



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 24 MAY 2005 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A

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NOTE: For Full Details, See Council's Website –
www.kmc.nsw.gov.au under the link to Business Papers

APOLOGIES

DECLARATION OF PECUNIARY INTEREST

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

ADDRESS THE COUNCIL

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

DOCUMENTS CIRCULATED TO COUNCILLORS

CONFIRMATION OF MINUTES

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 10 May 2005

Minutes numbered 153 to 179

MINUTES FROM THE MAYOR

PETITIONS

REPORTS FROM COMMITTEES

Minutes of Inspections Committee

File: S02131

Meeting held Saturday, 14 May 2005

Minutes to be circulated separately

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 **1580 to 1596 Pacific Highway, Wahroonga - Construction of Seven Residential Buildings Containing 158 Apartments And Basement Parking For 218 Vehicles, Including 40 Visitor Spaces And Strata Subdivision Into 158 Lots** **1**

File: DA1081/04

Ward: Wahroonga

Applicant: Meriton Apartments Pty Ltd

To determine development application No 1081/04, which seeks consent for the construction of seven residential buildings containing 158 apartments and basement parking for 218 vehicles, including 40 visitor spaces

Recommendation:

Approval

- GB.2 **1 To 3 Eton Road, 3 To 11 Burleigh Street & 207 To 211 Pacific Highway, Lindfield - Demolition Of Ten (10) Dwelling Houses And Construction Of Two (2), Five (5) Storey Residential Flat Buildings Containing Eighty-Eight Units And Basement Car Parking For One Hundred And Thirty-Six (136) Vehicles.** **115**

File: DA1260/04

Ward: Roseville

Applicant: Tandi Developments Lindfield Pty Ltd

Owner: Tandi Developments Lindfield Pty Ltd

To determine DA1260/04 which seeks consent for the demolition of ten (10) dwelling houses and construction of two (2), five (5) storey residential flat buildings containing eighty-eight (88) units and basement car parking for one hundred and thirty-six vehicles.

Recommendation:

Approval

GB.3 26 to 30 Marian Street, Killara - Supplementary Report 197

File: DA1243/04

To respond to the issues raised at the Council site inspection 30 April 2005 and seek Council's determination of the development application.

Recommendation:

Approval, subject to conditions.

GB.4 1, 3 and 5 Lynbara Avenue and 12 Porters Lane, St Ives 234

File: 1219/04

To refer the application back to Council following a site meeting and seek Council's determination of development application.

Recommendation:

That the additional information be noted, and the application be approved.

GB.5 Analysis of Land & Environment Court Costs 3rd Quarter 2004/2005 337

File: S02466

To provide information in relation to proceedings to which Council is a party in the Land and Environment Court for the third quarter ended 31 March 2005, including appeals commenced, costs incurred by Council and outcomes.

Recommendation:

That the analysis of land & Environment Court costs for the quarter ended March 2005, be received and noted.

GB.6 Budget 2004/2005 3rd Quarter Review As At End March 2005 346

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File: S03096

To present to Council the quarterly financial review for the 3rd quarter ended 31 March 2005.

Recommendation:

That Council approve the budget transfers and restrictions to reserves as outlined in this report.

GB.7 Ku-ring-gai Access Advisory Committee 388

.
File: S02116

To provide Council with the Minutes of the Ku-ring-gai Access Advisory Committee of 17 February 2005.

Recommendation:

That the Minutes of the Ku-ring-gai Access Advisory Committee of 17 February 2005 be received and noted.

GB.8 Outdoor Dining And Footpath Trading Policy 394

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File: S03004

To present the "Outdoor Dining and Footpath Trading Policy" to Council for adoption.

Recommendation:

That Council adopt recommendations A to D as outlined in this report for the "Outdoor Dining and Footpath Trading Policy" as included in Attachment A to this report.

GB.9 2004 to 2008 Management Plan 3rd Quarter Review As At 31 March 2005 419

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File: S03096

To report to Council on progress made towards achieving Key Performance Indicators as contained in Council's 2004 - 2008 Management Plan.

Recommendation:

That the 3rd quarter 2004-2008 Management Plan review be received and noted.

GB.10 **Investment Cash Flow & Loan Liability As At 30 April 2005** **466**

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File: S02722

To present to Council the investment allocation and the performance of investment funds, monthly cash flow and details of loan liability for April 2005.

Recommendation:

That the summary of investments, daily cash flows and loan liability for April 2005 be received and noted.

GB.11 **Code of Conduct** **475**

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File: S02554

To report to Council following exhibition of the Code of Conduct.

Recommendation:

That the Code of Conduct be adopted.

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

NM.1 **Development Applications for Torrens Title Subdivision** **497**

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File: S02036

Notice of Motion from Councillor T Hall dated 11 May 2005.

I move:

That all development applications proposing Torrens title subdivision be determined by staff under delegated authority, excepting those that are called to full Council by a Councillor.

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING REGULATION

QUESTIONS WITHOUT NOTICE

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

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

The Items listed hereunder are recommended for consideration in Closed Meeting, Press & Public excluded for the reason stated below:

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

File: P59001

Report by Director Finance & Business dated 4 May 2005.

- C.2 **Acquisition Of Land - St Ives** **37**
(Section 10A(2)(c) - Information that would confer a commercial advantage)

File: S03730

Report by Director Planning & Environment dated 16 May 2005.

Brian Bell
GENERAL MANAGER

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**Environmental Planning & Assessment Act 1979, (as amended)
Section 79C**

1. Matters for consideration - general

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

- a. The provisions of:*
- i. any environmental planning instrument, and*
 - ii. any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*

- iii. *any development control plan, and*
- iv. *any matters prescribed by the regulations,*

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

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

Item 1

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	1580 TO 1596 PACIFIC HIGHWAY, WAHROONGA - CONSTRUCTION OF SEVEN RESIDENTIAL BUILDINGS CONTAINING 158 APARTMENTS AND BASEMENT PARKING FOR 218 VEHICLES, INCLUDING 40 VISITOR SPACES AND STRATA SUBDIVISION INTO 158 LOTS
WARD:	Wahroonga
DEVELOPMENT APPLICATION N^o:	DA1081/04
SUBJECT LAND:	1580-1596 Pacific Highway, Wahroonga
APPLICANT:	Meriton Apartments Pty Ltd
OWNER:	M & P Barry, M & F McAuliffe, M Seibert, Meriton Property Management, M Bloomer and J Prydie, G & E Webster, M McAuliffe and J Nemes-Nemeth.
DESIGNER:	Meriton Apartments Pty Ltd
PRESENT USE:	Residential
ZONING:	Residential 2(d3)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	KPSO – LEP 194, DCP 31 - Access, DCP 55 - Ku-ring-gai Multi-Unit Housing, DCP 40 – Waste Management, DCP 43 – Car Parking, DCP 47 Water Management and Notification Policy.
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	SEPP 11, SEPP 55, SEPP 65.
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	19 October 2004
40 DAY PERIOD EXPIRED:	28 November 2004
PROPOSAL:	Construction of seven residential buildings containing 158 apartments and basement parking for 218 vehicles, including 40 visitor spaces and strata subdivision into 158 lots and strata subdivision into 158 new lots.
RECOMMENDATION:	Approval

Item 1

**DEVELOPMENT APPLICATION N^o
PREMISES:**

**DA1081/04
1580-1596 PACIFIC HIGHWAY,
WAHROONGA**

PROPOSAL:

**CONSTRUCTION OF SEVEN
RESIDENTIAL BUILDINGS CONTAINING
158 APARTMENTS AND BASEMENT
PARKING FOR 218 VEHICLES, INCLUDING
40 VISITOR SPACES AND STRATA
SUBDIVISION INTO 158 LOTS AND
STRATA SUBDIVISION INTO 158 LOTS**

APPLICANT:

MERITON APARTMENTS PTY LTD

OWNER:

M & P Barry, M & F McAuliffe, M Seibert,
Meriton Property Management, M Bloomer & J
Prydie, G & E Webster, M McAuliffe & J Nemes-
Nemeth.

