and their property. By using the recommendations contained in this evaluation, any person who does so acknowledges that:*

1. *It is not possible to make areas evaluated by the NSW Police absolutely safe for members of the community or their property*
2. *It is based upon the information provided to the NSW Police at the time the evaluation was made,*

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3. *The evaluation is a confidential document and is for use by the consent authority or organizations referred to on page 1 only,*
4. *The contents of this evaluation are not to be copied or circulated otherwise that for the purposes of the consent authority or organization referred to on page 1.*

*The NSW Police hopes that by using the recommendations contained in this document, criminal activity will be reduced and the safety of members of the community and their property will be increased. However, it does not guarantee that all risks have been identified, or that the area evaluated will be free from criminal activity if its recommendations are followed.*

**Planner's comments**

Laundering is to be provided on site, if the proposal was recommended for approval a condition could be imposed requiring commercial grade washing and drying facilities.

Cleaning and waste contractors will attend to their contractual duties before the premises opens for business and are unlikely to compete for car parking spaces. It is not anticipated that the risk to pedestrians would be any greater than the existing situation within Wade Lane.

The applicant has advised that CCTV cameras are located within the premises and capture movement of people only once they enter the premises.

**STATUTORY PROVISIONS**

**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 historically been used for a commercial premises. Table 1 of *Managing Land Contamination – Planning Guidelines* provides activities that may cause contamination. There is no evidence that any of the activities listed in the table have taken place on the premises. Contamination is therefore considered unlikely.

Given the nature of the proposed development, being a change of use involving minimal building works, the site appears to be suitable for the proposed development. The proposal therefore meets the requirements of SEPP 55.

**State Environmental Planning Policy No. 64 – Advertising and Signage**

The proposed signage is permissible and is consistent with the objectives of the SEPP and satisfies the assessment criteria specified in Schedule 1 of SEPP 64:

***Character of the area***

The existing street number is to be retained. A sign will also be placed inside the entry foyer at street entry level providing the name of the business, telephone number and hours of operation including signage advising underage access is prohibited.

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A plan of the proposed internal signage was not submitted with the application and would be required to be submitted if the development application was to be supported. Notwithstanding the above, the location of the signage inside the entry area would not be clearly visible from the Pacific Highway and is not anticipated to significantly impact on the town centre.

*Views and vistas*

The proposed signage would not obscure or compromise important views and vistas and does not dominate the skyline.

*Streetscape, setting or landscape*

A plan of the proposed internal signage was not submitted with the application but would be required if the development application was to be supported. As stated above, given the signage would be internal to the building, it is not anticipated that it would impact the streetscape, setting or landscape.

*Site and building*

As stated above, given the signage is proposed internal to the building, it is not anticipated that there would be any impact on the site or the building.

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

**Part A: Permissibility**

The subject site is located in the Business 3(a)-(A1) Retail Services zone.

The proposed use is defined as a "brothel" under the KPSO. A "brothel" is defined as follows:

*"Brothel" means ... 'premises habitually used for the purpose of prostitution or that are designed to be used for that purpose. Premises may constitute a brothel even though used by only one prostitute for the purpose of prostitution'...*

The use is permissible in the Business 3(a)-(A1) Retail Services zone.

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## Part B: Development standards

COMPLIANCE TABLE	
Development Standard	Proposals Numeric Compliance
<b>Building height (cl.30A)</b> <ul style="list-style-type: none"> <li>8m (max)</li> <li>Zone 3(a)-(A1)</li> </ul>	No change to the existing building height is proposed.
<b>Building Height Plane (cl.30A)</b> <ul style="list-style-type: none"> <li>30° from horizontal measured at any point 1.5m above boundary with any Residential or Open Space zone.</li> </ul>	No change to the existing building height plane is proposed.
<b>FSR (cl.30B)</b> 3(a)-(A1) 2.0:1(max)	No change to the existing floor space ratio is proposed.

## Part C: Zone objectives

The objectives of this zone are listed under clause 29 of the KPSO and are described as follows:

- (a) to identify existing business centres within the Municipality, the principal functions of which are to satisfy the retail and community service demands of the community which they serve;*
- (b) to permit, within the business centres' hierarchy, business and office premises of a scale and character which do not threaten the role of the business centres as described in (a) above;*
- (c) to permit other community facilities, recreation, leisure and general services within the zone to meet the needs and demands of employees within the centres and the community which each centre services;*

The intended use of the premises as a brothel is a permissible use within the commercial area. The proposal is for the use of an existing commercial premises for a brothel and does not alter the height, setbacks or floor space ratio of the existing building.

Notwithstanding the above, the proposed brothel is located adjacent to and in proximity of sensitive land uses, which is inconsistent with the requirements of DCP 42 as addressed below.

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## POLICY PROVISIONS

### Development Control Plan 14 – Development in business zones

DCP 14 provides controls and guidelines in respect of development within business zones. It aims to maintain and enhance the economic viability and general appearance of Council's commercial centres.

Clause 11 of DCP 14 provides development considerations against which all commercial developments must be assessed. The proposal is for a change of use and internal fit out and will not result in any adverse impacts with regard to solar access, streetscape, or energy efficiency. The proposed development is not anticipated to result in any unreasonable overlooking or noise impacts to adjoining properties.

As advised by Council's Development Engineer ... *'parking surveys undertaken by Council indicate that the unrestricted parking in the vicinity is fully occupied between the hours of 8am and 2 to 3pm. This time effectively includes the first shift, which means that employee parking would spill over into nearby residential streets'*... therefore impacting on traffic and parking and being contrary to clause 11(h) of DCP 14.

### Development Control Plan 28 – Advertising signs

The application proposes the erection of a sign inside the entry foyer at street entry level, bearing the name of the business, telephone number and hours of operation, including signage advising that access to underage persons is prohibited. The existing street number is to be retained.

Under the aims and objectives of DCP 28, signage should maintain a balance between established built form and the character of the streetscape, to ensure signage does not intrude or detrimentally affect visual amenity and to ensure signage does not obstruct access.

A plan of the proposed internal signage was not submitted with the application, but would be required to be submitted were the development application to be supported. However, given that the proposed business identification sign and unauthorised entry sign would be located inside the entry foyer it is not anticipated that it would be dominating or visually intrusive.

### Development Control Plan 31 – Access

DCP 31 does not specify any particular access requirements for brothels. However, Section 10 of the DCP states that, for commercial premises, access should be provided to and within all areas of facilities where there is a reasonable expectation of access by any owner, occupier, employee or visitor. The DCP also states that this access is usually required to an entrance area, with access to all other floors via ramp or passenger lift. Amenities where possible shall also be provided.

The subject application is for the use of an existing commercial premise and only minor building works are proposed. The applicant has requested that the requirement for access be waived on the basis of financial hardship upon the business.

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Council may vary the provisions of this plan if compliance with the plan will cause major difficulties or unreasonable costs to a person or organisation.

Before it can be claimed that providing access is unjustified, an applicant needs to:

- thoroughly consider how access might be provided
- clearly substantiate to Council that providing access in accordance with this plan is unjustified by the provision of a statement by an appropriate body

The statement of environmental effects and plan of management submitted by the applicant discuss unjustifiable hardship, however, fail to thoroughly justify and examine the ability of providing suitable access in accordance with the Policy.

Council's Building Surveyor has reviewed this aspect of the application and has recommended that disabled access could be achieved in accordance with Clause D3.2 of the Building Code of Australia, or an alternative solution, meeting the relevant Performance Requirements of the Building Code of Australia, may also be possible.

