



**ORDINARY MEETING OF COUNCIL  
TO BE HELD ON TUESDAY, 24 JULY 2007 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 17 July 2007

Minutes to be circulated separately

**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 and without debate.*

GB.1 **20 Walker Avenue, St Ives - Section 96 Modification of DA 315/04 proposing Relocation of Pool Pump & Amendments to Dwelling** **1**

File: MOD0040/07

Ward: St Ives

Applicant: Mrs C Jenkins

Owners: Mrs C Jenkins & Mr J Jenkins

To determine a section 96 application for modification of the consent to development application No. 315/04, allowing for relocation of the pool pump and filter box and amendments to the dwelling.

**Recommendation:**

Approval.

GB.2 **31 to 37 Kissing Point Road, Turramurra - Subdivide 3 Allotments into 5 Allotments** **41**

File: DA0096/07

Ward: Comenarra

Applicant: Brett Davis, Lipman Properties P/L

Owner: Controline Air products P/L

To determine development application No. 96/07, which seeks consent for the subdivision of the existing 3 allotments into 5 allotments for future residential development.

**Recommendation:**

Approval.

GB.3 **Conduct Committee** **108**

File: S04462

To establish a permanent Conduct Committee.

**Recommendation:**

Resolve to establish a permanent Conduct Committee.

GB.4 **Request for Legal Assistance - Bankstown City Council** **111**

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File: S02046

To seek Council's instructions in relation to a request for assistance with legal costs by Bankstown City Council, recommended by the Local Government Association of NSW and Shires Association of NSW.

**Recommendation:**

That Council determine whether to contribute for Bankstown City Council's legal costs in the amount of \$16,523.45.

GB.5 **Promoting Better Practice Review** **118**

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File: S06054

To advise Council of the Action Plan following a self-assessment of Council's operations and practices.

**Recommendation:**

That the Action Plan for the Promoting Better Practice Review be noted.

GB.6 **Investment & Loan Liability as at 30 June 2007** **129**

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File: S05273

To present to Council investment allocations, returns on investments and details of loan liabilities for June 2007.

**Recommendation:**

That the summary of investments and loan liabilities for June 2007 be received and noted.

GB.7 **Heritage Advisory Committee - Minutes of 16 April 2007** **137**

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File: S03816

To report to Council the Minutes from the Heritage Advisory Committee meeting held 16 April 2007.



- 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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### GRAFFITI

Council expends approximately \$120,000 per year on vandalism repairs and the majority of these funds are spent on cleaning up graffiti on public property. Whilst this assists in improving the appearance of public places, it does not address the real issue of graffiti which is present on private property, particularly around our shopping and business centres.

While property owners are responsible for cleaning up graffiti on their premises, the one-off and ongoing costs to these owners is high and therefore deters owners from undertaking the clean up work in some instances.

To clean graffiti on all buildings relies on all property owners to co-operate and pay for the removal on a co-ordinated approach.

It is considered that the best way to achieve a co-ordinated approach for the removal of graffiti on private property would be for Council to assist with the clean up of graffiti on a regular basis.

There are a number of private companies that are well equipped and resourced to co-ordinate the removal of graffiti on a programmed and co-ordinated basis.

### RECOMMENDATION

- A. That a report be brought back to Council on methods in which Council can assist to co-ordinate the removal of graffiti on Council property, private property and community land within a specific area around our town centres designated as a "Graffiti Free Zone".

The report will scope the development of a graffiti removal program that is completely independent of Council's operations and which addresses the following consideration as a minimum:

- An initial clean up of our Town Centres
- Education and literature support
- Environmentally safe
- Heritage aware
- Signed vehicles
- PDA controlled internet based
- Full reporting facilities

Item 1

**S04840**  
**20 July 2007**

- Fully licensed
  - Options as to the physical location of graffiti-free zones around our Centres
- B. That this report include all costs and possible funding sources for this program.

Cr Nick Ebbeck  
Mayor

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	20 WALKER AVENUE, ST IVES - SECTION 96 MODIFICATION OF DA 315/04 PROPOSING RELOCATION OF POOL PUMP AND AMENDMENTS TO DWELLING
<b>WARD:</b>	St Ives
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	MOD 40/07
<b>SUBJECT LAND:</b>	20 Walker Avenue, St Ives
<b>APPLICANT:</b>	Mrs C Jenkins
<b>OWNER:</b>	Mrs C Jenkins & Mr J Jenkins
<b>DESIGNER:</b>	Mike Foran Architectural Design Services
<b>PRESENT USE:</b>	Residential dwelling house
<b>ZONING:</b>	Residential 2(c)
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	KPSO, DCP 38
<b>COMPLIANCE WITH CODES/POLICIES:</b>	Yes
<b>GOVERNMENT POLICIES APPLICABLE:</b>	Not Applicable
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Not Applicable
<b>DATE LODGED:</b>	9 March 2007
<b>40 DAY PERIOD EXPIRED:</b>	18 April 2007
<b>PROPOSAL:</b>	Section 96 Modification of DA 315/04 proposing relocation of pool pump and amendments to dwelling
<b>RECOMMENDATION:</b>	Approval

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**DEVELOPMENT APPLICATION N<sup>o</sup>** MOD 40/07  
**PREMISES:** 20 WALKER AVENUE, ST IVES  
**PROPOSAL:** SECTION 96 MODIFICATION OF DA 315/04  
PROPOSING RELOCATION OF POOL  
PUMP AND AMENDMENTS TO DWELLING  
RELOCATION OF POOL PUMP AND  
AMENDMENTS TO DWELLING  
**APPLICANT:** MRS C JENKINS  
**OWNER:** MRS C JENKINS & MR J JENKINS  
**DESIGNER** MIKE FORAN ARCHITECTURAL DESIGN  
SERVICES

### **PURPOSE FOR REPORT**

To determine a section 96 application for modification of the consent to development application No. 315/04, allowing for relocation of the pool pump and filter box and amendments to the dwelling.

This matter has been called by Councillor Hall.

### **EXECUTIVE SUMMARY**

**Issues:**

- Privacy and amenity
- Screen planting

**Submissions:** Nine (9) submissions

**Land & Environment Court Appeal:** No

**Recommendation:** Approval

### **HISTORY**

#### **Site history:**

The site is used for residential purposes.

#### **Development application history:**

30 August 2004 DA 315/04 Approved - demolition of the existing two storey dwelling and construction of a new two storey dwelling.

#### **Subject application - MOD 40/07 (S96 to modify DA 315/04):**

9 March 2007 Application lodged

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- 21 March 2007 'Stop the Clock' request for amended plans: Fresh plans are to be provided that relate to the current S96 application.
- 21 March 2007 Application notified to neighbouring properties
- 30 March 2007 Amended plans provided as per 'Stop the Clock' request. No building amendments made.
- 4 April 2007 End of notification period.
- 31 May 2007 Supporting statement provided by applicant.
- 4 July 2007 Amended plans requested to specifically illustrate proposed modifications.
- 10 July 2007 Amended plans submitted as per Council's request.
- 11 July 2007 Amended plans submitted to depict rainwater tanks approved under DA 315/04.

## THE SITE AND SURROUNDING DEVELOPMENT

Zoning:	Residential 2(c)
Visual Character Study Category:	1945-68
Lot Number:	17
DP Number:	226211
Area:	968.5m <sup>2</sup>
Side of Street:	High
Heritage Affected:	No
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	Yes – Duffy's Forest Ecological Community (no impacts)
Urban Bushland:	No
Contaminated Land:	No

The subject site is identified as Lot 17, DP 226211. The site is generally rectangular in shape and has an area of 968.5m<sup>2</sup>. The site ranges in width from 16.46m at the property frontage to 26.215m along the rear boundary. The length ranges from 44.565m along the eastern boundary to 56.87m along the western boundary, due to the skewed rear boundary.

The property is located on the northern (high) side of Walker Avenue and falls towards the street. The site presently supports a recently constructed two storey dwelling house (DA 315/04), an in-ground swimming pool to the rear and associated paving and landscaping.

The site adjoins residential allotments with single dwelling houses (No's 18 and 20 Walker Avenue) and a seniors living development to the rear ('Fernbank').

## THE PROPOSAL

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Under the provisions of section 96 of the Environmental Planning and Assessment Act 1979, approval is sought to modify the development consent as follows:

**1. Relocation of pool pump and filter box**

The approved plans show the location of the pool pump and filter box as adjacent to the western boundary fence in line with the rear of the pool. The proposal involves relocating this equipment in a south-eastern direction to a location within the western side setback to the dwelling, offset 0.3m from the western boundary. The equipment is to be housed on a concrete slab and within a steel sound attenuating enclosure (insulated with sound absorbing lining).

The applicant contends that the proposed relocation of the pool pump and filter box will enable the pool skimmer box to be retained in its existing location, rather than relocating it to the northern side of the pool to suit the approved position of the pool equipment in line with the rear of the pool.

**2. Extension of handrail/balustrade to first floor terrace**

The handrail/balustrade at the first floor terrace adjacent to Bedrooms 1 and 2 is proposed to be extended along the perimeter of the first floor parapet wall surrounding the planter area. The handrail/balustrade is intended to form a barrier to the planter area for safety reasons and will be 1 metre high above the finished floor level in accordance with the BCA.

**3. Sliding doors to Bedroom 1**

The proposed sliding doors are proposed in lieu of sliding windows, louvres and fixed glazing as currently approved. The proposed sliding doors are intended to improve safety and accessibility to the planter area for maintenance and are in the same location as the approved glazing.

**4. Lower sill height of first floor window on eastern elevation**

The sill height of the first floor window to the eastern elevation has been constructed at a height of 0.6 metres lower than the approved level to improve ventilation and views to the roof garden.

**5. Lower sill height of first floor window on northern elevation**

The sill height of the first floor window to the northern elevation has been constructed 0.9 metres lower than the approved level to improve ventilation, views to the roof garden and winter solar access to living areas.

**Rainwater tanks – plans received 11 July 2007**

Rainwater tanks have been depicted to illustrate works as constructed as per DA 315/04. However, it is noted that the position of the rainwater tank on the first floor terrace adjacent to Bedroom 2 (eastern elevation) is not in accordance with the approved position as per DA 315/04. The subject tank has been relocated approximately 1.1 metres to the south (centrally positioned with the bedroom). This matter has been referred to Compliance in respect of unauthorised works. The

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rainwater tanks were approved as part of the original consent and do not form part of this application.

**CONSULTATION - COMMUNITY**

The owners of No. 18 Walker Avenue (R.S. and V.K. Owens) advised Council that they had not received a notification letter. A notification letter was issued to R.S. and V.K. Owens on 29 March 2007 with a fourteen (14) day notification period applicable from this date.

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

1. V. Caldwell, Unit 13, Fernbank, 2 Kitchener Street, St Ives
2. J. Harber, Unit 22, Fernbank, 2 Kitchener Street, St Ives
3. S. Lockley, Unit 15, Fernbank, 2 Kitchener Street, St Ives
4. L. Stammer, Unit 17, Fernbank, 2 Kitchener Street, St Ives
5. R.S. & V.K. Owens, 18 Walker Avenue, St Ives
6. R. Balcomb, Unit 16, Fernbank, 2 Kitchener Street, St Ives
7. J. Dean, Unit 14, Fernbank, 2 Kitchener Street, St Ives
8. S.M. & F.M. Read, Unit 12, Fernbank, 2 Kitchener Street, St Ives
9. M. Senior, Unit 24, Fernbank, 2 Kitchener Street, St Ives

The submissions raised the following issues regarding the proposed modifications:

***Objection to proposed relocation of pool pump and filter box (Item No. 1) due to privacy/noise impacts on No. 18 Walker Ave & sound attenuating technology inadequate:***

- *Unnecessary proximity of pool pump and equipment to dwelling (10 metres closer than as shown on approved DA and within 1.01 metres of dwelling, bedroom/study windows and outdoor living area)*
- *Masonry wall to western elevation of dwelling at No. 20 Walker Ave will reflect noise towards No. 18 Walker Ave*

It is recommended that the proposed relocation of the pool pump and filter box be deleted from the plans and that this equipment be reinstated to its location on the approved site plan as per DA 315/04. This issue is discussed below with reference to Proposed Modification No. 1, having regard to the above submission and relevant provisions of DCP 38. A special condition to this effect is included in the recommendation. See **Condition No 2**.

***Objection to lowering of sill height of first floor window on northern elevation (Item No. 5) due to impacts to adjoining properties to the rear ('Fernbank') and to the west (No. 18 Walker Ave):***

- *Loss of privacy/increased overlooking to the above listed 'Fernbank' properties and rear garden of No. 18 Walker Ave*
- *Obtrusive illumination/light spill from internal lights increased to:  
(i) courtyard area and bedrooms at above listed 'Fernbank' properties*

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- (ii) rear garden, living areas, courtyard, bedrooms and front garden at No. 18 Walker Ave and*
- (iii) to the street – often until late into the night*

The proposed amended sill height will not result in unreasonable privacy or illumination impacts to the above neighbouring properties as discussed below with reference to Proposed Modification No. 5. This amendment is acceptable with regard to the relevant matters for consideration under S79C of the Environmental Planning and Assessment Act and DCP 38.

***Objection to screen planting due to amenity impacts to adjoining properties to the rear ('Fernbank') and to the west (No. 18 Walker Ave):***

- *Loss of ambient light*
- *Loss of cooling summer breezes and winter solar access, in conjunction with the approved development*
- *View loss (open space and sky).*
- *Would require pruning and additional cleaning up of leaves, branches and associated debris.*

The subject application does not involve any new screen planting beyond to that approved in the original consent (DA 315/04). The proposed modifications will have no impacts in this regard. However, the proposed relocation of the pool pump and filter box conflicts with screen planting as required by conditions of DA 315/04 and is not supported. This issue is discussed below with reference to Proposed Modification No. 1.

Further comments have been made from R.S. and V.K. Owens (No. 18 Walker Avenue) regarding the background of development at the subject site and concerns associated with DA 315/04. These comments have been considered where applicable to the context of the proposed modifications as identified in the above issues.

**Amended plans received 30 March 2007**

The amended plans were not notified to surrounding residents as they involved deletion of the original approval stamp only and do not result in a greater environmental impact than the original plans (no building amendments).

**Amended plans received 10 July 2007**

The amended plans were not notified to surrounding residents as the plans simply reflect increased clarity for reference and do not alter the proposal or result in a greater environmental impact than the original plans. It is noted that the plans do not illustrate the approved rainwater tanks as per DA 315/04.

**Rainwater tanks – plans received 11 July 2007**

The rainwater tanks have been depicted on plans to illustrate works as approved in DA 315/04. The position of the rainwater tank as constructed on the first floor terrace adjacent to Bedroom 2

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(eastern elevation) has been referred to Council's Compliance Officers in respect of unauthorised works as discussed above.

## **CONSULTATION - WITHIN COUNCIL**

### **Engineering**

Council's Development Engineering Team Leader, Kathy Hawken, is satisfied with the proposed modifications. No further conditions were recommended.

### **Landscaping**

Council's Landscaping Team Leader, Ian Francis, is satisfied with the proposed modifications. No further conditions were recommended.

## **PROVISIONS OF RELEVANT LEGISLATION**

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

#### **1. Substantially the same development:**

The development as proposed to be modified is considered to be substantially the same development as that approved for the following reasons:

- The appearance of the development as modified will be substantially the same to the street and from neighbouring properties as that approved.
- The proposed location of the pool pump and filter box remains adjacent to the site's western boundary at a distance of 9.5m to the south-east of the approved location.
- The proposed modifications to the dwelling represent minor aspects of its overall built form.
- The essence of what has been approved, a new dwelling house, will remain.

#### **2. S96(2)(b) consultation with minister, public authority or approval body:**

Not applicable.

#### **3. Threatened species:**

Not applicable - No impacts on Duffy's Forest Ecological Community.

## **PROPOSED MODIFICATIONS**

The proposed modification is considered against the relevant Environmental Planning Instruments, Development Control Plans and other Council Codes, as follows:

### **Proposed modification No. 1: Relocation of pool pump and filter box**

The proposed relocation of the pool pump and filter box is not supported having regard to the above matters for consideration for the following reasons:

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- Conflict with required screen planting

The proposed new position of the pool pump and filter box would conflict with the approved landscaping plan as amended by Condition No. 39 (Item 4) of DA 315/04, which requires the garden bed along the western boundary to be 1 metre wide. This garden bed is required in order to sufficiently accommodate the 2-3 metres high screen planting, which would obscure any neighbouring views and soften the appearance of built form on the western elevation of the dwelling as viewed from No. 18 Walker Avenue.

Accordingly, the proposed siting of the pool equipment in the western side setback is inconsistent with Part 4.1.3 (Building Setbacks) of DCP 38, which states that development should be appropriately located on site to allow for the provision of landscaping and provide room for additional tree plantings to grow to maturity. Side setbacks should allow for significant landscaping between buildings, particularly for two storey structures to soften the visual appearance when viewed from the street and from the neighbouring property.

Additionally, Part 4.3.10 (Screen Planting) of DCP 38 requires provision of sufficient planting so as to ensure that the built form does not dominate views from adjacent streets, parks and neighbouring properties.

The pool equipment could not be located in the side setback between the screen planting and the dwelling as it would not provide for reasonable access along this side of the dwelling.

- Noise impact

Noise impacts are likely to be unsatisfactory having regard to the objectives of Part 4.4.2 (Acoustic privacy) and 4.6.3 (Out-buildings) of DCP 38 due to the close proximity of the pool pump and filter box to the bedroom/study of the adjoining dwelling at No. 18 Walker Avenue (separated by a distance of approx 1 metres) and the outdoor entertaining area of this property, which is immediately adjacent to the pool pump and filter box.

The submitted Statement of Environmental Effects does not provide sufficient justification as to the suitability of the proposed alternate location of the pool equipment. The approved location is considered the more appropriate having regard to the required screen planting in the western side setback as discussed above, and its further distance from the adjoining dwelling (approximately 10 metres to the south of the equipment) and outdoor entertaining area at No. 18 Walker Avenue.

As such, it is recommended that the proposed relocation of the pool pump and filter box be deleted from the plans and that this equipment be reinstated to its location on the approved site plan as per DA 315/04.

### **Proposed modification No. 2: extension of handrail/balustrade to first floor terrace**

The proposed extended metal balustrade will surround the first floor terrace to the front of the dwelling and will be approximately 0.4 metres above the existing masonry wall, and 1 metres above the finished floor level of the terrace in accordance with the BCA. The balustrade will maintain visibility to the planter area around the perimeter of the terrace and will be sympathetic to the

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design of the dwelling. No adverse visual impacts to the street or neighbouring properties are envisaged in this regard.

**Proposed modification No. 3: sliding doors to Bedroom 1**

The proposed sliding doors are to replace the approved sliding windows, louvres and fixed glazing to the southern elevation of Bedroom 1 on the first floor of the dwelling. The sliding doors will face the street and accordingly will not cause undue privacy or visual impacts to neighbouring properties.

**Proposed modification No. 4: lower sill height of first floor window on eastern elevation**

The proposed lower sill height of this window is 0.6 metres lower than the approved level. Internally, the window is adjacent to the landing on the first floor of the dwelling, which provides access to the bedrooms. Externally, the window is adjacent to the roof above the courtyard. The resultant larger window will not provide undue overlooking opportunities to the adjoining dwelling to the east (No. 22 Walker Avenue) due to the side setback, which ranges between 4.3 metres and 4.6 metres, and the approved vegetative screening adjacent to the boundary of some 2-3 metres in height as per **Condition No. 39** of DA 315/04. As such, this proposed modification is acceptable having regard to the visual privacy provisions of Part 4.4.1 of DCP 38.

**Proposed modification No. 5: lower sill height of first floor window on northern elevation**

The sill height of the first floor window to the northern elevation is proposed to be 0.9 metres lower than the approved level. This is in order to improve ventilation, views to the roof garden, and winter solar access to living areas. The window is to a void area adjacent to the first floor landing. This modification will not overlook or compromise the privacy and amenity of any neighbouring properties due to the following factors:

- The window is centrally located on the northern elevation of the dwelling and well offset from the adjoining property boundaries (within the 45° field of vision as per Part 4.4.1 of DCP 38) as follows:
  - 'Fernbank' (rear boundary): 17 metres to 20 metres.
  - No. 18 Walker Avenue (western boundary): 11.2 metres.
  - No. 22 Walker Avenue (eastern boundary): 11.3 metres.

The previous dwelling on site (now demolished) had a full length first floor window on the northern elevation with lesser setbacks to 'Fernbank' and No. 22 Walker Avenue than those stated above.

- The window is adjacent to the two-storey void space between Bedroom 3 and Bedroom 4 on the first floor, and the landing is 4.5m beyond the window, such that any views towards the rear adjoining properties at 'Fernbank' will be further removed by the void and much of the line of sight towards the adjoining properties at No's 18 and 22 Walker Avenue will be obstructed by the internal walls to Bedrooms 4 and 3 respectively.
- Views to neighbouring properties will be further obstructed by the existing 1.8m high timber paling fencing along the property boundaries and obscured by the screening provided by the existing vegetation in the rear yard and additional screen planting as required by Condition No. 39 of the consent to DA 315/06.

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The modification to the sill height of the subject window will not have any significant impacts on neighbouring properties in terms of the potential for increased illumination/light spill. The window is well removed from adjoining properties as indicated above, and additional light diffusion would be provided by the existing vegetation in the rear yard and additional screen planting as required by Condition No. 39 of DA 315/06. Furthermore, the window faces the rear yard and will not impact streetscape amenity.

**LIKELY IMPACTS**

With the exception of the altered location of the pool pump and filter box, the proposed modifications are unlikely to have any significant impact on the environment, landscape or scenic quality of the locality, threatened species, populations or ecological communities or their habitats or any other protected fauna or protected native plants.

There is unlikely to be any significant impact on the existing or likely future amenity of the neighbourhood, subject to **Condition No 2**.

**SUITABILITY OF THE SITE**

The site is suitable for the proposed modifications.

**ANY SUBMISSIONS**

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

**Condition No. 2** is recommended to address concerns regarding the proposed relocation of the pool pump and filter box.

**PUBLIC INTEREST**

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

**OTHER RELEVANT CONSIDERATIONS**

There are no other matters for consideration.

**CONCLUSION**

Having regard to the provisions of section 96 & 79C of the Environmental Planning and Assessment Act 1979, the proposed development is satisfactory. Therefore, it is recommended that the application be approved.

**RECOMMENDATION:**

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

THAT Council, as the consent authority, modify development consent to Development Application No. DA 315/04 for demolition of the existing two storey dwelling and construction of a new two storey dwelling on land at 20 walker Avenue, St Ives, in the following manner:

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**1. Approved architectural plans and documentation (s.96)**

The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp:

<i>Plan no.</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received date</i>
DA 01(A), 02(A), 03(A), 04(B), 05(B), 06(A), 07(A), 09 and 10	Mike Foran Architectural Design Services	9 July 2004 and 14 July 2004	31 March 2004 and 6 August 2004

Except where amended by that work shown in colour on the S.96 plans endorsed with Council's stamp, as listed below, and except where amended by other conditions of this consent:

<i>s.96 plan no.</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received date</i>
DA 03(A), DA 04(A) and DA 05(B)	Mike Foran Architectural Design Services	5 July 2007	11 July 2007

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

**2. Pool pump and filter box**

The proposed relocation of the pool pump and filter box (Modification 1) is not approved. This equipment is to be reinstated to its original location on the approved site plan as per DA 315/04.

**Reason:** To ensure the amenity of neighbours.

Josh Daniel  
**Development Assessment Officer**

R Kinninmont  
**Team Leader**  
**Development Assessment - Central**

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

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

**Attachments:**

1. Location sketch - 800296
2. Zoning extract - 800296
3. Site plan - 800300
4. Architectural first floor plan - 800300
5. Architectural elevation plans - 800300
6. Notice of Determination (DA 315/04) - 800301
7. Approved site plan (DA 315/04) - 800302
8. Approved floor plans (DA 315/04) - 800302
9. Approved elevations (DA 315/04) - 800303
10. Approved landscape/plan (DA 315/04) - 800304
11. Site survey - prior to construction of new dwelling - 800306



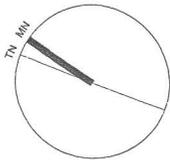
# Zoning Extract

## 20 Walker Ave St Ives MOD 40/07

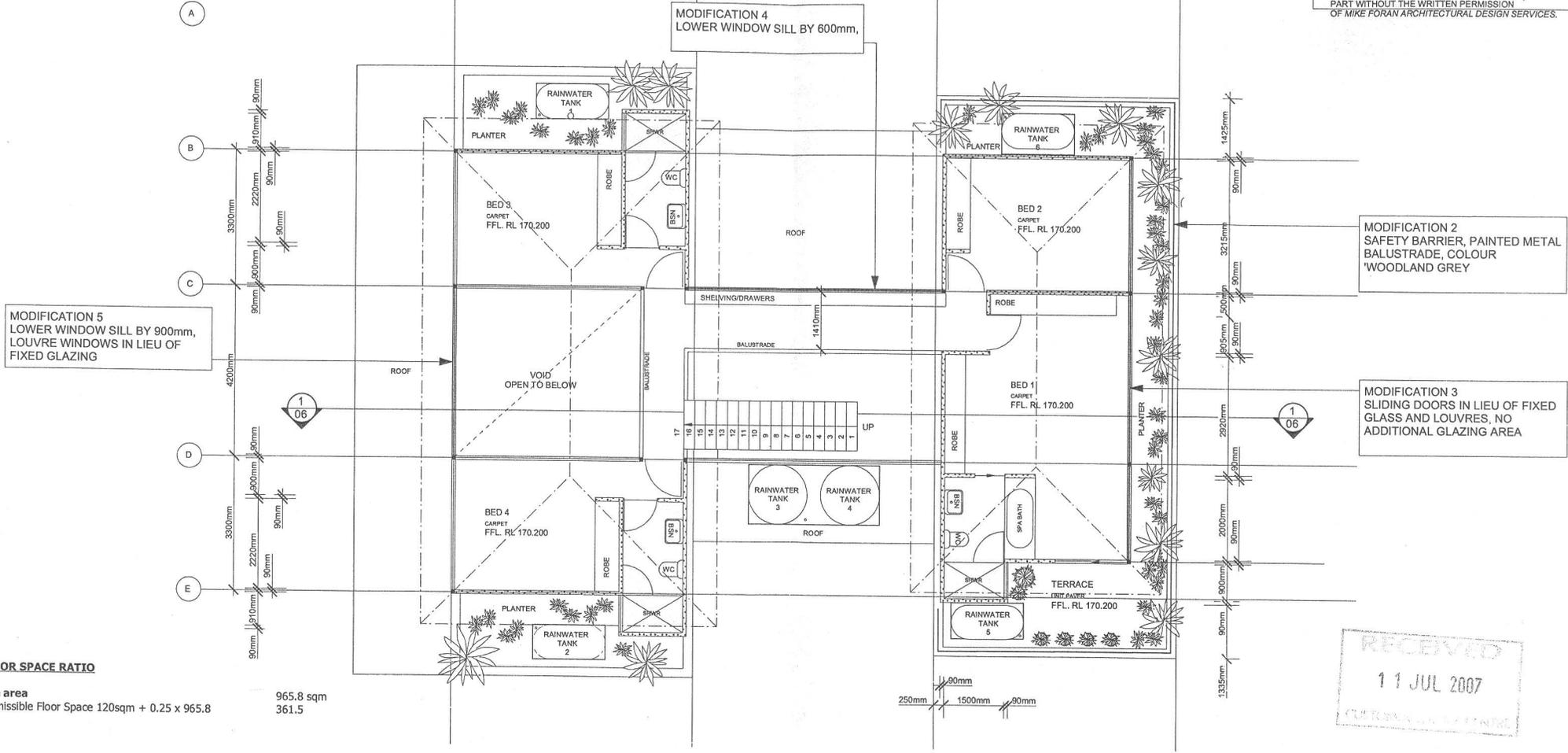


ZONES	RESERVATIONS	GENERAL
<p><b>2. RESIDENTIAL</b></p> <p>(a) RESIDENTIAL A </p> <p>(b) RESIDENTIAL B </p> <p>(c) RESIDENTIAL C </p> <p>(c1) RESIDENTIAL C1 </p> <p>(c2) RESIDENTIAL C2 </p> <p>(d) RESIDENTIAL D </p> <p>(d3) RESIDENTIAL D3 </p> <p>(e) RESIDENTIAL E </p> <p>(f) RESIDENTIAL F </p> <p>(g) RESIDENTIAL G </p> <p>(h) RESIDENTIAL H </p>	<p><b>3. BUSINESS</b></p> <p>(a) RETAIL SERVICES </p> <p><b>FLOOR SPACE RATIOS</b></p> <p>A1 2.0:1 </p> <p>A2 1.0:1 </p> <p>A3 0.75:1 </p> <p>(b) COMMERCIAL SERVICES </p> <p><b>FLOOR SPACE RATIOS</b></p> <p>B1 1.0:1 </p> <p>B2 1.0:1 </p>	<p><b>5. SPECIAL USES</b></p> <p>(a) SPECIAL USES A (Schools etc) </p> <p>(a1) SPECIAL USES A1 </p> <p>(b) SPECIAL USES (Railway) </p> <p><b>6. OPEN SPACE</b></p> <p>(a) RECREATION EXISTING </p> <p>(b) RECREATION PRIVATE </p> <p>(c) RECREATION PROPOSED </p>
	<p><b>OPEN SPACE</b></p> <p>(a) OPEN SPACE (Public Parks &amp; Recreation) </p> <p>(b) COUNTY OPEN SPACE </p> <p><b>SPECIAL USES</b></p> <p>SPECIAL USES (Parking etc) </p> <p><b>ROADS</b></p> <p>(a) COUNTY ROAD PROPOSED </p> <p>(b) COUNTY ROAD WIDENING </p> <p>(c) LOCAL ROAD PROPOSED </p> <p>(d) LOCAL ROAD WIDENING </p>	<p>EXISTING COUNTY ROAD </p> <p>OTHER PLANNING INSTRUMENTS </p> <div style="text-align: center;"> </div> <p style="text-align: center;"><b>Scale: 1:2000</b></p> <p style="text-align: center;"><b>Date: 10-07-2007</b></p>





**NOTES**  
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**FIRST FLOOR PLAN**

**FLOOR SPACE RATIO**  
 Site area 965.8 sqm  
 Permissible Floor Space  $120\text{sqm} + 0.25 \times 965.8$  361.5

**Proposed**  
 Ground Floor - Floor Space 217.6  
 First Floor - Floor Space (note: 8sqm credit for Terrace) 142.8

**Total floor space compliance at 360.4sqm**  
**First Floor floor space compliance at 39.6%**

- LEGEND**
- NEW 110MM BRICKWORK
  - NEW 270MM CAVITY BRICKWORK
  - NEW 190MM BLOCKWORK
  - NEW 90MM TIMBER FRAME WALL

**Amendments**

Issue	Date	Description
B	5.07.07	Sect 96 modifications

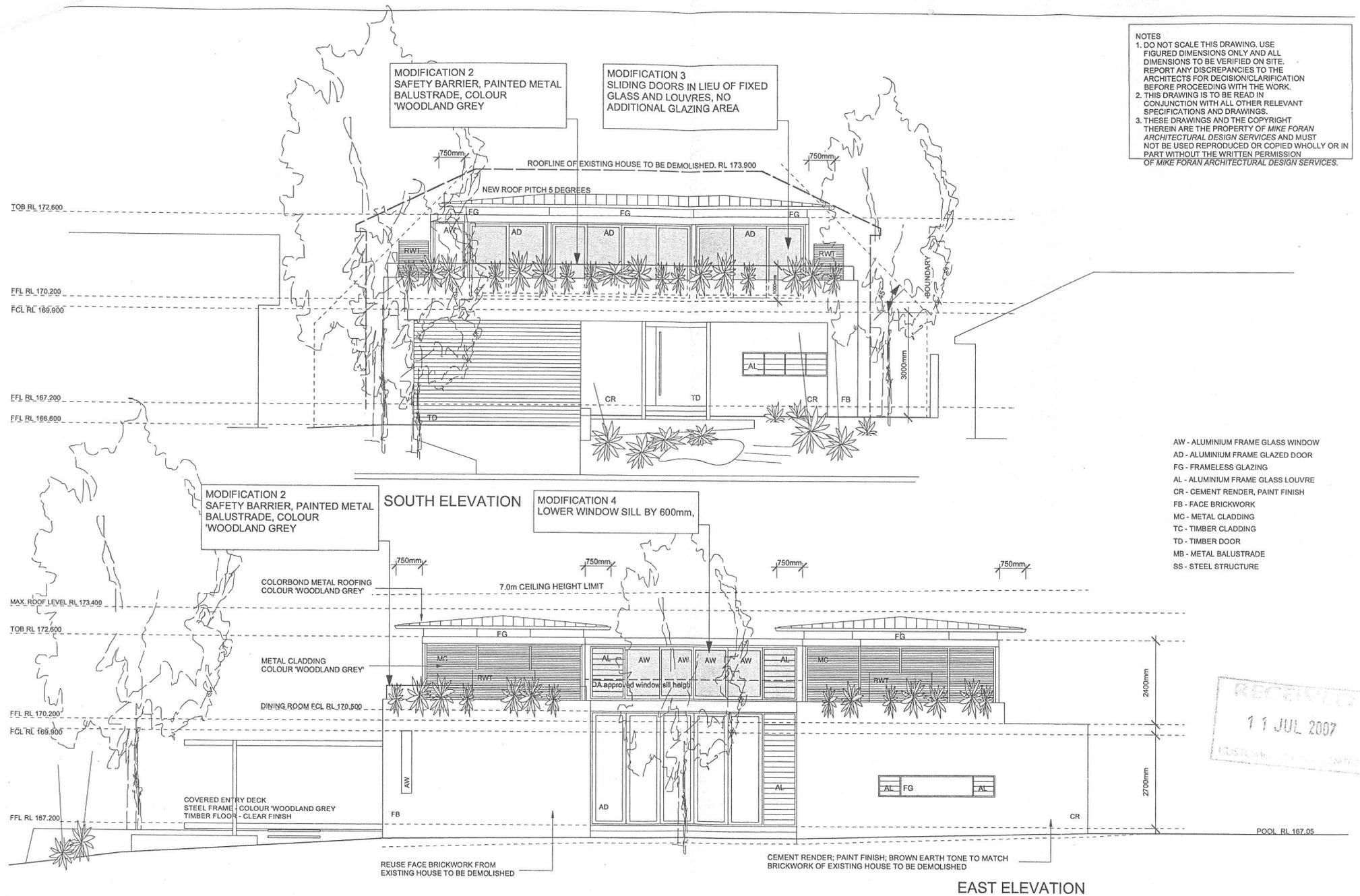
**Client** : Mr and Mrs Jenkins  
 20 Walker Ave, St Ives NSW  
**Project** : Proposed New Residence  
 20 Walker Ave, St Ives NSW

**Scale** : 1:100 @ A3  
**Date** : 9.7.2004

**Document** : For Development Application  
**Drawing** : First Floor Plan  
**Drawing No** : DA 03(A)

**mike foran** Architectural Design Services  
 B. Arch  
 1 Arthur St,  
 Manly NSW 2094.  
 Telephone/Fax: (02) 9400 0022  
 Email: mforan@mifarchitecture.com.au

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- AW - ALUMINIUM FRAME GLASS WINDOW
- AD - ALUMINIUM FRAME GLAZED DOOR
- FG - FRAMELESS GLAZING
- AL - ALUMINIUM FRAME GLASS LOUVRE
- CR - CEMENT RENDER, PAINT FINISH
- FB - FACE BRICKWORK
- MC - METAL CLADDING
- TC - TIMBER CLADDING
- TD - TIMBER DOOR
- MB - METAL BALUSTRADE
- SS - STEEL STRUCTURE



Amendments	Issue	Date	Description
B	5.07.07		Sect 96 modifications

**Client** : Mr and Mrs Jenkins  
 20 Walker Ave, St Ives NSW  
**Project** : Proposed New Residence  
 20 Walker Ave, St Ives NSW