DESIGNER

MERITON APARTMENTS PTY LTD

PURPOSE FOR REPORT

To determine development application No 1081/04, which seeks consent for the construction of seven residential buildings containing 158 apartments and basement parking for 218 vehicles, including 40 visitor spaces and strata subdivision into 158 lots.

EXECUTIVE SUMMARY

Issues:

Resident issues, setback to heritage item (1574 Pacific Highway, façade articulation, building length, balcony projection, visual privacy, private open space and landscaping.

Submissions:

Eighteen (18) submissions have been received.

Pre- DA Consultation:

Yes

Land and Environment Court Appeal:

N/A

Recommendation:

Approval

HISTORY

Site history:

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

Item 1

Rezoning history:

The land at 1580-1596 Pacific Highway, Wahroonga was rezoned from Residential 2(c) to residential 2(d3) by LEP 194, gazetted on 28 May 2004.

In Draft LEP 194, adopted by Council on 25 November 2003, the subject site was to be rezoned to Residential 2(d2) and nominated as 'Special Area 6'. Under the Special Area provisions of draft LEP 194, a detailed 'Special Area Plan' addressing site specific issues and constraints, was to be adopted for the site prior to lodgement of any development applications on the site. The site specific issues to be addressed in the plan for Special Area 6 were to be:

- (a) protection of the blue gum high forest;
- (b) improvement of the stormwater drainage;
- (c) provision of direct public walkway access to Pacific Highway; and
- (d) control of traffic access.

The gazetted LEP 194 removed the Special Area provisions that were included in the draft LEP and introduced the Residential 2(d3) zone applying to the site.

In order to address the identified issues and constraints facing this site, Council incorporated specific nominated area controls to apply to the site into Part 7 of DCP 55. DCP 55 was adopted by Council on 14 December 2004 and came into effect on 22 December 2004.

Development application history:

1. DA0875/04 – Demolition of existing structures.

Application was approved under delegated authority by Council on the 10 November 2004 for the demolition of all built structures upon lands forming the subject site. No tree removal approval was granted under this consent.

2. DA1081/04 – Construction of 7 residential flat buildings containing 157 apartments and basement parking for 218 vehicles, including 40 visitor spaces and strata subdivision into 158 lots.

2 August 2004

Pre-development application consultation held with Council officers and applicant were the following issues were raised:

- Modulation and spatial separation between buildings
- Orientation of buildings
- Modulation of buildings along Pacific Highway
- Retention of significant trees on site
- Submission of a heritage impact statement
- Setbacks to adjoining properties
- Solar access and internal unit amenity
- Legal access to drain stormwater through lower sites
- Traffic impacts on Pacific Highway

Item 1

- External finishes and materials

19 October 2004	Application lodged.
29 October 2004	Request from Council for applicant to provide further information and clarification as follows: <ul style="list-style-type: none">• Drainage plans at a legible scale x 6 Copies;• Geotechnical report including geotechnical borehole investigation as specified in the Pre-DA documentation;• Detailed landscape plan for all proposed planting to be submitted including terraces and existing trees to be retained and removed; and• Applicant was advised that their deep soil calculations are incorrect as they do not include paved pathways & areas as per LEP 194 requirements
10 November 2004	DA notified to property owners for a period of 28 days in accordance with Council's Notification Policy.
25 November 2004	Request to applicant to submit heritage impact statement.
1 December 2004	Submission of geotechnical report, landscape plan and deep soil calculations.
10 December 2004	Submission of stormwater report and amended stormwater plans.
21 December 2004	Submission of heritage impact statement by applicant.
3 February 2005	Council officers request additional information relating to detailed shadow diagrams to demonstrate compliance with DCP 55.
15 February 2005	Submission of detailed shadow analysis by applicant.
1 March 2005	Council officers request additional details in relation to right-of-way along southern boundary of site and exclusion of area in deep soil calculations.
14 March 2005	Letter sent to applicant advising the final list of issues relating to development.
18 March 2005	Council officers meet with applicant to discuss issues and proposed amendments to the plans. Applicant is advised that amended plans will require notification.
30 March 2005	Submission of amended plans and supporting documentation relating to issues raised by Council.
1 April 2005	Re-notification of amended plans to neighbours for a period of 14 days.

Item 1

- 6 April 2005 Applicant submits six (6) full scale sets of amended plans and sample board of external finished and materials.
- 14 April 2005 Applicant submits amended shadow analysis.
- 15 April 2005 Notification period ends with ten (10) submissions received, all in objection to the development.
- 18 April 2005 Applicant submits additional shadow analysis for adjoining properties.
- 21 April 2005 Applicant submits arboricultural assessment report by TALC.
- 26 April 2005 Resolution of Ordinary meeting of Council to consider the connection and discharge of stormwater to Council drainage pipeline between Munderah Street and Gilda Avenue. The applicant for this DA requested Council consider altering the terms of a Council drainage easement over five downstream properties to permit connection and discharge into a Council pipeline.

The following was resolved:

- A. *That Council grant approval to alter the terms of the Council easements burdening 5, 7 and 9 Rhonda Close as well as 17 and 19 Gilda Avenue to allow the surface, roof and stormwaters from, Lot B in DP301211, Lots 1 and 2 in DP 614137, Lots 1 and 2 in DP 228983, Lot X in DP 401889, Lot B in DP 390737 and Lot B in DP 334713, known as 1580 - 1596 Pacific Highway into the Council pipeline.*
- B. *That the two connections be formalised by the creation of easements 1.83 metres wide to drain water pursuant to Section 88B of the Conveyancing Act 1919 over 5, 7 and 9 Rhonda Close as well as 17 and 19 Gilda Avenue, Wahroonga at the applicant's cost.*
- C. *That authority be given to affix the Common Seal of Council to appropriate instrument for the release and creation of the easement.*
- D. *That altering the terms of the easements be carried out by the applicant's solicitors and the payment of Council's legal costs and disbursements be paid by the applicant.*
- E. *That the direct connections to the Council pipeline be undertaken in accordance with Council Plan No 82-024.*

THE SITE AND SURROUNDING AREA

Item 1

The site

Zoning:	Residential 2(d3)	
Visual Character Study Category:	1920-45	
Legal Descriptions:	Street Address	Legal Description
	1580 Pacific Highway	Lot B DP 334713
	1582 Pacific Highway	Lot B DP 390737
	1584 Pacific Highway	Lot X DP 401889
	1588 Pacific Highway	Lot 1 DP 228983
	1588A Pacific Highway	Lot 2 DP 228983
	1590 Pacific Highway	Lot 1 DP 614137
	1590A Pacific Highway	Lot 2 DP 614137
	1596 Pacific Highway	Lot B DP 301211
Area:	15867m ²	
Side of Street:	Western	
Cross Fall:	To the south-west	
Stormwater Drainage:	To Rhonda Close (existing easement)	
Heritage Affected:	The site adjoins the heritage item at 1574 Pacific Highway and is located within Urban Conservation Area 26 – Mahratta.	
Bush Fire Prone Land:	No	
Endangered Species:	No	
Urban Bushland:	No	
Contaminated Land:	No	

The site is known as 1580-1596 Pacific Highway, Wahroonga, and comprises eight (8) separate lots. The site in its entirety is located on the corner of Pacific Highway and Munderah Street. The site is located on the western side of Pacific Highway, directly opposite Knox School and on the southern side of Munderah Street.

The site is irregular in shape, with a protruding wedge at its south-western corner. The site and has a total area of 15867m², with a total frontage of 137m to Pacific Highway and 46m to Munderah Street. The southern boundary is staggered to include the property of 1580 Pacific Highway which is accessed from an existing right-of-way along the southern boundary of the site.

The land slopes down towards to south-western corner of the site. All structures on the site have been demolished pursuant to the development consent to DA0875/04.

The site is dominated by numerous native endemic and exotic tree species which provide a substantial canopy within the site. Most of these trees are located around the perimeter of the site.