**Development Control Plan 42- Regulation of brothels**

Development Control	Proposed	Complies
<b>2.1 Location</b>		
<b>general provisions:</b>		
<ul style="list-style-type: none"> <li>• not located in a residential area or neighbourhood business zones</li> </ul>	the subject site is located in 3(a)-(A1) Retail Services. This zone is not classified as a neighbourhood business zone under the KPSO	YES
<ul style="list-style-type: none"> <li>• not within 200m of church or place of public worship</li> </ul>	175.9m	NO
<ul style="list-style-type: none"> <li>• not be within 100m of any educational establishment, place of public entertainment or public library</li> </ul>	69.9m	NO
<ul style="list-style-type: none"> <li>• not within 50m of any hospital</li> </ul>	> 50m	YES
<ul style="list-style-type: none"> <li>• not within 50m of the entrance of any railway station</li> </ul>	133.9m (rear access) 230.7m (front entry)	YES YES
<ul style="list-style-type: none"> <li>• not within 500m of any other established brothel</li> </ul>	> 500m	YES

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Development Control	Proposed	Complies
<p>where in a commercial zone:</p> <ul style="list-style-type: none"> <li>the brothel must not overlook or visually intrude upon adjoining residential properties</li> <li>vehicles using service roads to the rear of the premises must not cause a disturbance to adjoining residential properties</li> </ul>	<p>Separated from residential development by the Railway Line</p> <p>Parking non compliant and will rely on nearby residential streets</p>	<p>YES</p> <p>NO</p>
<b>2.2 Standards</b>		
<ul style="list-style-type: none"> <li>not to have an adverse affect on amenity of the area</li> <li>not to have an adverse affect on adjoining land uses/businesses</li> <li>not located on the ground floor (apart from access handle)</li> <li>not to be used as a dwelling, unless separate access is available</li> <li>no merchandising is to be displayed at any entry or access corridor</li> <li>must be accessed by a separate, illuminated entrance</li> <li>must not utilise circulation areas common to the building</li> </ul>	<p>Refer to discussion below</p> <p>Refer to discussion below</p> <p>Located at first floor</p> <p>Not to be used as a dwelling.</p> <p>No restricted material will be displayed on premises</p> <p>Separate entrance stairway at front of building accessed from Pacific Highway</p> <p>the premises will utilise common stairway at the rear of the building</p>	<p>NO</p> <p>NO</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>NO</p>
<b>2.3 Size of premises</b>		
<ul style="list-style-type: none"> <li>no more than 5 suites in any building</li> </ul>	4 suites	YES
<b>2.4 Amenity</b>		
<ul style="list-style-type: none"> <li>must not interfere with neighbourhood amenity due to size,</li> </ul>	refer to discussion below	NO



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Development Control	Proposed	Complies
operating hours, traffic generation, lighting, noise and number or employees or clients		
<b>2.5 Waiting areas</b>		
<ul style="list-style-type: none"> <li>adequate internal reception and waiting areas must be provided</li> </ul>	a reception area and 2 waiting rooms are provided	YES
<b>2.6 Parking</b>		
<ul style="list-style-type: none"> <li>one space per two employees</li> <li>one space for each suite is provided</li> </ul> <p>7 spaces required</p>	2 space provided	NO
<b>2.7 Advertising structures</b>		
<ul style="list-style-type: none"> <li>signs do not display words/images that are sexually explicit/suggestive</li> </ul>	the proposed signs comply with this requirement	YES
<ul style="list-style-type: none"> <li>sign identifies only the name of person who conducts business or registered name of business</li> </ul>	the proposed signs do not comply with this requirement	NO
<ul style="list-style-type: none"> <li>street number is displayed</li> </ul>	existing street number	YES
<ul style="list-style-type: none"> <li>one sign per premises</li> </ul>	one sign is proposed	YES
<ul style="list-style-type: none"> <li>content, illumination, size &amp; shape of sign is compatible with building</li> </ul>	plan of sign was not provided	unknown
<b>2.8 Security &amp; Public safety</b>		
<ul style="list-style-type: none"> <li>details on measures to safeguard workers, clients &amp; the general public are provided &amp; address issues such as hours of security personnel &amp; lighting of access ways</li> </ul>	Additional information would be required with regards to passive surveillance, lighting, maintenance policy, concern of rear access way etc.	NO

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Development Control	Proposed	Complies
<b>2.9 Escort agency</b>		
<ul style="list-style-type: none"> <li>details must be provided regarding: <ul style="list-style-type: none"> <li>number of traffic movements &amp; their impacts on surrounding streets &amp; intersections</li> <li>number of cars to be utilised</li> <li>amount of car parking that will be provided for this additional use</li> <li>number of escort personnel</li> </ul> </li> </ul>	the proposed brothel does not offer any escort services	N/A

**2.1 Location****General provisions:**

- not within 200m of church or place of public worship*

The closest place of public worship to the proposed brothel is the Anglican Church located at 754 Pacific Highway, Gordon. The brothel is proposed at 175.9 metres from the grounds of the church and 224.1 metres from the church entry, thereby being non-compliant with section 2.1 of Council's DCP 42, which requires a minimum distance of 200 metres. It is noted that the Church of St Francis – Liberal Catholic Church is located at 21 St Johns Avenue and is sited at a distance of 197.9 metres from the proposed brothel, also within the specified distance.

A place of public worship is an area where community members, including children and families gather. In this regard, the proposed brothel is inappropriately located and is likely to adversely impact on the church community.

- not be within 100m of any educational establishment, place of public entertainment or public library*

The closest educational establishment is 69.9 metres away, being a Music Academy, with other like uses situated in proximity to the proposed brothel.

It is also noted that the McDonald's restaurant is sited adjacent to the entry of the proposed brothel. Whilst the McDonald's restaurant is not defined as an '*educational establishment*' it is as stated by the NSW Police ... '*frequented by children, families and school students. The restaurant also uses a staff of youths aged 16 and up*'...

Whilst DCP 42 does not provide a specific objective for the location requirements, the implicit objective is to limit visibility of brothels from sensitive uses. In this regard, the location of the brothel is unacceptable given its proximity to places where children, families and school students frequent and regularly gather, contrary to the intent of DCP 42.

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2.2 Standards and 2.4 Amenity

- *not to have an adverse affect on amenity of the area*
- *not to have an adverse affect on adjoining land uses/businesses*
- *any brothel established within the commercial zone shall not be permitted where it is directly overlooking or visually intruding or overiewing adjoining residential properties or there is any disturbance by the movement of vehicles using services roads to the rear of the commercial premises where a residential zone adjoins*

As stated above, the proposed brothel is located adjacent to and within proximity of a range of sensitive land uses in which community members, children and families regularly gather which would have an adverse affect on the amenity of the area, contrary to requirements of DCP 42.

Numerous business owners in the area have raised concern regarding the proposal and the likely impacts on their business, given the site is located within the heart of the Gordon Town Centre.

Specifically, the McDonald's restaurant is located adjacent to the proposed brothel entry. As stated by both the NSW Police and the McDonalds restaurant, the restaurant is frequented by children, school students and families and also employees adolescents aged 16 and over, contrary to the intent of the location requirements of DCP 42. The likely impacts have been stated by McDonald's Australia Limited as:

- *... 'the development will significantly impact on our sales as our customers have communicated to us that they will no longer visit the restaurant should the development be approved. We have been informed that a number of other small business' in the shopping strip have received the same feedback;*
- *the McDonald's Restaurant at Gordon employs a large number of youths and if the development is approved it will no longer be an appropriate location for the parents of these youths to allow them to work at night;*
- *the development will detract from the reputation of not only our restaurant and our company but also the greater area in which we and our fellow community members reside and will result in a significant social cost of the community;*
- *the proposal will restrict the development of our business and a number of other businesses situated on the shopping strip;*
- *the development will create an area for loitering around the shopping strip and in particular our restaurant will require us to increase the safety and security procedures of the restaurant as a result of another development; and*
- *the development will attract people to the neighbourhood that is not appropriate for an area where students and families gather'....*

Similar concerns have been raised by other businesses in the area. Although the above extract

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highlights the concerns of one business owner, it identifies that the proposed use would likely have an adverse impact on the adjoining land uses/businesses, contrary to the requirements of section 2.2 and 2.4 of DCP 42. In this regard, the proposal would be unacceptable.