**Scale** : 1:100 @ A3  
**Date** : 9.7.2004

**Document** : For Development Application  
**Drawing** : South & East Elevation  
**Drawing No** : DA 04(A)

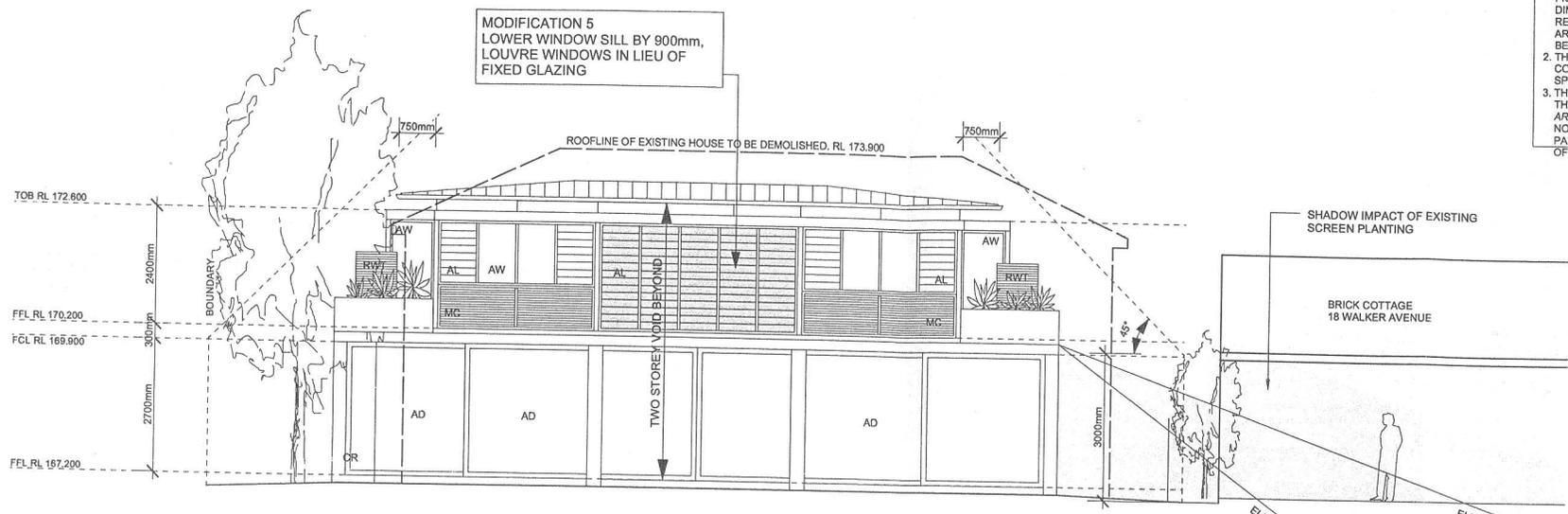
**mike foran** Architectural Design Services

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1 Arthur St,  
 Manly NSW 2094.  
 Telephone/Fax: (02) 9400 0022  
 Email: mforan@mforanarchitecture.com.au

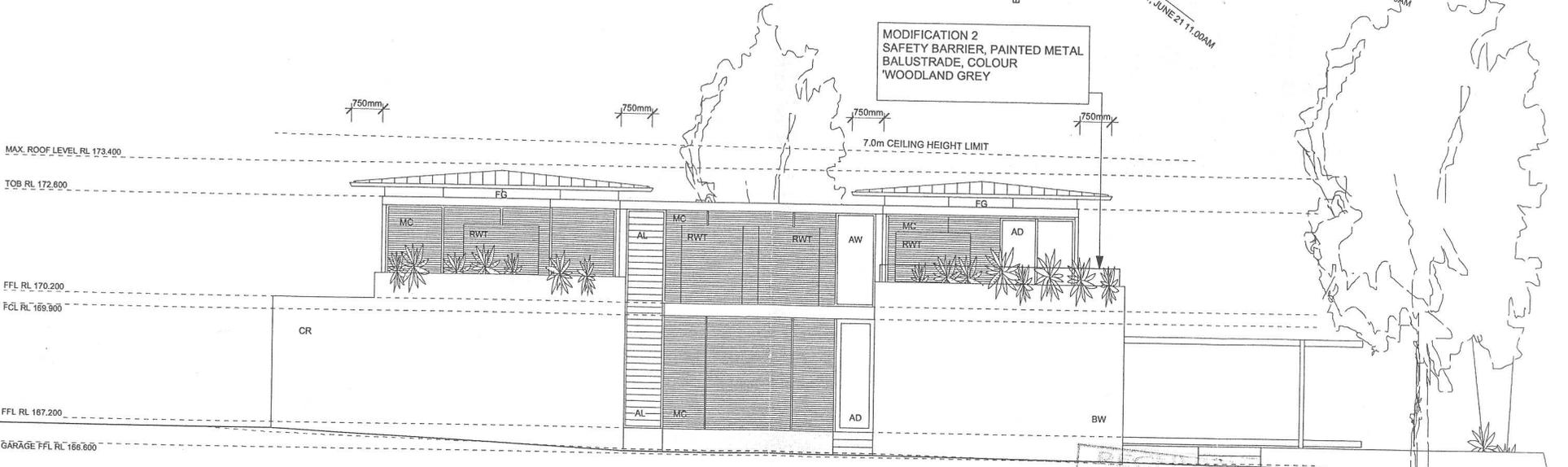
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**NORTH ELEVATION**

- AW - ALUMINIUM FRAME GLASS WINDOW
- AD - ALUMINIUM FRAME GLAZED DOOR
- FG - FRAMELESS GLAZING
- AL - ALUMINIUM FRAME GLASS LOUVRE
- CR - CEMENT RENDER, PAINT FINISH
- FB - FACE BRICKWORK
- MC - METAL CLADDING
- TC - TIMBER CLADDING
- TD - TIMBER DOOR
- MB - METAL BALUSTRADE
- SS - STEEL STRUCTURE



**WEST ELEVATION**

Amendments Issue	Date	Description
B	5.07.07	Sect 96 modifications

**Client** : Mr and Mrs Jenkins  
 20 Walker Ave, St Ives NSW  
**Project** : Proposed New Residence  
 20 Walker Ave, St Ives NSW

**Scale** : 1:100 @ A3

**Document** : For Development Application

**Drawing** : North & West Elevation

**Date** : 9.7.2004

**Drawing No** : DA 05(B)

**mike foran** Architectural Design Services

B. Arch  
 1 Arthur St,  
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 Telephone/Fax: (02) 9400 0022  
 Email: mforan@marchitecture.com.au

# Ku-ring-gai Council

Council Chambers, 818 Pacific Highway, Gordon NSW 2072  
Phone: (02) 9424 0888, Fax: (02) 9418 1117  
DX 8703 GORDON



Contact:

Selwyn Segall

In reply please quote:

DA 315/04

1 September 2004

Mike Foran Architectural Design Services  
12/15 Seabeach Avenue  
MONA VALE NSW 2103

Dear Sir/Madam

## **NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION SECTION 81(1)(A) ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 DEVELOPMENT APPLICATION N<sup>o</sup> 315/04**

**Applicant's Name and Address:**

Mike Foran Architectural Design  
Services

12/15 Seabeach Avenue

MONA VALE NSW 2103

**Land to be Developed:**

Lot 17, DP 226211, 20 Walker Avenue

ST IVES NSW 2075

**Proposed Development:**

Demolition existing two storey  
dwelling and construct new two storey  
dwelling

**Date of Determination:**

30 August 2004

**Date from which Consent Operates:**

30 August 2004

**Date of Expiry of Consent:**

31 August 2006

This application is determined by the granting of consent subject to the conditions in the **attached** Schedule of Consent Conditions.

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.

*M Miocic*

M Miocic *per* *SS*

**Director**

**Environment & Regulatory Services**

### **Attachments**

**SCHEDULE OF CONSENT CONDITIONS**  
**DEVELOPMENT APPLICATION N<sup>o</sup> 315/04**  
**PREMISES: LOT 17, DP 226211, 20 WALKER AVENUE ST IVES NSW 2075**

**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 Environment 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 to be in accordance with Development Application No 315/04 and Development Application plans prepared by *Mike Foran Architectural Design Services*, reference number *DA 01(A), 02(A), 03(A), 04(B), 05(B), 06(A), 07(A), 09 and 10*, dated *9 July 2004 and 14 July 2004* and lodged with Council on *31 March 2004 and 6 August 2004*.
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
7. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

8. HOURS OF WORK: For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

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

9. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
10. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
11. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
12. 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.
13. The fence and footings shall be constructed entirely within the boundaries of the property.
14. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
15. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
16. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
17. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
18. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.

19. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
20. 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.
21. 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.
22. 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.
23. 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.
24. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
25. 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.
26. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
27. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
28. 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.

29. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
30. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
31. 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.
32. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
  33. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the street drainage system. Drainage line connections to the kerb shall conform and comply with the detailed requirements contained within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe"). Drainage crossings of the footway area shall be a single 100mm diameter sewer grade uPVC pipe with kerb adaptor, where the total design flows from the property are within the capacity of such a pipe, otherwise suitably sized galvanised RHS shall be used. To ensure compliance with this condition, a Certificate from the installer is to be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.
  34. For stormwater control a 150mm wide grated drain with heavy duty removable galvanised grates is to be located within the property at the intersection of the driveway and Council's footway to collect all surface water from the driveway. The drainage line shall be connected to the street system.
  35. A rainwater re-use tank system, together with the additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.
  36. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of AUS-SPEC.

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

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

37. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
38. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

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

39. Landscape works shall be carried out in accordance with Landscape Drawing No DAJW2 prepared by Syncarpia Vegetation Management and dated 5 August 2004 submitted with the Development Application, except as amended by the following:
  - the side fence and gate shall be relocated to be southern end of the kitchen wall and a 1 metre wide garden bed adjacent to the eastern boundary fence shall extend from the existing Camellias, past the kitchen into the courtyard. Screen planting which can attain a height of 2.5 – 3 metres is required in this garden bed;
  - a minimum 1 metre wide garden bed shall be provided between the proposed paving and the eastern boundary fence in the courtyard area and planted out;
  - screen planting which can attain a height of 3 metres is required along the rear boundary between Tree 11 and Tree 13;
  - the garden bed along the western boundary shall be at least 1 metre wide. The gate in the side fence will need to be slightly altered to comply with this.
40. On completion of the landscape works, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
41. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.

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

42. 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.

43. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
44. 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.
45. 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.

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

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

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

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

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

47. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater detention/retention system. The design shall be generally based on the concept plan DA 08 by Mike Foran, and calculations by Paul Solomon, and shall be advanced for construction issue purposes. The storage volumes and design shall comply with Council's Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from a minimum 100m<sup>2</sup> roof area for each 5000 litres of storage. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer and may be incorporated on the overall site drainage plan.
48. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), details for the proposed method of achieving Council requirements for the re-use of water on the property including garden irrigation, laundry and toilet flushing. The necessary pumping, housing, filtration and delivery plumbing equipment for re-use shall be shown on this design. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. These details may be incorporated on the overall stormwater management plan and design for the retention/detention system.

49. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 - Plumbing and Drainage Code.

50. A CASH BOND/BANK GUARANTEE of \$2000 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

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

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

#### **CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING**

51. 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.
52. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council prior to the commencement of work.
53. To reduce or eliminate the transport of sediment from the construction site onto public roads, a temporary construction exit, together with necessary associated temporary fencing, shall be established prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.
54. To preserve and enhance the natural environment, the downslope side of the proposed construction area of the site is to be enclosed with a suitable erosion control barrier (e.g. straw bales or geofabric fence) along contour before any other work on the site commences.
55. To preserve and enhance the natural environment, a geofabric filter fence shall be installed along contour immediately downslope of construction and disturbed areas prior to any earthworks or construction commencing. Both ends shall be turned uphill by 1.0 metre. Approved geofabric, such as CSR - Humes "Propex" Terram 1000, Polyfelt TS500, Bidim U24 or Terratrack 2415 or equivalent is to be stretched between posts placed at 2.0 to 3.0 metre centres. The base of the fabric must be buried at least 200mm in the ground on the upslope side. Geofabric material shall be replaced at intervals not exceeding 18 months, or as directed by the Principal Certifying Authority.

The geofabric filter fence shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the structure when 40% capacity has been reached.

56. To preserve and enhance the natural environment, earthworks and/or demolition of any existing buildings shall not commence until an Erosion and Sediment Control Plan (ESCP) is prepared, submitted to the Principal Certifying Authority, approved and implemented to the satisfaction of the Principal Certifying Authority. The plan shall comply with the guidelines set out in the NSW Department of Housing Manual "Managing Urban Stormwater: Soils and Construction" Certificate.
57. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off as specified 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

Location of Fence

Tree 8 – *Malus silvestris* (Crab Apple)

Tree 6&7 – *Archontophoenix alexandrae* (Bangalow Palm)

Tree 12 – *Macadamia tetraphylla* (Macadamia)

All located in the rear garden

Fence rear garden from the E to W boundary

directly behind the existing pool

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

**CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION CERTIFICATE**

59. 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.
60. To ensure compliance with the consent, a final report from a Registered Surveyor shall be submitted to Council confirming floor/ceiling levels and boundary setbacks prior to occupation.
61. Prior to issue of an Occupation Certificate, the following works must be completed:
- a. Construction of the new driveway crossing and layback in accordance with the levels and specifications issued by Council,
  - b. Removal of all redundant driveway crossings, pipe crossing and/or kerb laybacks. Full reinstatement of these areas to footway, and/or turfed verge and/or kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.

- c. Any sections of damaged grass verge are to be fully replaced with a non-friable turf of native variety to match existing.

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

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

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

63. Prior to issue of an Occupation Certificate, the following must be provided to Council (attention Development Engineer):
  - a. A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
  - b. A copy of the works-as-executed drawing of the as-built on-site detention/retention system, and
  - c. The Engineer's certification of the as-built system.

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

64. Prior to issue of an Occupation Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the installed rainwater retention devices, are to be submitted to the Principal Certifying Authority (PCA). Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor.

The Certificate is to certify:

- Compatibility of the retention system(s) with the approved Construction Certificate plans.
- Compliance with AS 3500.2 & AS3500.3:1998.
- Overflow from the installed retention devices directed to an approved disposal point.
- The capacity of the retention storage as approved.
- Provision of leaf gutter guards to all roof gutters.
- Measures to prevent mosquito breeding nuisance.

- Provision of a readily maintainable “first flush” system to collect sediment/debris before entering the tank(s).
- Installation of proprietary tank products in accordance with manufacturers’ specifications.
- The structural adequacy of tank and supporting structures/slabs.
- Where required by this consent, that all toilet flushing, laundry and garden tap water usage for the approved development is sourced from the stormwater retention tank(s).
- All pumping equipment is readily accessible for maintenance and cleaning purposes and the adequacy of the pumping mechanism to achieve delivery rates as required.
- An air gap being provided at the top of the tank(s).
- Mains backflow prevention devices being installed at all relevant locations for reticulated systems
- Sediment sump of 150mm minimum being provided at the base of the tank(s)
- All recycled stormwater outlet points having permanently affixed plaques in readily observable locations which read “Recycled Stormwater – Not For Drinking” or equivalent.
- The provision of water mains back-up system to each collection tank for periods of low rainfall.
- Evidence of Sydney Water approval to the proposed system.
- The provision of filtration devices on each system to ensure no blockage of delivery plumbing systems.
- Compliance with relevant sections of the latest “Plumbing and Drainage Code of Practise” issued by the Committee on Uniformity of Plumbing and Drainage Regulations in NSW.

The Works-as-Executed drawing(s) is to be marked up in red on the approved Construction Certificate design, and shall include:

- As constructed levels in comparison to design levels
  - As built location of all tanks/retention devices on the property and distances to adjacent boundaries, buildings and easements
  - Dimensions of all retention tanks/devices
  - Top water levels of storage areas and RL’s at overflow point(s)
  - Storage volume(s) provided and supporting calculations/documentation.
65. Prior to issue of an Occupation Certificate (and at the completion of works), the applicant shall submit certification from a consulting engineer or the installing plumbing contractor to the Principal Certifying Authority (PCA), that:
- a. The components of the new drainage system have been installed in accordance with the Plumbing and Drainage code AS3500.3.2 and by a licensed plumbing contractor, and
  - b. The stormwater drainage works have been carried out in accordance with the approved Construction Certificate drainage plan and Councils Water Management DCP 47.

## **BUILDING CONDITIONS**

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

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

- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
  - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
  - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
  - d. Retaining walls and associated drainage.
  - e. Wet area waterproofing details complying with the Building Code of Australia.
  - f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
  - g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
  - h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
67. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
  - b. Any pier holes and/or foundation material.
  - c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
  - d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
  - e. Any stormwater drainage works prior to covering.
  - f. The completed landscape works in accordance with the approved plans.
  - g. The completed structure prior to occupation.

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

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

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

68. All structural timber members subject to weather exposure shall have a durability class rating of 2 or better in accordance with Australian Standard 1684.2-1999 (National Timber Framing Code), or be preservative treated in accordance with Australian Standard 1604-1980 (Preservative Treatment for Sawn Timbers, Veneers and Plywood).
69. A fully detailed first floor joist layout (in duplicate) complying with the National Timber Framing Code or accompanied by a structural engineer's Certificate of Adequacy shall be submitted to and approved by the Principal Certifying Authority.

70. As the roof pitch is below the recommended minimum set out in Australian Standards, details of the method of providing a watertight roof shall be submitted to and approved by the Principal Certifying Authority.
71. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.
72. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

Risers:	Maximum 190mm	Minimum 115mm
Going (Treads):	Maximum 355mm	Minimum 240mm

Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.

73. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
  - b. Smoke alarms which:
    - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
    - ii. are connected to the mains and have a standby power supply; and
    - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

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

74. 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.

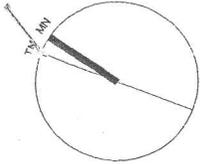
Council has a non chemical policy for termite control but will consider proposals involving physical barriers in combination with approved chemical systems. Handspraying is prohibited.

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.

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

**\*\*\*END OF CONDITIONS\*\*\***



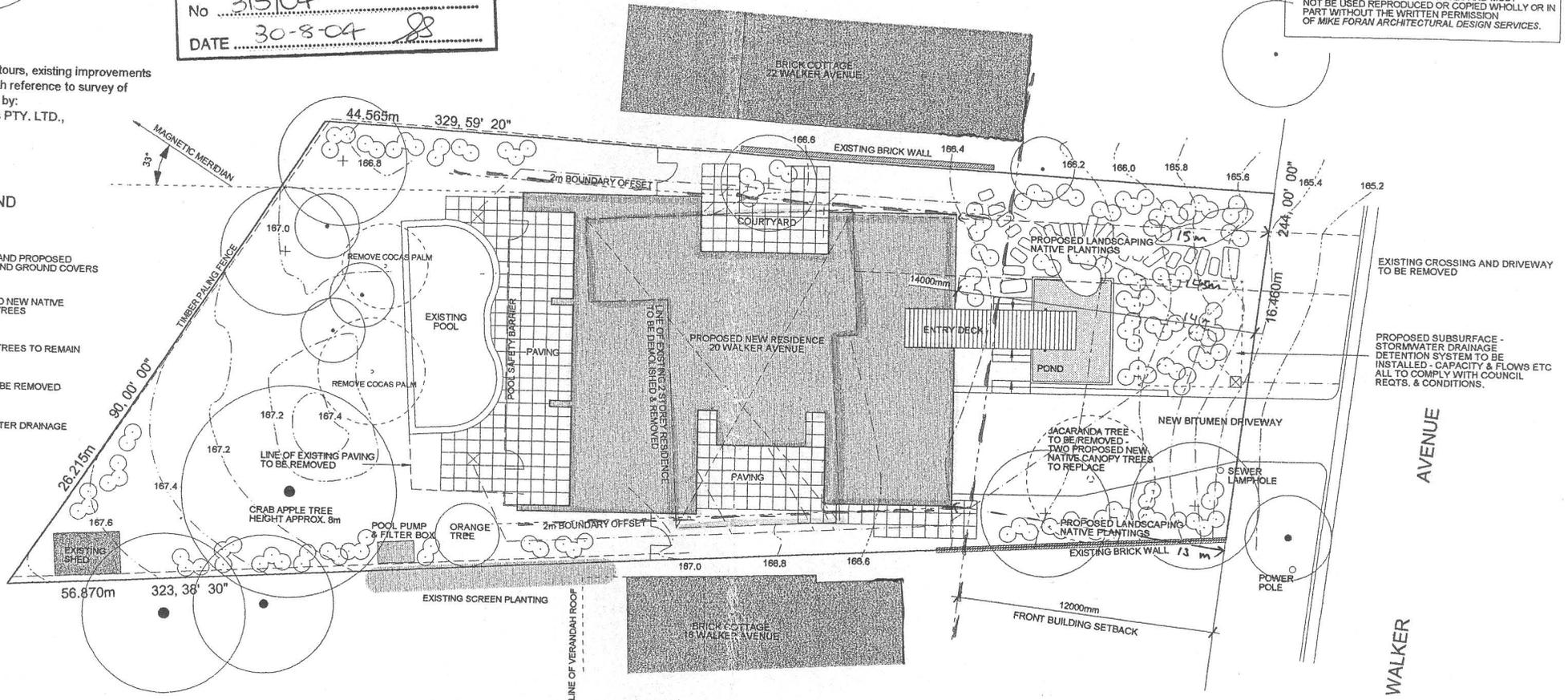
**KU-RING-GAI COUNCIL**  
 THIS IS THE PLAN/S REFERRED TO  
 IN NOTICE OF DETERMINATION OF  
 DEVELOPMENT APPLICATION  
 No 315/04  
 DATE 30-8-04

**NOTES**  
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**NOTE:**  
 Boundaries, levels, contours, existing improvements and trees are drawn with reference to survey of LOT 17 in D.P. 226211 by: Mepstead & Associates PTY. LTD., dated 14 April 2000.

**LEGEND**

- EXISTING AND PROPOSED SHRUBS AND GROUND COVERS
- PROPOSED NEW NATIVE CANOPY TREES
- EXISTING TREES TO REMAIN
- TREES TO BE REMOVED
- STORMWATER DRAINAGE



**SITE CALCULATIONS**

Site area	965.8 sqm
Permissible Built Upon Area 54%	521.5
<b>Proposed</b>	
House	225.0
Entry Deck	10.8
Driveway	60.0
Paving & paths	125.0
Pool	40.0
Pond	19.0
Shed	6.0
Total	485.8 sqm

Total Built Upon Area compliance at 50.3%

**SITE PLAN**

INCLUDING LANDSCAPE CONCEPT PLAN & DRAINAGE DIAGRAM

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 DATE 30/8/04

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**Amendments**  
 Issue Date Description

**Client** : Mr and Mrs Jenkins  
 20 Walker Ave, St Ives NSW  
**Project** : Proposed New Residence  
 20 Walker Ave, St Ives NSW

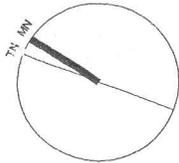
Scale : 1:200 @ A3

**Document** : Development Application

**Drawing** : Site Plan

Date : 9.7.2004

**mike foran** Architectural Design Services  
 B.Arch  
 Studio 12/15 Seabeach Avenue,  
 Mona Vale NSW 2103.  
 Telephone/Fax: (02) 9376 5300

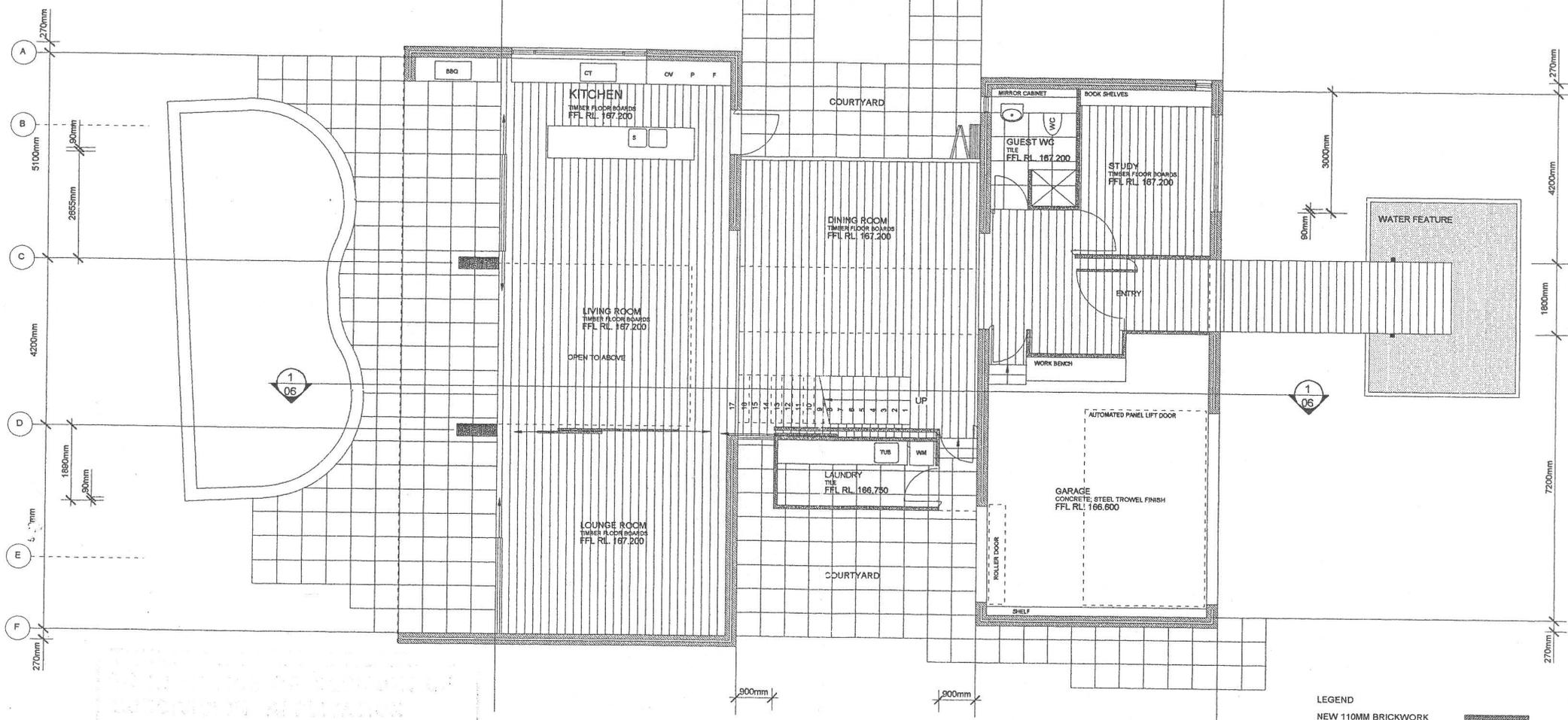


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**GROUND FLOOR PLAN**

- LEGEND**
- NEW 110MM BRICKWORK [hatched pattern]
  - NEW 270MM CAVITY BRICKWORK [hatched pattern]
  - NEW 190MM BLOCKWORK [hatched pattern]
  - NEW 90MM TIMBER FRAME WALL [hatched pattern]

NO. 315/04  
DATE 30/8/04

Amendments Issue Date Description

**Client** : Mr and Mrs Jenkins  
20 Walker Ave, St Ives NSW

**Project** : Proposed New Residence  
20 Walker Ave, St Ives NSW

**Scale** : 1:100 @ A3

**Date** : 9.7.2004

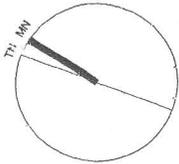
**Document** : For Development Application

**Drawing** : Ground Floor Plan

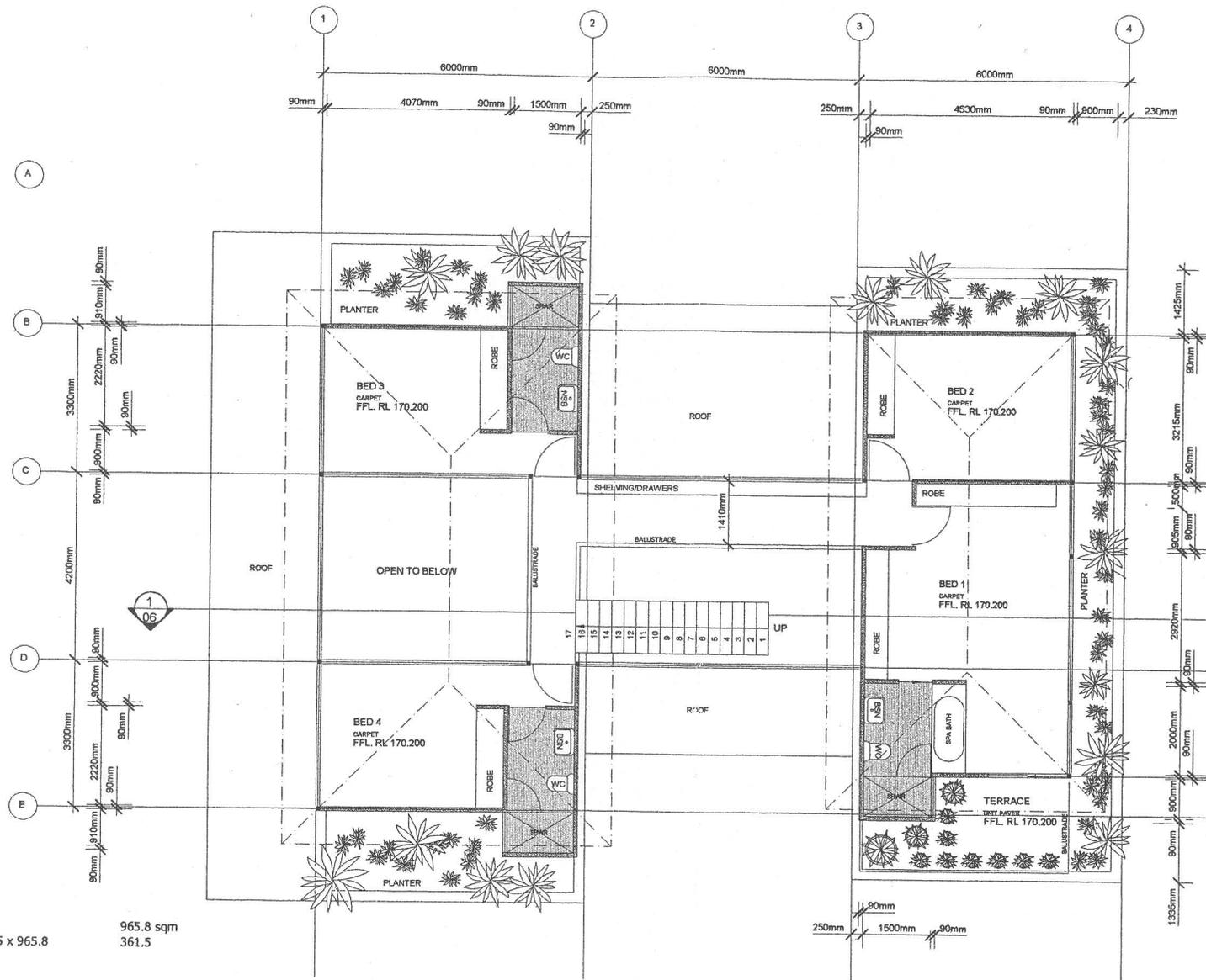
**Drawing No** : DA 02(A)

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Studio 12/15 Seabeach Avenue,  
Mona Vale NSW 2103.  
Telephone/Fax: (02) 9979 5989  
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**FLOOR SPACE RATIO**

Site area	965.8 sqm
Permissible Floor Space 120sqm + 0.25 x 965.8	361.5

<b>Proposed</b>	
Ground Floor - Floor Space	217.6
First Floor - Floor Space (note: 8sqm credit for Terrace)	142.8

<b>Total floor space compliance at</b>	<b>360.4sqm</b>
<b>First Floor floor space compliance at</b>	<b>39.6%</b>

**FIRST FLOOR PLAN**

**LEGEND**

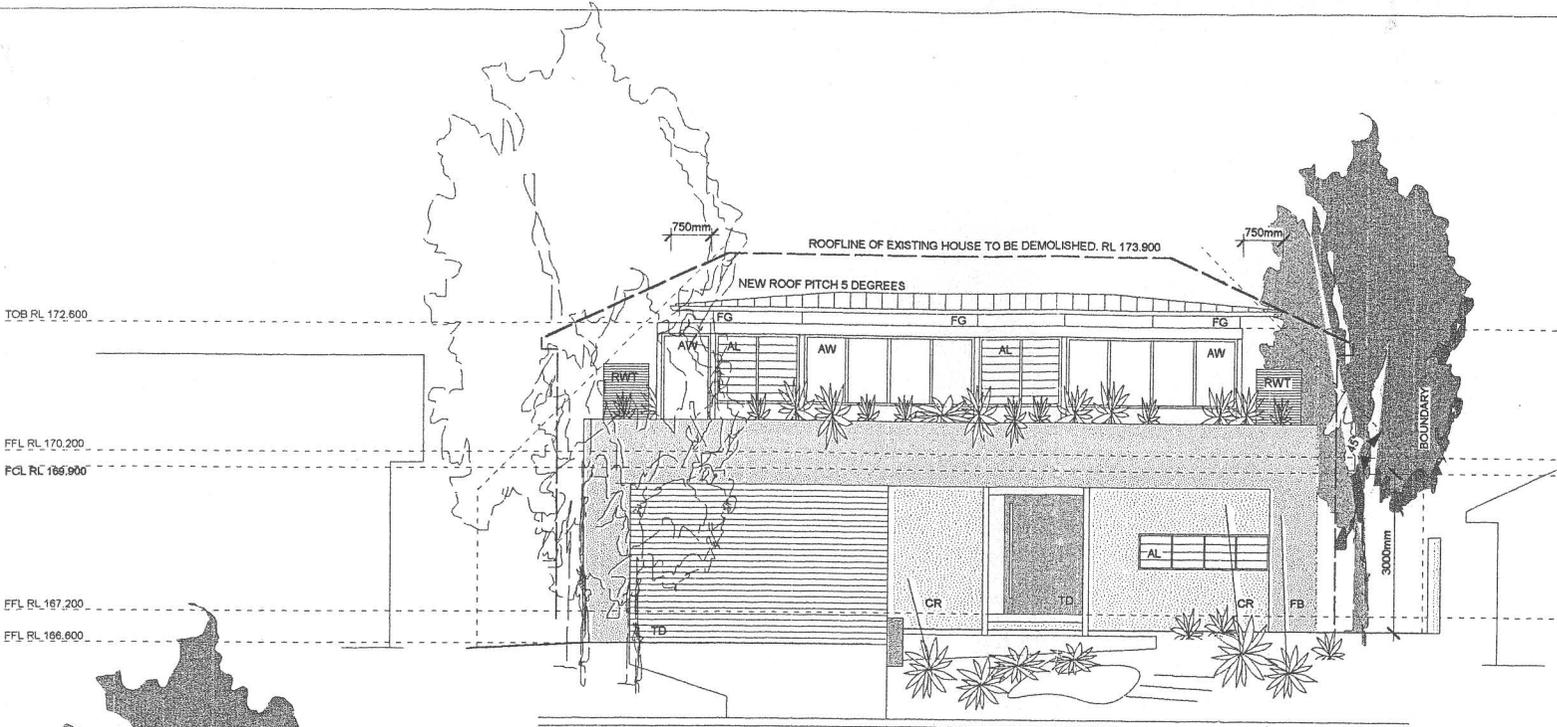
NEW 110MM BRICKWORK	
NEW 270MM CAVITY BRICKWORK	
NEW 190MM BLOCKWORK	
NEW 90MM TIMBER FRAME WALL	

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<b>Amendments</b>	<b>Client</b> : Mr and Mrs Jenkins 20 Walker Ave, St Ives NSW	<b>Scale</b> : 1:100 @ A3	<b>Document</b> : For Development Application
<b>Issue</b> <b>Date</b> <b>Description</b>	<b>Project</b> : Proposed New Residence 20 Walker Ave, St Ives NSW	<b>Date</b> : 9.7.2004	<b>Drawing</b> : First Floor Plan
			<b>Drawing No</b> : DA 03(A)