Surrounding development:

Knox Grammar School is located to the east of the site, on the opposite side of Pacific Highway. Its buildings are generally two storeys in height and constructed of brick and terracotta tile.

Item 1

Directly to the south of the site, facing the Pacific Highway, is a two storey heritage listed dwelling house, No 1574 Pacific Highway. The remaining surrounding properties to the south and west are 1 and 2 storey single dwellings with varying landscaping and associated structures.

Development to the north of the site (across Munderah Street) is made up of single dwellings with extensive tree canopy.

Zoning:

The site is zoned Residential 2(d3) under LEP 194. Knox Grammar School, zoned Special Uses 5(a) School, is located directly opposite the site, on the eastern side of the Pacific Highway. The properties to the immediate south and west of the subject site are zoned Residential 2(c2). The exception to this is 1574 Pacific Highway, which retains its Residential 2(c) zoning as the property is listed on Schedule 7 of KPSO as an identified heritage item. The properties along the northern side of Munderah Street are also zoned Residential 2(d3).

See attached zoning extract.

THE PROPOSAL

The proposal is for the construction of seven (7) strata subdivided residential flat buildings consisting of 157 apartments consisting of 15 x 1 bedroom, 121 x 2 bedroom and 21 x 3 bedroom units. A total of 218 parking spaces are provided on two basement levels.

Pedestrian access is provided to the front of each building from paths via Munderah Street and Pacific Highway. Vehicular access to the site is provided at a single entry point, at the most western end of the site along Munderah Street.

Fencing along Pacific Highway consists of 1.8m high timber lapped and capped fencing, supported by brick blade piers up to 2.1m in height with a setback of 1.5m to the front boundary to allow for landscaping. This fencing extends along Munderah Street, however, an existing low stone wall which was removed during the demolition of the site is to be reconstructed along the corner of the site with landscaping and the proposed new fencing will sit behind it.

External finishes have been nominated on a sample board submitted with the application with the following materials:

- Face brick: Cinnamon Smooth (Boral)
- Terracotta roof tiles
- Rendered brick work:
 - European White (Dulux) for the solid balustrade;
 - Delta Waters (Dulux) for sections of protruding articulation and external walls between the balconies;
 - Iron Bark (Dulux) for the window frames, handrails, pergolas, fencing, downpipes and guttering.

Block A

Item 1

Block A is located at the north-eastern corner of the site on the corner of Munderah and Pacific Highway. Block A has a total of twenty-seven (27) apartments located over five (5) levels. The apartments are generally orientated towards either Pacific Highway to the north-east or across the site to the south-west.

The apartment mix is:

1 bedroom apartment	1
2 bedroom apartment	20
3 bedroom apartment	6

Lift access is provided to all five (5) residential levels of the development from the lower basement level to the fifth floor. Pedestrian access is also provided via pathways from both Munderah Avenue and Pacific Highway.

Two levels of basement parking are also provided directly beneath Block A. The basement carpark continues beneath Blocks B and C with vehicular access provided at the western end of Block A.

Block B

Block B is located halfway along the Pacific Highway frontage. Similar to Block A, it has a total of twenty-seven (27) apartments located over five (5) levels.

The apartment mix is:

1 bedroom apartment	1
2 bedroom apartment	20
3 bedroom apartment	6

Two levels of basement parking are provided directly beneath Block B with thirty-three (33) car spaces allocated in parking area 1 for this block. Internal lift access is provided from Parking Level 2 through to the fifth floor.

Block C

Block C is located at the most south-eastern corner of the site along the Pacific Highway frontage. Block C has a total of eighteen (18) apartments located over five (5) levels. The apartments are generally orientated towards the north (facing Block B) with one apartment on each floor facing the east across the Pacific Highway.

The apartment mix is:

1 bedroom apartment -	2
2 bedroom apartment	15
3 bedroom apartment	1

Item 1

Two levels of basement parking are provided directly between Block B and Block C with a total of nineteen (19) car spaces allocated for this block. Internal lift access is provided directly beneath Block C from Parking Level 2 through to the fifth floor.

Block D

Block D is the largest apartment block and is located along the southern boundary of the site adjacent to two single dwellings (including the heritage listed property at 1574 Pacific Highway). The block has a total of thirty-six (36) apartments located over five (5) levels. The apartments are generally orientated to the north-facing into the communal open space area.

The apartment mix is:

1 bedroom apartment	4
2 bedroom apartment	30
3 bedroom apartment	2

Three levels of basement parking are provided beneath Block D, with thirty-eight (38) car spaces allocated in Parking Area 2 for this block. Parking Level 3 also contains a community activity room, gym, indoor pool and manager's office for the residents of the apartment complex. The indoor recreational area is accessed directly from the communal open space located immediately to the north of Block D and also via the proposed lift access.

Block E

Block E is joined to Block F and is located directly to the west of Block D towards the rear of the site and faces the boundary adjoining 2 Munderah Street. The block has a total of fourteen (14) apartments located over five (5) levels. The apartments in this block are generally orientated towards the north.

The apartment mix:

1 bedroom apartment	1
2 bedroom apartment	13

Two levels of basement parking are located directly beneath Block E, in Parking Area 2, and are accessed from the main drive along the western boundary of the site off Munderah Street. Fourteen (14) car spaces are allocated in Parking Area 2 for Block E. Lift access is provided to all five (5) residential levels of the block from Parking Level 5 to the fifth floor. Pedestrian access is also provided to Block E from pathways linking through to Pacific Highway and Munderah Street.

Block F

Block F is joined to the western side of Block E and is located at the rear north-western corner of the site and faces onto the adjoining properties of 9 and 10 Rhonda Close and 2 Munderah Street. The block has a total of eighteen (18) apartments located over five (5) levels.

The apartment mix is:

Item 1

1 bedroom apartment	2
2 bedroom apartment	15
3 bedroom apartment	1

As with Block E, two levels of basement parking accessed from the main internal driveway are located directly beneath Block F. Nineteen (19) car spaces are allocated in Parking Area 2 for Block F. Lift access is provided to all five (5) residential levels of the block from Parking Level 5 to the fifth floor. Block F is also afforded pedestrian access via pathways from Pacific Highway and Munderah Street.

Block G

Block G is located in the south-western corner of the site and is surrounded on three sides by the Residential 2(c2) zoning. The apartments in Block G are orientated both towards the east and west. The block has a total of twenty-two (22) apartments located over four (4) levels.

The apartment mix is:

1 bedroom apartment	4
2 bedroom apartment	8
3 bedroom apartment	5

A single level of basement parking is located directly beneath Block G. Vehicular access is provided by the main drive off Munderah. Twenty-two (22) car spaces are allocated in parking level 4 for Block G. Lift access is provided to all four (4) residential levels of the block from parking level 4 to the fourth floor. Block G has pedestrian access via pathways from Pacific Highway and Munderah Street.

Parking:

All parking for the site has been located in basement car parks. Car parking for the site has been broken into two main parking areas due to the topography of the land falling to the west. The site has a single vehicular access point at the most western end of the site to the Munderah Street frontage.

CONSULTATION - COMMUNITY

In accordance with Council's Notifications Policy, owners of 74 surrounding properties were given notice of the application. In response, submissions from the following were received:

Original scheme dated October 2004

The following comments have been received:

1. M & L De Stoop – 1574 Pacific Highway, Wahroonga
2. A Franklin – 1578 Pacific Highway, Wahroonga
3. L Anderson – 4 Rhonda Close, Wahroonga

Item 1

4. J & A Gale – 17 Gilda Avenue, Wahroonga
5. N & S Wilkinson – 22 Gilda Avenue, Wahroonga
6. J Hardwick - 9A Gilda Avenue, Wahroonga
7. B & J Flanagan - 7 Rhonda Close, Wahroonga
8. K Sullivan – 19 Gilda Avenue, Wahroonga
9. S Caisley – 7 Gilda Avenue, Wahroonga
10. J & E Brooker – 9 Gilda Avenue, Wahroonga

The submissions made the following comments:

Protection and retention of trees along the southern boundary to screen development from dwellings at 1574 and 1578 Pacific Highway.