The proposed hours of operation for the brothel correspond with the hours of operation of the McDonalds restaurant. Concern has been raised by the NSW Police given the close proximity of the entry of the brothel to the entry of the McDonald's restaurant.

It is unlikely that the proposed use would directly overlook or intrude visually on the surrounding environment, given the use requires a private environment. However as a consequence, creates an environment which lacks natural and passive surveillance, contrary to the requirements of the Crime Prevention through Environmental Design policy. Concern has also been raised by the NSW Police with regards to the safety of the rear access car park and risk to users given its concealment and lack of natural surveillance, contrary to the amenity of the area.

Of further relevance to this assessment are the Land and Environment Court planning principles pursuant to *Martyn v Hornsby Shire Council [2004] NSWLEC 614*. The planning principle aims to assist in determining the assessment criteria for locating brothels in areas where there are no locally adopted guidelines. Notwithstanding the above, these guidelines expand upon the guidelines adopted by Ku-ring-gai Council and are considered relevant in the assessment of the application. The planning principles are discussed below:

*"The following are criteria for locating brothels:*

- *Brothels are a legal land use that benefits some sections of the community but offends others. Most people believe that the exposure of impressionable groups like children and adolescents to the existence of brothels is undesirable. The aim should therefore be to locate brothels where they are least likely to offend. However, criteria for locating brothels should not be so onerous as to exclude them from all areas of a municipality.*

The aim of this principle is to prevent exposure of brothel uses to impressionable groups. As discussed within the body of the report, the brothel is proposed to be located directly adjacent to and within proximity of sensitive land uses, contrary to the aims of the planning principle.

- *Brothels should be located to minimise adverse physical impact, such as noise disturbance and overlooking. In this aspect they are no different from other land uses.*

The proposal is not likely to cause unreasonable noise levels or overlooking of adjoining residential or commercial properties.

- *There is no evidence that brothels in general are associated with crime or drug use. Where crime or drugs are in contention in relation to a particular brothel application, this should be supported by evidence.*

There is no current direct or causal evidence to suggest that the proposed brothel would be associated with crime or drug use. The assessment undertaken by the NSW Police has suggested that the proposal is deficient when assessed against the provisions of the Crime Prevention through Environmental Design policy. However, it was not suggested that the brothel was associated with crime or drugs.

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- *Brothels should not adjoin areas that are zoned residential or be clearly visible from them. Visibility is sometimes a function of distance, but not always.*

The subject site is located in a business zone. The site does not directly adjoin a residential zone nor would it be clearly visible from one.

- *Brothels should not adjoin, or be clearly visible from schools, educational institutions for young people or places where children and adolescents regularly gather. This does not mean, however, that brothels should be excluded from every street on which children may walk.*

The proposed brothel is directly adjacent to the McDonald's restaurant. Both the NSW Police and McDonald's Australia acknowledge that the restaurant is frequented by children, families, school students and also employees adolescents aged 16 and over. In this regard, the proposal is completely at odds with the planning principle. In addition, a range of educational institutions, such as a music academy and other local shops, commercial premises and cafes which are frequented by young persons, are also located within the vicinity of the site.

In this regard, the proposed brothel is considered to be inappropriately located.

- *The relationship of brothels to places of worship (which are likely to attract people who are offended by brothels) is a sensitive one. The existence of a brothel should not be clearly visible from places where worshippers regularly gather.*

The closest place of worship in relation to the brothel is the Anglican Church located at 754 Pacific Highway, Gordon. Whilst the place of public worship is not clearly visible from the subject site, it would be within its line of sight. It is noted that a place of public worship is an area where community members including children and families gather. In this regard, the proposed brothel is inappropriately located and is likely to adversely impact on the church community.

In this regard, the proposed brothel is considered to be inappropriately located.

- *There is no need to exclude brothels from every stop on a public transport route. However, it would not be appropriate to locate a brothel next to a bus stop regularly used by school buses.*

The proposed brothel is located within 39.7 metres of a bus stop. The Gordon Railway Station is located 230.7 metres from the brothel entrance.

Whilst it is acknowledged that the bus stop may not be specifically utilised as a school bus drop off and pick up zone, it has been stated by the NSW Police that users within the proximity of the site are frequented by children, families and school students. Thereby, it is likely that the bus stop would be utilised by the targeted groups.

It is also noted, that although the Gordon Railway Station is located some distance from the brothel, a common thoroughfare exists between the railway line along the Pacific Highway for users of the local restaurants, cafes, shops, medical centres, education establishments, library etc.

Item 7

In this regard, the proposed brothel is considered to be inappropriately located.

- *Where a brothel is proposed in proximity to several others, it should be considered in the context that a concentration is likely to change the character of the street or area. In some cases this may be consistent with the desired future character, in others not.*

The proposed brothel is not located in close proximity to any legalised brothels, with the closest being over 500 metres away in Roseville.

- *The access to brothels should be discreet and discourage clients gathering or waiting on the street. Apart from areas where brothels, sex shop and strip clubs predominate, signage should be restricted to the address and telephone number."*

The brothel is proposed to be located within the Gordon Town Centre, with access from the Pacific Highway. The Gordon Town Centre is a busy shopping strip, consisting of commercial uses, shops and retail premises. It is acknowledged that the premises is at first floor level and would accommodate waiting rooms, preventing clients from waiting within the Pacific Highway. However, the entry point is not discreet, noting access is located via the Pacific Highway, within the heart of a busy shopping strip.

## 2.6 Parking

Council's Development Engineer has considered the parking requirements for the proposed use and has advised that there is a practical parking capacity on the site for two (2) vehicles. The proposed use will result in a parking shortfall of five (5) parking spaces.

*As discussed above, the ... 'proposed hours of operation of the development are between 10am to 11pm daily, which includes business hours. Therefore, the merit-based concession allowed under DCP 42 is not available. Parking surveys by Council indicate that the unrestricted parking in the vicinity is fully occupied between the hours of 8am and 2 to 3pm. This time effectively includes the first shift, which means that employee parking would spill over into nearby residential streets'...*

In this regard, the proposed development does not provide adequate car parking spaces and this is contrary to clause 4.6 of DCP 42.

## 2.7 Advertising structures

- sign identifies only the name of person who conducts business or registered name of business
- one sign per premises

The application proposes a sign inside the entry foyer at street entry level bearing the name of the business, telephone number and hours of operation, including signage advising that access to underage persons is prohibited. The proposed signage includes a telephone number and hours of the operation, contrary to clause 2.7 of DCP 42. Notwithstanding the above, the proposed signage would be inside the front entry, would serve an appropriate purpose and would not be excessive.

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**Development Control Plan 43 – Car Parking**

DCP 43 (Car parking) does not provide a specific car parking requirement for brothels. However, a commercial use operating from the same premises would generate a car parking requirement of one space per 33m<sup>2</sup> of floor area, or five (5) parking spaces to be provided for the tenancy. These spaces cannot be accommodated on site.