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 Mona Vale NSW 2103.  
 Telephone/Fax: (02) 9979 5989  
 Email: mike\_foran@hotmail.com

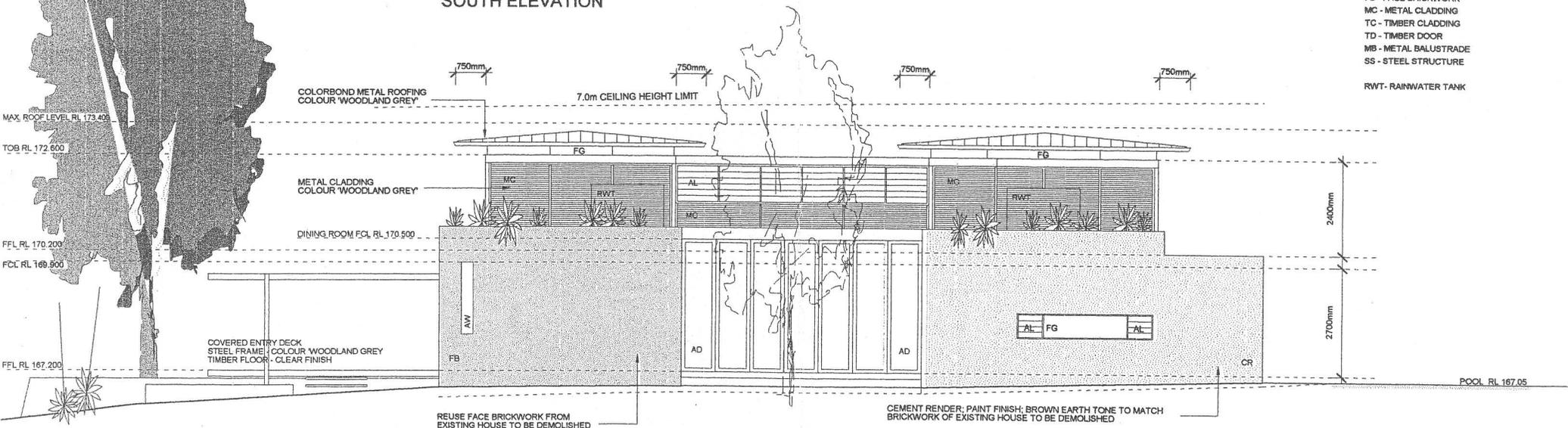
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SOUTH ELEVATION

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 DATE 30/8/04 *ll*

- AW - ALUMINIUM FRAME GLASS WINDOW
- AD - ALUMINIUM FRAME GLAZED DOOR
- FG - FRAMELESS GLAZING
- AL - ALUMINIUM FRAME GLASS LOUVRE
- CR - CEMENT RENDER, PAINT FINISH
- FB - FACE BRICKWORK
- MC - METAL CLADDING
- TC - TIMBER CLADDING
- TD - TIMBER DOOR
- MB - METAL BALUSTRADE
- SS - STEEL STRUCTURE
- RWT - RAINWATER TANK



EAST ELEVATION

**COUNCIL COPY**

Issue	Date	Description
1	9.7.04	add elevation shadow
2	14.7.04	show rainwater tanks

**Client** : Mr and Mrs Jenkins  
 20 Walker Ave, St Ives NSW  
**Project** : Proposed New Residence  
 20 Walker Ave, St Ives NSW

**Scale** : 1:100 @ A3  
**Date** : 14.7.2004

**Document** : For Development Application  
**Drawing** : South & East Elevation  
**Drawing No** : DA 04(B)

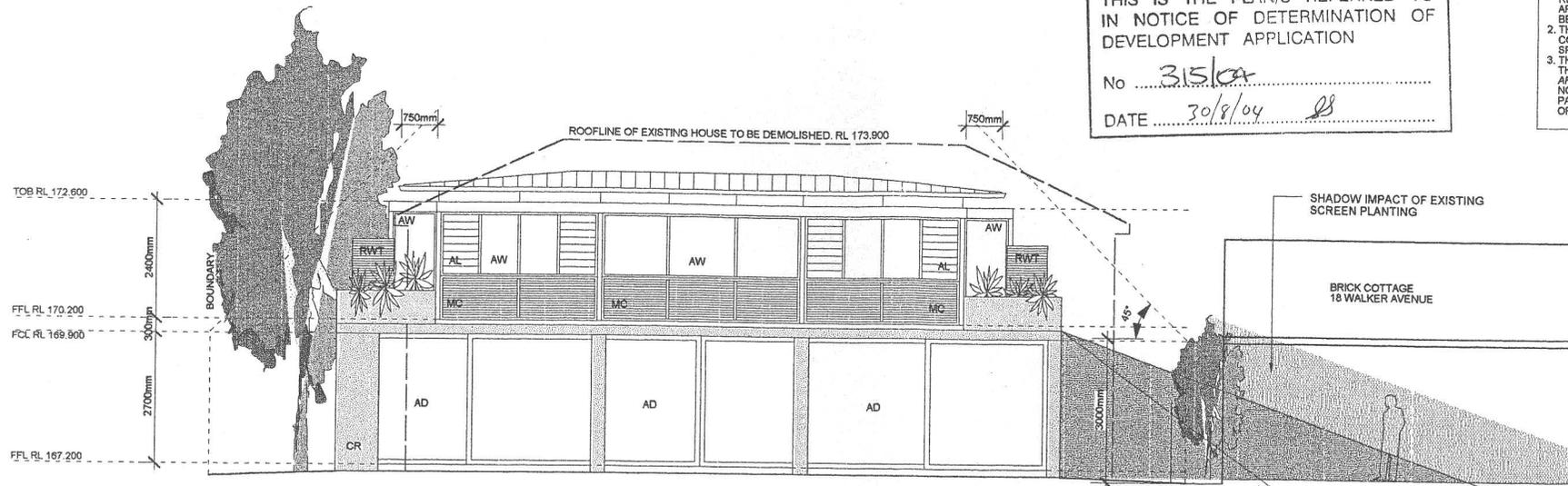
**mike foran** Architectural Design Services  
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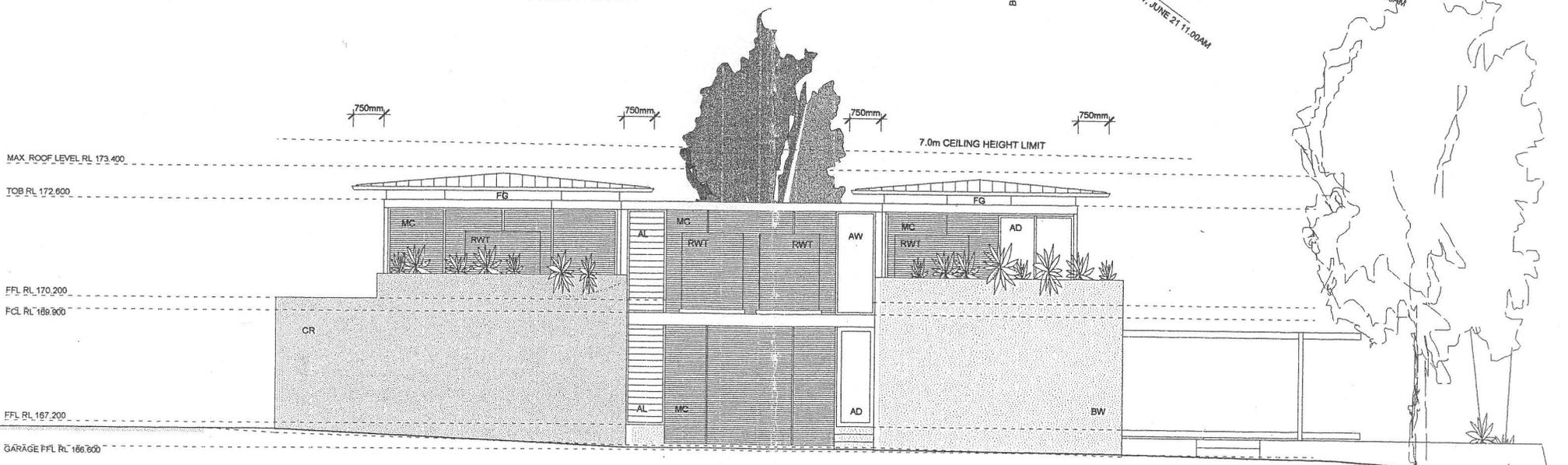
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DATE 30/8/04 *EB*

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**NORTH ELEVATION**

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- AD - ALUMINIUM FRAME GLAZED DOOR
- FG - FRAMELESS GLAZING
- AL - ALUMINIUM FRAME GLASS LOUVRE
- CR - CEMENT RENDER, PAINT FINISH
- FB - FACE BRICKWORK
- MC - METAL CLADDING
- TC - TIMBER CLADDING
- TD - TIMBER DOOR
- MB - METAL BALUSTRADE
- SS - STEEL STRUCTURE
- RWT - RAINWATER TANK



**WEST ELEVATION**

**COUNCIL COPY**

Amendments Issue	Date	Description
1	9.7.04	add elevation shadow
3	14.7.04	show rainwater tanks

**Client** : Mr and Mrs Jenkins  
20 Walker Ave, St Ives NSW  
**Project** : Proposed New Residence  
20 Walker Ave, St Ives NSW

**Scale** : 1:100 @ A3  
**Date** : 14.7.2004

**Document** : For Development Application  
**Drawing** : North & West Elevation  
**Drawing No** : DA 05(B)

**mike foran** Architectural Design Services  
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Telephone/Fax: (02) 9979 5989  
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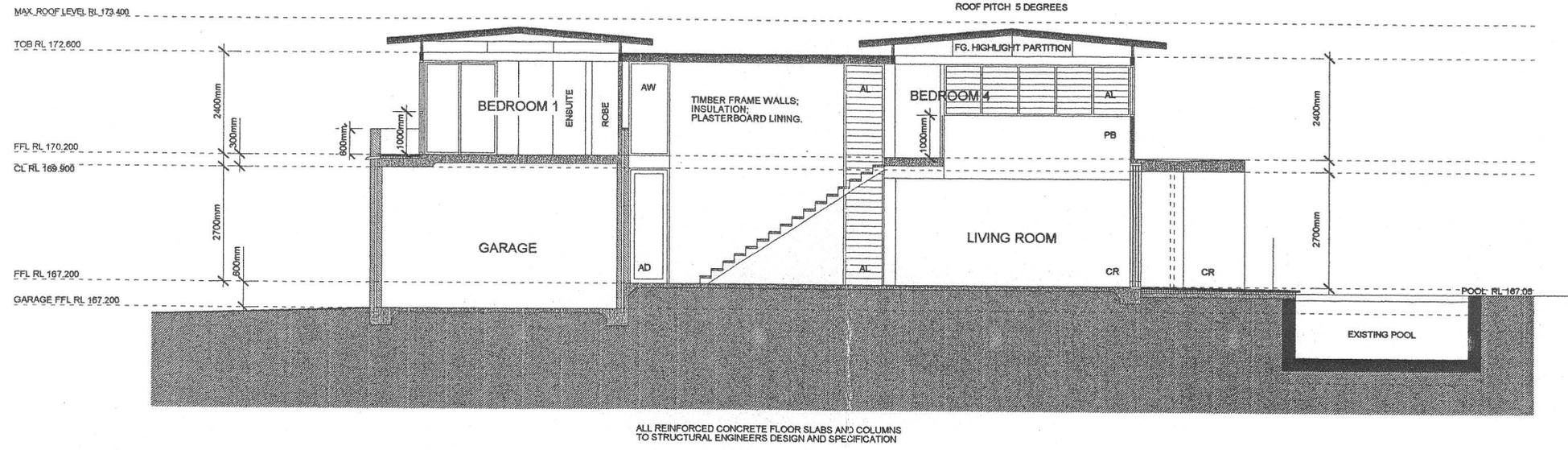
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 COLOUR WOODLAND GREY;  
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 FOIL FACED INSULATION MATERIAL TO ALL ROOF AREAS;  
 FC EAVES SHEET LINING.

AW - ALUMINIUM FRAME GLASS WINDOW  
 AD - ALUMINIUM FRAME GLAZED DOOR  
 FG - FRAMELESS GLAZING  
 AL - ALUMINIUM FRAME GLASS LOUVRE  
 CR - CEMENT RENDER, PAINT FINISH  
 PB - PLASTERBOARD  
 FB - FACE BRICKWORK  
 MC - METAL CLADDING  
 TC - TIMBER CLADDING  
 TD - TIMBER DOOR  
 MB - METAL BALUSTRADE  
 SS - STEEL STRUCTURE



ALL REINFORCED CONCRETE FLOOR SLABS AND COLUMNS TO STRUCTURAL ENGINEERS DESIGN AND SPECIFICATION

SECTION 1

**COUNCIL COPY**

Revisions  
 Issue Date Description

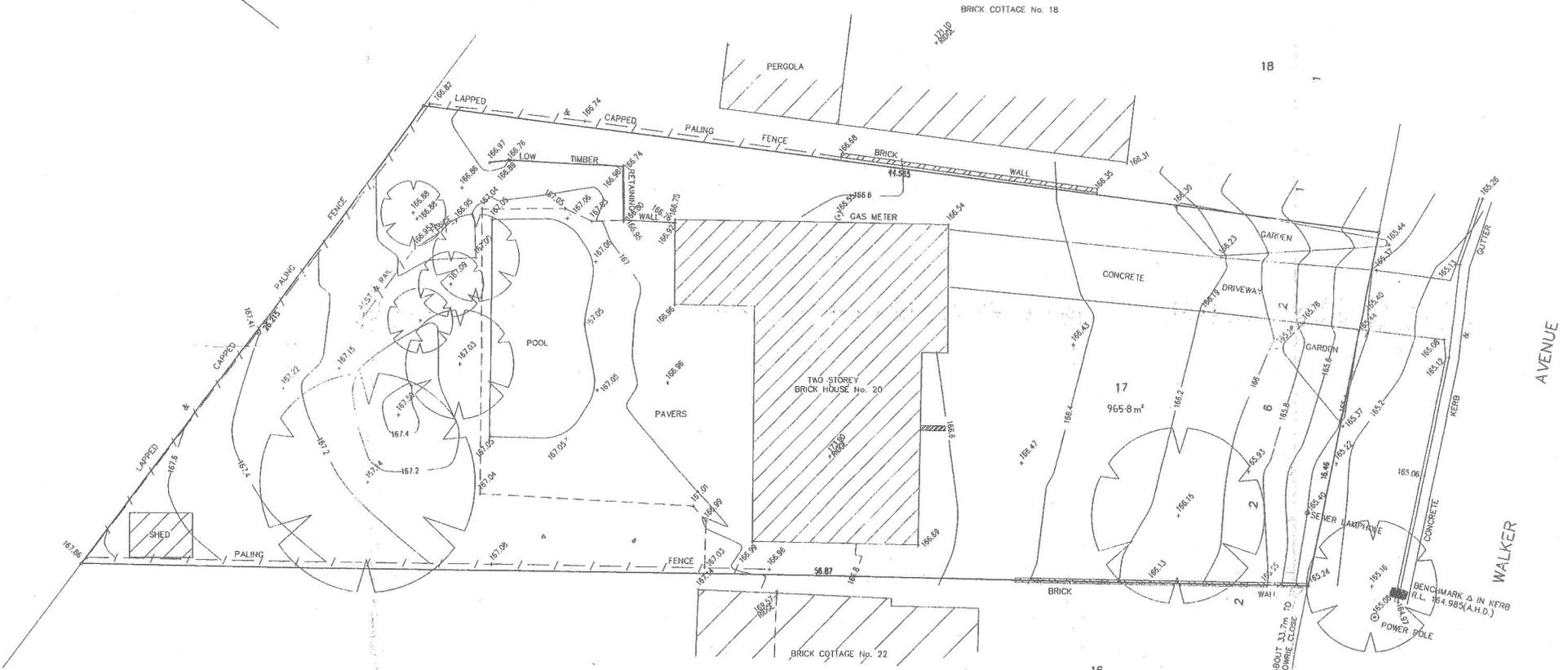
**Client** : Mr and Mrs Jenkins  
 20 Walker Ave, St Ives NSW  
**Project** : Proposed New Residence  
 20 Walker Ave, St Ives NSW

**Scale** : 1:100 @ A3  
**Date** : 9.7.2004

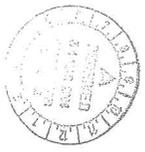
**Document** : For Development Application  
**Drawing** : Section 1  
**Drawing No** : DA 06(A)

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 Email: mike\_foran@hotmail.com





- NOTES:-
1. THE LEVELS AND DETAIL ON THIS PLAN HAVE BEEN DETERMINED BY STADIA METHODS AND ARE WITHIN THE GENERAL ACCEPTED ACCURACY FOR SUCH A SURVEY.
  2. THE RELATIONSHIP OF IMPROVEMENTS TO PROPERTY BOUNDARIES IS DIAGRAMMATIC ONLY; THE TRUE POSITIONS ARE SUBJECT TO FINAL SURVEY.
  3. ~~THE SERVICES AND DETAIL SHOWN ON THIS PLAN HAVE BEEN PREPARED FROM A COMPARISON OF FIELD SURVEY AND OFFICE CALCULATION. THE PLAN MAY NOT SHOW THE FULL EXTENT OF ABOVE GROUND STRUCTURES AND SUB-SURFACE STRUCTURES. PRIOR TO ANY EXCAVATION OR CONSTRUCTION IT IS RECOMMENDED THAT THE LOCATION OF STRUCTURES AND SERVICES BE VERIFIED BY FIELD INSPECTION. THIS NOTE IS AN INTEGRAL PART OF THIS PLAN.~~
  4. THE SERVICES AND DETAIL SHOWN ON THIS PLAN HAVE BEEN PREPARED FROM A COMPARISON OF FIELD SURVEY AND OFFICE CALCULATION. THE PLAN MAY NOT SHOW THE FULL EXTENT OF ABOVE GROUND STRUCTURES AND SUB-SURFACE STRUCTURES. PRIOR TO ANY EXCAVATION OR CONSTRUCTION IT IS RECOMMENDED THAT THE LOCATION OF STRUCTURES AND SERVICES BE VERIFIED BY FIELD INSPECTION. THIS NOTE IS AN INTEGRAL PART OF THIS PLAN.
  5. ALL LEVELS MUST BE REFERRED BACK TO THE BENCHMARK IN KERB R.L. 164.985(A.H.D.). THE ORIGIN OF LEVELS IS SSM 34.91 (R.L. 169.849(A.H.D.)) LOCATED AT THE INTERSECTION OF PALM STREET AND MONA VALE ROAD
  6. CONTOUR INTERVAL IS 0.2 OF A METRE.



<b>MEMPSTEAD &amp; ASSOCIATES</b> SURVEYORS & DEVELOPMENT CONSULTANTS SURVEYING, PLANNING & ENGINEERING 11/11, 4 CENTRAL AVENUE, THORNHILL PHONE 8875 4500 FAX 8876 8117		<b>PTY. LTD.</b> A.C.N. 003 780 242 PHONE 8875 4500 FAX 8876 8117	Designed Drawn C.P. Checked S.W.	Scale 1:100 Datum A.H.D. Projection S.W. Author KJ/JR/NG-GM	Project <b>CARRY JENKINS</b> PLAN OF DETAIL AND LEVELS OVER LOT 17, D.P. 226211 PTING No. 20 WALKER AVENUE, ST IVES	Drawn No. 1 of 1 sheets Date Iss. 12/1/77
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Item 2

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	31 TO 37 KISSING POINT ROAD, TURRAMURRA - SUBDIVIDE 3 ALLOTMENTS INTO 5 ALLOTMENTS
<b>WARD:</b>	Comenarra
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	96/07
<b>SUBJECT LAND:</b>	31 to 37 Kissing Point Road, Turrumurra
<b>APPLICANT:</b>	Brett Davis, Lipman Properties P/L
<b>OWNER:</b>	Controline Air products P/L
<b>DESIGNER:</b>	Lipman Properties P/L
<b>PRESENT USE:</b>	Retail Nursery
<b>ZONING:</b>	2 (c )
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	Subdivision Code, Riparian Policy, DCP – 38 Residential Design Manual, DCP 40- Construction & Demolition Waste Management, DCP 47 – Water Management
<b>COMPLIANCE WITH CODES/POLICIES:</b>	Non compliance with Subdivision Code
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SREP 20, SEPP 1, Draft SEPP, SEPP 55
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Yes
<b>DATE LODGED:</b>	13/02/07
<b>40 DAY PERIOD EXPIRED:</b>	25 March 2007
<b>RECOMMENDATION:</b>	Approval

Item 2

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

**96/07  
31-37 KISSING POINT ROAD,  
TURRAMURRA**

**PROPOSAL:**

**SUBDIVIDE 3 ALLOTMENTS  
INTO 5 ALLOTMENTS**

**APPLICANT:**

**BRETT DAVIS, LIPMAN  
PROPERTIES P/L**

**OWNER:**

**CONTRLINE AIR PRODUCTS  
P/L**

**DESIGNER**

**LIPMAN PROPERTIES P/L**

**PURPOSE FOR REPORT**

To determine development application No. 96/07, which seeks consent for the subdivision of the existing 3 allotments into 5 allotments for future residential development.

**EXECUTIVE SUMMARY**

Issues:	Lot configuration - non compliance with KPSO & Subdivision Code (minimum lot size & frontage width) Riparian buffer zone
Submissions:	Two submissions
LEC Court Appeal:	No appeal lodged
Recommendation:	Approval

**HISTORY**

**Site history:**

The site, which comprises 3 allotments is currently being used as a retail plant nursery known as Rast Brothers. There is no relevant site history in relation to this application.

**Development application history:**

13 February 2007	Application lodged.
8 March 2007	Council Officers meet with applicant to discuss relocating the watercourse away from the rear boundary and retention of the palm trees. The submitted landscaping plan was required to be amended to have the watercourse reinstated as an open watercourse from boundary to boundary (north-east to west) and to provide a detailed plant list for the proposed riparian corridor.

Applicant advised that Lot 72 does not comply with Clause 58B (c) (ii) for the site width and this non-compliance is to be addressed in the SEPP 1 objections and Draft SEPP (Application of Development Standards) 2004.

Item 2

- 20 March 2007 Letter received from applicant advising that the SEPP 1 objections as submitted, are to be read to address Draft SEPP. Amended landscaping plans received.
- 22 March 2007 Letter sent to applicant advising that the submitted SEPP 1 objections do not address the Draft SEPP and a written statement addressing the requirements under clause 7 of the Draft SEPP is required.
- 13 April 2007 Additional information addressing above was received
- 28 May 2007 Council Officer requested applicant to revise the SEPP 1 objections to justify the departures from the development standards and why strict compliance is unreasonable and unnecessary. Indicative layout of the parking spaces for Lot 72 was also requested.
- 18 June 2007 Applicant provided revised SEPP 1 objections and indicative layout of parking spaces for Lot 72. (Z1565 LDA 101 C).

**THE SITE AND SURROUNDING AREA**

**The site**

Zoning:	2 (c )
Visual Character Study Category:	Predominantly in the 1945-68 period, one allotment in 1920-45 period
Lot & DP Number:	Lot 7 in DP 240964 Lot D in DP 341069 Lot B in DP 341069
Area:	5130m <sup>2</sup>
Side of Street:	North-western
Cross Fall:	Falls from front to the rear. Crossfall from west to east.
Stormwater Drainage:	Stormwater detention tank and discharge to existing watercourse.
Heritage Affected:	No
Integrated Development:	Yes under Section 22B Rivers & Foreshores Improvement Act
Bush Fire Prone Land:	No
Endangered Species:	Yes – Blue Gum High Forest
Urban Bushland:	No
Contaminated Land:	Potential for site to be contaminated. A Contamination Assessment has been submitted.

The subject site is legally described as Lot 7 in DP 240964 and Lots B & D in DP 341069 and has a total area of 5130m<sup>2</sup>. The site is located approximately 395m south of the Pacific Highway and 278m north of Catalpa Crescent.

Item 2

The site is located on the western (high) side of Kissing Point Road. The site is irregular in shape, with a frontage of 62m to Kissing Point Road, a rear western boundary length of 83m, a combined northern boundary length of 80.5m and a southern boundary length of 78m.

The site is currently used as a retail plant nursery with on-site parking. Access to the nursery and parking area is via an existing driveway located on the southern side of the site. A single storey dwelling house is located at the front of the site, with associated retail structures. A windmill and watercourse are located at the rear, traversing the site from north to south. A grove of Kentia Palms is located adjacent to the watercourse. Small shrubs and vegetation are located over the site with the Kentia Palm grove to be retained as part of this application.

**Surrounding development:**

The surrounding area is residential and consists of single detached dwellings. Located to the north west is a recently approved attached dual occupancy development. The adjoining southern property contains a single dwelling. Existing residential blocks that face Tintagel Place (adjoins rear western boundary) have their rear boundaries adjoining the subject site.

**THE PROPOSAL**

The subject site currently comprises three allotments, Lots D & B of DP 341069 & Lot 7 of DP 240964. All three allotments have frontage to Kissing Point Road. Lot D & B are not being altered. Lot 7 is large in area and it is proposed for subdivision into three allotments, with a conventional front lot and 2 battleaxe allotments with a central access handle (proposed Lots 70,71 and 72).

It is proposed to retain the existing dwelling on the central allotment with access to the dwelling being from the new access handle. Access to the 2 front allotments will be possible from either Kissing Point Road (as direct frontage to Kissing Point Road is available) or from the new central 6m to 3.6m wide access handle.

Part of the proposal is to maintain the existing location of the watercourse and convert the partially piped section of the watercourse to an open watercourse for its full length from boundary to boundary.

Details of the proposed lots are as follows:

**Lot D:**

Area = 822.3m<sup>2</sup>

Existing allotment with no changes in size or adjustment to boundaries.

This is a regular shaped allotment, with a frontage of 15.2m to Kissing Point Road. Vehicular access will be either directly from Kissing Point Road or via the proposed central access handle.

Dimensions = 54.6m x 15.2m

Item 2

**Lot B:**

Area = 823.2m<sup>2</sup>

This is an existing allotment with no proposed changes to its size or adjustment to boundaries. It is a rectangular shaped allotment with a frontage of 19.4m to Kissing Point Road. Vehicular access will be either directly from Kissing Point Road or via the proposed central access handle. Dimensions = 42.4m x 19.4m

**Proposed Lot 72:**

Area = 823m<sup>2</sup>

This would be an irregular shaped allotment with a frontage of 23.7m to Kissing Point Road. The existing dwelling is to be retained. The proposed central access handle would be located adjacent to the southern boundary. Vehicular access would be from Kissing Point Road via the central access handle. Reciprocal Rights of Carriageway (ROW) would be created over the access handle. The ROW over Lot 72 will have a width of 2.36m  
Dimensions = north:-42.4m, west:25.2m, south:27.2m and east (frontage ):23.7m

**Proposed Lot 70:**

Area = 1300m<sup>2</sup> (excluding the access handle)

This would be an irregular shaped allotment situated behind Lot 72, with a frontage of 2.64m to Kissing Point Road. Vehicular access from Kissing Point Road would be provided via the proposed 6m wide access handle.  
Dimensions = north- 27m, west- 42m, south – 23.4m & 22.2m. Frontage to Kissing Point Road, east – 2.7m.

**Proposed Lot 71:**

Area = 1235m<sup>2</sup> (excluding the access handle)

This would be an irregular shaped allotment situated behind Lot B, with a frontage of 1m to Kissing Point Road. Vehicular access from Kissing Point Road would be provided via the proposed central access handle with Reciprocal Rights of Carriageway.  
Dimensions = north:34.2m, west:43m, south:27.3m, east:1m.

**CONSULTATION – COMMUNITY**

In accordance with Council's Notification DCP 56, owners of adjoining properties were given notice of the application. In response, submissions from the following were received:

1. *J Nicholas & Tracy Dick-Smith – 4 Tintagel Place (adjoins rear of proposed Lot 71)*
2. *HC & KJ Matheson – 2/29 Kissing Point Road (adjoins north boundary of Lot B)*

The following issues were raised in the submissions:

Item 2

***Riparian Policy should be adhered to, building should not occur within 10m of the bank and environmental issues should be managed properly***

A watercourse is located at the rear of the site and is classified as Category 3 – Bank and Bank Stability Water Quality, in the Riparian Policy. This category provides limited habitat value but provides an important contribution to the overall health of the catchment. Council's Riparian Policy requires a 10m buffer zone and the proposed subdivision would eventually allow buildings (subject to a new development application) on Lots 70 & 71 to be constructed within the 10m buffer zone as the buffer zone would be reduced along the southern side from between 4.6m to more than 10m.

Council's Biodiversity Officer acknowledges the reduced riparian core, but generally supports the reduced buffer as the proposal will provide for the removal of the piped and concrete section of the watercourse and the construction of a new open watercourse through the site. This will have the potential for a better riparian/aquatic habitat outcome and will embellish the riparian zone, especially given that the paving around the piped section will be removed and the watercourse opened up to riparian vegetation. Council's Landscape Officer also does not object to the reduced riparian zone as the proposed setback is sufficient to allow the intent of the Riparian Policy to be complied with. This is detailed in the submitted landscape plan.

A condition is recommended to provide the channel as a semi porous (semi natural) bed to allow for slowing of water, filtration and native riparian plants, as per the guidelines of the Riparian Policy. **(Condition No 5)**

***Kentia grove should be kept***

Council Officers have managed to ensure that the watercourse is maintained in its current location and is reinstated as an open watercourse along with the retention of the Kentia Palm grove.

***Undersized allotments***

Lots B & D are 823.2m<sup>2</sup> and 822.3m<sup>2</sup>, respectively, and are under the prescribed area of 929m<sup>2</sup>, as required by Clause 58(3) (c) (i) of KPSO and the Subdivision Code. However, these allotments have been in existence since subdivision in 1939. This was prior to the introduction of the KPSO (1971). This application proposes no changes to the size or shape of these allotments.

Proposed Lots 71 & 72 are 1235m<sup>2</sup> and 823m<sup>2</sup>, respectively, and are under the prescribed minimum area of 1300m<sup>2</sup> and 929m<sup>2</sup>, as required by Clause 58 (3) (c) (i) of the KPSO and the Subdivision Code.

A SEPP 1 objection has been submitted outlining the justifications for the variations to the standard. Full details of the variations and assessment of the SEPP 1 & Draft SEPP objection are provided in detail in this report.

***The proposal is an overdevelopment***

Item 2

It is claimed that the proposal attempts to squeeze 5 lots into an area than can only take 4 lots. As mentioned above, 2 of the allotments are existing undersized allotments, with a further undersized allotment containing an existing dwelling house. Of the 2 allotments at the rear, only one is undersized. However, sufficient area is available to accommodate a dwelling house.

***Footprint for building on Lot B is unclear - the building must be well setback from the boundary and restricted in height to avoid overshadowing of windows at 29 Kissing Point Road***

The building footprints submitted with this application are indicative only. Any new dwelling on each of the allotments will be the subject of a new development application, at which time height, setback, and the bulk and scale of any proposed dwelling will be assessed in accordance with the requirements of DCP 38 and the development standards and objectives contained in the KPSO.

***Existing trees between 29 Kissing Point and proposed Lot B are not shown on the landscape plan - the trees provide privacy - adequate privacy would be achieved by retaining or replacing these trees and through additional planting***

It is not intended to give approval for the removal of any trees along the northern boundary of proposed Lot B. Any subsequent application for development on Lot B will require the submission of a landscaping plan for Lot B detailing the retention/deletion of any trees/ vegetation on the property and proposed landscaping on site.

***On site parking will be limited and increased traffic congestion outside business hours may ensue***

Each new allotment will be able to accommodate a new dwelling on site and, under DCP 38, each new dwelling is required to provide off street parking for 2 vehicles. This will constitute a decrease in traffic as the future use will be residential rather than commercial and will generate less traffic.

## **CONSULTATION - WITHIN COUNCIL**

### **Landscaping**

Council's Landscaping Officer, Geoff Bird, commented on the proposal as follows:

#### ***Watercourse***

*As part of the proposed subdivision works it is proposed to relocate the existing partially piped watercourse towards the rear site boundary. This is being done to maximise the available site area for development. The watercourse is seen as a significant development hurdle. At present, the watercourse is partially open and partially piped. Parts of the open watercourse run adjacent to and through the existing Kentia Palm grove, which was planted in the 1920's by the Rast brothers when they ran a wholesale nursery from the site. Amended plans have retained the watercourse through the palm grove and reinstated an open watercourse entirely through the site from boundary to boundary. Previous concerns have been satisfactorily addressed.*

Item 2

*Upstream of the palm grove, no objection is raised to the watercourse relocation, subject to it being located centrally through the proposed riparian corridor. Amended plans have been received showing a 4.0m setback from the rear site boundary at the closest point, expanding out to 13.0m where the watercourse is in its present location. While not compliant with Council's Riparian Policy, numerical setback requirement of 10.0m, the proposed setbacks allow for the intent of the Policy to be complied with.*

*The application has been referred to David Wilks, Council's Biodiversity Officer, for comment regarding the proposed water course. He acknowledges the reduced riparian core and can support it, subject to the channel being reinstated with a semi porous (ie semi natural) bed to allow for slowing of water, filtration and native riparian plants, as per the guidelines of the Riparian Policy. This can and will be conditioned.*

***Landscape plan***

*The submitted landscape plan is considered satisfactory, subject to minor changes increasing the mass planted areas to cover 100% of the proposed riparian corridor.*

***Subdivision plan***

*Landscape Services raises no objections to the proposed subdivision plan, previous concerns have been adequately addressed.*

*Subject to conditions, the application can be supported by Landscape Services. (Refer to Conditions No 50 to 60, 66 to 70, 78 to 81, 93 & 103 to 104 inclusive))*

**Engineering**

Council's Engineering Assessment Officer, Ross Guerrero, commented on the proposal as follows:

*The following documentation was used for the assessment:*

*Woolacotts Consulting Engineers Plans - Erosion & Sediment Control Plan 06-240 SW1, Stormwater Management Plan 06-240 SW2, Sections 06-240 SW3, Driveway Plan & Longsection 06-240 R1 dated 12/2/07, respectively.*

*Statement of Environmental Effects prepared by Blueprint NSW*

*Stormwater Management Report prepared by Woolacotts Consulting Engineers, dated 13/3/07*

*Plan of Proposed Subdivision prepared by S.McN.Bland Pty Ltd Consulting Surveyors*

*Site Image Pty Ltd Z1565 Landscape plans LDA101, 201,202,301, dated 2/2/07 respectively*

*Traffic Review Statement prepared by Masson Wilson Twiney Traffic & Transport Consultants, dated 30/1/07*

***Stormwater disposal & flood study***

Item 2

*A 5,000L rainwater tank has been provided for the dwelling to be retained (proposed Lot 72).*

*A stormwater detention tank of 10m<sup>3</sup> has been provided for the new driveway / parking area. The tank is located under the driveway and discharges to the existing watercourse.*

*A hydraulic analysis has been prepared by Woolacotts Consulting Engineers to determine the extent of flooding. The 100 year ARI overland flow is wholly contained within the watercourse and riparian zone.*

*The stormwater proposal involves the existing drainage easement for Lot A to be relocated around the edge of the new lots and extend to the new watercourse. This allows for stormwater drainage from Lot B and Lot 72 to be connected into it. This needs the approval of the owners of 29 Kissing Point Road, which will be required prior to construction certificate.*

**Watercourse**

*The subject site is traversed by a 1m wide by 900mm deep watercourse which is partially piped. The watercourse through the site is classified as a Category 3 Riparian zone (bed and bank stability/water quality) with a 10m development setback from the top edge of both embankments. At the time of the pre-lodgment it was suggested that the piped section be reinstated as an open watercourse.*

*Revised plan dated 16 March 2007 now shows the watercourse maintained in its current location to preserve the existing palms.*

*The creation of a restriction on the use of land under Section 88B of the Conveyancing Act 1919, burdening the area identified as the riparian zone as indicated on Landscape Plan LDA101 issue 'B' prepared by Site Image Pty Ltd, has been conditioned.*

**Site access & parking**

*A new central access way within the site is to be provided off Kissing Point Road. This allows for vehicular access and maneouvering to all the lots and provides access to the existing dwelling.*

*The access way width of 3.6 metres is the minimum which is acceptable to service the two rear lots. From an engineering perspective the design is acceptable.*

*A passing bay has not been provided. However, it is intended that a convex mirror be provided on the internal bend to allow vehicles to observe oncoming vehicles. This has been conditioned.*

**Recommendation**

Item 2

*From an engineering perspective there are no objections to this application.(Refer to Conditions No 43 to 49 , 61 to 65, 76 to 77, 94 to 102 inclusive).*

**Biodiversity**

Council's Technical Officer - Biodiversity, David Wilks, commented on the proposal as follows:

*Potential for a better riparian/aquatic habitat outcome – especially removal of pipe.  
Possible to allow smaller riparian core zone if channel is re-integrated with porous ( ie semi-natural) bed to allow slowing of water, infiltration and native riparian plants (ie as per guidelines in Riparian Policy).*

**CONSULTATION - OUTSIDE COUNCIL**

**Department of Natural Resources**

The Department of Natural Resources, via letter dated 16 April 2007, attached their General Terms of Approval (GTA) for work requiring a Permit under Part 3A of the Rivers and Foreshores Improvement Act 1948. (Integrated Development).