Council's Landscape Officer has reviewed the proposed development and advised that the removal of the Camphor Laurels is required as they are identified as being an urban environmental weed under Council's Weed Policy. The replacement planting of super advanced trees along the boundary with a height of 3.0m will assist in providing some visual presence at the onset of the development. The trees to be planted along this boundary will be a mixed variety of native endemic species (**refer Condition No 38**).

Development must comply with deep soil requirements of LEP 194.

The original plans submitted to Council did not meet the minimum 50% deep soil landscaping as required under Clause 251(2) of LEP 194. Amended plans have removed basement carparking encroaching in several setback areas and also reduced and/or removed superfluous paving on the site. These amendments result in a revised deep soil calculation of 51.4% which complies with LEP 194.

Ensure Council pays particular attention to noise and dust control measures.

Appropriate conditions have been included in the recommended development consent to control impacts on neighbouring properties during construction (**refer Conditions Nos 14, 18, 19, 21, 22, 25, 27, 29, 30, 31, 32, 33, 64, 68, 69 and 113**).

The height of the buildings on the south and south-western corners should be limited as much as possible to minimise visual bulk.

Apartment Block G is proposed at 3.6 storeys in height and has setbacks of 9m to the southern and eastern boundaries and 12m to the western boundary. Discussion with Council's Landscape Officer and the applicant in relation to the concern over the removal of a significant Sydney Blue Gum (Tree 131) has resulted in significant amendments being made to Block G to retain this tree. The Sydney Blue Gum will provide significant screening of the development to the residents to the south and west. Tree 132 is also a Sydney Blue Gum, and is proposed to be retained. This will provide good screening of Block G to the adjoining properties to the south and west.

Item 1

The development is considered to have suitable setbacks to the side and rear boundaries and will provide a good level of landscaping subject to conditions (**refer Condition No 38**).

Impose conditions for landscaping along southern boundary of the site to minimise overshadowing, visual and acoustic impact and possible overlooking into surrounding properties.

Council's Landscape Officer has included a suitable condition in the recommended development consent to provide landscape screening along the southern boundaries of the development site so as to mitigate amenity impacts upon neighbouring properties (**refer Condition No 38**).

Ensure external materials blend with existing surrounding residential development.

A schedule of finishes has been submitted with the application which uses external materials that reflect the existing colours and materials in the surrounding residential locality and will harmonise with the existing and proposed landscaping (**refer Condition No 4**).

Objection to use of drainage easement through property at 19 Gilda Avenue.

Council at its meeting of 26 April 2005, resolved to grant approval to alter the terms of the Council easement burdening 5, 7 and 9 Rhonda Close as well as 17 and 19 Gilda Avenue to allow the surface, roof and stormwaters from, Lot B in DP301211, Lots 1 and 2 in DP 614137, Lots 1 and 2 in DP 228983, Lot X in DP 401889, Lot B in DP 390737 and Lot B in DP 334713, known as 1580 - 1596 Pacific Highway into the Council pipeline.

Lack of satisfactory landscaping to achieve suitable screening for adjoining properties.

Council's Landscape Officer raised several issues in relation to the original landscape plans and development layout. The amended plans (as discussed below) are considered to provide suitable landscaping for the site with the retention of several signification trees (**refer Condition No 38**).

Impact on traffic network.

The application has been reviewed by Council's Traffic Generating Development Committee under the requirements of SEPP 11 – Traffic Generating Developments. This issue has been addressed in detail under the heading State Environmental Planning Policy No. 11 –Traffic Generating Developments.

Unsatisfactory stormwater management.

Council's Development Engineers have reviewed the proposed development and have provided the following comments:

“The stormwater management measures have been modelled and demonstrated using the relevant computer software. The result is that the post developed peak flows through the depression are controlled so that they are less than the pre-developed flows (a flowrate of 5.7m³/s is reduced to 5.1m³ /s). The result is an improved overland flow situation in the

Item 1

receiving piped and overland drainage system through to Gilda Ave up to and including the 1:100 year event. The pollutant load removal which complies with the controls in Councils water management DCP chapter 8.

The stormwater management of the site would be satisfactory, subject to conditions (**refer Conditions Nos 57, 58, 59, 68, 69, 101, 102, 103, 119, 120, 121, 122, 132, 133 and 134**).

Inadequate information has been submitted in relation to the right-of-way to 1578 and 1580 Pacific Highway.

Council's Development Engineer has reviewed this issue and advised that the lot benefiting from this right of carriageway currently has vehicular access available which will not be altered under the proposal. There are no permanent structures proposed in the location of the right of carriageway, and hence any future rights at law relating to the carriageway benefit will not be compromised under the current proposal.

Non-compliance with Design Principles in SEPP 65, in particular context, scale, built form, landscape and aesthetics.

Council's Urban Design Consultant has reviewed the proposal in relation to the design principles of SEPP 65 and considers it to be satisfactory. The Consultant's review is included under the heading 'Consultation within Council' in this report.

No elevational shadow projections have been provided for June 21 showing the impact on the residents at 1578 Pacific Highway.

This information was not originally submitted with the application but was later submitted. The additional shadow diagrams demonstrate that the proposal will provide a minimum of 3hrs solar access to the north-facing windows of the residence at 1578 Pacific Highway during the winter solstice. This is compliant with relevant controls.

A heritage impact statement has not been provided by the applicant in relation to the redevelopment site adjoining a heritage item (1574 Pacific Highway, Wahroonga) as required by Clause 25D(1)(b) of LEP 194.

A heritage impact statement was eventually submitted on 21 December 2004 and was reviewed by Council's Heritage Advisor. The Heritage Advisor's comments have been included in this report under the heading 'Consultation within Council' and also under the provisions of LEP 194.

Non-compliance with LEP 194 - Clause 25I Maximum number of storeys and ceiling height

The original plans were unclear in several areas as to the heights of protruding basements. Clause 25I(8) of LEP 194 includes a basement carpark as a storey if it protrudes more than 1.2m above ground level. The amended plans indicate the areas of protrusion will be 1.2m or less and therefore do not constitute an additional storey as defined under LEP 194.

Item 1

The proposal will result in the removal of the existing mature trees along the southern boundary which provide good screening to the adjoining dwelling at 1574 and 1578 Pacific Highway.

An amended landscape plan has been submitted which requests the removal of the existing Camphor Laurels along the southern boundary of the site. Council's Landscape Officer has reviewed the landscape plan and advises that these trees are identified as an urban environmental weed and, as such, under Councils Weed Policy are required to be removed as part of development works.

Council's Landscape Officer has also advised that the trees are not considered to be of age to be of heritage significance and, given their SULE rating of 4E are preferable for removal. These trees will be replaced with super advanced species with a minimum height of 3.0m to provide some instant visual relief for the dwellings to the south (**refer Condition No 38**).

Amended plans dated March 2005

In response to issues raised by Council officers, amended plans were submitted on 6 April 2005. The amended plans were notified to all previously notified residents. The amended plans proposed the following amendments in response to issues raised by Council staff.