In this case, car parking rates for brothels are specifically defined within DCP 42 and for this reason DCP 42 is the primary policy. Car parking has been discussed above and found to be unacceptable by Council's Development Engineer.

**LIKELY IMPACTS**

The likely impacts of the proposed development have been considered elsewhere in this report and found to be unacceptable.

**SUITABILITY OF THE SITE**

The site is commercially zoned and has been used historically for business, retail purposes. The site is not considered to be suitable for the proposed development as discussed within the body of the report.

**ANY SUBMISSIONS**

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

**PUBLIC INTEREST**

The approval of the application is not considered to be in the public interest.

**ANY OTHER RELEVANT MATTERS**

**Draft Ku-ring-gai Local Environment Plan 2008 (Town Centres) (DKLEP 2008)**

The Draft Ku-ring-gai Local Environment Plan 2008 (Town Centres) applies to the site, wherein the existing premises has been included in the draft business Zone B2 - Local Centre. Under the draft zoning, the use of a commercial premises for a brothel (or sex services premises) is permissible.

**Consideration of Draft Environmental Planning Instruments (EPIs)**

Section 79C(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 requires Council to take into consideration the provisions of any Draft Environmental Planning Instrument (EPI) that has been placed on public exhibition. The draft LEP 2008 (Town Centres) has been placed on public exhibition and is a draft EPI for the purposes of this section of the Act.

The provisions of the Draft LEP 2008 (Town Centres) are therefore relevant considerations. Any such assessment must consider the degree of weight placed upon such provisions and whether the implementation of the draft LEP is certain and imminent. It must also consider the effect of

Item 7

any savings provisions contained within the instrument. The precise terms and effect of such provisions have not been decided.

There appears to be no doubt that the Draft LEP 2008 (Town Centres) will eventually be made, and to that extent it is certain and imminent. However, the precise final form of the LEP is not certain at this stage, for that depends upon any amendments that might be required by the Minister for Planning.

In such circumstances, Council must consider the impact that granting development consent may have on the implementation of any future objections to the zone. The particular objectives for the draft business B2 Zone are given as follows:

***Zone B2 Local Centre***

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To integrate residential development with retail and non-residential development that is compatible with the hierarchy of the centre.*

The proposal is a permissible use within the B2 zone and would require Council's consent.

The impacts on adjoining and nearby residential properties have been found to be unacceptable, as detailed throughout this report. On this basis the proposal is unsatisfactory and would not be consistent with achieving the future planning objectives of the zone.

The proposed use in this location is therefore considered to be inconsistent with the objectives of the draft B2 Zone and the overall aims of the Draft LEP 2008 (Town Centres).

***Clause 6.7 Restrictions on consent for particular sex services premises [local] DKLEP 2008***

*(1) Development consent must not be granted for development for the purposes of sex services premises if the premises will be located on land that adjoins, or that is separated only by a road, other than a classified road, from land:*

- (a) in Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential or E4 Environmental Living, or*
- (b) used for community facilities, schools or places of public worship, or*
- (c) in Zone RE1 Public Recreation.*

*(2) In deciding whether to grant consent to any such development, the consent authority must take into account the impact that the proposed development would have on children who use the land.*

The proposed development is not sited directly adjacent to residential zones, with the closest residential uses located east of the Railway Line and west of the Pacific Highway.



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However, the proposed development would be sited adjacent to and within proximity of sensitive land uses frequented by school children, adolescents and families. It is also noted that adolescents work within close proximity to the proposed brothel. In this regard, the proposed development is considered contrary to the requirements of clause 6.7 (1)(b) of Draft Ku-ring-gai Local Environmental Plan (Town Centres) 2008.

## CONCLUSION

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is not supported for the reasons stated within the body of the report.

## RECOMMENDATION

THAT the Council, as the consent authority, refuse consent to DA 0423/09 for the change of use to a brothel and associated fitout on land at 763 Pacific Highway (Level 1), Gordon, for the following reasons:

### 1. Non compliance with location requirements pursuant to clause 2.1 of DCP 42

The proposed brothel would be located adjacent to and within proximity of an array of sensitive land uses and businesses.

**Particulars:**

- i) A McDonald's restaurant, located at 765 Pacific Highway, is sited directly adjacent to the subject site, frequented by children, families and school students. The restaurant also uses a staff of youths aged 16 and up.
- ii) The Anglican Church is located at 754 Pacific Highway, Gordon which is 175.9 metres to the Church grounds, and 224.1 metres to the entry point.
- iii) The Church of St Francis – Liberal Catholic Church is located at 21 St Johns Avenue and is sited at a distance of 197.9 metres from the proposed brothel.
- iv) The closest educational establishment is a Music Academy located at 785A Pacific Highway, Gordon, located at distance of 69.9 metres from the proposed brothel.
- v) A bus stop is located along the eastern side of the Pacific Highway, sited at a distance of 39.7 metres from the proposed brothel.

### 2. Non compliance with standards pursuant to clause 2.2 of DCP 42

The proposed brothel would have an adverse effect on the amenity of the area and would have an adverse affect on surrounding and adjoining land uses and businesses in the locality.

**Particulars:**

- (i) The proposed brothel is sited adjacent to and within proximity of sensitive land uses and businesses, of which are frequented by children, families and school students, contrary to the requirements of clause 2.2 of DCP 42.

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- (ii) The location of the proposed brothel would adversely impact on surrounding land uses and businesses in the area, given that some parents and community members may prevent their families from working and utilising such areas.
- (iii) The proposed development would be in proximity of numerous places of public worship which are places where community members including children and families gather. In this regard, the proposed brothel is inappropriately located and is likely to adversely impact on the church community.
- (iv) The proposed development would be located in proximity of a local bus stop. The bus stop is likely to be utilised by students, school children, families and adolescents, given its proximity to uses where students regularly gather and frequent.
- (v) The Pacific Highway is utilised by children, adolescents, school children and the community as a common thoroughfare between the train station and local shops, restaurants, medical centres, education establishments, library and other retail and commercial services.

**3. Safety and security**

The proposed development is non compliant with the Crime Prevention through Environmental Design principles (CPTED).

***Particulars:***

- (i) The proposed brothel is expected to provide a private environment. As a result there is no passive surveillance provided from the premises contrary to the requirements of CPTED.
- (ii) Inadequate information has been provided to assess the security and safety risks at the rear entry emergency egress door and car park as they provide concealment points for criminal and antisocial behaviour and as such pose a risk to all users of this area.

**4. *Non compliance with car parking requirements pursuant to clause 2.6 of DCP 42***

The application would result in a parking shortfall of five spaces. This would lead to an unacceptable spillover of parking onto local residential streets.

***Particulars:***

- (i) Council's DCP 42 requires car parking to be provided at the rate of one space per two employees plus one space per suite. The applicant's Plan of Management (POM) states that two receptionists (one per shift) will be employed, and four other employees. Four suites are shown on the drawings (although the POM in Section 2.2 states that there will be three). Therefore seven parking spaces are required.
- (ii) The proposal is for two spaces on site at the rear of the building, a shortfall of five spaces. The proposed hours of operation of the development are 10am to

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11pm daily, which includes business hours. Therefore, the merit-based concession allowed under DCP 42 is not available.

- (iii) Parking surveys by Council indicate that the unrestricted parking in the vicinity is fully occupied between the hours of 8am and 2 to 3pm. This time effectively includes the first shift, which means that employee parking would spill over into nearby residential streets.

**5. Access for a person with a disability**

The application does not provide suitable disabled access or facilities.