The Department advised that it was supportive of the riparian zone width of 10m on this watercourse but was concerned about the lack of potential private open space for the new lots. Conditions 27 & 28 of the GTA required the extent of the riparian zone (measured horizontally landward from the top of the bank of the watercourse, and on both sides of the watercourse), to be an average width of 10m and minimum width of 5m.

The minimum width of 5m and average of 10m is inconsistent with the proposed riparian zone and Council advised the applicant of such.

The Department of Natural Resources, via email, dated 30 April 2007, advised that

*“The Department is willing to consider a reduction in the minimum width given the significant environmental outcome with the return of the watercourse to a natural form. However, the Department requests evidence from Council that they are satisfied with a reduced riparian zone setback on the site as it is the Council's policy that the Department is supporting.”*

Council's Technical Officer – Biodiversity and Landscape Officer have no objection to the reduced riparian zone, given that the proposal will result in a better riparian/aquatic habitat.

The Department was advised of the above and has amended their General Terms of Approval to reflect the reduced riparian zone as shown on the Landscape Plan prepared by Site Image and dated 2/2/07. The Department's General Terms of Approval are included in **Conditions 7 to 42**.

**PROVISIONS OF RELEVANT LEGISLATION**

Item 2

**1. Environmental Planning Instruments**

**State Environment Planning Policy No. 55 – Remediation of Land**

The site has a history of being a plant nursery and the provisions of SEPP 55 require Council to consider the potential for a site to be contaminated.

The applicant has submitted the Conclusions and Recommendations of the Contamination Assessment report prepared by GHD. The conclusion summarised that:

*The site has been used primarily as a plant nursery and residential property since 1915. No apparent major contamination issues were observed during the review .... A search of the NSW EPA registers indicated that the site was not subject to any orders, declarations, notices or licences under the Contaminated Land Management Act or POEO Act.....GHD consider that, on the basis of the available evidence, the site appears likely to be suitable (from a contamination perspective) for residential redevelopment purposes.*

The report recommended that some supplementary soil sampling and analysis be undertaken following the decommissioning of the existing site infrastructure, to confirm that no contaminants exist within the currently sealed or currently inaccessible portions of the site. **Condition No 4** has been recommended requiring this.

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

The site is within the catchment of the Hawkesbury River and as such, the development is subject to the provisions of this environmental planning instrument. The aim of SREP 20 is to “protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.” A watercourse is located at the rear of the subject site and Council has considered requirements of the Riparian Policy in relation to the protection of the watercourse and the impact of the proposed development.

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

The proposed development meets the general strategies of the SREP. Council’s Development Engineer has recommended appropriate conditions and a 5,000L rainwater tank and stormwater detention tank have been provided for the dwelling to be retained (proposed Lot 72) and for the new driveway/parking area and will discharge to the existing watercourse.

A hydraulic analysis has been prepared by Woolacotts Consulting Engineers to determine the extent of flooding. The 100 year ARI overland flow is wholly contained within the watercourse and riparian zone.

Strategies for water quantity set out in Clause 6 (4), whereby the reuse of water is encouraged wherever possible, can be appropriately dealt with at the time a development application is lodged for construction of dwellings on the respective lots.

Item 2

**State Environmental Planning Policy 1 – Development Standards.**

This policy provides flexibility in the application of development standards within Planning Instruments in circumstances where strict compliance would be unreasonable or unnecessary or tend to hinder the attainment of the objects specified under Section 5(a)(1) of the Act.

Clause 6 of SEPP 1 incorporates the mechanism for making of a SEPP 1 Objection and provides as follows:

*Where development could, but for any development standard, be carried out under the Act, the person intending to carry out that development may make a development application in respect of that development, supported by written objection that the development standard is unreasonable or unnecessary in the circumstances of the case, and specify the grounds of that objection.*

A SEPP 1 Objection has been submitted in respect of the non-compliances with the relevant development standards. The SEPP 1 objections are assessed under the “Ku-ring-gai Planning Scheme Ordinance” section of this report.

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

**Zoning:**

The site is zoned Residential 2(c). The subdivision of the site, demolition of sheds and associated roadworks are permissible with the consent of Council.

**Mandatory Requirements:**

Clause 58B of the KPSO states that:

3. Land to which this clause applies is not be subdivided unless each separate lot created:
  - (c) in the case of land within Zone No 2 ( c ):
    - i. As to a lot, other than a hatchet-shaped (battleaxe) lot not having frontage to a main road or county road – has an area of not less than 929m<sup>2</sup> and also a width not less than 18m at a distance of 12.2m from the street alignment,
    - ii. As to a lot, other than a hatchet-shaped (battleaxe) lot having frontage to a main road or county road – has an area of not less than 929m<sup>2</sup> and also a width not less than 27.4m at a distance of 12.2m from the street alignment,
    - iii. As to a hatchet-shaped (battleaxe) lot – has an area of not less than 1300m<sup>2</sup> exclusive of the access corridor, which access corridor is to have a width of not less than 4.6m.

The numerical requirement of subdivision when compared with the proposal is summarised in the table below:

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Development Standard	Proposals Numeric Compliance	Complies
<b>Site Area: 5130m<sup>2</sup></b>		
<b>Minimum Site Area</b> <b>Clause 58B (c) (i) &amp; (iii)</b> Regular Lot: 929m <sup>2</sup> Hatchet shaped: 1300m <sup>2</sup>	Lot D – 822.3m <sup>2</sup> (regular lot) Lot B – 823.2m <sup>2</sup> (regular lot) Lot 72 – 823m <sup>2</sup> (regular lot) Lot 71 – 1235m <sup>2</sup> (hatchet shape) Lot 70 – 1300m <sup>2</sup> (hatchet shape)	<b>NO – existing allotment</b> <b>NO – existing allotment</b> <b>NO</b> <b>NO</b> <b>YES</b>
<b>Minimum Frontage</b> <b>Clause 58B(c) (i)</b> Site width: 18m (min) at a distance of 12.2m from the street alignment (regular lot)	Lot B: 19.4	<b>YES</b>
<b>Clause 58B(c) (ii)</b> Site width: 27.4m at a distance of 12.2m from the street alignment – fronting main or county road.	Lot D: 15m Lot 72: 23.8m	<b>NO – existing allotment</b> <b>NO</b>
<b>Clause 58B(c) (iii)</b> Width of access corridor 4.6m (hatchet shaped lot)	Lot 71: 6m to 3.6m (the other lots have regular frontage)	<b>NO</b>

The proposed subdivision does not comply with the minimum site area, site width, and access corridor width development standards. The variations are assessed below under “SEPP 1 Objection” and “Draft SEPP” considerations.

**State Environmental Planning Policy No 1 - Development Standards**

**Minimum allotment size**

Proposed Lots 72 & 71 do not comply with the minimum site area as prescribed under Clause 58B of the KPSO. The applicant has submitted a SEPP 1 objection with justification as to why strict compliance with the standard would be unreasonable or unnecessary in this instance.

**1. Whether the planning control in question is a development standard**

Clause 58B(3)(c)(i) (iii) requires a minimum area of not less than 929m<sup>2</sup> and 1300m<sup>2</sup>, exclusive of the access handle for battle-axe allotment, is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act.

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Proposed Lots 72 & 71 have an area of 823m<sup>2</sup> and 1235m<sup>2</sup>, respectively, and therefore do not comply with Clause 58B(3)(c).

**2. The underlying objective or purpose behind the standard**

Although there is no mention in the KPSO as to the purpose of the standard, guidance is provided by Schedule 9 of the KPSO in clause (1) and (2) and the underlying reason for the standard is to:

- Provide sufficient area for construction of future buildings with adequate aspect, outlook and private outdoor living areas, while conforming to the established building character of the locality and in accordance with the objectives and policies for residential zones, as set out in Schedule 9 of the KPSO. Likewise, the development standard aims to ensure subsequent residential development will be consistent with the design requirements set out in Development Control Plan 38.
- Provide within hatchet-shaped allotments sufficient area to permit vehicles to enter and leave the site in a forward direction while providing adequate area for a reasonable size dwelling and associated private open space consistent with KPSO & DCP 38 objectives and controls.

**3. Whether compliance with the development standard is consistent with the aims of the Policy and whether compliance hinders the attainment of the objects specified in section 5(a)(i) and (ii) of the EP & A Act 1979**

The objects of Section 5(a)(i) and (ii) of the Act are:

- (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
- (ii) The promotion and co-ordination of the orderly and economic use and development of land; In this regard it is considered that the proposal is consistent with the aims of SEPP No.1 in that the development standard fails to recognise neither the existing surrounding subdivision pattern nor the existing site circumstances. The subdivision as proposed results in an economic use of an existing parcel of land that has an area of 5130m<sup>2</sup> by providing additional allotments without impacting on the amenity of the adjoining properties.

The proposal will not hinder the attainment of the object of section 5(a)(i) and (ii) of the environmental Planning and Assessment Act 1979.

***Achievement of the objectives***

Proposed Lots 72 and 71 have site areas of 823m<sup>2</sup> and 1235m<sup>2</sup> (exclusive of access handles), which fall short of compliance by 106m<sup>2</sup> (11%) and 65m<sup>2</sup> (5%), respectively.

The applicant has submitted a revised SEPP 1 objection, advancing the following arguments:

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1. *Minor variation of 5% for Lot 71 & 11% for Lot 72. The Lot 71 is located at the rear of existing Lot B and will not be visible from Kissing Point Road. The 2 rear lot have been designed to have one complying lot and a second lot with only a minor variation Lot 71 of 5%. Lot 71 will provide suitable area of a single dwelling in a landscaped setting, which is consistent with the existing character of the area.*
2. *Lot 72 is provided with a site area that is consistent with the 2 adjoining allotments and has an existing dwelling with suitable landscaped areas and open space. Suitable amenity for the existing dwelling is maintained with the proposed subdivision.*
3. *The proposal will generally comply with the numerical standards within DCP 38 therefore the proposed development is not an overdevelopment of the subject site.*
4. *Variation to the area standard is due to the existing lot configuration and the provision of suitable vehicular access, which was designed in conjunction with Council Officers.*
5. *The allotments provide sufficient area for future dwelling that will ensure a suitable amenity to neighbouring properties and provide adequate areas for private open space and landscaping, which are considered to be an objective of the site area standard. In particular, the proposed landscaping works within the riparian area at the rear of the development site will enhance the landscaped character of the area and provide an open water course which is considered more visually appealing than a closed drainage line.*
6. *The access handle width will allow vehicles to enter and exit the site in a safe and direct manner as detailed in the Traffic Statement submitted separately. As mentioned previously the driveway has been designed following consultation with Council's Officers.*
7. *The additional width along lot D, (which exceeds Council's minimum requirements) will also allow a suitable landscaping area to be provided along the access handle to minimise the impact of the driveway on the existing streetscape.*
8. *It should be noted that the existing front fence will be retained which will serve to minimise any impacts on the existing streetscape. The proposed subdivision will not alter the existing streetscape as it is retaining two existing street front lots and the proposed lot 72 already provides a single dwelling. As such the existing streetscape will not be significantly altered, apart from a new central driveway. Four native species (eucalypts) trees will be additionally planted within the Council grass verge nature-strip.*
9. *Proposed Lot 72 will provide an area, which is consistent with the two existing neighbouring allotments located on the site and also provides suitable site area for private open space and parking for the existing dwelling located on the lot.*
10. *Lot 71 appears to provide a site area which exceeds a number of allotments in the surrounding area and is to be extensively landscaped within the riparian zone located along the rear boundary. Proposed lot 72 will not be altered in width and provides a width*

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consistent with existing lots B and D. *Therefore the proposed lots will be consistent with the existing character of the surrounding area.*

11. *The amenity of the future occupants and neighbouring properties and character of the surrounding area will not be compromised with the minor variation, and complying with the standards would not alter any impacts of the proposed development.*

**Consideration**

Point 1 can be accepted for Lot 71, which only has a 5% variation. The variation of 11% for Lot 72 is not considered to be minor.

Point 3 cannot be substantiated as the argument that the proposal will generally comply with the numerical standards of DCP 38 – Residential Design Manual, is disputed as no details have been submitted for any future dwellings on the allotment. The building footprints submitted with the application are indicative only and any future development on the lots will need to be assessed at the time of a separate application. However, it is considered that sufficient area is available to provide for a house design that can satisfy the objectives of Schedule 9 of the KPSO and DCP 38.

Point 4 relates to site constraints which is not in itself adequate justification for non compliance.

Points 5, 8 & 11 are well founded and are consistent with the intentions of Clause 58B of the KPSO, that is to provide sufficient area for future dwellings and private open space that would be consistent with the residential objectives contained within Schedule 9 of the KPSO. The existing dwelling house on Lot 72 generally complies with Council's DCP 38 and the objectives of the schedule 9 of the KPSO. The retention of the front fence is immaterial, as the front fence is irrelevant to lot size, however, the retention of the fence will help maintain the existing streetscape.

Points 6 & 7 are accepted as the proposed access handle provides access from Kissing Point Road to the rear allotments.

Points 2 & 9 are supported as the two existing allotments on either side and the adjoining northern property - no 29 Kissing Point Road, are under the required minimum of 929m<sup>2</sup>.

Lot 72, which is the front under sized allotment, contains an existing dwelling house, which is proposed to be retained and sufficient area will be available (after demolition of the rear shed) to provide open space and carparking. The following matters are relevant in consideration of Lot 72:

- with the retention of the existing dwelling and demolition of the rear shed, it has been demonstrated that a dwelling house can be provided on the undersized allotment with adequate area available for outdoor private space and carparking
- the proposed development is for a residential purpose, which is in keeping with the residential zoning
- the allotment size will not be dissimilar to those of existing allotments on either side (Lots D & B and 29 Kissing Point Road)

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- the smaller allotment will not be discernible from the street, as the access corridor adjoins the southern boundary
- the retention of the existing front fence will minimise the visibility of any future development on the new allotments and help maintain the existing visual appearance of the streetscape

Accordingly, it is felt that the strict application of the standard would not result in any greater benefits in terms of character and streetscape of the locality and non compliance can satisfy the objectives of the standard.

With regard to Lot 71, the variation to the standard is relatively minor and whilst there is riparian zone at the rear of the allotment, which excludes building within this zone, this area can be incorporated within the private open space area. The surplus area is sufficient to construct a reasonable size dwelling. The minor non-compliance of Lot 71 will not be discernible from any public place and, as such, strict application of the standard would not result in any greater benefits in terms of character and streetscape of the locality.

**Minimum allotment width:**

**1. Whether the planning control in question is a development standard**

Clause 58 (3) (c) (ii) requires a lot having frontage to a main or county road have an area of not less than 929m<sup>2</sup> and also a width of not less than 27.4m at a distance of 12.2m from the street alignment and is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act.

Lot 72 fronts Kissing Point Road, which is classified as a county road and has a proposed width of 23.8m at 12.2m from the street alignment.

**2. The underlying objective or purpose behind the standard**

Although there is no mention in the KPSO of the purpose of the standard, guidance is provided by Schedule 9 of the KPSO in clause (1) and (2) and the underlying reasons for the standard are to:

- Provide sufficient area to permit vehicles to enter and leave the site in a forward direction while providing adequate area for a reasonable size dwelling and associated private open space consistent with KPSO & DCP 38 objectives and controls.
- Provide sufficient area for construction of future buildings with adequate aspect, outlook and private outdoor living areas, while conforming to the established building character of the locality and in accordance with the objectives and policies for residential zones, as set out in Schedule 9 of the KPSO. Likewise, the development standard aims to ensure subsequent residential development will be consistent with the design requirements set out in Development Control Plan 38.
- Provide a better presentation to the street

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**3. Whether compliance with the development standard is consistent with the aims of the Policy and whether compliance hinders the attainment of the objects specified in section 5(a)(i) and (ii) of the EP & A Act 1979**

The objects of Section 5(a)(i) and (ii) of the Act are:

- (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
- (ii) The promotion and co-ordination of the orderly and economic use and development of land.

The subdivision as proposed results in an economic use of an existing parcel of land that has an area of 5130m<sup>2</sup> by providing additional allotments without impacting on the amenity of the adjoining properties.

The proposal will not hinder the attainment of the object of section 5(a)(i) and (ii) of the environmental Planning and Assessment Act 1979.

***Achievement of the objectives***

In their SEPP 1 objection, the applicant contends that

*There are no physical changes in terms of the width, there is an existing dwelling on the allotment which functions suitably within the existing allotment. The existing dwelling will not be altered, the existing streetscape will not be altered significantly due to the variation to the allotment and the physical appearance is not significantly altered.*

The fact that there will be no physical changes to the appearance of the site, other than the new access handle, as the existing dwelling and front fencing will be retained is not in dispute. This section of Kissing Point Road is classified as a county road and allotments in front of a main or country road requires a larger frontage to allow easier vehicular access to the site. With the inclusion of the access handle with reciprocal rights of carriageway, the site is 27.4m in width and vehicular access to and from Lot 72 is sufficient to satisfy the objectives of the standard.

**Minimum width of access corridor**

**1. Whether the planning control in question is a development standard**

Clause 58 (3) (c) (iii) requires hatchet-shaped (battleaxe) lots to have an area of not less than 1300m<sup>2</sup>, exclusive of the access corridor, and access corridor to have a width of not less than 4.6m. This is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act.

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The access corridor at the rear of Lot 72 for access to Lots 71 does not comply with the minimum width of not less than 4.6m per allotment, as prescribed under Clause 58B of the KPSO. The applicant has submitted a SEPP 1 objection with justification as to why strict compliance with the standard would be unreasonable or unnecessary in this instance.

**2. The underlying objective or purpose behind the standard**

Although there is no mention in the KPSO of the purpose for the standard, the underlying reason for the standard is to:

- Provide sufficient width for site vehicular access (including emergency vehicles) to the rear battleaxe allotments, with area to provide landscaping along the driveway and if necessary passing bays.

**3. Whether compliance with the development standard is consistent with the aims of the Policy and whether compliance hinders the attainment of the objects specified in section 5(a)(i) and (ii) of the EP & A Act 1979**

The objects of Section 5(a)(i) and (ii) of the Act are:

- (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
- (ii) The promotion and co-ordination of the orderly and economic use and development of land.

The subdivision as proposed results in an economic use of an existing parcel of land that has an area of 5130m<sup>2</sup> by providing additional allotments without impacting on the amenity of the adjoining properties.

The proposal will not hinder the attainment of the object of section 5(a)(i) and (ii) of the environmental Planning and Assessment Act 1979.

***Achievement of the objectives***

The applicant has indicated that the access handle is to provide vehicular access to all 5 allotments, even though the front allotments (Lots D, B & 72) can gain direct access from Kissing Point Road.

The front section of the access handle (adjacent to Lots 72 & D), which will provide access to Lots D, 72 and 70, will be 6m in width and complies with the standard. The handle then veers to the north, behind Lot 72 and decreases in width to 3.6m & 3m. This section of the access handle will service Lots 71 & B.

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The following justification has been made by the applicant in respect of the proposed non-compliance:

- 1. The access handle width will allow vehicles to enter and exit the site in a safe and direct manner as detailed in the Traffic Statement submitted separately.*
- 2. The additional width along Lot D will also allow a suitable landscaping area to be provided along the access handle to minimise the impact of the driveway on the existing streetscape.*
- 3. The variation to the access handle width will only occur at the rear of proposed Lot 72 and will not be highly visible from the street; the reduction in width is suitably compensated by the additional width of the access handle along the boundary of Lot D which ensures adequate vehicle passing and manoeuvring.*

**Consideration**

The above is not disputed as the Traffic Statement submitted states that the proposed site access arrangement and internal vehicle circulation have been designed to comply with the requirements of AS2890.1-2004. Council's Development Engineer has no objections to the width of the access handle and has advised that the access width of 3.6m is the minimum which is acceptable to service the two rear lots and that, from an engineering perspective, the design is acceptable.

The front section of the handle, which is 6m wide is sufficient to allow 2 way traffic without the need for a passing bay. Council's Development Engineer has advised that the reduced widths of 3.6m to 3m to service Lot 71 & Lot B is substantially acceptable, as within each subject lot, the area immediately in front of the access corridor will be designated as driveway area. Vehicles existing out from Lot 71 and Lot B will be required to exit out in a forward direction and this will be conditioned at the DA stage for any future dwellings. **Condition No 49** requires a convex mirror to be provided at the internal bend to allow drivers to observe oncoming vehicles and thereby ensure safe vehicular access.

The SEPP 1 objections have demonstrated that the design of the proposed subdivision will not have an adverse impact in terms of amenity to the immediate area, and that the development as proposed is consistent with the intentions of the development standards as well as the residential zone objectives. The SEPP 1 objections are therefore supported and the proposed non-compliances are considered to be acceptable.

***Draft SEPP (Application of Development Standards) –2004***

The subject application was lodged in February 2007. Within the savings and transitional provisions of this draft policy, the relevant Policy for consideration would be the current SEPP No. 1 (Development Standards) considered in detail above. However, under the provisions of s.79C of the EPAA 1979, Council still must take into account the provisions of this draft State Planning Policy until it is either adopted or formally withdrawn.

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Having regard to the provisions of draft SEPP (Application of Development Standards) 2004. The applicant has addressed Clause 7 of the Draft SEPP with the following:

2 *(a) If the existing lot width is not altered the proposal would provide unsuitable access to the rear allotments. Otherwise the potential of the land to provide for a reasonable redevelopment of an appropriate design, bulk and scale and design in accordance with the aims and objectives provided within the Ku-ring-gai Council LEP, may not be achieved.*

*(b) The proposed residential development is more consistent with the residential zoning aims and objectives to the subject site, in comparison to the existing retail plant nursery located on the site. The subject site is zoned for residential development and the proposal will replace a non residential use.*

3 *(a) The proposed variation to the width is due to the existing lot configuration to be retained either side of lot 72, ensuring adequate vehicular access to the rear allotments and the existing site characteristics, including a riparian zone.*

*(b) The proposal will provide an improved social benefit to the community as it is replacing a retail activity with a residential development within a residential zoning.*

*This is more consistent with the aims and objectives of the residential zoning and is more consistent with the residential character of the surrounding area. The proposal will also create an economic benefit to the community during construction of the subdivision as construction jobs will be created.*

*It should also be noted that the long term economic viability of the retail plant nursery is unsure due to its location and being of a quite small size.*

4 *The proposal will provide an improved environmental planning outcome as a residential development is replacing a retail activity within a residential zone. The proposed embellishment works within the Riparian zone will improve the environmental and visual aspects of the riparian zone in comparison to the existing situation. The upgraded Landscape Architects plans indicate the details.*

### Consideration

In this regard, despite the non-compliance with the provisions of Clause 58B of the KPSO, the proposed the subdivision and consequently reuse of the site will provide a residential development, which is more consistent with the residential character and more efficient use of the land. It is also propose to embellish the existing watercourse, which will result in a better environmental outcome. The subdivision will not cause any discernible impact on residential amenity than would be the case had the proposed subdivision complied with the development standard.

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Accordingly, the proposal is considered to be satisfactory with regard to Draft SEPP (Application of Development Standards) 2004.

**Aims and objectives for residential zones**

Schedule 9 of the KPSO states the aim and objectives for development in residential zone. The proposed subdivision complies with Clause 1 in that: (i) maintains the amenity and environmental character of the residential zone; and (ii) allows for residential development compatible with the character of the area. Consequently, the aims of the KPSO have been satisfied.

**POLICY PROVISIONS**

**Subdivision Code**

Clause 2 of the Code sets out the development standards for new allotment. The following table summarises the requirements:

Development Standard	Proposals Numeric Compliance	Complies
<b>Site Area: 5130 m<sup>2</sup></b>		
<b>Subdivision</b>		
Site area: (Street frontage) 929m <sup>2</sup> (min)	Lot 72: 823m <sup>2</sup>	<b>NO</b>
Site area (battle axe) 1300m <sup>2</sup> (min)	Lot 71 1235m <sup>2</sup> Lot 70 1300m <sup>2</sup>	<b>NO</b> <b>YES</b>
Site width: 27.43m (min) at a distance of 12.20m from the street alignment for site having frontage to a main or county road	Lot 72: 23.8m	<b>NO</b>
Battle axe access for 2 allotments 2 x 3.66m = 7.32m	6m for 3 lots & decrease to 3.6m for 2 lots	<b>NO</b>

Generally, the development standards contained in the KPSO are repeated in the Code, except for access corridors for hatchet-shaped allotments, which are to be provided at a width of 3.66m per allotment.

The applicant has indicated that the access corridor will provide vehicular access to all the allotments and although this provision of the Code applies to hatchet-shaped allotments only, it is imperative to ensure that the access corridor to be utilised by all 5 lots is of appropriate dimensions and alignment to ensure safe and efficient vehicular and pedestrian movements. In this instance, the front section of the access corridor which is 6m wide will service Lots, D, 70 & 72 and the rear section of the access handle (3.6m wide) will provide access to Lot71 and the rear of Lot B.

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Although the proposed access handle does not comply with the numeric requirements, Council's Development Engineer has advised that the access handle for vehicular access to all 5 allotments is satisfactory as sufficient sight distance is available and a condition is recommended requiring a convex mirror on the internal bend to allow vehicles to observe oncoming vehicles (**Condition No 49**). Furthermore, **Condition No 63** requires a minimum carriageway width of 3.6m for access to 3 lots and passing bays of 5.5m wide elsewhere.

**Ku-ring-gai Residential Design Manual – Development Control Plan 38**

Proposed Lot 72 will contain the existing single storey dwelling. An assessment of this dwelling relative to this lot has been undertaken against provisions of DCP 38:

**Proposed Lot 72 (existing house at 31-37 Kissing Point Road)**

The DCP 38 assessment is as follows:

<b>COMPLIANCE TABLE</b>		
<b>Development Control</b>	<b>Proposed Numeric Compliance</b>	<b>Complies</b>
<b>4.1 Streetscape:</b>		
<b>Building setbacks (s.4.1.3)</b>		
• Front setback: 9m	6m to 11.6m	<b>NO</b>
• Side setback: Ground floor: 2.1m(min)	North -1.3m South – 8.9m	<b>NO</b> <b>YES</b>
• Rear setback: 8.6m(min)	Average 17m	<b>YES</b>
<b>Front fences (s.4.1.5)</b>		
• Height: 1.2m(max)	Existing 1.5m	<b>NO</b>
<b>4.2 Building Form:</b>		
<b>FSR (s.4.2.1)</b> 0.39:1 (max)	0.15:1	<b>YES</b>
<b>Height of building (s.4.2.2)</b>		
• 2 storey (max) and 8m (site >20° slope) or 7m (site <20° slope)	1 storey & Under 7m	<b>YES</b>
<b>Building height plane (s.4.2.3)</b>		<b>YES</b>
45° from horizontal at any point 3m above boundary		
• Roof pitch 35° (max)	Less than 35°	<b>YES</b>

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<b>COMPLIANCE TABLE</b>		
<b>Development Control</b>	<b>Proposed Numeric Compliance</b>	<b>Complies</b>
<b>Built-upon area (s.4.2.7)</b> 15% (158m <sup>2</sup> ) (excluding the rear shed to be demolished)(max)	Less than 60% including the additional 36m <sup>2</sup> for double garage-	<b>YES</b>
<b>Unrelieved wall length (s.4.2.8)</b> 12m (min)	8.4m	<b>YES</b>
<b>Solar access (4.2.11)</b> 4h solar access to adjoining properties between 9am to 3pm	Single storey only	<b>YES</b>
<b>External noise sources (s.4.2.13)</b> 14m Setback to main roads or 40dba compliance	6m to 11.6m	<b>NO</b>
<b>4.3 Open space &amp; landscaping:</b>		
<b>Soft landscaping area (4.3.3)</b> 42% (345m <sup>2</sup> ) (min)	More than 345m <sup>2</sup>	<b>YES</b>
<b>Tree replenishment (s.4.3.6)</b> 3 Trees required	1 tree provided	<b>NO</b>
<b>Useable open space (s.4.3.8)</b> Min depth 5m and min area 50m <sup>2</sup>	> 50m <sup>2</sup> > 5m depth	<b>YES</b>
<b>4.4 Privacy &amp; Security:</b>		
No changes to existing dwelling house.		<b>YES</b>
<b>4.5 Access &amp; parking:</b>		
<b>No. of car parking spaces (s.4.5.1)</b> 2 spaces behind building line		<b>YES</b>
<b>Size of car parking space (s.4.5.2)</b>	Sufficient area available at the rear to provide 2 spaces.	<b>YES</b>
<b>Design of Carports and Garages (s.4.5.3)</b> Where forward of the building line, front setback complies with s4.1.3 and/or the building line	To be located behind the building line.	<b>YES</b>

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The existing house on proposed Lot 72 complies with the requirements of DCP 38, except in the following areas:

**Front and side setbacks**

The site is located on the low side of the road and a 9m setback control applies. The existing dwelling is set back approximately 6m to 11.6m from Kissing Point Road. This non-compliance is existing, with the front fence to be retained and as such will have minimum material effect on the character or amenity of the area. Furthermore, the dwelling is fairly modest and this, together with the existing fence, makes a positive contribution to the existing character of the area.

The northern (side) setback of 1.3m does not comply with 2.1m setback requirement. This non-compliance is existing. The adjoining northern allotment is currently vacant and any future development should comply with the DCP so as to minimise any adverse impact to the amenity to future residents.

**Front fence**

The existing front fence is approximately 1.5m high, comprising piers infilled with transparent wire mesh.

One of the distinguishing features of this area, as identified in the Visual Character Study, is the absence of front fences, except in noisy or busy streets but often with low herbaceous borders.

This section of Kissing Point Road is classified as a county road and is considered to be a busy road. The streetscape consists of a mixture of front fencing comprising high hedges, low and/or transparent fencing with front plantings. Nos 29 & 40 Kissing Point Road have fencing not dissimilar to the existing front fence of 31-37 Kissing Point Road. The existing front fence is not considered to be out of character with the area.

**Noise**

To minimise the impact of external noise such as traffic from Kissing Point Road, dwellings should be set back 14m from a main or busy road. The dwelling house is set back 6m to 11m from the front boundary to Kissing Point Road, which is considered to be a busy road. However, this is an existing situation and it is proposed to retain the existing front fence and landscaping along the front boundary.

**Ku-ring-gai Section 94 Contribution Plan 2004-2009 – Residential Development.**

Council's Section 94 Contribution Plan requires a contribution for the provision of additional allotments with the potential of accommodating a dwelling, thereby increasing the future population within the area.

The proposed development will result in 2 additional allotments which is capable of providing a future dwelling. The development will result in a dwelling being constructed on each allotment

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and increase in population in the area requiring for facilities and services, which will be needed as a result of that new development. Under Section 94 of the Environmental Planning and Assessment Act Council can require a contribution to meet these needs.

The S94 contribution of \$51,762 is required to be paid by **Condition No. 83**.

Lots D & B are vacant, with no previous dwellings erected and no Council record of any form of reserve or financial contribution having been levied on these allotments. As the Certificate of Title for these 2 allotments will not be altered as part of this application, the S94 contribution is to be levied at the dwelling house DA stage.

**Development Control Plan No 40 and Policy For Construction And Demolition Waste Management**

DCP 40 requires Council to consider waste management facilities and where they are to be located on the site.

Lots D, 72 & B will have direct frontage to Kissing Point Road and waste containers can be stored on site and can easily transported to the kerb-side fronting the property on collection days.

For battleaxe allotments, such as Lots 70 & 71, the waste containers will need to be transported down the access corridors and placed on the kerb-side, by the occupant of the property prior to collection days. In this case, the corridor has a maximum slope of 15.65% which is acceptable for domestic driveway and complies with Section 2.6 of AS 2890.1:2004.

**Likely impacts**

The proposal is unlikely to have any significant impact on the environment, landscape or scenic quality of the locality, threatened species, populations or ecological communities or their habitats or any other protected fauna or protected native plants. All likely impacts of the proposal have been assessed elsewhere in this report.

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

**Suitability of the site**

The site is suitable for the proposed development.

**Any submissions**

All submissions received have been considered above under "Consultation – Community".

**Public interest**

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

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**Any other matters**

There are no other matters for consideration.

**CONCLUSION**

The proposed subdivision will create an additional 2 allotments, allowing a new dwelling house to be constructed on each lot. The proposed subdivision generally complies with the objectives and the intent of the subdivision standard regulating the minimum lot size and width.

The proposed variations have been adequately justified under the terms of SEPP 1 and the Draft SEPP. The non-compliances with the minimum allotment size and other development standards would not adversely impact on adjoining properties and approval for any future dwelling house development would be the subject of a separate development application.

The existing dwelling is to be retained on one of the allotments and a reasonable size dwelling can be constructed on each of the other allotments without undue impacts on the streetscape and surrounding properties. The proposed subdivision is therefore considered satisfactory.

**RECOMMENDATION:**

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

**APPROVAL – SEPP 1 REQUIRED**

THAT the Council, as the consent authority, is satisfied that the objections under *State Environmental Planning Policy No 1- Development Standards* to Clause 58B (c) of the Ku-ring-gai Planning Scheme Ordinance in respect of Minimum Site Area, Minimum Allotment Width and Minimum Access Corridor Width are well founded. The Council is also of the opinion that strict compliance with these development standards is unreasonable and unnecessary as the objectives of the KPSO, to provide sufficient area to accommodate future dwelling with outdoor living areas, to enable vehicles to enter and exit the allotments in a safe manner can be achieved on Lots 71 & 72. Lot 72 has an existing dwelling house, which generally complies with the objectives, despite non-compliance,

**AND**

That the Council, as the consent authority, being satisfied that the objections under SEPP 1 are well founded and also being of the opinion that the granting of consent to DA 96/07 is consistent with the aims of the Policy, grant development consent to DA 96/07 for subdivision of 3 allotments into 5 allotments and conversion of a partially piped section of a watercourse to an open watercourse, for a period of 2 years from the date of the Notice of Determination, subject to the following conditions:

**Approved architectural plans and documentation (new development)**

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1. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
LDA 101 C	Site Image	02.02.2007 submitted to Council on 16 March 2007
LDA 201, 202, 301 C	Site Image	02.02.2007 submitted to Council on 16 March 2007
66/06 Drwg 5	Lipman Group P/L	9 Feb 2007. Submitted to Council on 13 Feb. 2007
06-240 R1	Woolacotts Consulting Engineers	February 2007

<b>Document(s)</b>	<b>Dated</b>
Statement of Environmental Effects Contamination Assessment	Submitted to Council 13 February 2007
Landscape Design Report	November 2006
Stormwater Management Statement	6 February 2007
Traffic Review Statement	12 February 2007
	30 January 2007

**Reason:** To ensure that the form of the development undertaken is in accordance with the determination of Council.

**Inconsistency between documents**

2. In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

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

**Special Conditions:**

3. The building footprints shown on plan SW2 are indicative only and do not form part of this approval. Any new dwellings on the allotments are subject to the approval of Council and require submission of a separate development application.