- The driveway on the existing right-of-way was excluded from deep soil area calculations;
- Compliance with 50% deep soil area requirement was achieved;
- Principle balconies to apartment Blocks A and B amended to only protrude by 1.2m maximum;
- Fencing details along Pacific Highway, showing fencing set back 1.5m from front boundary with timber lapped and capped fencing to a height of 1.8m and brick blade piers to a height of 2.1m;
- Floor space calculations in accordance with Section 4.2 of DCP 55 showing a maximum FSR of 0.9:1;
- All pathways reduced to a maximum width of 1.0m in accordance with AS 4299 (Adaptable Housing);
- Basement carpark set back to a minimum of 10m to Pacific Highway and minimum of 6m to southern boundary to comply with Section 4.3 of DCP 55;
- Amended schedule of finishes:
 - changing external face brick from dark purple (old iron) to a lighter Cinnamon Smooth (Boral);
 - replacement of some solid balcony balustrade areas with glazing to break up expanse of bulk when viewed from streetscape; and
 - and antique white rendered brick to be changed to European White (creamier finish);
- Section A-A amended to ensure no part of the basement projects more than 1.2m above natural ground level;
- Additional articulation to the southern elevation of Block C to reduce bulk of building by
 - Readjustment of window proportions to reflect window proportions of heritage item;
 - Incorporation of aluminum louvers to maintain privacy to balconies; and

Item 1

- Incorporation of sunhoods.
- Block D has also incorporated these changes and is stepped halfway along the southern elevation to provide an increased area of articulation to 10.4m;
- Shadow analysis showing internal and external shadow impacts of the development and demonstrated compliance with DCP 55;
- NatHERS assessments for Blocks C, D, E and F;
- Redesign of Block G to provide a minimum setback of 9m to the southern boundary and enable the retention of Tree 131 (Sydney Blue Gum);
- Windows to habitable rooms between Blocks D and E and C and D amended to include a combination of glass blocks and frosted glass;
- Vehicular passing bay near the entrance to Munderah Street deleted;
- Removal of Camphor Laurels and replacement with advanced native endemic species;
- Arborist's report submitted
- Retention of Tree 27 (Himalayan Cedar), Tree 73 (Browns Pine) and Tree 131 (Sydney Blue Gum);
- Amended drainage plan relocating drainage lines from critical root zones;
- Additional detail of the proposed amphitheatre; and
- Amendments to the carparking in response to the SEPP 11 – Local Traffic Committee comments.

Submissions from the following were received:

1. J & A Gale – 17 Gilda Avenue, Wahroonga
2. K R Nash & Associates Pty Ltd (on behalf of M & L De Stoop - 1574 Pacific Highway, Wahroonga)
3. B Buggy – 2A Munderah Street, Wahroonga
4. T & L Jackson – 2 Munderah Street, Wahroonga
5. B Gunalingam – 18 Ada Avenue, Wahroonga
6. J Booth – 15 Gilda Avenue, Wahroonga
7. G McEwin – 11 Gilda Avenue, Wahroonga
8. K R Nash & Associates Pty Ltd (on behalf of A Franklin – 1578 Pacific Highway, Wahroonga)
9. J Hardwick – 9A Gilda Avenue, Wahroonga
10. S Caisley – 7 Gilda Avenue, Wahroonga

Blocks F and G are far too large and will result in loss of privacy to the properties to the west of the site.

Blocks F and G are set back between 12m-19m from the western boundary. Block G is 3.6 storeys in height and set back 12m from the western boundary. Block F is 4.6 storeys in height and set back between 12m-19m from the western boundary. This setback area will be predominately landscaped with canopy vegetation between 20m-25m in height with the retention of the existing Sydney Blue Gums and other vegetation along the boundary to assist in the provision of instant screening of the development.

Item 1

The apartments in Block F are generally orientated towards the north in order to achieve suitable levels of solar access and, as such, have limited opportunity for overlooking of properties to the west.

Block G has no apartments that face directly towards the western boundary across to the existing dwellings at 7 and 9 Rhonda Close. The balconies along the western elevation of Block G are orientated towards either the south or north. The spatial separation between Block G and the neighbouring dwellings to the west is between 22m - 32m to the wall of the dwelling at 7 Rhonda Close. Whilst Block G will have a visual impact on the adjoining dwellings, the proposed spatial separation and proposed landscaping will achieve a reasonable level of privacy and assist in the reduction of bulk and scale by the planting of several canopy trees.

The Landscape Plan shows no planting along the boundary adjacent to 9A Gilda Avenue and relies on the retention of the existing Brushbox. Given the poor condition of the Brushbox and the proximity of 9A Gilda Avenue to the site boundary, an appropriate condition has been included in the recommendation for replacement screen planting (**refer Condition No 38**). Council's Landscape Officer has also noted that the two existing Sydney Blue Gums will be retained. This will assist in the screening of the development while the new landscaping is established.

Inappropriate height of Blocks F and G will result in overshadowing of surrounding residential properties.

The amended shadow analysis indicates that the adjoining properties of 9A Gilda Avenue, 7, 9 and 10 Rhonda Close will all receive a minimum of 3 hours solar access during the winter solstice in accordance with the requirements of DCP 55 and SEPP 65.

Blocks F & G should be limited to height of two storeys, including an attic.

Blocks F and G are 4.6 and 3.6 storeys, respectively. Section 7.2.5 'Recommended Building Envelope for the Site' of DCP 55 recommends that Block F (noted as Building E in the DCP) be up to 4.6 storeys in height and Block G (noted as Building F in the DCP) be up to 2.6 storeys in height. These heights are noted in the DCP as being indicative only and that justification for any variation should be provided by the applicant.

Block F is in keeping with the recommended height as specified in DCP 55 and has suitable setbacks to the western and northern boundaries to allow for suitable landscaping. The amended plans show Block G with substantial articulation along the western and southern elevations, with the amended plans allowing for the retention of the Sydney Blue Gum (Tree 131) in the south-western corner. The retention of this tree will allow for good levels of screening to the adjoining properties and will assist in the provision of a good transition between the Residential 2(d3) zone and the Residential 2(c2) zone of the surrounding properties.

The height of Block G is an additional storey above what is prescribed by DCP 55. Given the setbacks to the western and southern boundaries and the retention of the majority of mature landscaping in this corner of the site, the increased height is acceptable. Furthermore, the

Item 1

orientation of the apartments has been carefully considered so as not to unreasonably impact on the amenity of immediately adjoining properties.

Council's Urban Design Consultant has raised no issues in relation to the heights of the proposed apartments Blocks.

Concern in relation to the architectural design of the development which is out of character with the surrounding area.

Council's Urban Design Consultant reviewed the development in relation to SEPP 65 and advised:

“the existing context for this development proposal is comprised of the natural setting, which contains substantial high canopied trees, and the built context, which is primarily detached houses and the Knox School opposite the site in the Pacific Highway. The most characteristic elements of the natural environment are the tall eucalypt trees on the site, on adjoining sites and in the streets. The most characteristic elements of the built environment are the predominately brick buildings in the area.

The design objectives contained within LEP 194 and DCP 55 refer to the need to provided substantial landscape within the development, and for the design of buildings to relate well to the natural setting and built form context. The proposed buildings relate well to the built form context in terms of materials. The brick buildings and tiled roofs complement the building of the Knox School opposite. The choice of eucalypt tree species along the Pacific Highway is also appropriate.”

Development is out of scale with regard to heritage property at 1574 Pacific Highway.

Section 3.5 of DCP 55 specifies controls which a development should adhere to if it is within the vicinity of a heritage item. The development is fully compliant in this respect. This matter is discussed in detail under “compliance with DCP 55” below.

Bulk and scale of the development along the southern boundary is unreasonable and unacceptable in terms of privacy (visual and aural) and overshadowing.

Blocks C, D and G are all located along the southern boundary of the site and constitute 45% of the total apartments for the site. The minimum setback required under LEP 194 and DCP 55 is 6m for side boundary setbacks as the ground and first floor level, stepping back to 9m at levels 3, 4 and 5. Blocks C, D and G propose the following setbacks:

Block C: 6m-9m

Block D: 6m-9.7m

Block G: 9m (southern boundary) and 6m-9m (eastern boundary)

The setbacks for each of these apartment blocks therefore comply with the required setbacks under LEP 194 and DCP 55.

Item 1

The submitted shadow analysis depicts the likely overshadowing to the properties at 1574 and 1578 Pacific Highway during the winter solstice. This shows full compliance with the provision of a minimum 3 hours solar access to the habitable rooms and principal portion of the outdoor living area. As such, the proposed development is satisfactory in this regard.

The apartments for each of these blocks are generally orientated towards the north. A small percentage of apartments are orientated towards the adjoining properties to the south. The following table is a break down of the apartment orientation for each apartment Block.