**Particulars:**

- (i) Access to the site or facilities have not been provided for a person with a disability contrary to the requirements of DCP 31.

B Sneesby  
**Senior Development Assessment Officer**

S Garland  
**Team Leader**  
**Development Assessment - South**

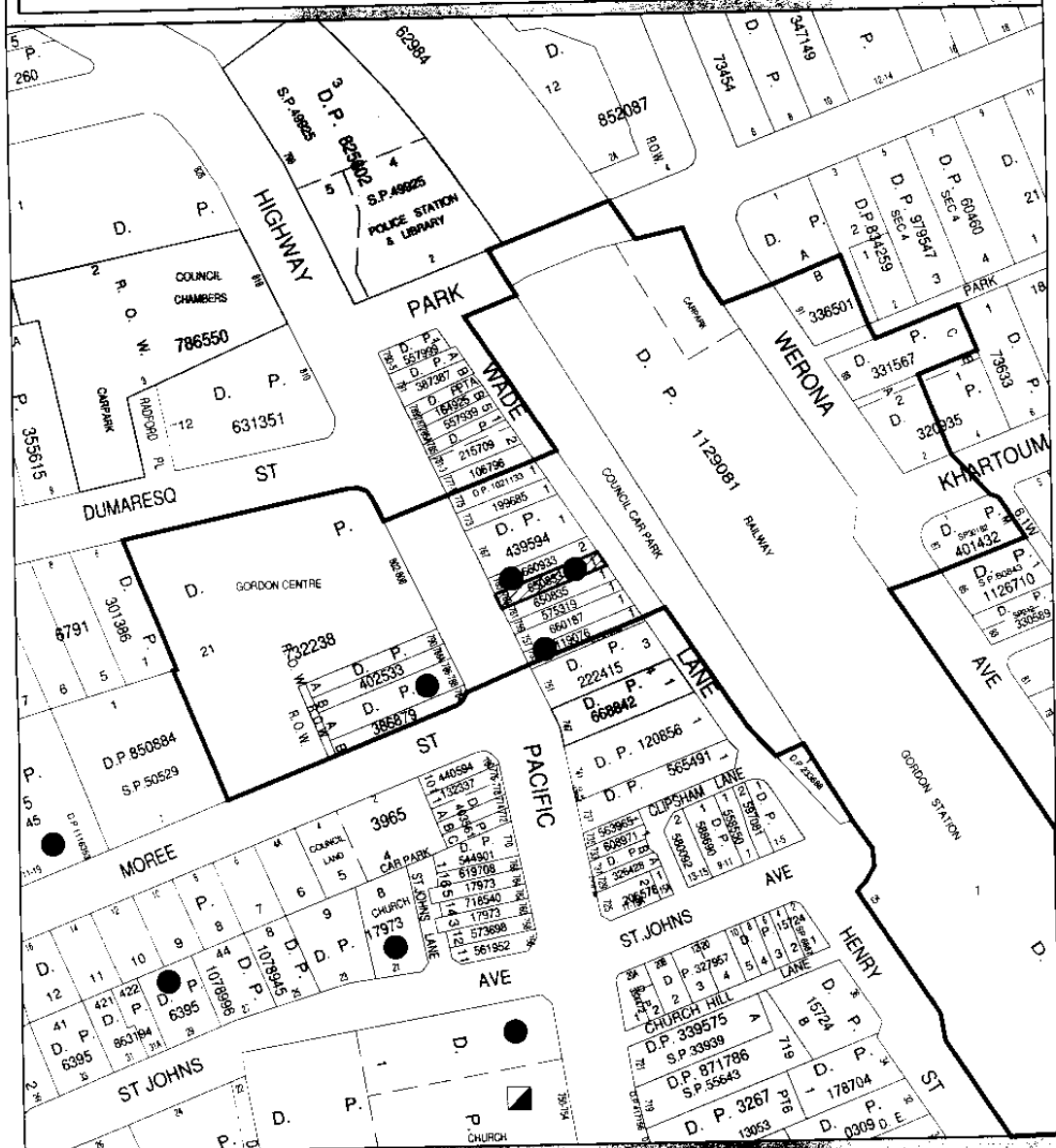
C Swanepoel  
**Manager**  
**Development Assessment Services**

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

**Attachments:**  
Location sketch – 2009/150152  
Zoning extract – 2009/150154  
Floor plan – 2009/150158  
Site plan – 20009/150155

# LOCATION SKETCH

763 Pacific Highway, GORDON  
DEVELOPMENT APPLICATION No 0423/09



In total, 51 submissions (including 4 petitions) were received by Council including those indicated on the above map.