**Reason:** To ensure that there is certainty as to the consent applying to the subject land.

4. Following the decommissioning of the existing site infrastructure and prior to any subsequent physical works on site, soil sampling and analysis is to be undertaken by a suitably qualified and experienced professional. This is to confirm that no contaminant exist within the currently sealed or inaccessible portions of the site, in accordance with the recommendation of the Contamination Report by GHD dated November 2006, submitted to Council on 9 May 2007.

**Reason:** Protection of the environment and compliance with SEPP 55.

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5. To preserve and maintain the integrity of the watercourse, where channel/watercourse works are proposed the channel is to be reinstated with a porous (ie semi natural) bed. Construction details in compliance with this condition is to be submitted to the Principal Certifying Authority for approval by a suitably qualified professional prior to the issue of the construction certificate.

**Reason:** To protect the environment

6. 2 parking spaces are to be provided for the use of the existing dwelling on Lot 72. The parking spaces are to be located behind the building line, with vehicles to enter and exit the site in a forward direction, and in accordance with DCP 38. A separate development application for the car parking spaces is to be submitted to and approved by Council.

**Reason:** To provide on site parking for the existing dwelling.

**CONDITIONS IMPOSED BY THE DEPARTMENT OF NATURAL RESOURCES**

7. The Construction Certificate will not be issued over any part of the site requiring a Part 3A permit approval until a copy of the Part 3A Permit, issued by the Department of Natural Resources has been provide to Council.

**Reason:** Works prescribed in the R&FI Act cannot commence before the Applicant obtains a Part 3A Permit.

**General Terms of Approvals (GTAs)**

**Abbreviations and terms.**

**Protected Land (as defined in section 22A of the RFI Act)**

**Protected Waters (as defined in section 22A of the SF1 Act)**

**VMP is a Vegetation Management Plan.**

**WP is a Works Plan**

8. Before any works are commenced within 40m of any watercourse on or near the site, a Part 3A Permit must be obtained from the Department of Natural Resources (the Department).
9. Works are to be carried out in accordance with the plans and documents presented to the Department for the subject Development Application and these conditions.
10. All documentation and plans and bonds required as part of these conditions must be prepared and provided to the Department prior to the issuing of the Part 3A Permit.
11. All engineering, other structural works or natural landscaping proposed must be designed, constructed and operated by suitably qualified professionals, recognised in that specialised field. For any VMP, this relates particularly to bushland rehabilitation practices, and for any WP, this relates particularly in natural stream processes, design and rehabilitation practices. The designs and construction methods and activities are to result in NIL or minimal harm to

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aquatic and riparian environments and not to cause erosion, sedimentation, or increase flood levels of Protected Waters.

12. Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse/foreshore environment. These control measures are to be in accordance with the requirements of Council, and best to follow relevant management practices as outlined in the Landcom manual "Managing Urban Stormwater: Soils and Construction — Volume I" (4th Ed., 2004) - the Blue Book", or other suitable control measures to mitigate erosion where conventional measures are not adequate (such as within bed and banks of a watercourse).
13. The Part 3A permit from the Department is issued for works on FREEHOLD land only and is null and void for any works on Crown Land.
14. Evidence of Owners Consent for all works over any lands within 40m of any watercourse is required prior to the issue of the Part 3A permit.
15. In the event that there is an inconsistency between the drawings, other documentation and the conditions herein, the interpretation that will result in the best outcome for the stabilisation of the Site and the subsequent rehabilitation and maintenance of the Site and Protected Land and Protected Waters, is to prevail. Such interpretation is to be applied in consultation with, and with the approval of, the Department.
16. The development is to satisfy all requirements of Council in relation to flooding, drainage, stormwater detention and water quality, but in so doing, must not compromise in any way the form and function of any works, on Protected Waters and in riparian zones required by these conditions.
17. A licence under the Water Act (1912) or the Water Management Act (2000) may also be required from the Department if it is intended to:
  - install a pump for extraction of water from a surface and/or ground water source. The temporary extraction of water for establishment of vegetation in a VMP does not require a licence.
  - construct a dam
  - construct a levee
  - divert any part of Protected Waters
  - Irrigate from any of the above
18. Operations shall not damage or interfere in any way with:
  - Vegetation and habitat on Protected Land on the Site outside the area approved.
  - The stability of adjacent or nearby bed or banks of Protected Waters
  - The stability of Protected Waters and their associated environments
  - The flow of Protected Waters

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- The quality of Protected Waters
  - Any pumps or structures in the vicinity (that are licensed under the Water Act 1912 or the Water Management Act 2000).
19. No piping, for the placement of bulk earthworks (including roads), of any watercourse is allowed.
  20. Any permanent constructed basin/wetlands/flood compensatory area and their associated disturbed areas are not to be located in any riparian area in or on-line and be consistent with the Departmental guide: Constructed Wetlands (and Detention Basins) — Keep Them Off-line Guideline.
  21. Any flood study, is to take into account the effects of the vegetation required in any VMP and any other vegetation within the flood area.
  22. The design of any stormwater outlets (including from roads, buildings, constructed basin/wetlands, swales or other drainage) and their spillways must be a “soft engineering solution” and be consistent with the Departmental guide: Stormwater Outlet Structures to Streams (For pipes, culverts, drains and spillways).
  23. Points of constriction or any other places where scour is likely within or near any stream or any part of the riparian zones on the Site are to be suitably protected against scour using permanent rock scour protection (rip rap) or any other “soft engineering design solution. In the event that scour protection works not described in the approved plans are proposed, approval from the Department must be obtained prior to their construction and may require a WP and must be consistent with the Departmental guide: Works and Watercourse Design Guideline.
  24. Wire mesh structures (mattresses and baskets), concrete, spray concrete, concrete grouting, and concrete grouting between rocks comprising rip-rap scour protection crib walling, masonry, car tyres and the like are not permitted.
  25. Any works that involve any change (including realignment, stabilisation, naturalised enhancement etc) of any watercourse, must emulate a stable natural watercourse system that behaves as, and has the appearance of a stable natural stream system of the area (including floodplains, terraces and other typical natural features). Part of the form of the watercourse is to create meanders, suitable pool and riffle sequences, with suitable aquatic and terrestrial habitat.
  26. The extent of the rehabilitation / restoration of Protected Land and/or Protected Waters are to be as indicated by a WP for all works that involve any change (including realignment, stabilisation, naturalised enhancement etc) of any watercourse. Rehabilitation / restoration, and watercourse form must be consistent with the Departmental guide: Works and Watercourse Design Guideline.

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27. Following the completion of the physical works associated with any watercourse at the Site these works and all associated disturbed areas must be maintained for a period of at least three (3) years after practical completion, consistent with the Departmental guide: Works and Watercourse Design Guideline, particularly the maintenance and reporting criteria.
28. Any crossing structures, including utility crossings and associated works, must be located, designed and constructed consistent with the Departmental guides: Watercourse Crossing Design & Construction Guideline and Pipe and Cable Laying across Watercourses and Riparian Area Guideline. The Department may require a WP depending upon the potential impact upon the watercourse and must be consistent with the Departmental guide: Works and Watercourse Design Guideline. For any retaining walls and sea walls, their location, design and construction must be consistent with the Departmental guide: Works and Watercourse Design Guideline.
29. Any accessways, (being roads, tracks, cycleways, pedestrian pathways or other form of accessway) that may be proposed for the Site, are to be normally located beyond the riparian zones, and be consistent with the Departmental guide: Design and Construction of Paths and Cycleways and Accessways along Watercourses and Riparian Areas Guideline.
30. A permanent physical barrier, (such as a fence, pathway, road etc), to prevent inadvertent damage to riparian zones, is to be placed at their landward extent in all locations, and be consistent with the Departmental guide: How to Prepare a Vegetation Management Plan Guideline.
31. There is to be no permanent or temporary excavation of, or placement of material on, protected land, or anything done that may detrimentally affect the flow of protected waters, and are not to be placed in any area that has existing native riparian vegetation that is identified as part of any riparian zone in any VMP.
32. Documentation that demonstrates a right of access to the site for a sufficient time to enable the full implementation and maintenance of any works, including any VMP and WP, and inspections, is to be provided to the Department by the owner. Such documentation is to be legally binding upon the land and its present and future owners until such time as the implementation and their maintenance of the works, including any VMP and WP are completed, and inspected, as approved by the Department. The instrument is to be in favour of the current owner or Council.
33. A riparian zone consisting of local native plant species shall be established and maintained in and adjacent to all Protected Waters, including beneath bridges, for their entirety within the Site. The extent of the riparian zones is to be as shown on the Landscape Plan by Site Image dated 2/2/07.
34. All riparian zones at the Site must be rehabilitated where they are affected by, or located adjacent to, or located within the variable width of the riparian zone, of, any works on Protected Land that require a Part 3A permit, for the purposes of aiming at naturalised bed

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and bank stabilisation and giving adequate space for the natural functioning of the watercourse.

35. A VMP for Site rehabilitation that demonstrates protection of any remnant local native riparian vegetation at the Site and restore any riparian zones disturbed or otherwise affected by the development to a state that is reasonably representative of the natural ecotone of the protected waters system, to achieve sound naturalised watercourse and long term riparian area stabilisation and management by the enhancement/emulation of the native vegetation communities of the subject area is to be prepared, and be consistent with the Departmental guide: How to Prepare a Vegetation Management Plan Guideline.
36. Seed and propagule sources are to be from local botanical provenance (regarded as from as close as possible and from the same general habitat (same soil type, distance from watercourse, exposure etc)) is required consistent with the Departmental guide: How to Prepare a Vegetation Management Plan Guideline.
37. The riparian zone (and all areas and activities described in the VMP must be maintained for a period of at least two (2) years after final planting or where other re-vegetation methods are used, two years after plants are at least of tubestock size and are at the densities required by these conditions and with species richness as described in the VMP and three-(3) year minimum for those areas required for access and maintenance relating to any WP and being consistent with the Departmental guide: How to Prepare a Vegetation Management Plan Guideline, particularly the maintenance and reporting requirements.
38. The Part 3A permit holder must ensure that all works and activities at the Site do not compromise the implementation of the VMP in any way.
39. Any requirements for bushfire asset protection zones, including fire trails, are not to compromise in any way the extent, form or function of the riparian zones. Fuel reduced areas are to be located outside of riparian zones.
40. Any property boundary fence should generally be located beyond the riparian zones and be consistent with the Departmental guide: How to Prepare a Vegetation Management Plan Guideline.
41. As a pre-condition to the granting of any Part 3A permit, the applicant for a Part 3A permit will be required to provide a security deposit (bank guarantee or cash bond). The security deposit is to cover the cost, as approved by the Department, of completing selected works and activities listed in the previous GTA conditions in accordance with the conditions of the Part 3A permit.
42. Any bank guarantee is to be provided from a bank licensed pursuant to the Banking Act 1959 (0th) and is to be provided in favour of the Department and it must be drawn up in the format required by the Department.

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## GENERAL ENGINEERING CONDITIONS

### Drainage to natural watercourses

43. Stormwater runoff from all new impervious areas and subsoil drainage systems must be piped to the watercourse within the site. The design shall be generally in accordance with the Stormwater Management Plan 06-240 SW1 'A', SW2 'A' & SW3 'A' prepared by Woolacotts Consulting Engineers. New drainage line connections to the watercourse must conform and comply with the requirements described in section 5.5 of Ku-ring-gai Council Water Management Development Control Plan 47.

**Reason:** To protect the environment.

### Stormwater retention

44. A mandatory rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the retained dwelling on the newly created lot. The (minimum) total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy all the requirements specified in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47 (DCP47). For this development a 5000 litre rainwater tank is to be provided for the existing dwelling for irrigation

**Reason:** To protect the environment.

### Stormwater detention

45. An on-site stormwater detention system must be provided for the driveway / parking area 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). 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.

**Reason:** To protect the environment.

### Utility service facility

46. 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.

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**Reason:** Provision of utility services.

**Public infrastructure**

47. 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.**

**Reason:** To ensure safe public footway and roadway during construction.

**Sydney Water Section 73 Compliance Certificate (Part 1)**

48. Prior to the issue of a Construction Certificate, a Compliance Certificate under Section 73 of the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. For details see the Sydney Water web site [www.sydneywater.com.au](http://www.sydneywater.com.au), or telephone 13 20 92.

Following application, a notice of requirements will be forwarded, detailing water and sewer extensions to be built and charges to be paid. Early contact with the coordinator is advisable since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. Details of any requirements of Sydney Water are to be provided prior to the issue of the Subdivision Certificate.

**Reason:** Statutory requirement.

**Convex mirror**

49. A convex mirror is to be provided at the internal bend to allow vehicles to observe oncoming vehicles.

**Reason:** To ensure safe vehicular access.

**GENERAL LANDSCAPING CONDITIONS**

**No storage of materials beneath trees**

50. No activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.

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**Reason:** To protect existing trees.

**Removal of refuse**

51. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

**Reason:** To protect the environment.

**Approved tree works**

52. Approval is given for the following works to be undertaken to trees on the site:

**Schedule**

<b>Tree location</b>	<b>Approved tree works</b>
<i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to proposed access driveway	Removal
<i>Arecastrum romanzoffianum</i> (Cocco Palm) x 6 Adjacent to watercourse in Lot 71	Removal

Removal or pruning of any other tree on the site is not approved.

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

**Arborist's report**

53. The trees to be retained shall be inspected, monitored and treated by a qualified arborist 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:

**Schedule**

<b>Tree/location</b>	<b>Time of inspection</b>
<i>Howea forsteriana</i> (Kentia Palm) grove	Prior to demolition
	Completion of demolition
	Prior to regrading
	Completion of regrading
	Issue of Subdivision Certificate

**Reason:** To ensure protection of existing trees.

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**Treatment of tree roots**

54. 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 horticulture certificate or tree surgery certificate

**Reason:** To protect existing trees.

**Cutting of tree roots**

55. 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 works during the construction period.

**Schedule**

<b>Tree/location</b>	<b>Radius from trunk</b>
<i>Howea forsteriana</i> (Kentia Palm) grove Between existing car park and watercourse	3.0m
<i>Howea forsteriana</i> (Kentia Palm) grouping Within Lot 71	3.0m

**Reason:** To protect existing trees.

**Hand excavation**

56. All excavation within the specified radius of the trunk(s) of the following tree(s) shall be hand dug:

**Schedule**

<b>Tree/location</b>	<b>Radius from trunk</b>
<i>Howea forsteriana</i> (Kentia Palm) grove Between existing carpark and watercourse	3.0m

**Reason:** To protect existing trees and vegetation.

**Tree planting on nature strip**

57. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along (enter street). The tree(s) used shall be a minimum 25 litres container size specimen(s):

**Schedule**

<b>Tree/ species</b>	<b>Quantity</b>	<b>Location</b>
<i>Eucalyptus saligna</i> (Bluegum)	4	Evenly spaced along Kissing Point Rd nature strip

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**Reason:** To provide appropriate landscaping within the streetscape.

**Supervision of transplanting**

58. Transplanting of the following trees/shrubs shall be directly supervised by an experienced arborist/horticulturist with a minimum qualification of horticulture certificate or tree surgery certificate.

**Schedule**

**Species/from**

*Howea forsteriana* (Kentia Palm) grouping  
Centrally located within Lot 71

**To**

Riparian planting corridor

**Reason:** To protect the trees during transplanting.

**Temporary groundcover**

59. On disturbed areas which will otherwise remain exposed for more than fourteen (14) days before permanent stabilisation works are undertaken, a temporary cover of mulch shall be applied or a dense cover crop shall be established utilising sterile/non seed-setting species.

**Reason:** To protect the environment.

**Vegetating steep slopes**

60. Constructed slopes greater than 1:3 gradient shall be vegetated immediately after earthworks are completed.

**Reason:** To protect the environment.

**CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE:**

**Driveway crossing levels**

61. Prior to issue of the Construction Certificate, driveway and associated footpath levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed

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level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

**Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the Development application plans.** The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways *inside* the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels. The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.

**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

**Soil and erosion control plan**

62. 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.

**Reason:** To preserve and enhance the natural environment.

**Design of driveway**

63. The applicant must submit plans for the proposed driveway. The design is to be prepared by an appropriately qualified engineer and is to incorporate the following features:
- Minimum carriageway width of 3.6 metres where access is to three lots, and passing bays of 5.5 metres wide elsewhere'
  - Grades to comply with AS2890.1: 2004 Off street car parking;
  - Driveway levels issued by Council.
  - Longitudinal section at a recognized scale;
  - Maximum grade of 25%;
  - The driveway is to be structurally adequate for a fully laden concrete truck.

Detailed drawings are to be submitted to the Principal Certifying Authority and approved prior to issue of the Construction Certificate.

**Reason:** To ensure that the plans are suitable for construction purposes.

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**Design of drainage works**

64. The applicant must submit detailed design plans for the proposed drainage works. The design is to be prepared by an appropriately qualified engineer in accordance with Council's DCP 47 Water Management, and may be generally in accordance with the design prepared by Woolacotts, Issue A. Detailed drawings are to be submitted to the Principal Certifying Authority and approved prior to issue of the Construction Certificate.

**Reason:** To ensure that the plans are suitable for construction purposes.

**Verification of drainage easement relocation**

65. Prior to issue of the Construction Certificate, the applicant is to submit the written approval of the owner of 29 Kissing Point Road to the relocation of the drainage easement and the inclusion of Lot B and Lot 72 as beneficiaries.

**Reason:** To ensure that necessary easement for stormwater drainage is approved and benefits the subject lots.

**Amendments to approved landscape plan**

66. 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:

<i>Plan no.</i>	<i>Drawn by</i>	<i>Dated</i>
LDA101 Rev C	Site Image	13/03/2007

The above landscape plan(s) shall be amended in the following ways:  
Proposed planting within the Riparian Zone is to cover at least 95% of the riparian area. The expansive areas shown to be mulch are to be planted out with a minimum four of plants per square metre.

All existing *Howea forsteriana* (Kentia Palms) within the proposed Riparian Zone are to be shown to be retained and regrading altered to accommodate their retention.

**Reason:** To ensure adequate landscaping of the site.

**Tree protective fencing type galvanised mesh**

67. The tree protection fencing 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 in height prior to work commencing.

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**Reason:** To protect existing trees during construction phase.

**Landscape establishment bond**

- 68. Prior to the commencement of any development or excavation works or prior to the issue of the Construction Certificate (whichever comes first) the applicant must lodge a \$5 000.00 landscape establishment bond with Council. This bond is to provide security that the landscape works are completed and maintained in accordance with the approved landscape plan/s and conditions of development consent. The bond shall be lodged in the form of a deposit or bank guarantee.

Fifty percent (50%) of this bond will be refunded upon verification by Council that the landscape works as approved have been satisfactorily completed. 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.

**Reason:** To ensure that the approved landscaping is established and maintained.

**Tree protection bond**

- 69. Prior to the commencement of any development or excavation works or prior to the issue of the Construction Certificate (whichever comes first) the applicant must lodge a \$5 000.00 tree protection bond with Council. This bond is to provide security that the following trees are maintained in a healthy condition as found prior to commencement of work upon the site.

**Schedule**

<b>Tree/location</b>	<b>Bond value</b>
<i>Howea forsteriana</i> (Kentia Palm) grove	\$5,000.00

The bond shall be lodged in the form of a deposit or bank guarantee. The bond will be returned following issue of the Occupation Certificate, provided the trees are undamaged and are in a healthy condition.

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.

**Reason:** To ensure that the trees are maintained in the same condition as found prior to commencement of work.

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**Landscape plan/native species**

70. Prior to the issue of the Construction Certificate, the Principal Certifying shall be satisfied that a landscape plan for Lot 72 shall be prepared by a landscape architect or qualified landscape designer incorporating at least 25% of the overall number of trees and shrubs as locally occurring native plant species selected from the Sydney Bluegum High Forest plant community has been prepared for the site.

**Note:** The landscape plan shall be submitted to the Principal Certifying Authority.

**Reason:** To enhance native vegetation and promote biodiversity.

**CONDITIONS TO BE SATISFIED DURING WORKS:**

**Approved plans to be on site**

71. A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

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

**CONDITIONS TO BE SATISFIED PRIOR TO WORKS COMMENCING:**

**Notice to be given prior to demolition or excavation**

72. Council shall be given written notice, at least 48 hours prior to the commencement of any development (including excavation, shoring or underpinning works) on the site.

**Reason:** Statutory requirement.

**Notice of commencement**

73. At least 48 hours prior to the commencement of any development or excavation works, a notice of commencement of building or subdivision work form and appointment of the principal certifying authority form shall be submitted to Council.

**Reason:** Statutory requirement.

**Notification of builder's details**

Item 2

74. Prior to the commencement of any development or excavation works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

**Reason:** Statutory requirement.

**Dilapidation public**

75. Prior to the commencement of any works on site the Applicant must submit to council a dilapidation report of Kissing Point Road for frontage of site which identifies and provides a detailed photographic record of any/all defects to road reserve infrastructure especially extents of pavement cracking.

**Reason:** To record the structural condition of public infrastructure before works commence.

**Construction and traffic management plan**

76. Prior to the commencement of any works on site, the applicant must submit for review by Council's engineers a construction and traffic management plan. The following matters must be specifically addressed in the plan:

**1. 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 and concrete pump and truck standing areas on and off the site
- 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
- an on-site parking area for employees, tradespersons and construction vehicles as far as possible

**2. Traffic control plan(s) for the site:**

All traffic control plans must be in accordance with the RTA publication "Traffic Control Worksite Manual" and prepared by a suitably qualified person (minimum '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 stage.

Item 2

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

**3. 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 where alternate routes exist.

A copy of this route is to be made available to all contractors and shall be clearly depicted at a location within the site.

The plan must provide evidence of RTA concurrence where construction access is provided directly from or within 20m of an arterial road.

The plan must provide a schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of their construction management obligations. These must specify that construction-related vehicles are to comply with the approved requirements.

The plan must provide measures for 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.

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's Development Engineer. Written acknowledgment from Council's Engineer 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.

**Reason:** To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

Item 2

**Work zone**

77. 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. Work 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. Work 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 work zone is approved by the Local Traffic Committee, the applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit this to the Principal Certifying Authority prior to commencement of any works on 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 site. At the expiration of the work zone approval, the applicant is required to remove the work zone signs and reinstate any previous signs at their expense.

In the event the work zone is required for a period beyond that initially approved by the Traffic Committee, the applicant shall make a payment to Council for the extended period in accordance with Council's schedule of fees and charges for work zones prior to the extended period commencing.

**Reason:** To ensure that appropriate measures have been made for the operation of the site during the construction phase.

**Tree protection fencing**

78. To preserve the following tree/s, no work shall commence until the area beneath their canopy 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.

**Schedule**

<b>Tree/location</b>	<b>Radius in metres</b>
<i>Howea forsteriana</i> (Kentia Palm) grove Between existing car park and watercourse	3.0m

**Reason:** To protect existing trees during the construction phase.

**Tree protection signage**

79. Prior to works commencing, tree protection signage is to be attached to each tree protection zone, displayed in a prominent position and the sign repeated at 10 metres intervals or closer

Item 2

where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:

- tree protection zone
- this fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted
- any encroachment not previously approved within the tree protection zone shall be the subject of an arborist's report
- the arborist's report shall provide proof that no other alternative is available
- the arborist's report shall be submitted to the Principal Certifying Authority for further consultation with Council
- The name, address, and telephone number of the developer.

**Reason:** To protect existing trees during the construction phase.

**Tree protection mulching**

80. Prior to works commencing and throughout construction, 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.

**Reason:** To protect existing trees during the construction phase.

**Tree Fencing Inspection**

81. Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with all relevant conditions.

**Reason:** To protect existing trees during the construction phase.

**CONDITIONS TO BE SATISFIED PRIOR TO WORKS COMMENCING OR ISSUE OF CONSTRUCTION CERTIFICATE:**

82. The infrastructure restorations fee, calculated in accordance with Council's adopted schedule of fees and charges, is to be paid to Council prior to the commencement of any development (including demolition) or prior to the issue of the Construction Certificate (whichever comes first).

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

Item 2

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, bush land, 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 F" lodged with the Council prior to any earthworks or construction commencing. 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.

**Reason:** To maintain public infrastructure.

**Section 94 contribution – residential development**

83. A contribution pursuant to section 94 of the Environmental Planning and Assessment Act as specified in Ku-ring-gai Section 94 Contributions Plan 2004-2009 for the services detailed in column A and for the amount detailed in Column B is required.

<b>Column A</b>	<b>Column B</b>
Community facilities	\$1,117.76
Park acquisition and embellishment works	\$3,791.25
Park embellishment works	
Sportsgrounds works	\$ 931.75
\$1318.32	
Aquatic / leisure centres	\$ 27.82
Traffic and transport	\$ 150.28
Section 94 Plan administration	\$ 100.04
	\$7437.22 x 3.48 (per person)
	\$25,881.54 x 2 (per lot)
<b>Total contribution is:</b>	<b>\$51,763.08</b>

The contribution shall be paid to Council prior to the commencement of any development (including demolition) or prior to the issue of the Construction Certificate (whichever comes first). 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. Prior to payment, you are advised to check the contribution amount required with Council.

**Reason:** To ensure 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 the development.

**CONDITIONS TO BE SATISFIED DURING WORKS:**

**Prescribed conditions**

Item 2

84. The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation. For the purposes of section 80A (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- The work must be carried out in accordance with the requirements of the Building Code of Australia,
- In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building works to be carried out by the consent commences.

**Reason:** Statutory requirement

**Demolition, excavation and construction work hours**

85. Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12.00pm Saturday No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 9.00am and 4.00pm Monday to Friday, with regular breaks of 15 minutes each hour.

**Reason:** To ensure reasonable standards of amenity for occupants of neighbouring properties.

**Construction noise**

86. During excavation, demolition and construction phases, construction noise generated from the site shall be controlled in accordance with the recommendations of the approved Noise and Vibration Management Plan.

**Reason:** To ensure reasonable standards of amenity to neighbouring properties.

**Site notice**

87. A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

Item 2

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

**Reason:** To ensure public safety and public information.

**Dust control**

88. During excavation, demolition and construction, adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

- physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs
- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out daily

**Reason:** To protect the environment and amenity of surrounding properties.

**Use of road or footpath**

89. For the purpose of safety and amenity of the area, during excavation, demolition and construction phases, 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

Item 2

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.

**Reason:** To ensure safety and amenity of the area.

**Guarding excavations**

90. All excavation, demolition and construction works shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

**Reason:** To ensure public safety.

**Toilet facilities**

91. During excavation, demolition and construction phases, toilet facilities are to be provided, on/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.

**Reason:** Statutory requirement.

**Construction signage**

92. All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m<sup>2</sup>
- are removed within 14 days of the completion of all construction works

**Reason:** To ensure compliance with Council's controls regarding signage.

**CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE:**

**Completion of landscape works**

93. 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.

Item 2

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE:**

**Driveway work-as-executed**

94. The applicant must submit works-as-executed plans for the driveway. The following certificates from the relevant engineers are to be submitted with the plans:

- Certification that the driveway and vehicular crossing have been constructed in accordance with the approved plans and specifications.
- Certification that grades comply with AS2890.1: 2004 Off street car parking;
- Certification that the pavement is adequate for a fully laden concrete truck.

The works-as-executed drawings and engineers' certificates are to be submitted to the Principal Certifying Authority and approved prior to issue of the Subdivision Certificate.

**Reason:** To protect the environment.

**Infrastructure repair – subdivision works**

95. Prior to issue of the subdivision certificate, any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of subdivision works must be fully repaired to the satisfaction of Council's Development Engineer and at no cost to Council. Any redundant crossings in Kissing Point Road are to be removed and replaced with kerb and gutter to match existing.

**Reason:** To protect public infrastructure.

**Provision of services**

96. Prior to issue of the subdivision certificate, the provision of separate underground electricity, gas and phone, or appropriate conduits for the same, must be provided to each allotment to the satisfaction of the utility provider. A suitably qualified and experienced engineer or surveyor is to provide certification that all new lots have ready underground access to the services of electricity, gas and phone. Alternatively, a letter from the relevant supply authorities stating the same may be submitted to satisfy this condition

**Reason:** Access to public utilities.

**Sydney Water Section 73 Compliance Certificate (part 2)**

97. A final Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of any linen plan for subdivision or prior to occupation of the development (whichever comes first). Alternatively, if Sydney Water advises that a Section 73 Certificate

Item 2

is not required for the proposed development, written confirmation of this advice is to be provided.

**Reason:** Statutory requirement.

**OSD positive covenant/restriction**

98. The applicant shall create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on site. The terms of the instruments are to be generally in accordance with the Council's "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. The location of the on-site detention facilities for all dwellings is to be denoted on the final plan of subdivision.

**Reason:** To protect the environment.

**Submission of 88B instrument**

99. For issue of the subdivision certificate the Applicant must submit an original instrument under Section 88B of the Conveyancing Act with the plan of subdivision, plus six (6) copies. This is to create all required easements, rights-of-carriageway, positive covenants, restrictions-on-use or other burdens/benefits as may be required. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the same.

**Reason:** To create all required easements, rights-of-carriageway, positive covenants, restrictions-on-use or other burdens/benefits as may be required.

**Work-as-Executed plans**

100. Prior to issue of the Subdivision Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage systems. The WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. 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.

**Reason:** To protect the environment.

**Submission of plans of subdivision**

101. For endorsement of the subdivision certificate, the applicant shall submit an original plan of subdivision plus six (6) copies, suitable for endorsement by Council. The following details must be submitted with the plan of subdivision and its copies:

Item 2

- a. The endorsement fee current at the time of lodgement.
- b. The 88B Instrument plus six (6) copies.
- c. All Surveyor's and/or Consulting Engineer's certification(s) required under this subdivision consent.
- d. The Section 73 (Sydney Water) Compliance Certificate for the subdivision.

Council will check the consent conditions on the subdivision. Failure to submit the required information will delay endorsement of the linen plan, and may require payment of rechecking fees. **Plans of subdivision and copies must not be folded. Council will not accept bonds in lieu of completing subdivision works.**

**Reason:** Statutory requirement.

**General easement/R.O.W. provision and certification**

102. Prior to issue of the Subdivision Certificate, a registered surveyor is to provide details to Council that all physical structures are fully contained within the proposed allotments or will be fully covered by the proposed burdens upon registration of the final plan of subdivision. Alternatively, where the surveyor is of the opinion that creation of burdens and benefits is not required, then proof to this effect must be submitted to the Principal Certifying Authority.

**Reason:** To ensure that all physical structures are fully contained within the proposed allotments or will be fully covered by the proposed burdens upon registration of the final plan of subdivision.

**Tree protection – (Riparian zone) Section 88b instrument**

103. Prior to the issue of the Subdivision Certificate, the principal certifying authority is to be provided with evidence of the creation of a Restriction On The Use Of Land under Section 88B of the Conveyancing Act 1919, burdening the area for a variable distance of 4.0 to 14.0m either side of the centre line of the existing watercourse on Lots 70 and 71, as detailed on the Stormwater Management Plan #SW2 Amendment A, dated February 2007 and identified as the riparian zone as indicated on Landscape Plan LDA101 issue 'C' prepared by Site Image Pty Ltd. . The terms of which state that any excavation, soil level changes or construction works other than the proposed approved watercourse reinstatement works or removal of any vegetation, other than noxious weeds, are prohibited.

**Reason:** To protect the environment

104. The creation of a Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the area of land beneath the canopy of the following tree/s for a specified radius in metres from the trunk of that tree, the terms of which state that any excavations, soil level changes or construction works are prohibited.

Item 2

<b>Tree</b>	<b>Location</b>	<b>Radius</b>
<i>Howea forsteriana</i> (Kentia Palm) grove	Between existing car park and watercourse on Lot 70 and Lot D	3.0m

**Reason:** To protect existing vegetation.

Sandra McCarry  
**Development Assessment Officer**

S Segall  
**Team Leader**  
**Development Assessment - North**

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

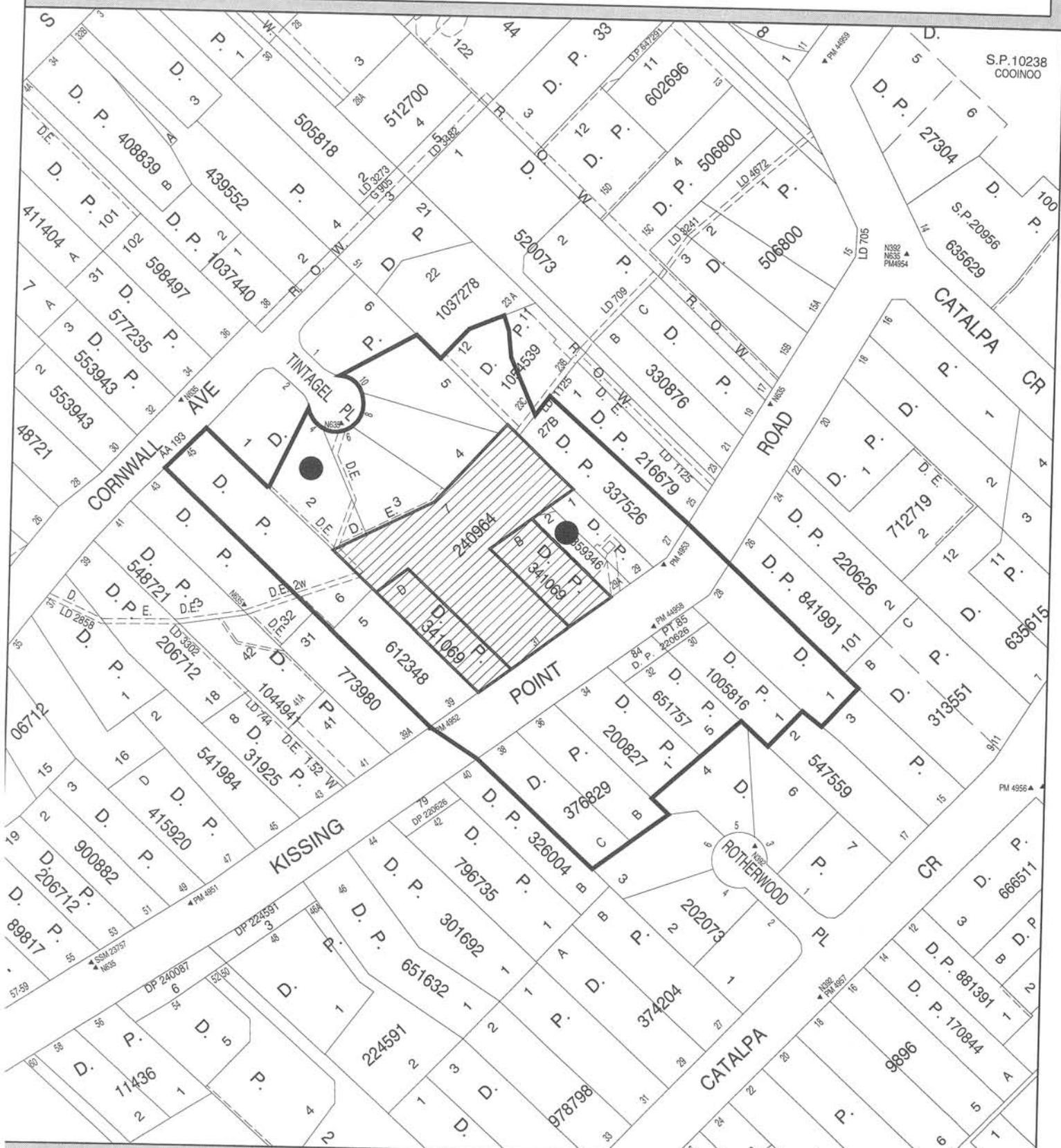
M Miocic  
**Director**  
**Development & Regulation**

- Attachments:**
- 1. Location Plan - 800215**
  - 2. Zoning Plan - 800215**
  - 3. Survey Plan - 800219**
  - 4. Subdivision Plan - 800219**
  - 5. Landscape Plan – 800223**
  - 6. Sections, Erosion & Sediment Plan - 800233**
  - 7 Control Plan, Stormwater Management Plan - 800233**
  - 8. Photos of the site - 800235**

# LOCATION SKETCH

## 31 Kissing Point Road, TURRAMURRA

DEVELOPMENT APPLICATION No DA 96/2007



**Scale : 1:2000**

**13-07-2007**

<ul style="list-style-type: none"> <li> AGREEMENT</li> <li> OBJECTION</li> <li> SUBJECT LAND</li> </ul>	<ul style="list-style-type: none"> <li> PETITION</li> <li> SUBMISSION</li> <li> CIRCULATED AREA</li> </ul>
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# Zoning Extract

## 31-37 KISSING POINT ROAD TURRAMURRA



ZONES		RESERVATIONS		GENERAL			
<b>2. RESIDENTIAL</b> (a) RESIDENTIAL A (b) RESIDENTIAL B (c) RESIDENTIAL C (c1) RESIDENTIAL C1 (c2) RESIDENTIAL C2 (d) RESIDENTIAL D (d3) RESIDENTIAL D3 (e) RESIDENTIAL E (f) RESIDENTIAL F (g) RESIDENTIAL G (h) RESIDENTIAL H		<b>3. BUSINESS</b> (a) RETAIL SERVICES FLOOR SPACE RATIOS A1 2.0:1 A2 1.0:1 A3 0.75:1 (b) COMMERCIAL SERVICES FLOOR SPACE RATIOS B1 1.0:1 B2 1.0:1		<b>5. SPECIAL USES</b> (a) SPECIAL USES A (Schools etc) (a1) SPECIAL USES A1 (b) SPECIAL USES (Railway) <b>6. OPEN SPACE</b> (a) RECREATION EXISTING (b) RECREATION PRIVATE (c) RECREATION PROPOSED		<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	
(a) 2(b) (b) 2(c) (c) 2(c1) (d) 2(c2) (e) 2(d) (f) 2(d3) (g) 2(e) (h) 2(f) (i) 2(g) (j) 2(h)		3(a) 3(a)-(A1) 3(a)-(A2) 3(a)-(A3) 3(b) 3(b)-(B1) 3(b)-(B2)		SCHOOL 5(a1)		EXISTING COUNTY ROAD OTHER PLANNING INSTRUMENTS	
				 <b>Scale: 1:2000</b> <b>Date: 08-05-2007</b>			



NOTE: The plan and elevation form shall not be used to determine the position of any point or line without reference to any supporting data.