Apartment block	No. of apartments orientated to the south	% of total apartments in block facing towards the south
Block C	1 apartment	5.5%
Block D	2 apartments	5.5%
Block G	6 apartments (E)	35%

Apartment Block G has the highest percentage of apartments facing into the adjoining properties to the south and east as the block is located in the far south-western corner of the site. The setbacks of this block from the adjoining properties at 1578 Pacific Highway and 9 and 9A Gilda Avenue are sufficient, with a minimum setback of 23m between the apartment block and the dwelling. This is a reasonable setback to provide sufficient visual and aural privacy assisted by suitable landscaping (**refer Condition No 38**).

The windows facing towards the southern boundary from Blocks C and D are to bedrooms with six (6) windows on each floor (4 from Block D and 2 from Block C) to living areas and a kitchen of the corner apartments. The proposed setbacks and landscaping opportunity along this setback will allow for sufficient screening to provide a reasonable level of visual and aural privacy to those properties adjoining the development site. Council’s Landscape Officer has reviewed the impact of the proposed development along this boundary and is satisfied that, with a condition requiring a mix of super advanced tree species at a minimum height of 3.0m along this boundary, suitable screening can be provided (**refer Condition No 38**).

The development contravenes the aims of SEPP 65.

The application has been assessed against the design principles of SEPP 65 and has been reviewed by Council’s Urban Design Consultant, who has concluded that the development is satisfactory in terms the principles of SEPP 65.

Request for the construction of a 2.5m high fence along the southern boundary adjoining 2 and 2A Munderah Street to alleviate noise and privacy from the development.

A 2.5m high fence is not considered appropriate along the western boundary of the site given the solid mass which will be viewed by the properties on the lower side. Suitable landscaping can be provided within the setbacks to the driveway which will achieve a mature height of between 4m-6m

Item 1

which will assist in the provision of privacy to the neighbouring dwellings at 2 and 2A Munderah Street.

Vehicle lights will shine into the adjoining properties to the west of the development.

Fencing and landscaping is proposed along the western boundary of the site. Council's Landscape Officer has reviewed the amended landscape plan and advised that screen planting which will at maturity reach between 4m-6m in height, with minimum planting height of 1.2m (**refer Condition No 38**).

Increase in traffic along Munderah Street as there is a single point of vehicular entry and exit for the site.

An increase in traffic along Munderah Street and Ada Avenue is expected as a result of this and other medium density development in the area. The RTA and Council's Traffic Generating Development Committee have each reviewed the development in relation to any issues which may arise from traffic generation. No issues have been raised in relation to this matter and, with appropriate conditions provided by Council's Development Engineer, the application is considered acceptable in this regard (**refer Conditions Nos 60, 61, 65, 72, 73, 74, 80, 100, 101, 104, 105, 113, 114, 116, 129, 130 and 135**).

The development is not in keeping with the residential nature of the area.

The subject site was rezoned Residential 2(d3) under LEP 194. This zoning allows for development up to five storeys. The site is located adjacent to other Residential 2(d3) zoned land across the northern side of Munderah Street and north-east along the Pacific Highway was considered an appropriate location in terms of its access to public transport and services.

Compliance with the required minimum side boundary setbacks, deep soil landscaping area and external materials and finishes ensures the development is appropriate in terms of its bulk and scale with regard to adjoining properties and with the inclusion of substantial landscaping on the site will meet the general aims of DCP 55 as described in Section 1.6.

Cleanliness of site during construction with regard to use of skip bins.

Conditions are recommended to address the issue of waste management during construction (**refer Conditions Nos 14, 18, 19, 21, 22, 25, 27, 29, 30, 31, 32, 33, 64, 68, 69 and 113**).

Increase in use of Gilda Avenue as an alternative route from Ada Avenue to Pacific Highway.

Council's Development Engineer, Traffic Committee and the RTA have reviewed the impact the proposed development may have on the existing road network. No issues have been raised in relation to the development resulting in an increased use of Gilda Avenue.

Trees proposed to be removed should be replaced.

Item 1

Council's Landscape Officer has reviewed the amended landscape and architectural plans and has no objection to the removal of several trees with the inclusion of a condition requiring replanting (**refer Condition No 38**).

The development includes the right-of-carriageway which the owner of 1578 Pacific Highway has benefit of vehicular access over.

Council's Development Engineer has reviewed the proposed right-of-way which runs along the southern boundary of the site and advised:

"The lot benefiting from this right of way (1578 Pacific Highway), currently has vehicular access available which will not be altered under the proposal. There are no permanent irremovable structures proposed in the location of the right of carriageway, and hence any future rights at law relating to the carriageway benefit will not be compromised under the current proposal."

Concern over the impact of the development on Tree 131.

Tree 131 (Sydney Blue Gum) is located approximately 15m from the southern boundary of the site adjoining 9A Gilda Avenue. Council's Landscape Officer has reviewed the amended layout of Block G and the accompanying arborist's report and advises that the tree is capable of retention and conditions have been provided ensuring its protection during construction (**refer Conditions Nos 37, 42, 43, 44, 45, 47, 48, 52, 53, 54, 55, 56, 92, 108 and 110**).

Not enough information has been provided in relation to overshadowing, landscaping and the building footprint.

An amended landscape plan, shadow analysis and amended architectural plans were submitted. This information was satisfactory to assess whether the proposal achieved compliance with the relevant controls for the site.

CONSULTATION - WITHIN COUNCIL

Urban Design Consultant

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

"Principle 1: Context

The existing context for this development proposal is comprised of the natural setting, which contains substantial high canopied trees, and the built context, which are primarily detached houses and the Knox School opposite the site in the Pacific Highway. The most characteristic elements of the natural environment are the tall eucalypt trees on the site, on adjoining sites and in the streets. The most characteristic elements of the built environment are the predominately brick buildings in the area.

Item 1

The design objectives contained within LEP 194 and DCP 55 refer to the need to provide substantial landscape within the development, and for the design of buildings to relate well to the natural setting and built form context. The proposed buildings relate well to the built form context in terms of materials. The brick buildings and tiled roofs complement the building of the Know School opposite. The choice of eucalypt tree species along the Pacific Highway is also appropriate.

Principle 2: Scale

Noted as acceptable.

Principle 3: Built form

The setback at the southern boundary is not 9m from the boundary for the upper levels, as required at a change in zones. It is recommended that the upper levels are setback to achieve the 9m.

Principle 4: Density

Noted as acceptable.

Principle 5: Resource, energy and water efficiency

Noted as acceptable, however NatHERS ratings have been provided only on buildings A, B and G. All buildings should be rated.

Principle 6: Landscape

Several large trees on the southern and western boundaries are not proposed to be retained, which could be retained. It is recommended that the arborist report is checked to establish if retention is desirable and possible.

The central courtyard is proposed as a stormwater detention basin as well as a central communal space. The use of this space for water detention will reduce its scope for planting, paving or other landscape features and its use for other activities. It is recommended that landscape design and hydraulic design options are considered to resolve the hydraulic issues while allowing for more planting and detailed landscape design in the courtyard. The current landscape design has large expanses of uniform treatments, which should contain more detailed design elements.

Principle 7: Amenity

The distance between windows in buildings D and E is 8.785m. The distance between windows in buildings D and C is 10.33m. These are insufficient distances between windows of habitable rooms, which should be 12m. It is recommended to provide

Item 1

screening to essential bedrooms windows, and either delete non-essential windows or provide screening.

The Level 3 floor plan indicates that the pool, gym and community activity room will gain access to the courtyard and natural light, with retaining walls providing a change of level in the courtyard. This could be desirable, and the detailed landscape design should be carefully considered in this area.

Wheelchair accessibility via paths to all buildings should be achieved.

Principle 8: Safety and security

Noted as acceptable.

Principle 9: Social dimensions

Noted as acceptable.

Principle 10: Aesthetics

The appearance of these building complements the natural and built setting of the context, largely due to the use of appropriate tree plantings and brick and timber in the buildings.