Scale : 1:2000

10-09-2009

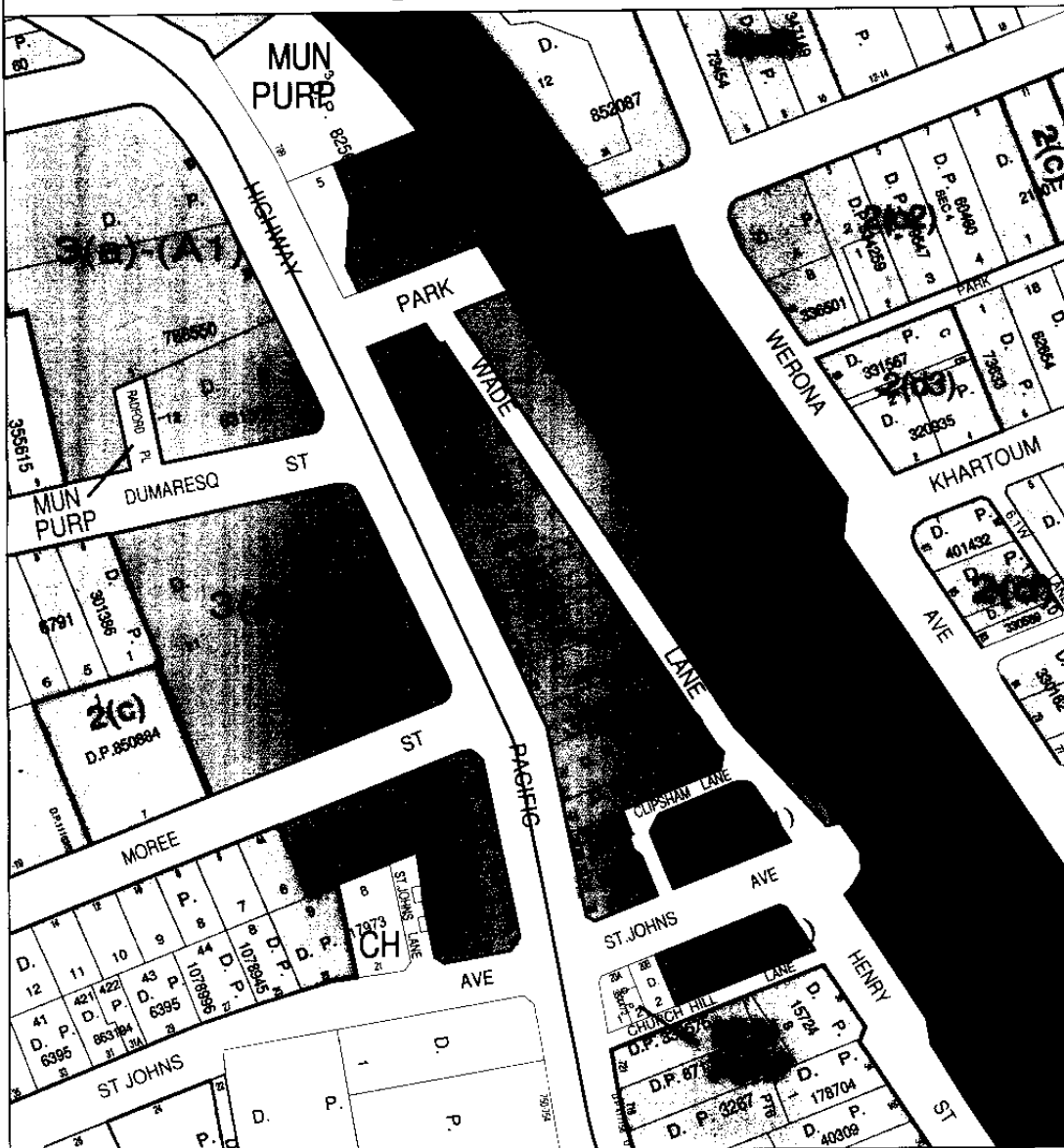
- ▲ AGREEMENT
- OBJECTION
- ◐ PETITION
- SUBMISSION


- ▨ SUBJECT LAND
- HERITAGE PROPERTY
- CIRCULATED AREA

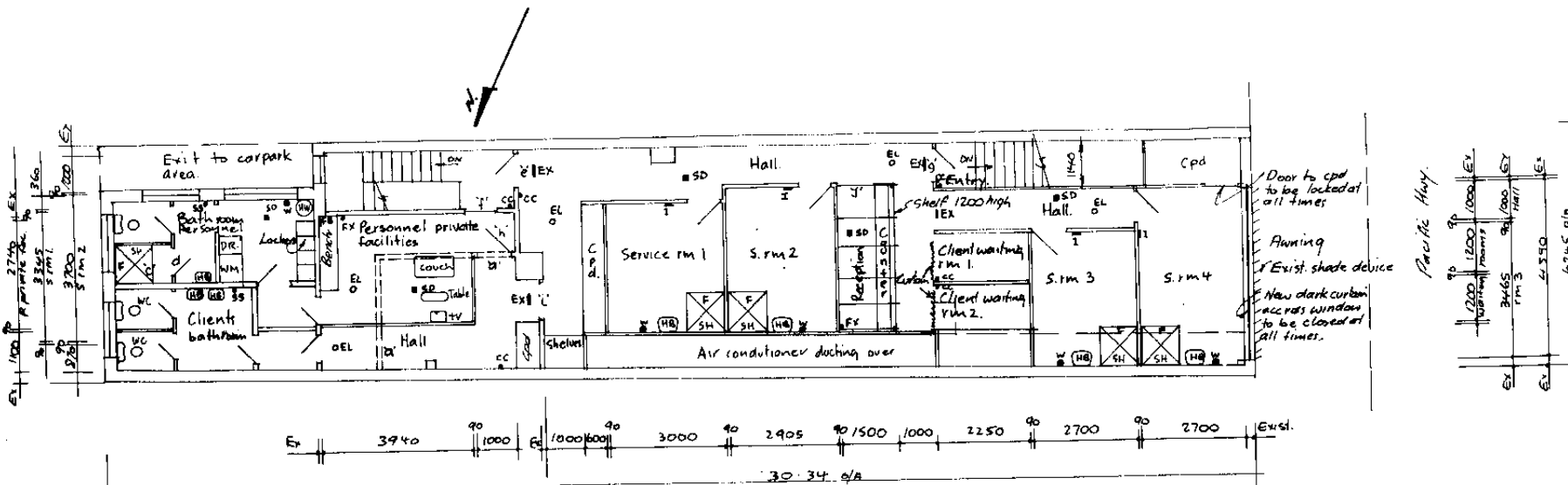


# Zoning Extract

763 Pacific Highway, GORDON - DA0423/09



ZONES			RESERVATIONS	GENERAL
<b>2. RESIDENTIAL</b> (a) RESIDENTIAL A (b) RESIDENTIAL B (c) RESIDENTIAL C (d) RESIDENTIAL C1 (e) RESIDENTIAL C2 (f) RESIDENTIAL D (g) RESIDENTIAL D3 (h) RESIDENTIAL E (i) RESIDENTIAL F (j) RESIDENTIAL G (k) RESIDENTIAL H			<b>OPEN SPACE</b> (a) OPEN SPACE (Public Parks & Recreation) (b) COUNTY OPEN SPACE  <b>SPECIAL USES</b> SPECIAL USES (Parking etc)  <b>ROADS</b> (a) COUNTY ROAD PROPOSED (b) COUNTY ROAD WIDENING (c) LOCAL ROAD PROPOSED (d) LOCAL ROAD WIDENING	EXISTING COUNTY ROAD OTHER PLANNING INSTRUMENTS   Scale: 1:2000 Date: 10-09-2009
<b>3. BUSINESS</b> (a) RETAIL SERVICES  <b>FLOOR SPACE RATIOS</b> A1 2.0:1 A2 1.0:1 A3 0.75:1  (b) COMMERCIAL SERVICES  <b>FLOOR SPACE RATIOS</b> B1 1.0:1 B2 1.0:1			<b>5. SPECIAL USES</b> (a) SPECIAL USES A (Schools etc) (b) SPECIAL USES A1 (c) SPECIAL USES (Railway)  <b>6. OPEN SPACE</b> (a) RECREATION EXISTING (b) RECREATION PRIVATE (c) RECREATION PROPOSED	



# FIRST FLOOR PLAN

Scale 1:100

Floor area = 161.55m<sup>2</sup>

## LEGEND

- a Remove stud wall and make good
- b New 90mm. stud wall
- c Remove existing W.C. and install new shower
- d Change door to open outward
- e Existing exit door to be changed to opening into stair well
- f Existing door to be permanently lock and not used.
- g Install new screen door operated by receptionist and designed for fire exist.
- h Install new door with security code
- i Remove existing door
- j Build pergola over reception counter

## PROPOSED FIRE & SAFETY INCLUSIONS

- IFB Fire blanket.
  - FX Fire extinguisher.
  - IE Exit sign.
  - SD Smoke detector.
  - DEL Emergency lighting.
  - CC CCTV Camera.
  - II Intercom.
  - F Exhaust fan.
  - SS Safe sharps container.
  - W Waste bin with liner
- The first floor is fully air conditioned.

## NOTES AND SPECIFICATION

- 1 All dimensions shall be checked on site prior to starting.
- 2 All workmanship and materials shall comply with B.C.A. & AS/NZS.
- 3 New walls shall be 90 stud.
- 4 New plumbing and electrical work shall be done by a licenced contractor and connected to exist services.
- 5 New walls shall be gyprock lined
- 6 Wall to be removed is non load bearing
- 7 New pergola over reception is decorative only.