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Nos.31-37 KISSING POINT ROAD, TURRAMURRA

S.McN.BLAND PTY LTD  
 (INCORPORATED IN AUSTRALIA)  
 CONSULTING SURVEYORS  
 8 BERRILLE LANE, TURRAMURRA 2074  
 PHONE:(02)9488-7825 FACSIMILE:(02)9488-7828

PLAN SHOWING LEVELS AND DETAIL

13 FEB 2007

MR. BRETT DAVIS

PRODUCTION RATIO:	1:200
SURVEY:	S/McN.B
DRAWN:	S/McN.B
PRINTED:	31 OCT 2006

DRAWING No.

2



NOTE: ALL DIMENSIONS AND AREAS ARE APPROXIMATE AND SUBJECT TO FINAL SURVEY.

(R.O.C.) PROPOSED RIGHT OF CARRIAGEWAY OVER RIGHT OF CARRIAGEWAY SITE.  
 IT IS INTENDED THAT LOTS 70, 71 & 72 TOGETHER WITH LOT D AND B SHOULD ALL ENJOY THE BENEFIT OVER THE RIGHT OF CARRIAGEWAY AND EASEMENT FOR SERVICES SITE.

RECEIVED  
 13 FEB 2007  
 CIVIL ENGINEERING SERVICE CENTRE

NOTE: This plan in electronic form should not be used to determine the position of any point or line without reference to any supporting text.  
 Any copying, altering, editing, forwarding or securing of this plan in paper or electronic form without the participation of a Director of Subdivisions Pty. Ltd. is strictly prohibited.

Nos.31-37 KISSING POINT ROAD, TURRAMURRA

S.McN.BLAND PTY LTD  
 (A.C.N.003 198 728)  
 CONSULTING SURVEYORS  
 8 BERRILLEE LANE, TURRAMURRA 2074  
 PHONE:(02)9488-7825 FACSIMILE:(02)9488-7828

LIPMAN GROUP PTY LIMITED

PLAN OF PROPOSED SUBD.  
 LOT 7 D.P.240964

REDUCTION RATIO: 1:200		
SURVEY	S.McN.B	REP: 88/06
DRAWN	S.McN.B	
PRINTED	9 FEB 2007	

DRAWING No.

5

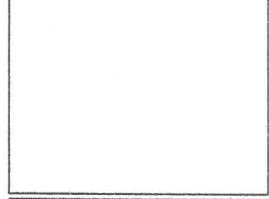
© 2007 Site Image Pty Ltd. All rights reserved. This drawing is copyright and shall not be reproduced or copied in any form or by any means, graphic, electronic or mechanical including photocopying, without the written permission of Site Image Pty Ltd. Any license, expressed or implied, to use this document for any purpose other than that intended by the terms of the written agreement between Site Image Pty Ltd and the instructing party.

The contractor shall check and verify all work on site (including work by others) before commencing the landscape installation. Any discrepancies are to be reported to the Project Manager or Landscape Architect prior to commencing work. Do not scale this drawing. Any required dimensions not shown shall be referred to the Landscape Architect for confirmation.

Issue	Revision Description	Drawn	Check	Date
A	Final Submission	AW	MP	27/02/2007
B	DA Submission	AW	MP	08/03/2007
C	Revised DA Submission	LB	MP	13/03/2007

**Legend:**

- Tree Planting (01 301)
- Mass Planting (02 301, 03 301)
- Organic Mulch cover (05 301)



**Client:**  
Lipman Properties Pty Ltd

**Project:**  
31 - 37 Kissing Point Road

**24-26 Braden Street**  
Aurora NSW 2016  
Australia

Tel: (61 2) 9588 2288  
Fax: (61 2) 9588 2077  
Web: www.siteimage.com.au

Site Image Pty Ltd  
ABN 18 076 561 007

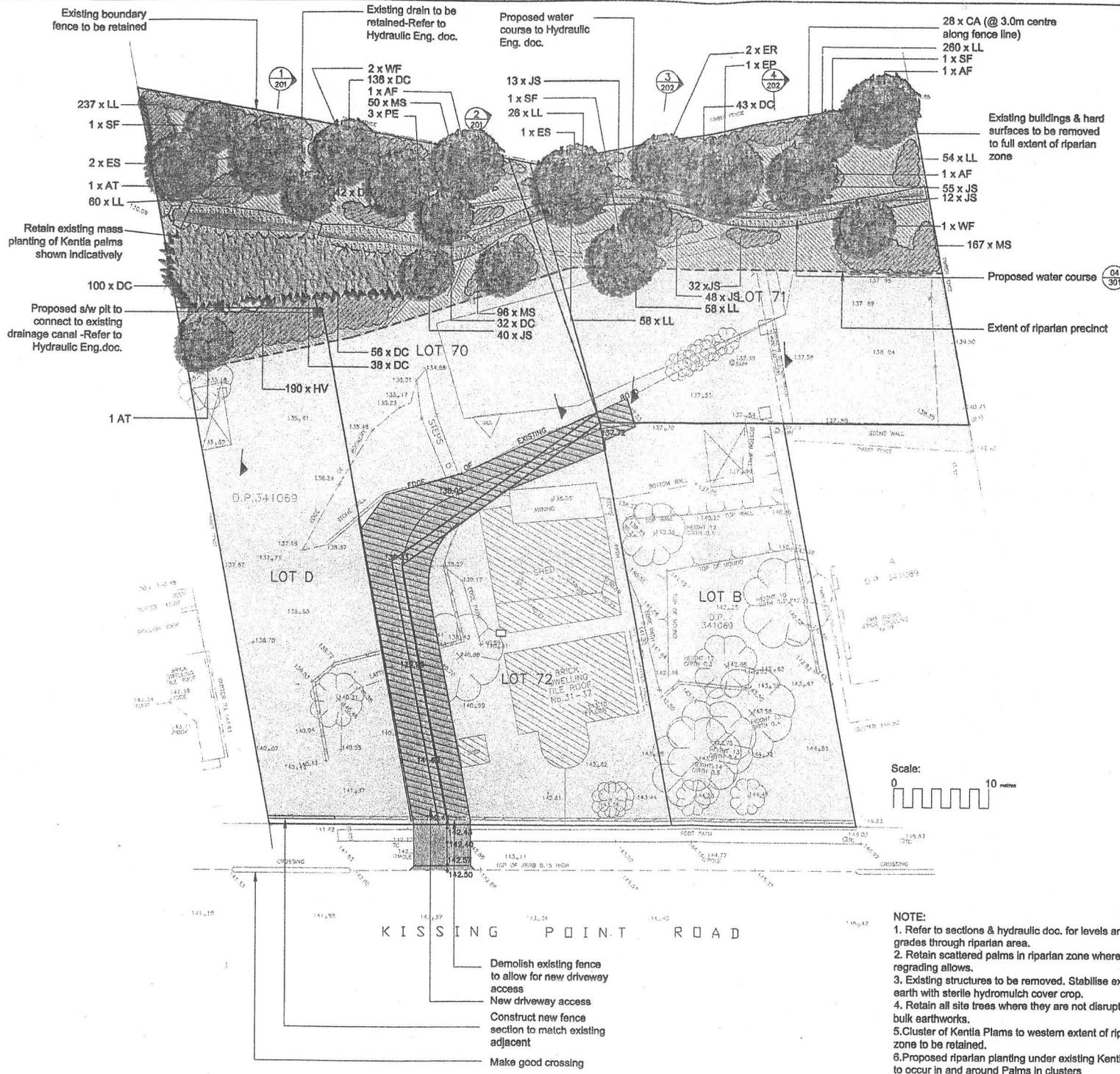
**SITE IMAGE**  
Landscape Architects

**DA SUBMISSION**

Drawing Name:  
Landscape Plan

Date: 02.02.2007

Drawn: AW Approved: MP  
Job Number: Z1565 Drawing Number: LDA101 C

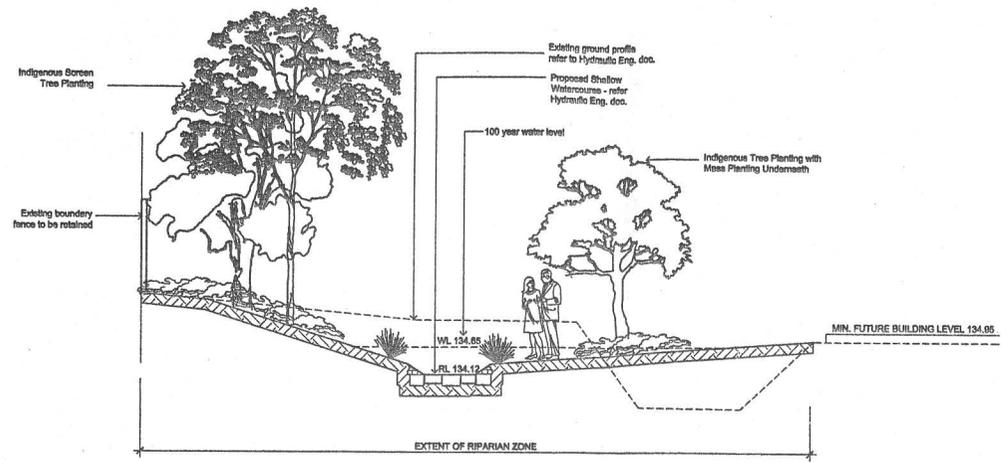


- NOTE:**
1. Refer to sections & hydraulic doc. for levels and grades through riparian area.
  2. Retain scattered palms in riparian zone where regrading allows.
  3. Existing structures to be removed. Stabilise exposed earth with sterile hydromulch cover crop.
  4. Retain all site trees where they are not disrupted by bulk earthworks.
  5. Cluster of Kentia Palms to western extent of riparian zone to be retained.
  6. Proposed riparian planting under existing Kentia Palms to occur in and around Palms in clusters

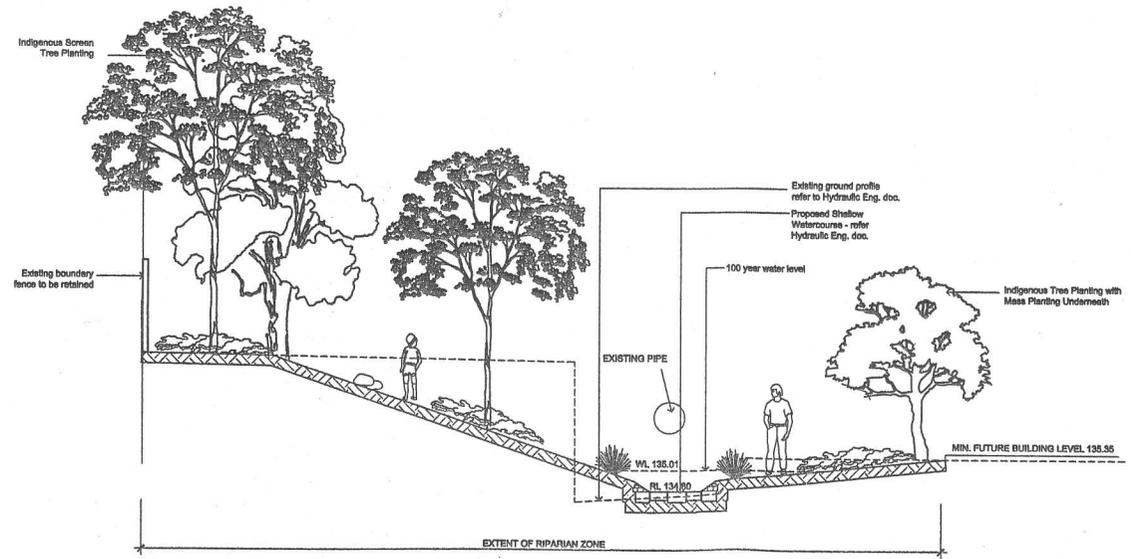


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SCALE 1:50



04 SECTION  
SCALE 1:50

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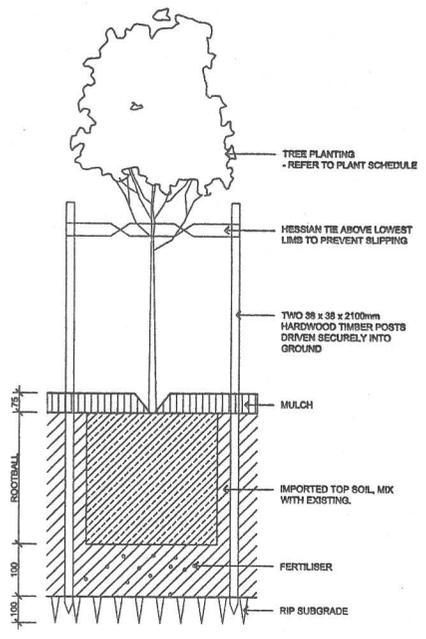
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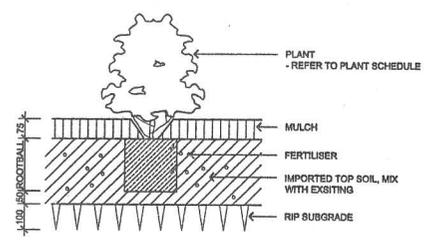
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Client:  
**Lipman Properties Pty Ltd**

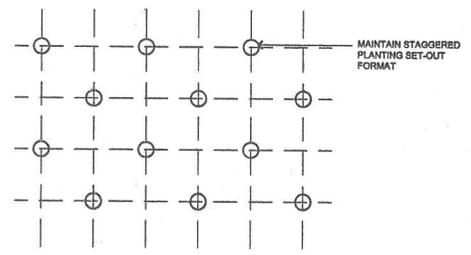
Project:  
**31 - 37 Kissing Point Road**



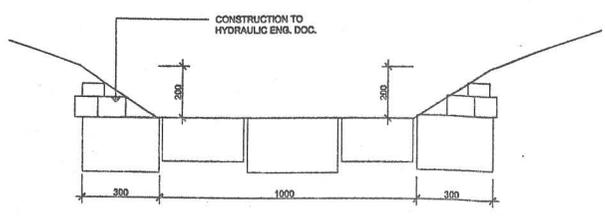
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Scale 1:10



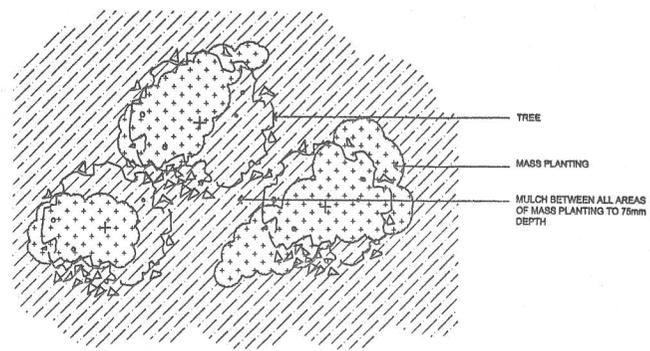
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Scale 1:10



03 MASSED PLANTING SETOUT  
N.T.S.



04 TYPICAL SECTION THROUGH WATERCOURSE  
Scale 1:10



05 TYPICAL PLANT SET - OUT  
PLAN Scale 1:100

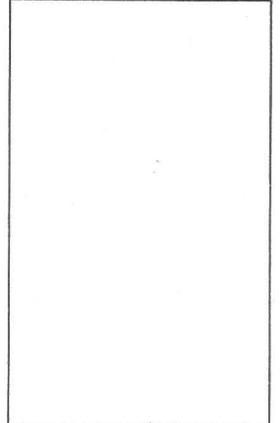
PLANT SCHEDULE					
Symbol	Botanical Name	Common Name	Approx mature Height x Width (H)	Installation Size	Qty
<b>Trees</b>					
At	Angophora floribunda	Rough Barked Apple	10-15 x 8-10	75L	3
At	Allocasuarina torulosa	Forest Oak	10-15 x 8-10	45L	2
Es	Eucalyptus saligna	Sydney Blue Gum	15-20 x 10-15	75L	3
Es	Eucalyptus paniculata	Grey Ironbark	15-20 x 10-15	75L	1
Er	Elaeagnus reticulata	Blueberry Ash	5-10 x 4-8	45L	2
Pa	Podocarpus natus	Brown Pine	5-10 x 4-8	45L	3
Sl	Syzygium tunicata	French Water Gum	5-10 x 4-8	45L	3
Wl	Waterhousea borbonica	Weeping Lily Pilli	5-10 x 4-8	45L	3
<b>Mass Planting</b>					
Ca	Cenchrus ciliaris	Old Mans Beard	0.1 x 0.2	100ml pot	28
Dc	Dianella caerulea	Flax Lily	0.5 x 0.5	100ml pot	427
Hv	Hardenbergia violacea	Happy Wanderer	0.3 x X	100ml pot	160
Lj	Lomandra longifolia	Spiny Mill Rush	1 x 1.5	100ml pot	753
Js	Juncus verticillatus	Common Rush	0.5 x 0.5	100ml pot	202
Ms	Miscanthus stipoides	Weeping Rice Grass	0.8 x 0.8	100ml pot	314

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C	Revised DA Submission	LB	MP	02.02.2007
B	DA Submission	AW	MP	06.02.2007
A	For Issues	AW	MP	07.02.2007



Client:  
**Lipman Properties Pty Ltd**

Project:  
**31 - 37 Kissing Point Road**

26-28 Bourke Street  
Abernethy NSW 2018  
Australia  
Tel: (01 2) 958 2699  
Fax: (01 2) 958 2377  
Web: www.siteimage.com.au  
Site Image Pty Ltd  
ABN 19 076 881 087  
Landscape Architects

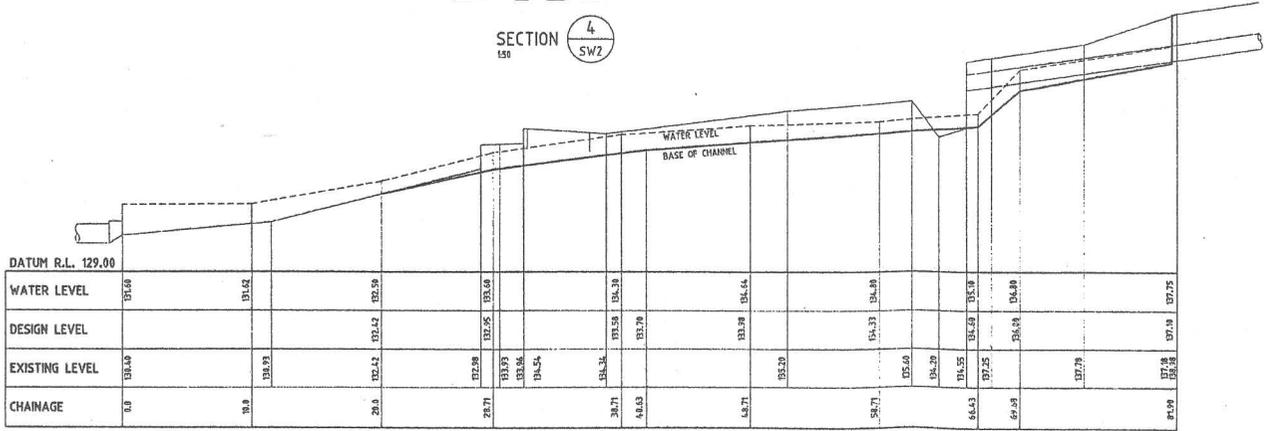
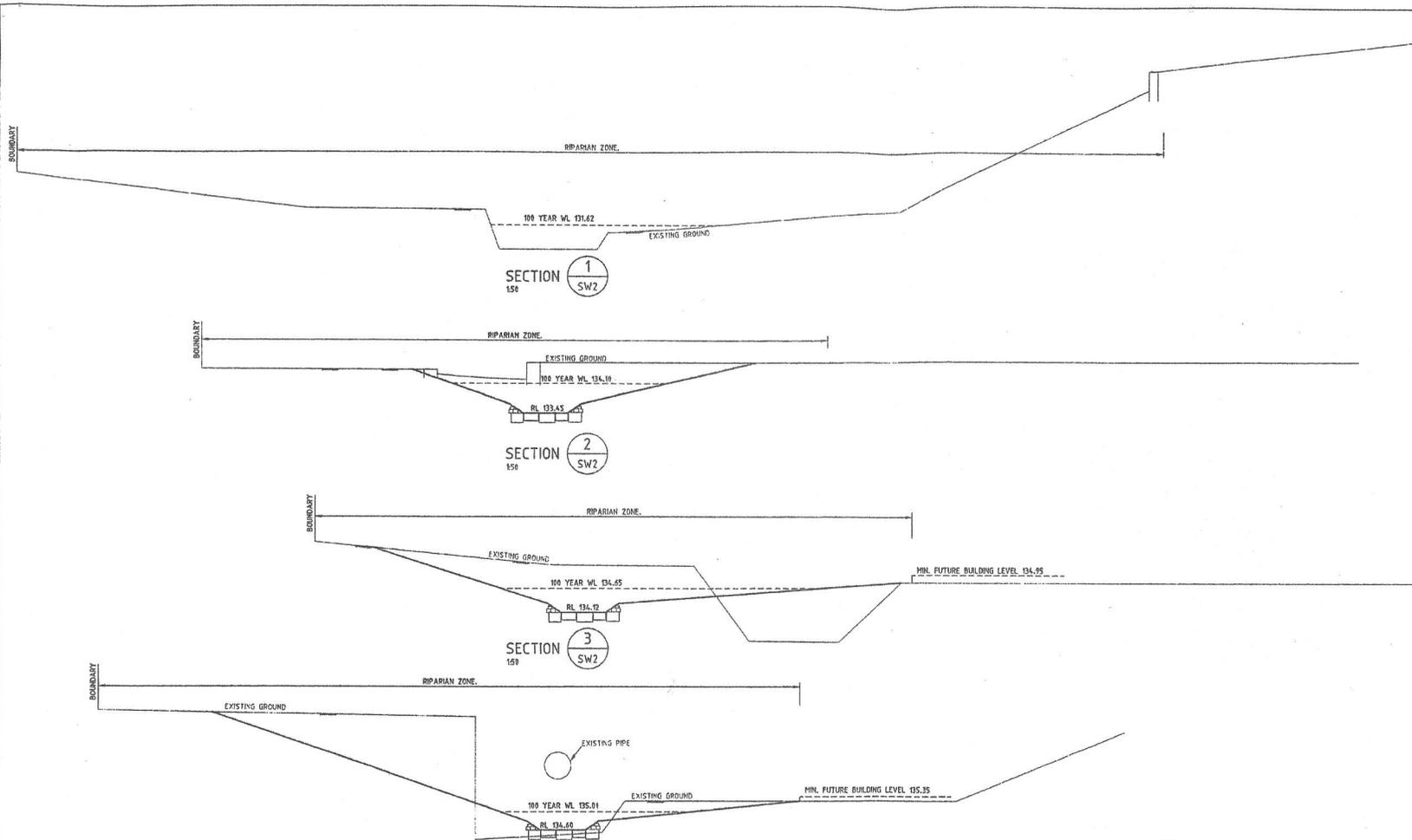
**DA SUBMISSION**

Drawing Name:  
**Landscape Details & Plant Schedule**

Scale: As Shown

Date: 02.02.2007

Drawn: AW Approved: MP  
Job Number: Z1565 Drawing Number: LDA301



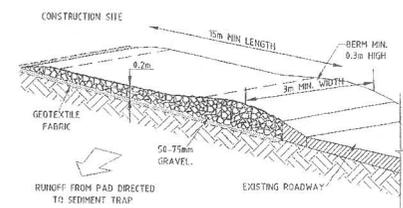
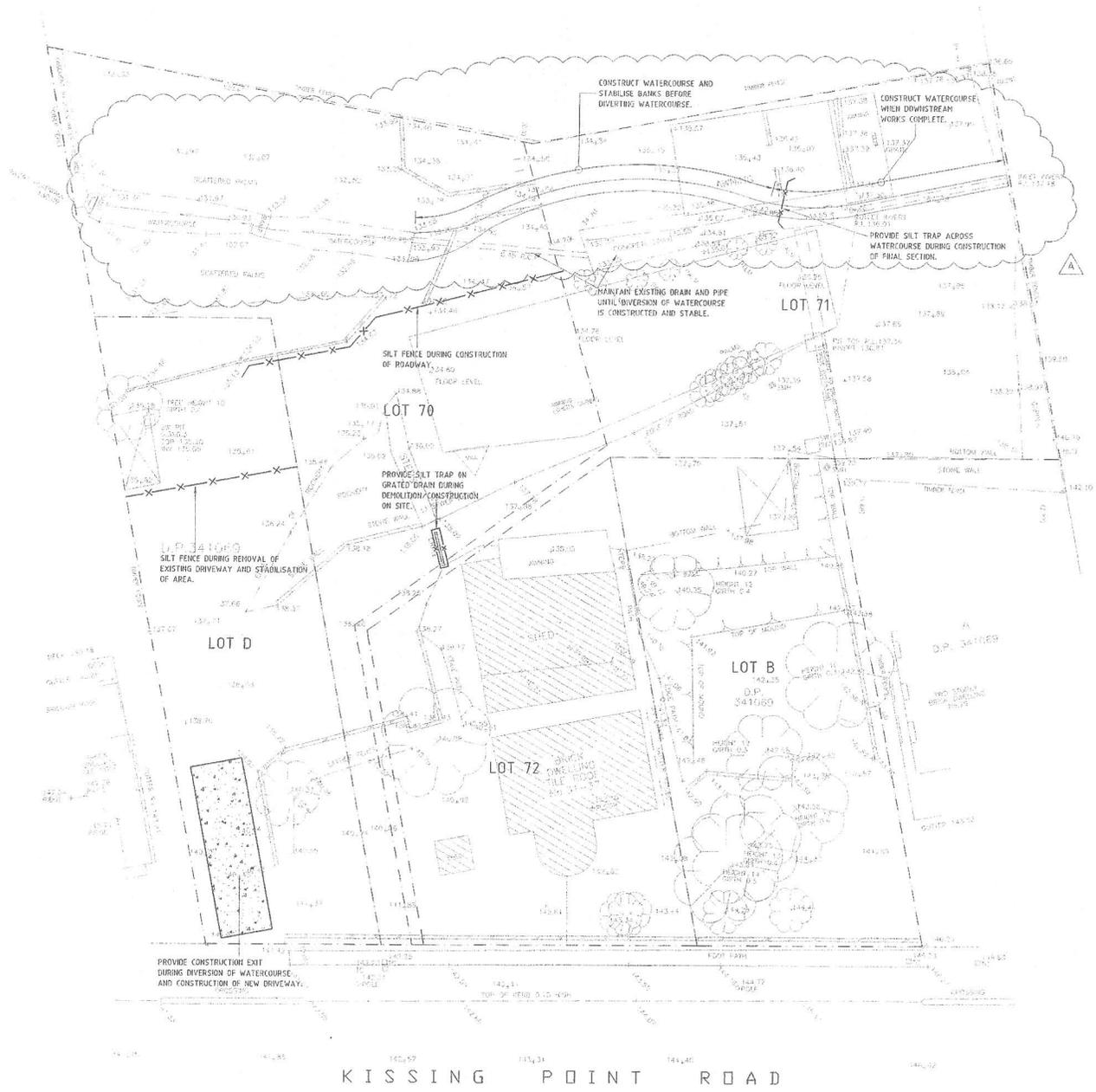
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DATUM R.L. 129.00

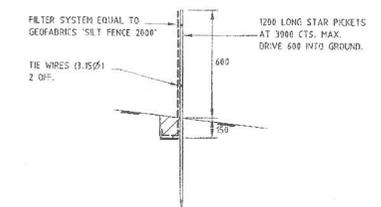
HORIZONTAL SCALE 1:200  
VERTICAL SCALE 1:100



A 13/03/07 LONGSECTION & SECTION 1-4 AMENDED.				(AW)	
No.	Date	Description	Ver.	Appr.	
Amendment					
<b>Woolacotts.</b> Consulting Engineers			Woolacotts (NsW) Cartlett & Jamieson Consulting Engineers Pty Ltd A.C.N. 002 791 620 20 Breconton St. Artarmon NSW Telephone (02) 9413 1399 Facsimile (02) 9413 1132 E-mail office@woolacotts.com.au		
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Project					
SUBDIVISION OF 31 TO 37 KISSING POINT ROAD, TURRAMURRA					
Client LIPMAN PROPERTIES PTY LTD LOCKED BAG 2106 NORTH SYDNEY - NSW 2060					
Drawing title <b>SECTIONS</b>					
Approved	Verified	Prepared	Date	Scale	
SEB	CHV	SK	FEBRUARY 2007	AS SHOWN	
Job number		Drawing number		Amendment	
06-240		SW3		A	

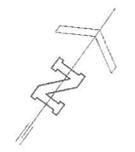


TEMPORARY CONSTRUCTION EXIT



SILT FENCE DETAIL.  
TO BE PLACED AROUND LOW SIDE OF PROPERTY BOUNDARY AND AROUND STORMWATER INLET STRUCTURES TO PREVENT SOIL WASHING OFF SITE.

**LEGEND**  
 -X- SILT FENCE  
 --- LOT BOUNDARIES



A	19/03/07	WATERCOURSE REVISED.	CRS
No.	Date	Description	Ver. Appr.
Amendment			

**Woolacotts.**  
 Consulting Engineers  
 Woolcott Hale Corlett & Austin  
 Consulting Engineers Pty Ltd  
 A.C.N. 002 791 610  
 2A Brougham Rd  
 Artarmon NSW 2058  
 Telephone (02) 9413 1399  
 Facsimile (02) 9413 1132  
 E-mail: info@woolacotts.com.au

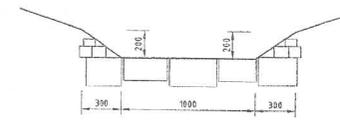
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Project:  
**SUBDIVISION OF  
 31 TO 37 KISSING POINT ROAD,  
 TURRAMURRA**

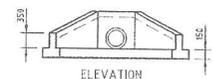
Client:  
**LIPMAN PROPERTIES PTY LTD  
 LOCKED BAG 2106  
 NORTH SYDNEY - NSW 2060**

**EROSION AND SEDIMENT CONTROL PLAN**

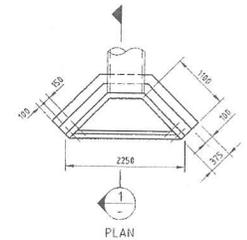
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12.2.07	12.2.07	12.2.07		
Job number	Drawing number	Amendment		
06-240	SW1	A		



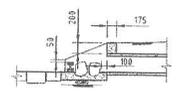
TYPICAL SECTION THROUGH WATERCOURSE.