While the principle of using lighter balustrades (glass rather than concrete) in the upper levels is appropriate, the proposed metal framed glass does not relate well to the other materials of brick, tiles and timber. An alternative detail, such as using frameless glass attached to the interior of a small concrete upstand, or other details not using metal frame is recommended.

While the lapped and capped timber fence is acceptable, it is recommended that the concrete blockwork base is replaced with brick, to relate it better to the building.

Conclusion and recommendation:

This development relates well to its context and aims to comply generally with the controls in the LEP and DCP. Detailed recommendations are:

- *Provide NatHERS ratings for all buildings;*
- *Setback the upper levels of the building on the southern boundary to comply with the 9m setback requirement;*
- *Check the arborist's report to establish if retention of trees on the southern and western boundaries is desirable and possible;*
- *Landscape design and hydraulic design options are considered to resolve the hydraulic issues while allowing for more planting and detailed landscape design in the courtyard;*

Item 1

- *Provide screening to essential bedroom windows, and either delete non-essential windows or provide screening, between buildings D, C and E;*
- *Provide wheelchair accessibility via paths to all buildings;*
- *Provide balustrade detail other than the metal framed glass; and*
- *Replace the concrete blockwork with brickwork in the base of the front fence.”*

Comment: The applicant addressed the above matters raised by Council’s Urban Design Consultant and the following design principles of SEPP 65 are now considered to be satisfied:

Principle 3 – Built Form:

The setbacks to the southern boundary from apartment Blocks C and D have been amended to achieve setbacks of 9.7m-10.4m.

Principle 5 - Resource, energy and water efficiency:

Additional energy ratings have been provided for each of the apartment block which demonstrates a minimum NatHERS rating of 3.5 stars.

Principle 6 – Landscape:

Setbacks to Blocks D and G along the southern boundary of the site have been increased. Block G has been amended to allow for the retention of Tree 131, a significant Sydney Blue Gum. The applicant has submitted an arborist’s report which addresses the minimum setbacks to the significant trees on the site. The applicant proposes to remove the Camphor Laurels along the southern boundary of the site. Additional detail has also been provided in the amended landscape plan in relation to the central courtyard area located to the immediate north of Block D.

Council’s Landscape Officer has reviewed the amended landscape plan and advised that, with the inclusion of super advanced planting along the southern boundary, the retention of Tree 131 and a suitable condition, the landscaping of the site can be supported (**refer Condition No 38**).

Principle 7 – Amenity:

Amendments have been made to the windows of the habitable rooms (kitchen and living room windows) between Blocks D and E and Blocks D and C by way of frosted window glazing and the use of glass blocks to ensure that privacy is maintained to the habitable rooms of each of these apartments (**refer Condition No 83**). Privacy screens are provided along the western end of the balconies of the apartments in Block D which adjoin Block E, ensuring a reasonable level of privacy is maintained between the apartment blocks.

Wheelchair accessibility is provided along all paths to each apartment block from both Munderah Street and Pacific Highway entrances.

Principle 10 – Aesthetics:

Item 1

The amended plans increase the number of balconies using glass as balustrade rather than solid concrete. However, the balustrades are of metal framed glass, rather than frameless glass as recommended by Council's Urban Design Consultant. The metal frame of the balustrade will be finished in a dark brown colour (noted as Iron Bark in the schedule of finishes submitted with the application). This colour will match the privacy screens proposed at the ends of the balconies and will not cause an unreasonable impact on the aesthetics of the development when viewed from the public domain, adjoining properties or within the development site itself.

Additional details have also been provided in relation to the proposed fencing along Pacific Highway and Munderah Street. The amended details show timber lapped and capped fencing to a height of 1.8m, divided by brick blade piers up to 2.1m high, with a setback of 1.5m from the front boundary. The setback area is to include landscaping which will, upon maturity, screen the fencing and also assist in the provision of noise attenuation and a good level of security to the lower level apartments facing Pacific Highway.

Council's Landscape Officer has reviewed the fencing details and advised that, in order to provide sufficient landscaped area in front of the fence and to allow the landscaped setback to be included in the deep soil calculations, a minimum setback of 2.0m is to be provided. This has been included as a recommended condition (**refer Condition No 40**).

Heritage:

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

"This application does not include a heritage impact assessment which addressed the adjoining heritage items or the UCA No 25 – Warrawee Heydon Precinct and I recommend that Council requests the applicant prepare the required report. The application does note that the adjoining property -1574-1576 Pacific Highway and 4 Munderah Street are heritage items. It fails to acknowledge the adjoining UCA.

Adjoining and nearby heritage items

1574-1576 Pacific Highway adjoins the southern boundary of the subject site and is a substantial large Federation period house. The heritage item faces the Pacific Highway and is set back from the front and side setbacks on a relatively large lot. The house and garden of the heritage item would be subject to visual and physical impacts.

4 Munderah Street is nearby, but not directly adjoining. It is a modest early bungalow designed by James Peddle and significant as an early example of the architects work. The item has been compromised by two subdivisions and a new dwelling built on the subdivided lot. Architectural detail and decorative elements have been removed or covered and in my view the item does not deserve its heritage status. Council recently approved an application to demolish the building. Thus I conclude there are no heritage issues in relation to this site.

Adjoining UCA

Item 1

The land on the opposite side of the Pacific Highway is included in UCA No 25 – Warrawee - Heydon Precinct. The UCA is identified in DCP 55 and is classified by the National Trust. Council reviewed the precinct recently and although the report is still in a draft form, grades the precinct as State heritage significance.

The scale and size of this development would alter the existing context of the UCA . The UCA is characterised by a variety of architectural styles and there is a predominance of large two storey houses with mature garden settings. In my opinion, the presentation of this development to the Pacific Highway is a very long and high development with a consistency in its appearance, which contrasts to the more random mix of buildings, styles and landscape settings in the UCA. On the opposite site of the Pacific Highway, Knox School is a strong institutional element in the UCA, but even this site has variety in the styles, size and appearance of buildings facing the highway. This site is separated from the UCA precinct by the Pacific Highway. For most sites, separation by the Pacific Highway would be considered sufficient to reduce visual and contextual impacts, however in this case, I feel that there would be visual impact, largely due the to the height, length and consistency of the proposed buildings. The proposed buildings in this application are set along a common setback line thus stressing their visual consistency, unity and strength. In my opinion a more articulated building form with variety in appearance and setbacks of building footprints and more attention to landscaping and fencing would be more a acceptable development for a large site adjoining a UCA.

The above comments are preliminary only and a fuller comment will be provided after the heritage report is submitted by the applicant.”

A heritage impact statement was submitted on 21 December 2004. Following an assessment of that report, Council’s Heritage Advisor commented on the proposal as follows:

“Preamble

There is always difficulty in siting new development or “infill development” in the context of surrounding development that has heritage value. Large developments, such as this site generally do cause impacts. Impacts can be reduced if the development respects the character of existing adjoining buildings and has sensitivity to the wider setting. Particular attention needs to be given to the following:

- *Scale;*
- *Setback*
- *Form and character of the roofs*
- *Material and colours*
- *Proportions and detailing of openings*
- *Verandahs;*
- *Fences*
- *Gardens*
- *Design quality*

Item 1

The real issue here is that the land has been rezoned for a particular density and in DCP 55 potential building footprints indicated.

For this site, the next door heritage item is on a relatively large site with considerable mature plantings. The plantings are very much a part of the item and due to their age and size partially screen the house and provide a visual buffer. The garden has developed so that only glimpses of the house are available from the public realm, and it seems to me that much of the appeal of the house is the broken views seen through the trees and the overall impression of the mature garden and the existing relationship to other nearby houses.

To site a large flat development next door will cause heritage impacts particularly visual domination. The way the new development is designed, the location and layout of the buildings, the choice of materials and the landscaping all affect the way it is seen and appreciated. The pattern of the existing subdivision and the subsequent rhythm of the buildings is also an important issue to consider. The design quality of a development is important and it seems that buildings of high design quality have a better fit when sited next door to a heritage item or in a conservation area.