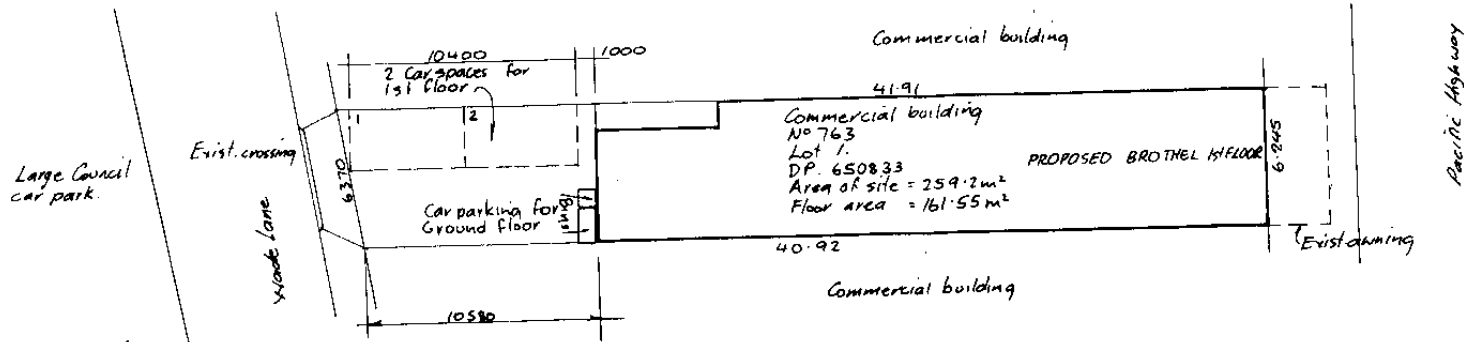
## PROPOSED NEW BROTHEL

AT 763 PACIFIC HIGHWAY GORDON 1st FLOOR  
FOR ASIA AROMA P/L.

## FLOOR PLAN

Scale 1:100 Date 28.6.09  
Phone 99732343

Drawn by R. Conway  
Drawing No 09/13/1.



# SITE PLAN

Scale 1:200



PROPOSED NEW BROTHEL  
AT 763 PACIFIC HIGHWAY GORDON 1st FLOOR  
FOR ASIA AROMA P/L.

## SITE PLAN

Scale 1:200

Phone 99732343

Date 28.6.09 Drawn by R. Conway  
Drawing No 09/13/2.

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## **ANNUAL TENDER FOR SUPPLY, SUPPLY & DELIVERY & SUPPLY, DELIVERY & LAYING OF ASPHALTIC CONCRETE**

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### **EXECUTIVE SUMMARY**

**PURPOSE OF REPORT:**

To seek Council's approval to accept the NSROC tender for the schedule of rates for the supply, supply and delivery and supply, delivery and laying of asphaltic concrete, including the associated road profiling and heavy patching works as well as thin wearing and intermediate surfacing and bituminous crack sealing of road pavement for the period 2009/10.

**BACKGROUND:**

Tenders for the supply, supply and delivery and supply, delivery and laying of asphaltic concrete and related works were called by NSROC in June 2009 on behalf of all member Councils.

**COMMENTS:**

Tenders received for 2009/10 resulted in Downer EDi Works being the preferred candidate for supply, delivery and laying of asphaltic concrete with A J Paving and Downer EDi the preferred candidates for heavy patching dependant on the area of work required and SRS Roads the preferred candidate for thin wearing or intermediate surfacing and bituminous crack sealing of road pavement.

**RECOMMENDATION:**

That the tender rates be accepted, tenderers be advised of Council's decision and that the Common Seal be affixed to the contract.



## PURPOSE OF REPORT

To seek Council's approval to accept the NSROC tender for the schedule of rates for the supply, supply and delivery and supply, delivery and laying of asphaltic concrete, including the associated road profiling and heavy patching works as well as thin wearing and intermediate surfacing and bituminous crack sealing of road pavement for the period 2009/10.

## BACKGROUND

Tenders for the supply, supply and delivery and supply, delivery and laying of asphaltic concrete including the associated road profiling, heavy patching works as well as thin wearing and intermediate surfacing and bituminous crack sealing of road pavement were recently called by the Northern Sydney Regional Organisation of Councils (NSROC) and were closed on 8 July 2009.

Although the tender was called by NSROC, each Council will enter into individual contracts with the successful tenderer(s).

Tenders were received from the following ten (10) companies:

1. Downer EDi Works
2. SRS Roads
3. Pioneer Road Services
4. Tropic Asphalts
5. Sharpe Bros Pty Ltd
6. A J Paving
7. Boral Asphalt
8. D & M Excavations
9. Ally Property Services
10. State Asphalt Services Pty Ltd

Companies did not bid for all works; different companies placed bids for different works. Rates were also variable depending on the size of the area where works are to be completed. Consequently other contractors may be considered where lower rates are applicable.

## COMMENTS

Staff members from Corporate and Operations departments have assessed the tenders. Downer EDi Works has provided the lowest tender for supply, supply and delivery and supply, delivery and laying of all types of asphalt which Council predominantly uses for both capital works and day labour works.

Downer EDi Works has also provided the lowest tender for profiling works for areas over 500 square metres and over a depth of 50mm. Most of works for the 2009/10 year will be in areas over 500 square metres.

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S05465  
9 September 2009

Downer EDi Works has been the primary contractor for the last six (6) years with annual programs completed ahead of schedule. They have had excellent performance and quality standards in the past and they have a reputation across Sydney as the most reliable and skilled of all the companies.

It is recommended that Downer EDi Works be the primary contractor for the supply, supply and delivery and supply, delivery and laying of asphaltic concrete and associated profiling works. Alternative contractors will be considered in situations where lower rates are applicable.

For heavy patching, A J Paving and Downer EDi Works provided the lowest tenders depending on the area of the works site. Both have previously provided high quality work for council. It is recommended that Downer EDi Works be the preferred contractor for heavy patching works over 100 square metres in area and A J Paving be the preferred contractor for heavy patching works 100 square metres in area or less. Alternative contractors will be considered in situations where lower rates are applicable.

SRS Roads has provided the lowest tender for thin wearing or intermediate surfacing and bituminous crack sealing of road pavement. They also have the widest range of associated products and are recommended as the primary contractor for these works.

## CONSULTATION

Consultation has taken place with other NSROC Councils for the preparation of the tender

## FINANCIAL CONSIDERATIONS

The rates submitted will be utilised to undertake the majority of works under the 2009/10 Road Pavement Program for local and regional roads which has been adopted by Council.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has taken place with staff from the Corporate Department.

## SUMMARY

Downer EDi Works is proposed as the primary contractor for the supply, supply and delivery and supply, delivery and laying of asphaltic concrete and associated profiling. For some works where a lower tender exists, alternative contractors should be considered where applicable. A J Paving and Downer EDi Works are proposed as the primary contractors for the Heavy Patching work with alternative contractors considered when lower tenders exist. SRS Roads is proposed as the primary contractor for the thin wearing or intermediate surfacing and also for bituminous crack sealing of road pavement for 2009/10.

## RECOMMENDATION

- A. That the tender rates submitted by Downer EDi Works for the supply, supply and delivery and supply, delivery and laying of asphaltic concrete and associated road profiling works for 2009/10 be accepted as the primary option. Allow other contractors to be considered for works where lower rates are applicable and subject to availability.
- B. That the tender rates submitted by A J Paving and Downer EDi Works for Heavy Patching for 2009/10 be accepted as the primary options, dependant on area of works required. Allow other contractors to be considered for works where lower rates are applicable.
- C. That the tender rates submitted by SRS Roads for the thin wearing or intermediate surfacing and bituminous crack sealing of road pavement be accepted for 2009/10.
- D. That the tenderers be advised of Council's decision.

Byrne Laginestra  
**Asset Management Officer**

Greg Piconi  
**Director Operations**

**Attachments:**      **A. Tender Evaluation Committee Memorandum - 2009/148503**  
                             **B. Evaluation Spreadsheet- Confidential - under separate cover**

## MEMORANDUM

TO: DIRECTOR TECHNICAL SERVICES

FROM: ROAD ASSETS CO-ORDINATOR - M BROOKES  
ASSET MANEGAMENT OFFICER - B LAGINESTRA  
ACCOUNTING OFFICER - T LY

SUBJECT: **NSROC TENDERS - SUPPLY, SUPPLY AND DELIVERY AND SUPPLY,  
DELIVERY AND LAYING OF ASPHALTIC CONCRETE TENDER NO 08/09**

Tenders were called in June 2009 and closed on 8 July 2009 for the subject contract

### Background

Each year NSROC calls tenders for the supply, supply and delivery and supply, delivery and laying of asphalt concrete and associated profiling works as well as thin wearing and intermediate surfacing and bituminous crack sealing of road pavement throughout the member council areas.