ELEVATION



PLAN

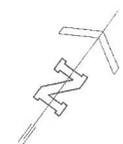


SECTION 1-1

TYPICAL HEADWALL DETAIL

LEGEND

- NEW STORMWATER PIPE
- - - - LOT BOUNDARIES
- NEW STORMWATER PIT
- R EXTENT OF RIPARIAN ZONE



KISSING POINT ROAD

A	13/03/07	WATERCOURSE REVISED		
No.	Date	Description	Rev.	Appr.
Amendment				

**Woolacotts.**  
Consulting Engineers

Richmond Place, Darrell G. Jenkins  
Consulting Engineers Pty Ltd  
A.C.N. 602 781 620  
28 Brookfield St  
Arlwood 5064  
Telephone (08) 8413 1389  
Facsimile (08) 8413 1332  
E-mail office@woolacotts.com.au

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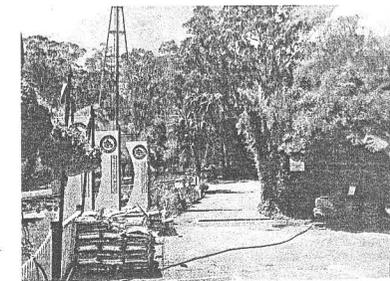
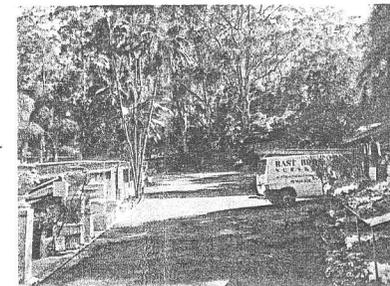
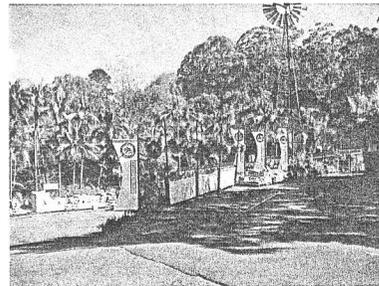
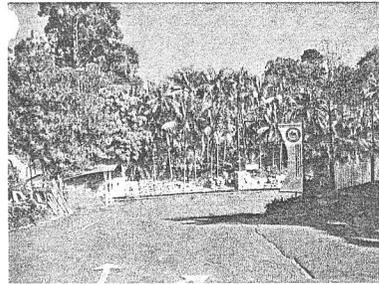
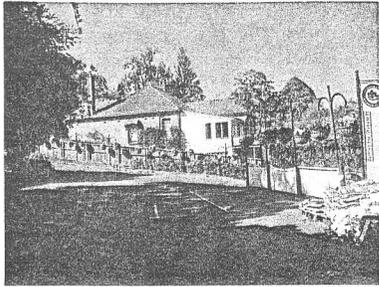
Project  
**SUBDIVISION OF  
31 TO 37 KISSING POINT ROAD,  
TURRAMURRA**

Client  
**LIPMAN PROPERTIES PTY LTD  
LOCKED BAG 2106  
NORTH SYDNEY - NSW 2060**

Drawing title  
**STORMWATER MANAGEMENT PLAN**

Approved	Verified	Prepared	Date	Scale
SEF	CHW	JC	FEBRUARY 2007	1:200, 20
12.2.07	12.2.07	12.2.07		
Job number	Drawing number	Amendment		
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13 FEB 2007  
CUSTOMER PRINTED PLAN

Nos.31-37 KISSING POINT ROAD, TURRAMURRA

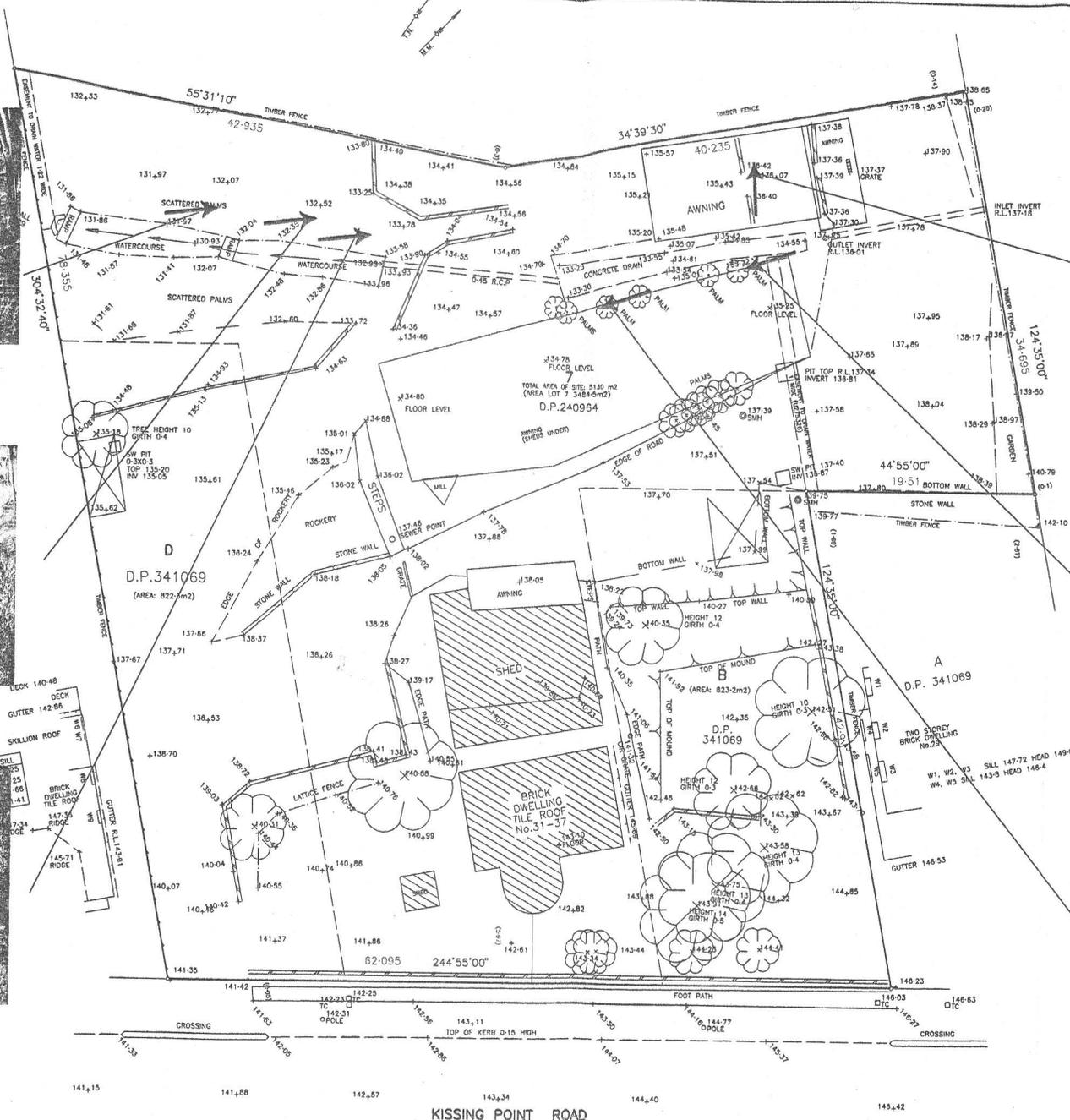
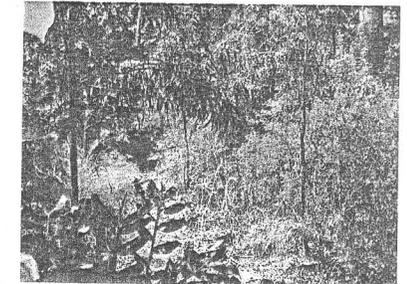
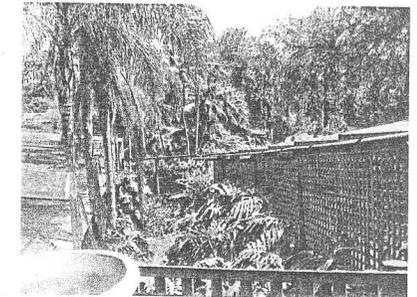
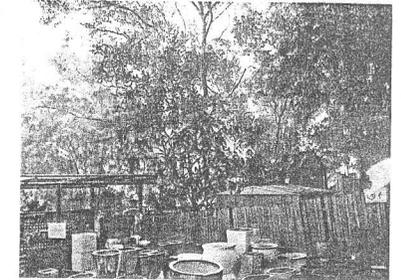
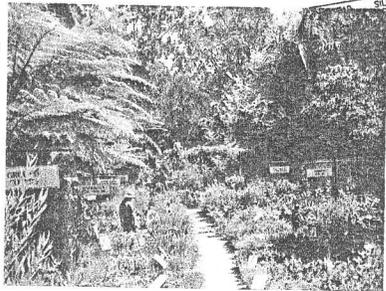
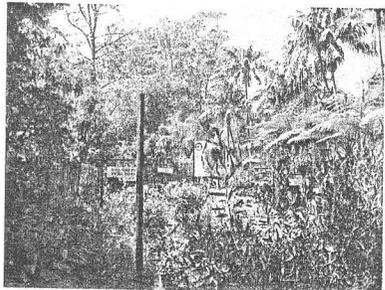
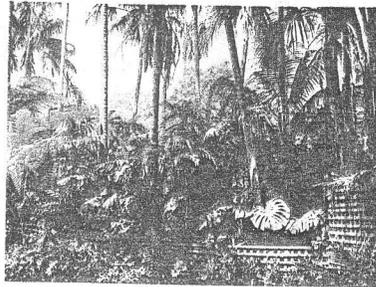
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8 BERRILLEE LANE, TURRAMURRA 2074  
PHONE:(02)9488-7825 FACSIMILE:(02)9488-7828

LIPMAN GROUP PTY LIMITED

PLAN SHOWING LEVELS AND DETAIL

REDUCTION RATIO: 1:200	REF: 01/06
SURVEY S.McN.B	PRINTED 9 FEB 2007
DRAWN S.McN.B	

DRAWING No.



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 CUSTOMER SERVICE CENTRE

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 CONSULTING SURVEYORS  
 8 BERRILLEE LANE, TURRAMURRA 2074  
 PHONE:(02)9488-7825 FACSIMILE:(02)9488-7828

LIPMAN GROUP PTY LIMITED

REDUCTION RATIO: 1:200		DRAWING No.  2
SURVEY	S.McN.B	
DRAWN	S.McN.B	
PRINTED	9 FEB 2007	

PLAN SHOWING LEVELS AND DETAIL REF: 66/06

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## CONDUCT COMMITTEE

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### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	To establish a permanent Conduct Committee.
<b>BACKGROUND:</b>	Council currently has an interim Conduct Committee in place.
<b>COMMENTS:</b>	It is necessary for Council to appoint a permanent Conduct Committee to ensure compliance with Council's Code of Conduct.
<b>RECOMMENDATION:</b>	Resolve to establish a permanent Conduct Committee.

## PURPOSE OF REPORT

To establish a permanent Conduct Committee.

## BACKGROUND

Council's Code of Conduct provides that Council will establish a Conduct Committee that will consist of the Mayor, the General Manager and at least one independent person with legal qualifications. Further that Council's Conduct Committee will operate within the Ku-ring-gai Council Conduct Committee Guidelines (the Guidelines).

On 13 June 2006, Council resolved to establish an interim Conduct Committee and adopted the Guidelines outlining the role and functions of the Conduct Committee.

The members of the interim Conduct Committee are Mr Chris Shaw (member with legal qualifications), Emeritus Professor Maurice Daly and Ms Kath Roach. The interim Committee has operated since June 2006. Accordingly, it is now considered an opportune time for Council to appoint a permanent Conduct Committee.

## COMMENTS

It is proposed that Mr Chris Shaw be appointed to the permanent Conduct Committee as the independent member with legal qualifications. Pursuant to the Guidelines, he will serve for a period of twelve months and may serve consecutive periods.

In relation to the two additional independent members, the Guidelines provide that the selection will occur following an advertisement of an expression of interest in the press. Further, that the General Manager in consultation with the Mayor, will establish a panel of persons considered suitable for appointment and arrange rotation of such persons, every twelve months.

Following advertisement in the Sydney Morning Herald, three submissions were received. The General Manager has considered the submissions and in consultation with the Mayor, has determined that only two persons are suitable for appointment. Accordingly, it is proposed that the additional members of the Conduct Committee for the next twelve months are Ms Kath Roach and Ms Katharine Poolan. (Refer confidential attachment).

It is also proposed that a further expression of interest be advertised for additional independent members, in an effort to increase the number of persons available for rotation. This is particularly important as the Guidelines provide that the additional independent members may not serve consecutive periods.

## CONSULTATION

Not applicable.

## **FINANCIAL CONSIDERATIONS**

Independent members of the Conduct Committee will be remunerated for time spent dealing with Conduct Committee business. Annual costs will depend on the number of matters referred to the Committee.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

Not applicable.

## **SUMMARY**

The establishment of a permanent Conduct Committee will ensure that Council complies with its obligations under the Code of Conduct.

## **RECOMMENDATION**

That Council establish a permanent Conduct Committee, as proposed.

John McKee  
**General Manager**

**Attachments:      Resume Ms Katherine Poolan - Confidential**

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## REQUEST FOR LEGAL ASSISTANCE - BANKSTOWN CITY COUNCIL

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To seek Council's instructions in relation to a request for assistance with legal costs by Bankstown City Council, recommended by the Local Government Association of NSW and Shires Association of NSW.

**BACKGROUND:**

Bankstown City Council has sought the assistance of the Local Government Association of NSW and Shires Association of NSW in relation to legal costs incurred in legal proceedings before the High Court of Australia. Bankstown City Council were successful in overturning a decision of the Court of Appeal and the protection afforded to councils by Section 733 of the Local Government Act for "anything done or omitted to be done" has been affirmed by the High Court.

**COMMENTS:**

The rationale for Council to contribute towards the costs of this matter can be based on the fact that Council has benefited from Bankstown City Council's actions. The benefit is a reduced likelihood of claims being made against Council.

**RECOMMENDATION:**

That Council determine whether to contribute for Bankstown City Council's legal costs in the amount of \$16,523.45.

## PURPOSE OF REPORT

To seek Council's instructions in relation to a request for assistance with legal costs by Bankstown City Council, recommended by the Local Government Association of NSW and Shires Association of NSW.

## BACKGROUND

Bankstown City Council has sought the assistance of the Local Government Association of NSW and Shires Association of NSW in relation to legal costs incurred in legal proceedings which culminated in action in the High Court of Australia. The matter concerned the interpretation of the exemption from liability granted to councils by section 733 of the Local Government Act 1993. A copy of the letter from the Local Government Association of NSW and Shires Association of NSW is **attached**.

Council is advised that the facts of the matter are:

1. Alamo Holdings are the owners of land within the Bankstown City Council area.
2. Alamo's property was flooded as a result of water overflowing from an unlined stormwater channel belonging to the council.
3. The Supreme Court granted a prohibitory injunction that required the council not to continue nuisance and to abate the flooding.
4. The Supreme Court also granted a mandatory injunction ordering that remediation work commence on the stormwater channel.
5. The matter was appealed to the Court of Appeal which held that even though the council had acted in good faith, it could not rely on the protection of Section 733 of the Local Government Act 1993, "Exemption from liability-flood liable land and land in coastal zone" as an exemption to liability by Section 733 relates to "anything done or omitted to be done" and does not literally extend to something "intended to be done".
6. Bankstown Council sought leave to appeal to the High Court. The High Court asked the council to give an undertaking to agree to bear the costs of the appeal as council were attempting to obtain a proper interpretation of Section 733 of the Local Government Act and therefore set a precedent not only for Bankstown Council but all councils and that Alamo should not be liable for such costs.
7. Bankstown Council agreed to this request from the High Court and leave to appeal was granted.
8. Bankstown City Council were successful in overturning the decision of the Court of Appeal and the protection afforded by Section 733 of the Local Government Act for "anything done or omitted to be done" has been affirmed by the High Court.

Item 4

S02046  
16 July 2007

The Associations agreed that the matter before the High Court was of great importance to all councils because land owners could otherwise bring claims against council for alleged damage to property. Council is advised that the sum of \$1,534,242 was incurred by Bankstown City Council in pursuing the appeal, and that applying the usual formula used by the Associations, this Council's proportion of this amount is \$16,523.45.

## COMMENTS

The rationale for Council to contribute towards the substantial costs of this matter can be based on the fact that Council has benefited from Bankstown City Council's actions. This benefit can be anticipated to be a reduced likelihood of claims being made against Council.

The practice of councils contributing towards legal costs incurred in proceedings of this nature encourages individual councils to pursue appeals in circumstances such as this where they would enjoy only a portion of the benefit that flows from a successful outcome.

## CONSULTATION

Not applicable.

## FINANCIAL CONSIDERATIONS

The contribution sought by the Associations on behalf of Bankstown City Council is \$16,523.45. There is no specific budget allocation for this expenditure, however it may be possible to reallocate resources as part of the first quarterly budget review for 2007/08 to fund the contribution.

To the extent that the High Court decision reduces the likelihood of claims against Council, it may also be expected to result in lower insurance costs to Council than would otherwise be the case, however these favourable impacts are difficult to quantify.

## CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not Applicable

## SUMMARY

Bankstown City Council has sought the assistance of the Local Government Association of NSW and Shires Association of NSW in relation to legal costs incurred in legal proceedings in the High Court of Australia. The matter concerned the interpretation of the exemption from liability granted to councils by Section 733 of the Local Government Act 1993.

Item 4

**S02046**  
**16 July 2007**

Bankstown City Council was successful in overturning a decision of the Court of Appeal and, as a consequence, the protection to councils afforded by Section 733 of the Local Government Act for “anything done or omitted to be done” has been affirmed by the High Court.

The Associations have agreed that the matter before the High Court was of great importance to all councils because land owners could otherwise bring claims against council for alleged damage to property. Council is advised that the sum of \$1,534,242 was incurred by Bankstown City Council in pursuing the appeal, and that applying the usual formula used by the Associations, this Council’s proportion of this amount is \$16,523.45.

The rationale for Council to contribute towards the substantial costs of this matter can be based on the fact that Council has benefited from Bankstown City Council’s actions. The benefit is a reduced likelihood of claims being made against Council.

The practice of councils contributing towards legal costs incurred in proceedings of this nature encourages individual councils to pursue appeals in circumstances such as this where they would enjoy only a portion of the benefit that flows from a successful outcome.

## **RECOMMENDATION**

That Council determine whether to contribute for Bankstown City Council's legal costs in the amount of \$16,523.45

John Clark  
Director Corporate

Jamie Taylor  
Corporate Lawyer

**Attachments: Letter from Local Government Association of NSW and Shires Association of NSW dated 18 June 2007 - 790774**



Our ref: R90/1046-02.fl Out-10596

18 June 2007

Cr Nick Ebbeck  
Mayor of Ku-ring-gai  
Ku-ring-gai Council  
Locked Bag 1056  
PYMBLE NSW 2073



Dear Cr Ebbeck

### **Bankstown City Council Request for Assistance with Legal Costs**

Bankstown City Council has sought the Association's assistance in relation to a court case in which it has been involved, and which culminated in action in the High Court.

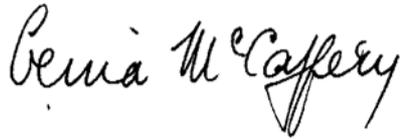
The facts of the matter were:

1. Alamo Holdings are the owners of land within the Bankstown City Council area.
2. Alamo's property was flooded as a result of water overflowing from an unlined storm water channel belonging to the council.
3. The Supreme Court granted a prohibitory injunction that required the council not to continue nuisance and to abate the flooding.
4. The Supreme Court also granted a mandatory injunction ordering that remediation work commence on the stormwater channel.
5. The matter was appealed to the Court of Appeal which held that even though the council had acted in good faith, it could not rely on the protection of Section 733 of the Local Government Act 1993, "Exemption from liability-flood liable land and land in coastal zone" as an exemption to liability by Section 733 relates to "anything done or omitted to be done" and does not literally extend to something "intended to be done".
6. Bankstown Council sought leave to appeal to the High Court. The High Court asked the council to give an undertaking to agree to bear the costs of the appeal as council were attempting to obtain a proper interpretation of Section 733 of the Local Government Act and therefore set a precedent not only for Bankstown Council but all councils and that Alamo should not be liable for such costs.
7. Bankstown Council agreed to this request from the High Court and leave to appeal was granted.
8. Bankstown City Council were successful in overturning the decision of the Court of Appeal and the protection afforded by Section 733 of the Local Government Act for "anything done or omitted to be done" has been affirmed by the High Court.

The Associations agreed that the matter was of great importance to all councils and should be appealed because if the decision was allowed to stand it would allow other land owners in similar circumstances to make claims against councils for alleged damage to property where the council in question would otherwise be protected by Section 733 of the Local Government Act.

The council incurred the sum of \$1,534,242 in pursuing the appeal. The Joint Executive of the two Associations has given approval for these costs to be sought. In accordance with the usual formula, your council's proportion of this amount is \$16523.45, and we would appreciate receipt of this amount in due course. An invoice is attached.

Yours sincerely



Cr Genia McCaffery  
**President**  
*Local Government Association of NSW*



Cr Bruce Miller  
**President**  
*Shires Association of NSW*

**Local Government  
Association of NSW**

ABN: 49 853 913 882  
GPO Box 7003 SYDNEY NSW 2001  
Level 8 28 Margaret Street SYDNEY NSW 2000  
Tel: (02) 9242 4000 Fax (02) 9242 4111  
www.lgsa.org.au lgsa@lgsa.org.au



**Shires Association of NSW**

**Tax Invoice**

**Invoice Number** 49807  
**Date** 31/05/07

**Invoice to:**  
Ku-Ring-Gai Council  
Locked Bag 1056  
PYMBLE NSW 2073

**Customer Code**      **Customer Reference**

KURI

Item Code	Item Description	Invoice Quantity	Per	Price	GST	Amount
BCC		1		16523.45	0.00	16,523.45

Your share of Council contributions for Bankstown City  
Councils legal costs incurred in the High Court re:  
Section 733 of the Local Government Act 1993

Attn: The General Manager

**Terms: 30 Days**

Total Includes GST of  
0.00

**Total**  
**16,523.45**

Payment to: LGSA NSW BSB: 062005 Account No. 00090198

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## PROMOTING BETTER PRACTICE REVIEW

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To advise Council of the Action Plan following a self-assessment of Council's operations and practices.

**BACKGROUND:**

A self-assessment of Council has been undertaken using the Promoting Better Practice Review checklists.

**COMMENTS:**

The self-assessment has revealed an acceptable level of performance by Council and identified priority areas for attention.

**RECOMMENDATION:**

That the Action Plan for the Promoting Better Practice Review be noted.

## PURPOSE OF REPORT

To advise Council of the Action Plan following a self-assessment of Council's operations and practices.

## BACKGROUND

As part of the focus on continuous improvement, a self-assessment of Council's operations and practices has been undertaken using the Promoting Better Practice Review checklists.

The self-assessment is essentially a "health check" involving a review of overall strategic direction, statutory compliance, checking performance, examining practices and ensuring appropriate management frameworks are in place.

The checklists have been developed by the Department of Local Government (DLG) as part of the Promoting Better Practice review program. The DLG intends to conduct a review of every council. About a third of all councils in the State have had such a review. After each review the DLG produces a public report on the council and its performance. The DLG has not yet advised any date for a review of Ku-ring-gai Council.

## COMMENTS

The checklists are arranged in five modules as follows:

- Governance – 100 questions
- Planning and Other Regulatory Functions – 68 questions
- Asset and Financial Management – 43 questions
- Community and Consultation – 35 questions
- Workforce Relations - 61 questions

Completion of the checklists has involved the compilation of a considerable amount of information and documentation. The checklist questions are aimed at validating whether Council has in place various policies, plans, codes and procedures and whether Council is following good practice and meeting all statutory and other requirements.

Overall the self-assessment has revealed an acceptable level of performance. Council appears strong in many areas including governance policy (eg Code of Conduct, Councillors' Expenses and Facilities Policy), Annual Report, State of the Environment Report, Management Plan, financial planning and management, land use planning, development assessment processes, environmental management, companion animals, asset management, occupational health and safety, social planning and cultural planning.

In some areas where Council meets basic requirements the self-assessment has revealed that existing documentation and processes could be reviewed and updated to incorporate current best practice.

Item 5

S06054  
17 July 2007

Following the assessment an Action Plan (**attached**) has been developed identifying the priorities for immediate attention. Many items require a review and update of existing documentation and/or processes. For some items a check is required to ensure that full statutory compliance is being achieved. A few items will require extensive work over a reasonable period.

As a consequence of the Action Plan various policies will be the subject of reports to Council over the next 12 months.

## **CONSULTATION**

None required or undertaken.

## **FINANCIAL CONSIDERATIONS**

There are no direct financial considerations in respect of the self-assessment. If through the Action Plan financial implications are identified they will be addressed through the budget processes or be the subject of a separate report to Council.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

All departments of Council have been involved in the self-assessment.

## **SUMMARY**

The conducting of a self-assessment using the Promoting Better Practice Review checklists has been a valuable pro-active approach to reviewing Council's operations and practices. The assessment has revealed an acceptable level of performance. An Action Plan has been prepared covering the priority areas for immediate attention.

## **RECOMMENDATION**

That the Action Plan for the Promoting Better Practice Review be noted.

John Clark  
Director Corporate

John McKee  
General Manager

**Attachments: Promoting Better Practice Checklist Action Plan - 791263**

**Ku-ring-gai Council**  
**Promoting Better Practice Review**  
**Checklist Action Plan**

(all due dates are 2007 unless otherwise stated)

**Module 1: Governance**

NO.	ITEM	ISSUE	SUMMARY OF ACTION REQUIRED	ACTION BY	DUE BY	NOTES
1.01 to 1.04	Values	Values to be developed (has commenced)	New staff climate survey, develop values with councillors and staff, incorporate values into corporate documentation	GM Directors	30 Jun 08	
1.05	Strategic/Corporate plan	No plan exists	Complete Sustainability Plan (as overall strategic/corporate plan), integrate plan into other plans	GM Directors	31 Mar 08	
	Strategic management checklist	DLG checklist not completed	Complete checklist	Dir Strat	30 Jun 08	
1.15 & 1.24	Code of Conduct dissemination and pecuniary interest training	Structured program for refresher training needed Make code available to all delegates, contractors and tenderers Do public know how what to do if suspect a breach?	Establish program so that refresher training for councillors and staff is provided at least every 12 months, implement Review existing processes and update  Review existing processes and update	Mgr HR Int Omb  Directors  Int Omb	30 Sep  31 Dec  31 Dec	

NO.	ITEM	ISSUE	SUMMARY OF ACTION REQUIRED	ACTION BY	DUE BY	NOTES
1.17	Gifts and benefits policy	No policy	Review existing material, develop policy, adopt, implement	Dir Corp	30 Sep	
1.18	Communication devices	No policy on use of mobile phones, pda's, office equipment	Develop policy, adopt, implement	Dir Corp	30 Sep	
1.19	Disclosure returns	Not completed by new designated employees on commencement. Are forms completed correctly?	Establish procedures for completion by new designated employees on commencement  Check correctness of completed forms.	Mgr HR  Dir Corp	30 Sep  30 Sep	
1.21	Disclosure returns by S355 committees	Should external committee members complete returns?	Review potential for conflict of interest by S355 committee members, determine and undertake process for completion	Directors	31 Dec	
1.24	Pecuniary interest	Conflict of Interest policy is 10 years old	Review policy, adopt, implement	Dir Corp	31 Dec	
1.25	Business ethics statement	No statement exists	Develop statement, adopt, incorporate into processes	Dir Corp	31 Dec	
1.27	Risk management plan	Policy in draft form	Review draft, adopt, implement	Directors	30 Jun 08	
1.31 & 1.32	Fraud control policy and assessment	No policy No assessment	Develop and adopt policy Undertake assessment	Int Omb	31 Mar 08 30 Jun 08	
1.33	Business continuity	Plan in draft form	Review draft, adopt, implement	Dir Corp	31 Dec	
1.34	Internal audit program	No program	Recruit internal auditor Develop program	Int Omb	30 Sep 30 Jun 08	
1.35	Legislative & regulatory processes	No system to ensure obligations met	Develop and implement system	Int Omb	31 Dec	

1.36	Reporting of legislative non-compliance	No reporting system in place	Develop and implement system	Int Omb	31 Dec	
1.38	Legal services	Tenders not assessed	Assess tenders and adopt panel	Corp Lawyer	30 Sep	
1.39	Policy and procedures for managing contracts and disposal of assets	No policy and procedures	Develop policy, adopt, implement	Dir Corp Dir Oper	31 Mar 08	
1.40	Monitoring and auditing contract performance and disposal of assets	No process	Review existing processes, develop process, adopt, implement	Dir Corp Dir Oper	31 Mar 08	
1.41	Complaints procedures re procurement and disposal of assets	No procedures	Develop procedures, adopt, implement	Dir Corp Dir Oper	31 Mar 08	
1.42	Procedures for monitoring performance of contractors	Limited procedures	Review existing procedures, adopt, implement	Dir Corp Dir Oper	31 Mar 08	
1.43	Risk analysis of procurement and disposal practices	No analysis	Undertake analysis	Dir Corp Dir Oper	31 Mar 08	
1.46	Privacy management plan	Plan is 6 years old	Review existing plan, adopt plan Review compliance with plan	Dir Corp Dir Corp	30 Sep 31 Dec	
1.49	Privacy training	Structured program for refresher training needed	Establish program so that refresher training for councillors and staff is provided at least every 12 months, implement	Man HR	31 Dec	
1.50	Records management	Requires general review	Review and develop action plan for records management	Dir Corp	31 Dec	
1.53	Public documents	Are all documents readily available?	Review compliance with S12, implement necessary changes	Dir Corp	31 Dec	
1.59	Public Notices	Is S 705 complied with?	Review compliance, make necessary changes	Dir Corp	31 Dec	
1.61	Delegations	Requires general	Undertake review for currency, restructure	Directors	31 Dec	

		review	on new intranet			
1.62	Delegations, public availability	Is existing satisfactory?	Review compliance, make necessary changes	Dir Corp	31 Mar 08	
1.63	Delegations review	All delegations not regularly reviewed	Establish process for regular review of delegations, implement	Dir Corp	31 Mar 08	
1.64	Delegations audit	Use of delegations not audited	Establish process for regular audit of delegations, implement	Dir Corp	31 Mar 08	
1.65 to 1.67	Policy register	Review and update required, procedures needed	General review and establishment on new intranet, document procedures for updating and communication	Directors	31 Mar 08	
1.75	Council Meetings	Do minutes for closed meetings comply with Act?	Review minutes, make necessary changes to procedures Update Code of Meeting Practice	Dir Corp Dir Corp	30 Sep 30 Sep	
1.77 to 1.80	S355 and other committees	Is existing documentation adequate? Is training needed? Is record keeping satisfactory?	Review existing documentation, develop additional documentation  Review training needs, implement Review record keeping, implement	Dir Com  Dir Com Dir Com	31 Dec  31 Dec 31 Dec	
1.81	Candidates information sessions	Program for Sep 2008 needed	Establish program for candidates	Dir Corp	30 Jun 08	
1.82	Councillor induction	Induction program required for Sep 08	Establish program	Mgr HR Int Omb	30 Jun 08	
1.83	Councillor training records	Adequacy of training program records	Develop improved training records	Dir Corp	30 Sep	

1.85 1.87	Councillor/staff interaction and information policy	Policy is 9 years old	Review adequacy of existing policy, update and adopt	Dir Corp	30 Sep	
1.89 to 1.91	Customer complaints handling	Are policy and procedures satisfactory? Provide staff training  No reporting systems	Review policy and procedures and update as required, implement, publicise  Establish training program for all staff, implement Establish complaints systems	Dir Com  Mgr HR Int Omb Dir Com	30 Sep  31 Dec 30 Sep	
1.93	Protected Disclosures policy	Policy is 10 years old	Review policy and adopt	Dir Corp	31 Dec	
1.98	Information Technology	No strategic plan	Develop plan and adopt	Mgr IT	31 Mar 08	

## Module 2: Planning and Other Regulatory Functions

NO.	ITEM	ISSUE	SUMMARY OF IMMEDIATE ACTION REQUIRED	ACTION BY	DUE BY	NOTES
2.39	Environmental compliance monitoring	Pro-active program?	Review adequacy of existing procedures	Dir D&R	30 Sep	
2.40 & 2.41	Enforcement and prosecutions policy, orders policy	Draft policy to be adopted	Review draft policy and adopt	Dir D&R	30 Sep	
2.64	Swimming pool awareness program	Program required?	Review need for awareness program, develop program if required	Dir D&R	30 Sep	

### Module 3: Asset & Financial Management

NO.	ITEM	ISSUE	SUMMARY OF IMMEDIATE ACTION REQUIRED	ACTION BY	DUE BY	NOTES
3.1	Asset management strategy/plan	No comprehensive strategy/plan	Develop and adopt plan	Dir Oper	30 Jun 08	
3.11	Land Register	Fully comply with S53?	Review existing data and develop new register	Dir Strat	31 Dec	
3.12	Plans of Management	Not all community land has plans	Complete plans of management	Dir Strat	30 Jun 08	
3.15	Long term financial model	Requires enhancement	Redo model	Mgr Fin	31 Dec	
3.21	Crown Reserves income	All income correctly accounted and held separately?	Check all crown reserve income accounting, make any changes	Mgr Fin	31 Dec	
3.22	Overdraft policy	No policy	Develop and adopt policy	Mgr Fin	30 Sep	
3.23	Debt policy	No policy	Develop and adopt policy	Mgr Fin	31 Dec	
3.27	Hardship policy	No policy	Develop and adopt policy	Mgr Fin	31 Dec	
3.32	Business Plans	No business plans for 9 category 2 businesses	Review classifications for appropriateness, develop and adopt plans	Directors	30 Jun 08	

## Module 4: Community & Consultation

NO.	ITEM	ISSUE	SUMMARY OF IMMEDIATE ACTION REQUIRED	ACTION BY	DUE BY	NOTES
4.8	Community consultation	Policy is 5 years old	Review policy, update, adopt	Dir Strat	31 Dec	
4.14	Customer service standards	Standards not in place	Complete plan	Dir Com	31 Dec	
4.16	Communications policy	No policy	Develop policy, implement	Dir Com	31 Dec	
4.17	Annual report	No communication plan for report	Develop plan, implement	Dir Com	31 Dec	
4.25	Publications in community languages	Limited publications	Review need for publications in community languages, develop plan	Dir Com	30 Sep	
4.27	Tourism plan	No plan	Review need for plan	Dir Strat	31 Dec	
4.32	Economic development	No plan	Review need for plan	Dir Strat	31 Dec	

## Module 5: Workforce Relations

NO.	ITEM	ISSUE	SUMMARY OF IMMEDIATE ACTION REQUIRED	ACTION BY	DUE BY	NOTES
5.3 & 5.4	HR procedures/ resources	Requires comprehensive database on intranet Adequately covered in induction?	Consolidate and transfer policies to intranet  Review HR standards coverage in induction, make necessary changes, implement	Mgr HR  Mgr HR	30 Jun 08  30 Jun 08	
5.5	Child protection	Is Corporate Standard current?	Review standard, update, adopt, implement	Mgr HR	31 Dec	

NO.	ITEM	ISSUE	SUMMARY OF IMMEDIATE ACTION REQUIRED	ACTION BY	DUE BY	NOTES
5.16	Employee attitude survey	Follow up survey to be undertaken	Complete survey (scheduled for Aug) and report	Mgr HR	31 Dec	
5.25	Recruitment policy and procedures	Corporate Standard 9 years old	Review standard, update and authorise	Mgr HR	30 Jun 08	
5.29 & 5.30	Position descriptions	Not all exist or in new format	Complete new position descriptions for all staff (scheduled for 30 Jun) and establish regular review process	Mgr HR Directors	30 Sep	
5.31	Salary system	Process not fully documented	Document system and procedures	Mgr HR	30 Sep	
5.41	EEO Management Plan	Doesn't consider National Framework for Women in LG	Review plan, update, adopt	Dir Com	31 Dec	
5.43	Induction and orientation procedure	Procedure is 5 years old	Review procedure, update and authorise if required	Mgr HR	31 Dec	
5.44	Performance review	Corporate standard is 7 years old	Review standard, update and authorise if required	Mgr HR	30 Sep	
5.45	Training plan	Corporate standard is 8 years old No comprehensive training plan	Review standard, update and authorise if required Develop training plan	Mgr HR Mgr HR	31 Dec 31 Dec	
5.49	OH&S corporate standard	Corporate standard is 6 years old	Review standard, update and authorise if required	Mgr HR	31 Dec	
5.50	Injury management corporate standard	Corporate standard is 6 years old	Review standard, update and authorise if required	Mgr HR	31 Dec	
5.60	Secondary employment	No policy	Complete policy (scheduled for 31 Dec)	Mgr HR Int Omb	31 Dec	
5.61	Exit interviews	Policy 9 years old	Review policy, update and authorise if required	Mgr HR	31 Dec	

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## **INVESTMENT & LOAN LIABILITY AS AT 30 JUNE 2007**

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### **EXECUTIVE SUMMARY**

**PURPOSE OF REPORT:**

To present to Council investment allocations, returns on investments and details of loan liabilities for June 2007.

**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 18 July 2006 (Minute No.254).

**COMMENTS:**

The Reserve Bank of Australia (RBA) maintained the official cash rate at 6.25% during the month of June.

**RECOMMENDATION:**

That the summary of investments and loan liabilities for June 2007 be received and noted.

## PURPOSE OF REPORT

To present to Council investment allocations, returns on investments and details of loan liabilities for June 2007.

## 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 18 July 2006 (Minute No. 254).

This policy allows Council to utilise the expertise of external fund managers or make direct investments for the investment of Council's surplus funds.

## COMMENTS

During the month of June, Council had a net cash inflow of \$2,930,000 and gross interest and capital appreciation on Council's investments was \$235,000.

Council's total investment portfolio at the end of June 2007 is \$55,228,400. This compares to an opening balance of \$36,366,900 as at 1 July 2006.

Council's interest on investments for the financial year 2006-2007 is \$2,853,400 compared to the annual budget of \$2,760,000.

Council's total debt as at 30 June was \$10,512,000, a reduction of \$643,400 from \$11,155,400 on 30 June 2006. Debt increased by a net \$472,800 during June 2007 due to the new borrowing of \$1,000,000, which was partially offset by six loan repayments totalling \$527,200.

## PERFORMANCE MEASUREMENT

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

- **Management of General Fund Bank Balance**

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

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

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

Item 6

S05273  
12 July 2007

▪ **Allocation of Surplus Funds**

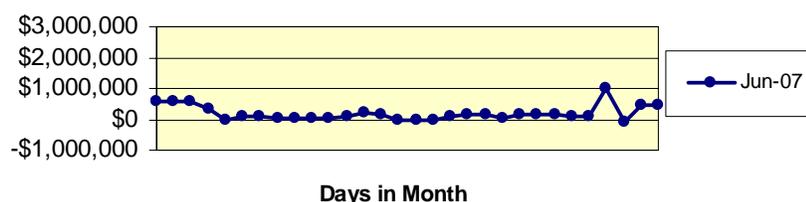
This represents the mix or allocation of surplus funds with each of Council’s Fund Managers and direct securities.

Council’s Investment Policy requires that not more than 35% of funds are to be with any one Fund Manager. All funds are kept below this required level of 35%.

**Management of General Fund Bank Balance**

During June, Council had a net inflow of funds of \$2,930,000. This includes a new loan of \$1,000,000 taken up on 27 June 2007.

**Management of General Fund Bank Balance**



**Funds Performance against the UBS Bank Bill Index**

Issuer	Investment Name	Investment Rating	Invested at 30-Jun-07 \$000's	Period Return (%)	YTD Return (%)	% of Total Invested
Macquarie Bank	Macquarie Income Plus	A	9,880	5.85	6.60	17.75
Select Access Investments	Titanium AAA	AAA	2,000	7.43	7.25	3.59
Aberdeen Asset Management	Aberdeen Income Fund	A	11,836	6.19	6.69	21.27
Perpetual	Perpetual Credit Income	A	5,404	6.33	6.52	9.71
Bendigo Bank	Turrumurra Community Bank	BBB	559	6.52	6.34	1.00
Adelaide Bank	AAA SAVER	AAA	13,550	6.63	6.58	24.35
CBA/Helix Capital Jersey	Oasis Portfolio Note	AAA	2,000	7.35	7.33	3.59
Longreach/Rabobank	Longreach CPWF	AAA	3,313	1.79	23.64	5.95
ABN AMRO/Rembrandt Australia	SURF CPDO	AAA	2,015	8.43	8.39	3.62
NSW Treasury Corp	KRGC Tcorp LTGF	UNRATED	2,092	-12.83	6.98	3.76
UBS AG London	LongreachSTIRM	AA+	1,000	3.99	3.94	1.80
Athena Finance	Camelot	AA-	1,010	4.91	3.09	1.81
Deutsche Bank	Longreach Series 26	AA-	1,000	0.00	0.00	1.80
<b>TOTALS/WEIGHTED AVERAGES</b>			<b>55,659</b>	<b>5.23</b>	<b>7.45</b>	<b>100</b>

<b>Matured/Traded Investments - Weighted YTD Average Return (%)</b>	<b>5.94</b>
<b>Weighted Average Overall Return Year To Date (%)</b>	<b>7.37</b>
<b>Benchmark Return: UBSWA Bank Bill Index(%)</b>	<b>6.42</b>
<b>Variance From Benchmark (%)</b>	<b>0.95</b>

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The weighted average return for the total portfolio year to date was 7.37% compared to the benchmark of the UBS Bank Bill Index of 6.42%.

**Income Investments and Growth Investments**

Since Council's investment policy was changed in July 2006, a wider range of investments have been made involving diversification of the portfolio into different investment types, longer maturities and different markets. Council's investments now include the following which are considered as growth investments i.e. their returns are principally derived from growth in the value of capital invested, rather than income payments. Council's total weighted return from these growth investments in 2006/07 has been 11.2%, compared to 6.7% from income investments.

**Comments on Individual Investment Performance**

**Longreach/Rabobank:** This investment is in property, infrastructure and utilities and was made on 29 September 2006. The unit price has improved by 10.43% since inception with a decrease of 1.89% over the month of June. As this investment has been in existence for less than 1 year, returns when annualised can appear to exaggerate performance. It should be noted that the actual return for the fund is 10.43% which is above the Fund Manager's expectation to have a target range of 8% to 10% pa over the life of the investment.

**NSW Treasury Corporation:** The investment in the medium term growth fund was made in October 2006. During June funds were switched to the long term growth fund to benefit from higher yields over the long term. This is a fund managed by the NSW Treasury Corporation which invests in a range of Australian shares 36%, international shares 29%, bonds, listed property and cash 35%. The returns from the bond and property sectors declined in June which resulted in a 12.83% negative return for the month but overall the investment has returned 6.98% annualised.

**WBC Athena Finance/Camelot:** This investment was made at the end of February 2007 in a fund that provides an opportunity to diversify into a unique foreign exchange strategy with low correlation to other products and asset classes. The fund had a positive return for the month of June of 4.91%, or 3.09% annualised. The fund trades \$US and \$A, and during June its \$A holding rose from \$US81.96c at the start of the month to \$US85.60c at the end. Overall performance for this investment is positive at 3.09%. This is a growth investment and some degree of volatility of return is to be expected on a month to month basis. As return of capital for this product is guaranteed, long term performance cannot be negative.

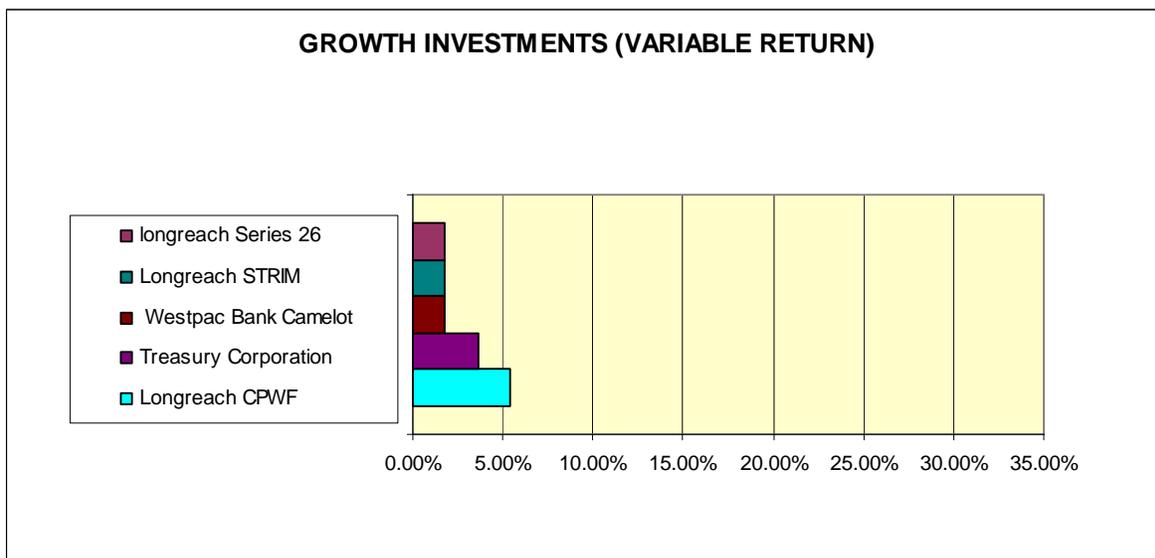
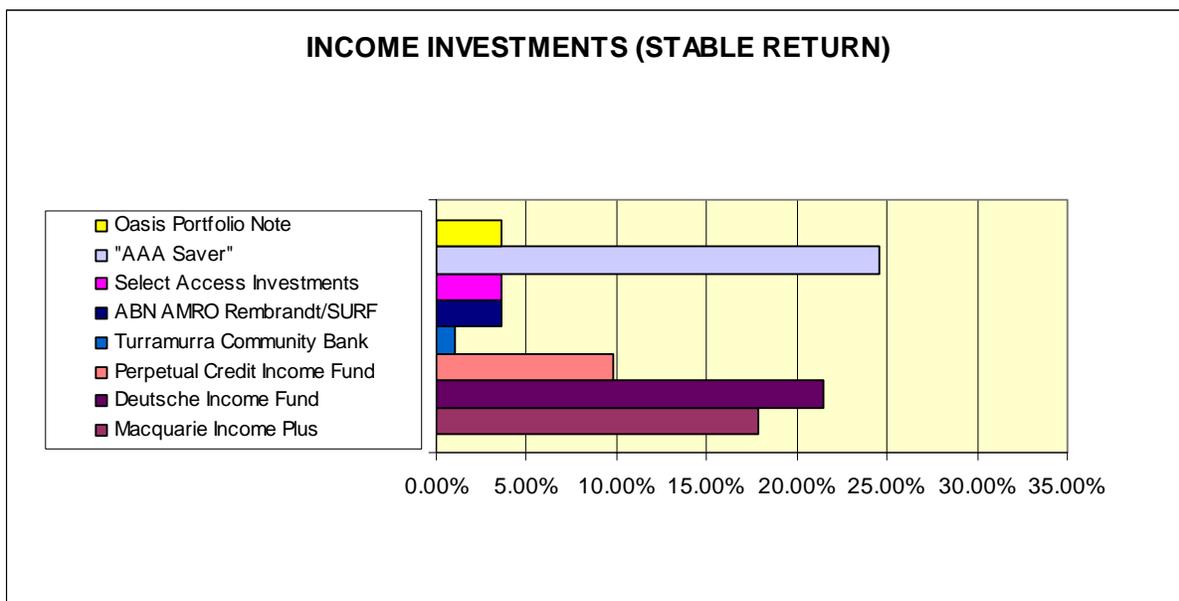
**Longreach/STIRM:** This new investment purchased in February is linked to the performance of a short term interest rate yield enhancement strategy. Returns are based on a fixed coupon of 2.5% pa payable quarterly and a floating coupon based on the performance with additional return on maturity as capital gain. As fees for this product were taken up front, the Net Asset Value (NAV) started 0.50% lower at 99.50. To date, no floating coupon performance returns have been paid and the investments performance is shown at its fixed coupon return only. Capital return for the investment is guaranteed at maturity and fund manager's expectation is a target return between 8% and 10% per annum over the term of the investment.

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**Longreach/Series 26:** This new investment was made in June in a basket of property spread globally across seven geographical areas. The chosen securities provide potential for regular income along with potential capital growth. Returns are based on a contingent semi annual coupon of 7.0% pa and additional return on maturity as capital gain. The Net Asset value (NAV) is 94.55 which is inclusive of a component of the first coupon payment in December 2007 the NAV at issue date was 97.00 after upfront distribution fees. There were two risers and five fallers in the basket as several stocks were sold lower as global equity markets suffered weakness on the sell off in the Bond market.

Council's funds during June were allocated as follows:



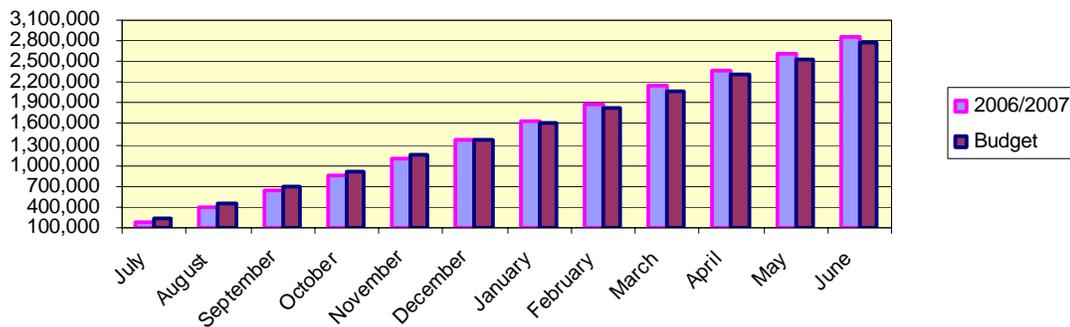
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**Cumulative Interest**

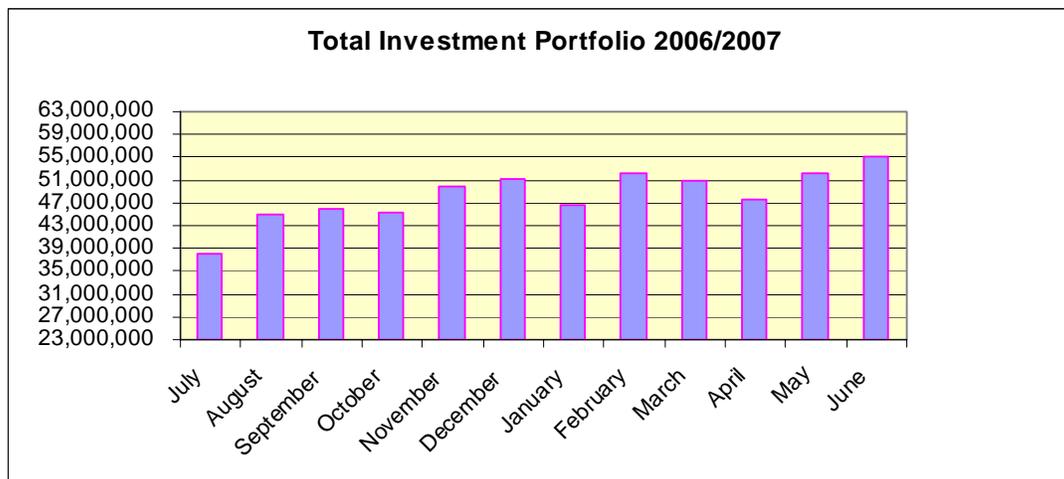
The following chart compares the interest earned on a cumulative monthly basis against the budgeted year to date forecast. At the end of the financial year 2006-2007 interest earnings totalled \$2,853,400 against a budget of \$2,760,000, representing a positive variance of \$93,400. This positive performance has been achieved despite the non-realisation of a budgeted \$450,000 in interest earnings on funds from the planned depot sale which has been deferred to 2007/08.

**Cumulative Interest 2006/2007 v's Budget**



**Total Investment Portfolio**

The following chart tracks the year to date investment portfolio balances for 2006/2007.



During June 2007 Council's investment portfolio increased by \$2,930,000.

Council's closing investment portfolio after interest and fees of \$55,228,400 in June 2007 is \$18,861,500 higher than the July 2006 opening balance of \$36,366,900.

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**Summary of Borrowings**

There were six loan repayments made in June and one new loan taken up increasing total debt to \$10,512,200.

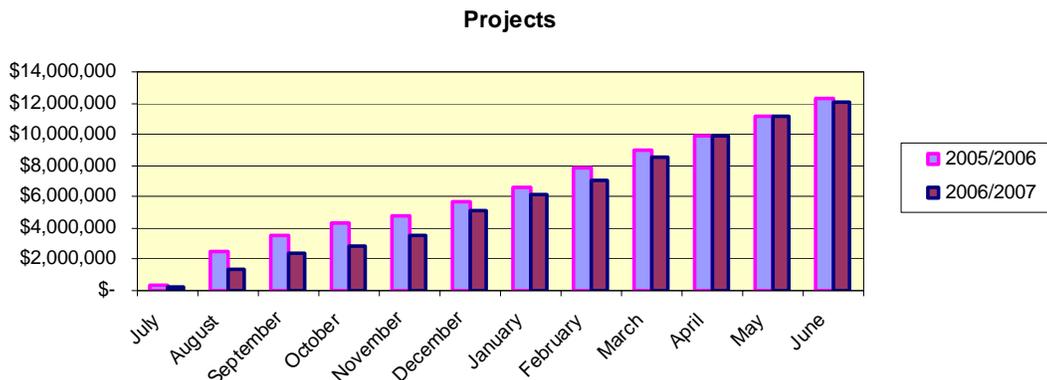
Lender	Loan Number	Original Principal	Principal Repayments	Balance Outstanding	Interest Rate	Draw Down Date	Maturity Date
Westpac	127	\$1,000,000	\$869,776	\$130,224	6.32%	29-Jun-98	29-Jun-08
CBA No 1	128	\$2,600,000	\$2,080,000	\$520,000	6.56%	29-Jun-99	13-Jun-09
CBA No 2	129	\$2,600,000	\$1,820,000	\$780,000	6.56%	13-Jun-00	14-Jun-10
CBA	130	\$2,600,000	\$1,363,374	\$1,236,626	6.32%	26-Jun-01	28-Jun-11
NAB	131	\$2,600,000	\$1,082,426	\$1,517,574	6.85%	27-Jun-02	27-Jun-12
Westpac	132	\$1,882,000	\$639,942	\$1,242,058	5.16%	27-Jun-03	27-Jun-13
CBA	133	\$1,800,000	\$426,949	\$1,373,051	6.36%	23-Jun-04	23-Jun-14
Westpac	134	\$1,600,000	\$183,495	\$1,351,444	6.05%	29-Jun-05	30-Jun-15
NAB	135	\$1,400,000	\$103,870	\$1,296,130	6.48%	30-Jun-06	29-Jun-16
NAB	136	\$1,000,000		\$1,000,000	7.04%	27-Jun-07	27-Jun-17
<b>TOTAL</b>		<b>\$19,082,000</b>	<b>\$8,569,832</b>	<b>\$10,512,168</b>			

**Capital and Operating Projects**

During June 2007, Council expended \$912,900 on projects, which compares to \$1,026,400 during June 2006, a decrease of \$113,500. It should be noted this figure does not take into account the accruals which need to be taken up in the year 2006-2007.

Council’s 2006/2007 total revised budget for projects is \$16,965,550 compared to actual expenditure of \$12,104,000, which leaves funds of \$4,861,500 unexpended, subject to accruals as mentioned above.

The following graph compares the gross cumulative monthly expenditure totals for projects for financial years 2005/2006 and 2006/2007.



## **CONSULTATION**

Not applicable.

## **FINANCIAL CONSIDERATIONS**

The Reserve Bank of Australia (RBA) maintained the official cash rate at 6.25% during the month of June.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

Not applicable.

## **SUMMARY**

For the financial year 2006-2007:

- Council's total investment portfolio is \$55,228,400. This compares to an opening balance of \$36,366,900 as at 1 July 2006, an increase of \$18,861,500.
- Council's interest on investments totals \$2,853,400. This compares to the year to date budget of \$2,760,000.
- Council's total debt has reduced by \$643,400 to \$10,512,200.

## **RECOMMENDATION**

That the summary of investments and loan liabilities for June 2007 be received and noted.

## **CERTIFICATE OF THE DIRECTOR FINANCE & BUSINESS**

I certify that as at the date of this report the investments listed have been made and are held in compliance with Council's Investment Policy and appropriate legislation.

Edwin Athaide  
**Accounting Officer**

John Clark  
**Director Corporate**

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## HERITAGE ADVISORY COMMITTEE - MINUTES OF 16 APRIL 2007

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### EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	To report to Council the Minutes from the Heritage Advisory Committee meeting held 16 April 2007.
<b>BACKGROUND:</b>	Council's Heritage Advisory Committee (HAC) met on 16 April 2007. The minutes taken at this meeting were confirmed and accepted at the HAC meeting held on 16 July 2007.
<b>COMMENTS:</b>	A range of heritage issues were discussed at the committee meeting and a number of issues were raised for further consideration including the review of potential heritage items and future projects for the HAC committee for 2007.
<b>RECOMMENDATION:</b>	That Council receive and note the Minutes from the Heritage Advisory Committee meeting held 16 April 2007.

## PURPOSE OF REPORT

To report to Council the Minutes from the Heritage Advisory Committee meeting held 16 April 2007.

## BACKGROUND

On 16 April Council's Heritage Advisory Committee (HAC) held their meeting at the Council Chambers, the minutes taken at this meeting were confirmed and accepted at the meeting of the Heritage Advisory Committee which was held on 16 July 2007.

## COMMENTS

### 16 April 2007 Meeting

#### The Heritage Committee Charter

The Heritage Committee Charter was distributed to all of the members of the HAC committee present for discussion. The following matters were raised:

- A question was asked about whether the HAC committee could review Development Applications and whether or not Council had done this in the past as the Charter refers to development applications. It was noted that in the past the HAC committee had dealt with development applications which were referred to the Committee by the Director Development and Regulation. A problem arose as this caused delays in the development application process so this practice was stopped.
- The matter of Heritage Assistance funding (as mentioned in the Charter on page 4) was raised. Questions were asked about whether there was any budget allocation. It was noted that Council did not have any current budget for Heritage assistance funding but staff were looking into ways of improving this. The NSW Heritage Office has notified Council that funding is not currently available for this kind of project at local level. This money could go towards looking at reducing owners costs for heritage maintenance and reduction in DA costs for heritage items.
- It was also noted that in the Charter (pg 2) it mentions the ability of the HAC committee to allow members of the public to address the Committee on heritage issues. Opportunities may exist in the future to address Council by "providing notice of their attendance to the Chairperson prior to the meeting".

### Key Projects for 2007

The following potential key projects for 2007 were discussed by the Committee:

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- Photo Competition - for school children (work with school curriculum).
- Self Guided heritage tours (use maps)- walking tours where the public could download a map off the council website or pick up a map from the Council Chambers or Ku-ring-gai Historical Society and visit the local heritage in the area. This would help develop local awareness of heritage.
- It was requested that Council require photographic recording of all properties that are going to be demolished as part of their DA application. This would act as an important historical reference if council ever needs to know what type/style of house was there in the first place. Also where possible the archival record should be to the national trust standards.
- It is noted that Council does not have a conservation management plan (maintenance schedules) for all of the Council owned heritage listed buildings ie. Tulkiyan and the Council Chambers. Apparently a plan of management would have been written many years ago but it never made it to Council for adoption. It is suggested that the HAC find the original plans and sign them.
- It is also noted that the listing of the Council Chambers in the State Heritage Register contains several errors. The first error is the date in which the building was built and the second is the architect who built it (both of which are currently being disputed). It is noted that Council bought the land in 1927 (approximately).
- Cr Anderson noted that the original light fittings which were present in old photos in the court yard of the Council chambers have been located in Rosedale Road at a memorial site. Council is in the midst of seeking to return to Council's possession as part of Council's history.

**Potential Heritage Item Review**

The HAC committee was given an overview of where Council is with the Potential Heritage Review. The Potential Heritage Item Review went on exhibition at the end of 2006 (submissions closed 20 December 2006). Council staff are currently going through the submissions received for the exhibition. Concurrently Council is also preparing the Comprehensive LEP which is required by the Department of Planning to be consistent with the "Standard template". Ku-ring-gai Council has been given a timeframe by the Department of Planning in which they have to complete their Comprehensive LEP, it is by 2011. It is envisaged that Council will recommend that the listing of any heritage items and Heritage Conservation Area (HCA) should be considered as part the Comprehensive LEP instead of preparing a whole new LEP just for heritage properties.

- The Committee was advised that a report will go to Council on 24 April 2007 outlining the timeframe for the Potential Heritage review.

A further report was scheduled to go to Council on 12 June 2007 and would be due for early release in mid May to give Councillors and owners / residents of the potential heritage items time to respond to the report.

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## **Tulkiyan**

Copies of the Report (and the two attachments) were circulated at the HAC meeting for members to review, comment on and adopt. The terms of reference were adopted by HAC members unanimously.

## **CONSULTATION**

The Heritage Advisory Committee includes representatives from the community and nominated heritage organisations.

## **FINANCIAL CONSIDERATIONS**

The cost of running the Committee is covered by the Urban Planning budget.

## **CONSULTATION WITH OTHER COUNCIL DEPARTMENTS**

Where relevant, consultation with other departments is conducted.

## **SUMMARY**

The Heritage Advisory Committee meeting was held on 16 April 2007. A range of issues were discussed and a number of issues were raised for further review.

## **RECOMMENDATION**

That Council receive and note the Minutes from the Heritage Advisory Committee Meeting held on 16 April 2007.

Antony Fabbro  
Manager Urban Planning

Steven Head  
Director Strategy

**Attachments: Minutes from Heritage Advisory Committee Meeting held 16 April 2007 - 799576**

**MINUTES  
HERITAGE ADVISORY COMMITTEE MEETING  
MONDAY 16 APRIL 2007**

**Council Chambers  
818 Pacific Highway, Gordon**

**MEETING OPENED:** 6:50 PM

**1.0 WELCOME BY THE CHAIR**

**2.0 APOLOGIES:** Councillor Malicki, Councillor Cross and Councillor Shelley and Ms Mack

**ATTENDANCE**

**Community Members:** Mr Moore (National Trust), Mr Stutchbury (RAIA), Mr Holman, Ms Harvey (Ku-ring-gai Historical Society)

**Councillors:** Councillor J Anderson

**Council Officers:** Mr A Fabbro, Manager Urban Planning, Mr P Dignam, Heritage Advisor, Ms K Chapman, Planner.

**3.0 CONFIRMATION OF MINUTES OF 26 MARCH 2007**

Councillor Anderson suggested some small changes be made to the minutes of 26 March 2007 these include: Changes in Section 6.0- which include changing "bi-weekly" to "bi-monthly" for clarity, changing "Macy Stapleton" to "Maisy Stapleton", changing "Ms Margaret White" to "Ms Margaret Wyatt" and in the "Comments" section change 'the adaptive re-use' to "heritage buildings" to improve clarity. In section 9.1- a minor change was required for "Murrata" to "Mahratta". The minutes were accepted after these amendments were made.

Moved; Councillor J Anderson  
Seconded; Mr G Holman

**4.0 DECLARATIONS OF PECUNIARY INTERESTS**

None declared.

**5.0 The Heritage Committee Charter (copy attached)**

The Heritage Committee Charter was distributed to all of the members of the HAC committee present, they were then asked to have a look at the document again and read the "Aims", "Objectives" sections carefully. The HAC committee was also encouraged to ask any questions if they didn't understand anything in the Charter. Several questions were then asked and the following is a brief list of the topics of conversation:

- Cr Anderson asked if the members of the committee were familiar with the Burra Charter and whether this document can be made available (via email) to those members that want one to read. (especially the new members).
- A question was asked about Development Applications and whether the HAC committee could review development applications (DAs) and whether or not Council had done this in the past as the Charter refers to DA's. It was discussed that in the past the HAC committee had briefly dealt with a few DA's (when they are referred to the HAC committee) but a problem arose as this caused a delay in the DA process so this practice was stopped. Cr Anderson has spoken to the Mayor about this issue and discussions are being undertaken in regards to this matter to consider a proposal that HAC members could be notified by email concerning certain development application matters.
- The matter of Heritage Assistance funding (as mentioned in the Charter on page 4) was brought up. One of the members of the committee wanted to know if Council had in fact any money (budget) allocated to this cause. It was noted that, Council didn't have any current budget for Heritage assistance funding but staff were looking into ways of improving this. In the past Council was successful in receiving funding for this cause, but this changes from year to year. Mr Fabbro mentioned that he spoke to the National Heritage Office and they notified him that funding was not currently available for this kind of project at a local level.
- In the future there may be a possibility of funding towards heritage projects through the new restructure of the Management Plan (i.e. \$10,000- \$20,000 capital funds works). This money could go towards looking at reducing owners costs for heritage maintenance and reduction in DA costs for heritage items (currently if you want to lodge a heritage DA you have to pay an advertisement fee of approx \$800). It was also mentioned that this kind of project should be supported by Council as most of the maintenance that owners apply for grants for are normally low cost and low scale i.e. painting or fixing a fence/window.
- It was also noted that in the Charter (page 2) it mentions the ability of the HAC committee to 'allow members of the public to address the Committee on Heritage issues'. It was noted that this should be supported by Council, although due caution should be taken (to make sure only heritage matters were dealt with). It was noted that this matter should be made public if indeed it was decided that heritage owners could address the HAC committee. It was noted that the Charter currently addresses this issue and in fact sets in place a method for the community (heritage property owners) to address Council by "providing notice of their attendance to the Chairperson prior to the meeting".
- Absence from HAC meetings: Cr Anderson asked whether there was any mechanism for dealing with "leave of absence" and what that term of reference meant. It was suggested that a leave of absence is a process

where the HAC member must seek prior approval to be excused from attending the committee meetings for a set period of time. Ideally, correspondence must be made via an email or letter prior to the “period of absence”, explaining why the member cannot attend a particular meeting, for it to be accepted and noted. It was mentioned that a stronger term other than “leave of absence” needs to be used in the Charter to fix confusion. It also states in the Charter that “where a member of the Committee fails to attend three (3) meetings of the Committee without leave of absence, Council may terminate appointment of that member of the Committee”. It was noted that in this circumstance replacement members of the HAC committee could be assigned.

- The Heritage awards were discussed, it was noted that most of the money was allocated to the prize, the panel and the resources needed to cater for the function. It was a good way to raise the profile of heritage in Ku-ring-gai. Mosman Council has a pretty complex heritage awards system. It was noted that the HAC committee should look at the way Mosman Council has approached this issue and take a comparative approach. This is also a way for Council to get free, positive publicity. Willoughby Council was another Council which has an awards system that has been running for a long time, this seems to have been successful; more research needs to be done. It was noted that the last time Ku-ring-gai Council did heritage awards we included 5-6 categories which were very successful.
- Hunters Hill Council also has a Heritage Advisory Committee and it was briefly discussed whether Council should be seeking more information about how they run their committee and who is on their committee and bounce ideas off one another. This might help Ku-ring-gai’s HAC committee with future projects. Mr Stutchbury mentioned that he previously appeared before this committee to explain a scheme for which he was the architect on the HAC committee at Hunters Hill.
- The final matter discussed pertaining to the Charter is on page 5, which notes whether or not this committee and its members need to submit any annual disclosures or whether or not any have been done in the past. It was noted by Mr Fabbro that in fact all Council staff in senior positions are required to submit annual disclosures but this section of the Charter was in place as a protective measure for all those involved. Mr Fabbro stated he will seek further advice on this matter and report back to the HAC committee at the next meeting. It is also noted that all members are asked at the start of each meeting if they would like to declare any pecuniary interests and as a result, if a matter if that topic is discussed than that member with a pecuniary interest would be asked to step out of the room (if they don’t do so voluntarily). It is noted that the HAC committee is a non-statutory committee.

## **7.0 Key Projects for 2007**

A quick review of the last HAC committee minutes took place to briefly explain what was talked about in terms of key projects for 2007.

- HAC members were given a brief on the photo competition and how successful it was the last time the HAC committee decided to have one. It was noted that if Council was to have another photo competition it would be more worthwhile if they encourage the school children in the local government area to participate. One way of doing this would be to conducting the photo competition in line with the schools curriculum.
- Self Guided heritage tours (use maps)- it would be useful to have these walking tours were the public could download a map from the Council website or pick a map up from the Council Chambers or Ku-ring-gai Historical Society and visit the local heritage in the area. Some of the places/themes suggested were a railway tour ending at Tulkiyan or Eryldene. This would help develop local awareness of heritage. It was suggested that this could be conducted in such a way as to be linked with the Healthy living program which is being encourage by both local and State governments. There might be possibilities of grants if this was done. Council could get the high school kids involved by having a competition to see who could make a heritage tour (of any kind) for Ku-ring-gai Council, with a small prize awarded for the winner. Another way of getting everyone in the community involved would be to made tapes/cds/electronic downloadable file where people could listen to a talk on their walkmans/phones/mp3 players whilst they are walking around the designated track with a map. This would help people who have difficulty with reading or following maps (or who don't want to walk around with a map).
- It was requested that Council require photographic recording of all properties that are going to be demolished as part of their DA application. This would act as an important historical reference if Council ever needs to know what type/style of house were there in the first place. Also where possible the archival record should be to the national trust standards. Council staff informed that at the current time Council cannot ask an owner of a house that is to be demolished for more information on there property (in terms of heritage) unless it is already a heritage item. It is important to have a record of all houses in Ku-ring-gai because if the house was to be demolished despite its heritage significance at least Council will have an archival record. Some HAC members suggested that Council might need to look at including a digital photo graph of the house as a requirement on the DA guide and DA application form, regardless of whether it is heritage or not.
- Cr Anderson spoke about an article she was reading, which was written by the National Heritage Office that mentioned Woollahra Council and how they had a court case to do with the demolition of a house with heritage significance. When there is a DA received for the demolition of a dwelling, Woollahra Council requires a heritage assessment be lodged so that it covers council from having something formally listed as a heritage item. Mr Fabbro noted that Council staff would have to look up the reasons why Woollahra got taken to court and whether it had anything to do with a loop

hole in their LEP. It was suggested that this topic be brought to the attention of the Director of the Assessment team.

- It is noted that Council doesn't have a conservation management plan (maintenance schedules) for many of Councils own buildings i.e. the Council Chamber building. Apparently a plan of management would have been written many years ago but it never made it to Council for adoption. It is suggested that the HAC find the original Conservation Management plans and sight them.
- It is also noted that the Council building in the State Heritage Register is listed containing several errors. The first error is the date in which the building was built and the second is the architect who built it (both of which are currently being disputed). It is noted that Council bought the land in which it is built today in 1927 (approx).
- Cr Anderson noted that the original light fittings which were present in old photos in the court yard of the Council Chambers have been located in Rosedale Road at a memorial site. Cr Anderson would like Council to consider whether the lights should be returned to the Council Chambers forecourt and this would be addressed through the conservation management plan.

## **8.0 Potential Heritage Item Review**

The HAC committee was given a brief overview of where Council is with the Potential Heritage Review. The Potential Heritage Item Review went on exhibition at the end of last year (submissions closed 20 December 2006). Council staff are currently going through the submissions received for the exhibition. Concurrently Council is also preparing the Comprehensive LEP which is required by the Department of Planning to be consistent with the "Standard template" which is document that allows all councils across the whole of NSW to have the same format to their Local Environmental Plans. This means that all Councils will use the same language for there LEPs and this will help residents understand the plans (and follow them) better. The Comprehensive LEP Process also means that each Council will have only one LEP and one DCP applying to a particular site of land, thus making it a lot easier. Ku-ring-gai Council has been given a timeframe by the Department of Planning in which they have to complete their Comprehensive LEP, it is by 2011 (5 years). Its is envisaged that Council will recommend that any heritage items that cannot be placed as part of an Heritage Conservation Area (HCA) should be listed as a heritage item in the Comprehensive LEP when the time comes for that part of the plan to be done instead of writing a whole new LEP just for a few potential heritage properties.

A report is going to Council on the 24 April 2007 which will outline the timeframe for the Potential Heritage review. This report will discuss things like:

- Update heritage controls
- Bring in work of heritage UCAs

- Discussion on the Potential heritage items- Location and National Trust- UCAs (Godden Mackey Logan).
- Located precincts- contributory items
- Categories for classification of potential heritage items include:
  - further review.
  - basis of significance under review.
  - stand alone heritage items (meet threshold- list under comprehensive LEP).
  - UCA listing- for those that have majority listed.

Another report will go to Council on the 12 June 2007- which should be due for early release in mid May. This will give more time for Councillors to receive and read the information and also for the owners/residents of the potential heritage items time to respond to the report.

## 9.0 Tulkiyan

Copies of the report (and the two **Attachments**) were circulated at the HAC meeting for members to have a look at, comment on and adopt. The terms of reference (**Attachment B**) were adopted by HAC members unanimously.

RECOMMENDATION 1: Receive and note Tulkiyan Sub-Committee Report.

RECOMMENDATION 2: The Heritage Advisory Committee adopt the Terms of Reference, as amended by the incoming Tulkiyan Interim Sub Committee.

Moved: Councillor Anderson, Seconded: Ms Harvey

## 10.0 General Matters

- A letter from the National Trust was received informing Council of the heritage listing of 13 Kalang Ave, Killara, although this property is already listed in the KPSO (circulate letter electronically).
- 16 Stanhope Road Killara- heritage listing title in property advertisement very misleading, especially when it's not a heritage property yet. The new proposal/house is acceptable as a development and the replacement house will have minimal impact on a neighbouring heritage item. Preliminary approval for demolition. Seems to be a lost cause, Council doesn't seem to have sufficient basis to refuse demolition and being on the Potential heritage list is not a good enough reason.

## 11.0 NEXT MEETING

The next meeting will be held on 16 July 2007 at the Council Chambers at 6.30-8.30pm.

**12.0 MEETING CLOSED: 8.35 PM**

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## NOTICE OF MOTION

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### 102 ROSEDALE ROAD, ST IVES

#### Notice of Motion from Councillor T Hall dated 9 July 2007.

On 26 September 2006, Council resolved Minute No 386 to determine a course of action regarding the purchase of 102 Rosedale Road St Ives. The purchase is to ensure the ongoing protection of the significant ecological community contained within the land.

The General Manager has undertaken negotiations with the owners of the land within the delegated authority.

The owners of the land have refused all offers submitted by Council, and have now lodged a Development Application for a single residential development on the land.

Given the significance of the ecological community contained within the land, Council needs to consider an alternative course of action to effect the acquisition and conservation of the land.

This could be best achieved by Council authorising the General Manager to further negotiate with the owners of the land or their representatives to progress this matter and advise Council as a matter of urgency the results of discussions for its consideration.

I move:

"That Council authorise the General Manager to undertake further discussions with the owners of the land or their representatives and report the matter to Council.

The General Manager seeks further opportunities, commitment, resources and partnership from Commonwealth and State agencies in relation to the acquisition and conservation of this land and these matters are included in reporting to Council.

That consideration of this matter by Council be held in Confidential (Section 10A(2)(c) – Information that would confer a commercial advantage)".

### RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Cr Tony Hall  
Councillor for St Ives Ward