The tender is a schedule of rates contract and is called by NSROC on behalf of all member councils to achieve economies of scale and better tender prices.

Ten (10) companies provided tenders, although not all ten (10) tendered for every item of work.

### Comments

Downer EDi Works has provided the lowest tender for supply and supply and delivery of types of asphalt that council predominantly uses. Downer Edi Works has also provide the lowest tender for supply, delivery and laying as per AUSPEC 2004.

Downer EDi Works has consistently provided the lowest tender for profiling works for areas over 500 square metres and over a depth of 50mm. Tropic Asphalts has provided the lowest tender for areas less than 500 square metres and profiling depths of 40mm or 50mm. However Tropic Asphalts does involve higher rates associated with night or weekend work. Most works will be in areas over 500 square metres as such Downer EDi Works is the proposed asphalt and profiling contractor for 2009/10.

Downer EDi Works has performed well in the past and has been the primary contractor for council over the last six (6) years with annual programs completed ahead of schedule.

A J Paving and Downer EDi Works have provided the lowest tenders for heavy patching over different sized areas. It is recommended that both these companies be chosen as primary depending on the works required.

SRS Roads has provided the lowest tender for both thin wearing or intermediate surfacing and bituminous crack sealing of road pavement and are recommended as the primary contractor for both of these tasks.

### **Recommendation**

- A. That the tender rates submitted by Downer EDi Works for the supply, supply and delivery and the supply, delivery and laying of asphalt concrete and associated road profiling works for 2009/10 be accepted. Allow other contractors to be considered where lower rates are applicable.
- B. That the tender rates submitted by A J Paving and Downer EDi Works for heavy patching for 2009/10 be accepted and the primary company then chosen depending on the area of works required. Allow other contractors to be considered where lower rates are applicable.
- C. That the tender rates submitted by SRS Roads for the thin wearing or intermediate surfacing and also for bituminous crack sealing of road pavement for 2009/10 be accepted.
- D. That the tenderers be advised of Council's decision.

Byrne LaGinestra  
ASSET MANAGEMENT OFFICER

Michael Brookes  
ROAD ASSETS CO-ORDINATOR

Tony Ly  
ACCOUNTING OFFICER

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## NOTICE OF RESCISSION

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### COMMENCE NEGOTIATIONS TO ACQUIRE 12 WOONONA AVENUE, WAHROONGA

**Notice of Rescission from Councillor T Hall, C Hardwick & E Malicki dated 8 September 2009**

"We, the undersigned, hereby rescind the resolution (Minute No OMC176 of 8 September 2009) to commence negotiations to acquire 12 Woonona Avenue, Wahroonga for open space in the terms discussed."

### RECOMMENDATION

That the above Notice of Rescission as printed be adopted.

Councillor Tony Hall  
**Councillor for St Ives Ward**

Councillor Carolyne Hardwick  
**Councillor for St Ives Ward**

Councillor Elaine Malicki  
**Councillor for Comenarra Ward**

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## NOTICE OF MOTION

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### INDOOR SPORT CENTRE POTENTIAL SITES

#### Notice of Motion from Councillor J Anderson dated 14 September 2009

I move that:

- "1. The General Manager provides a list to Council of all Council-owned and Council managed sites which could physically accommodate, in size terms, an indoor sports centre.
2. That the list of suitable sites not be assessed beyond the size of total land area and does not disregard any site on the basis of current usage, which may be incorporated into any re-development."

### RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Jennifer Anderson  
**Councillor for Roseville Ward**

**Attachments:**      **Background information under separate cover:**  
**Information on Indoor Sport Centre Potential Locations - 2009/149117**

## BACKGROUND

A specific study on an indoor sports centre in Ku-ring-gai was completed in 1995. Hepper Marriott and Associates undertook a report for the YMCA of Sydney, titled Ku-ring-gai YMCA Indoor Recreation Centre, Pymble, and Feasibility/Development Analysis. The findings of this study were that "an indoor leisure centre in Ku-ring-gai should provide an array of facilities to meet identified long-standing needs, with a particular focus on: a) formal, learner/training, therapy and play-oriented aquatics; b) ball sports; and c) social and informal programming opportunities".

Pointing to the need again in 2005 Council's Open Space Strategy had an action to continue to review the need for and, if necessary, identify appropriate sites for a major indoor sport facility in Ku-ring-gai.

The 1997 Strategic Plan for Sportsfields and Courts in Ku-ring-gai contained a recommendation to investigate the feasibility of indoor basketball courts and to pursue opportunities for public and private sector partnerships for developing, improving, and managing sporting facilities.

The 1989 Ku-ring-gai Recreation Needs Survey also identified the need for a multi-purpose leisure facility.

The reclassification process currently being undertaken by Council seems timely to consider opportunities for an indoor sports centre location.



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## NOTICE OF MOTION

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### BOOK ON KU-RING-GAI'S ABORIGINAL HISTORY AND CULTURE

#### Notice of Motion from Councillor J Anderson dated 14 September 2009

I move that:

- "1. The General Manager provide a report to Council on the potential for Council to commission the writing of a book on Ku-ring-gai's Aboriginal history and culture prior to European settlement and through to the present day.
2. The report include information on grants that may be available to assist in the funding of such a book."

### RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Jennifer Anderson  
**Councillor for Roseville Ward**

**Attachments:**      **Background information under separate cover:  
Information from Ku-ring-gai Historical Society's website on the Ku-ring-gai  
Aboriginal History & Culture - 2009/148991**

## BOOK ON KU-RING-GAI'S ABORIGINAL HISTORY AND CULTURE

### BACKGROUND

Ku-ring-gai Historical Society's website provides some information on Ku-ring-gai's Aboriginal history and culture including the following:

"From Port Jackson north across Broken Bay and beyond Brisbane Water lived a group of Aboriginal people who spoke a common language. That language is known as *Kuringgai* (sometimes spelt *Guringai*), derived from the name which Aboriginal people in south eastern Australia still use to describe themselves - kuri (koori). The termination *-nggai* identifies the possessive form of the word, which is probably the element that led to the hyphenated form Ku-ring-gai, used since about the 1880s. *Kuringgai* can be loosely translated as 'belonging to the Aborigines'...On many of the Hawkesbury sandstone outcrops throughout the Ku-ring-gai area, rock engravings can still be seen which reflect the traditional spiritual and totemic beliefs of the local Aborigines".

Several nearby councils have initiated the writing of books on local Aboriginal history and culture e.g.

Willoughby Council, in association with the Aboriginal Heritage Office Northern Sydney Region, published "Bo-ra-ne ya-goo-na par-ry-boo-go = Yesterday today tomorrow: an Aboriginal history of Willoughby" by Jessica Currie, 2008.

Ryde Council, Community Services Unit, City of Ryde, "Wallumedegal: an Aboriginal history of Ryde" by Keith Vincent, 2005.

North Sydney Council, "Hands across time - : a guide to North Sydney's Aboriginal history and culture" by Margaret Park, 1998 and recently updated and expanded upon by Council Historian Dr Ian Hoskins' as "Aboriginal North Sydney", 2008.

A Sydney Morning Herald review of Jessica Currie's book stated: "This is a benchmark for Aboriginal research and is worthy of emulation by other suburban councils".