Impact on adjoining and nearby heritage item 1574-1576 Pacific Highway

1574-1576 Pacific Highway adjoins the southern boundary of the subject site and is a substantial Federation period house. The heritage item faces the Pacific Highway, and is set back from the front and side setbacks on a relatively large lot.

The heritage report notes that the item has a high degree of integrity and does not dispute its significance. In relation to “development within the vicinity of a heritage item” the report suggests that the curtilage is limited to the existing site and that impact is minimised due to the physical separation of the building – about 22m, the screening effect of the plantings and the selection of sympathetic materials. It seems to be making a case that the curtilage of the heritage building is limited due to tree screening and tall fences and thus its contribution to the public realm is minimal and thus the impact of this development is acceptable. I largely agree that the curtilage is limited to the Pacific Highway view.

Physical separation from the heritage building is consistent with the guidelines and recommendations in DCP 55, however in my opinion because this site is large and visually exposed to a main road the visual effect of separation is lessened. The proposed development lacks contextual scale and proposes long repetitive elevations to the Pacific Highway. I am not sure if a reliance on screening by trees is the answer for providing an acceptable fit between a heritage item and medium density development. However, I acknowledge it is the approach taken in DCP 55. In my opinion, the impacts could be lessened by more variety in the elevations, roof forms, reference to the existing subdivision patterns, materials, colours, textures, setbacks consistent with and responding to nearby development and stepping down in height near the heritage item.

The materials chosen – face and rendered brick and red roof tiles are used in the nearby buildings. Concrete is not commonly used apart from footings, driveways and pools. The

Item 1

horizontal concrete balconies are foreign to the area. Many nearby buildings including the heritage item have a predominance of timber elements such as balconies and details such as window hoods, columns decorative gable ends, barge boards and screens. Many have dark grey slate roofs as well as a variety of tiled roofs, including terra cotta.

Adjoining UCA

This site is included within UCA No 26 – “Mahratta Precinct” and the land on the opposite side of the Pacific Highway is included in UCA No 25 – Warrawee - Heydon Precinct. The UCAs are identified in DCP 55. Council recently reviewed each of these precincts and although the report is still in a draft form suggests that this site be included in a smaller precinct which is identified as the “Ada & Lucinda Precinct”. The Heydon Precinct is graded as State heritage significance.

The heritage impact assessment acknowledges that the development is of a greater scale than other residential development in the UCA, but states the impact has been minimised through site placement in accordance with DCP 55, setbacks and plant screening. It suggests that the Pacific Highway provides distinct visual separation from the Heydon Precinct.

In my opinion, the presentation of this development to the Pacific Highway contrasts to the more random mix of buildings, styles and landscape settings in the UCA. The UCA is characterised by a variety of architectural styles and there is a predominance of large two storey houses with mature garden settings. The scale and size of this development would alter the existing context of the UCA.

On the opposite site of the Pacific Highway, Knox School is a strong institutional element in the UCA. I accept that separation by the Pacific Highway is sufficient not to cause adverse impacts on UCA 25. I note that even though the Knox site is very different to the established residential pattern it has variety in the styles, size, rhythm and appearance of buildings facing the highway.

In my opinion more articulated building forms relating with variety in appearance, styles, setbacks and heights of individual buildings and more attention to landscaping and fencing would be more acceptable for a site in a UCA and adjoining another.

Conclusions

Despite its relative compliance with DCP 55, it would be very difficult to support this application. I believe it would have considerable impacts on the neighbouring heritage item, the UCA and the immediate streetscape.”

Comment:

Council’s Heritage Advisor has raised several issues in relation to the proposed development. The applicant has attempted to address the issues raised in these comments with the submission of amended plans.

Item 1

The amended plans have changed the window styles along the southern elevation to reflect the window proportions of the heritage dwelling (1574 Pacific Highway), increased the setback of apartment Block D, reduced the level of pedestrian access along the southern elevation of Block D and cut back the basement from the southern boundary to allow sufficient deep soil landscaping to assist in the replacement of the existing Camphor Laurels and amended the external brick work so that the development is able to better blend with the tree canopy and landscaping of the locality.

These amendments, along with the inclusion of suitable levels of canopy planting along the boundary facing the Pacific Highway, will achieve a satisfactory level of continuity with the heritage item.

The setback of Blocks C and D meet the requirements prescribed by DCP 55 and are considered to ensure a suitable curtilage is provided to the subject heritage item, with ample area available for landscaping, including canopy trees. Apartments in Blocks C and D have been orientated away from the southern boundary where possible. The windows which do face towards the southern boundary are generally only bedroom windows, with a small number of windows from the side of living areas.

Council's Landscape Officer has reviewed the amended landscape plan with particular reference to the potential privacy issues to the adjoining dwellings along the southern boundary. The officer advised that, the inclusion of super advanced trees, with a minimum height of 3.0m along the boundary that this will provide some visual presence at the onset of the development (**refer Condition No 38**).

The development, whilst being greater in scale than the existing surrounding dwellings and structures, is in keeping with the specific aims of the site as defined in DCP 55 and is suitable having regard to the aims of rezoning the site to Residential 2(d3). Assessment in relation to the specific site controls is provided under the DCP 55 assessment table.

Landscaping

Council's Landscape Officer, Geoff Bird, commented on the revised landscape plans as follows:

The site

It is proposed to construct seven residential flat buildings with basement car parking on the amalgamated eight lot corner site with a total area of 15 867sqm with vehicular access from Munderah St. The site at the time of re-inspection has been cleared of vegetation with the exception of existing trees protected by Council's Tree Preservation Order. The site, was previously characterised by an established landscape setting with mature trees and shrubs within formal garden beds and lawn expanses. The site is dominated by numerous native endemic and exotic tree species which provide a substantial canopy within the site. Most of these trees are located around the perimeter. A heritage listed residential dwelling is located adjacent to the southern site boundary.

Impacts on trees/trees to be removed/tree replenishment

Item 1

The proposed development has already resulted in the removal of all existing vegetation throughout the core of the site and the existing shrub layer. A total of 272 trees were identified as being located on or associated with the site, of which the majority have now been removed without Council approval. These trees were not exempt under Council's Tree Preservation Order.

The revised plans will result in numerous, visually significant trees being removed to accommodate the expansive development and basement parking. However some trees, previously nominated for removal are now being retained, as per previous concerns raised. Comments are as follows:

#26 Quercus robur (English Oak) located centrally adjacent to the Pacific Hwy frontage/eastern site boundary. The tree is approximately 15m high with a 20m canopy spread and is in excellent condition and health with no structural defects. The tree is significant within the broader landscape and contributes significantly to the streetscape character along the Pacific Hwy. Revised plans will require the removal of this tree. Although it is preferred to keep and retain the tree, it is conceded that given the extensive (broad) canopy, the retention of the tree is difficult without a major redesign of the development.

#27 Cedrus deodar (Himalayan Cedar) located centrally adjacent to the Pacific Hwy frontage/eastern site boundary. The tree is approximately 16m high with a 14m canopy spread and is visually significant within the broader landscape and the Pacific Hwy streetscape. The tree does need some corrective pruning but is otherwise in good health and condition at the time of inspection. This tree is now being retained

#73 Afrocarpus falcata (Browns Pine) located adjacent to the Pacific Hwy/eastern site boundary. The tree is approximately 12m high with an 8m canopy spread. The tree is prominent within the landscape and streetscape character and worthy of preservation. The tree is now being retained.

#131 Eucalyptus saligna (Bluegum) located adjacent to the south-west site corner, is a native endemic tree species with very high significance within the broader landscape and is part of a larger Bluegum tree grouping with interconnecting canopies. The tree is over 25m high with a 12m canopy spread. The tree is now being retained, refer to arborists report for setback recommendations.

#161 Liriodendron tulipifera (Tulip Tree) located adjacent to the western site boundary. The tree is approximately 15m high with a 10m canopy spread. The tree is in excellent condition and health with no structural defects. The tree is significant within the immediate landscape setting and worthy of preservation. The tree is to be removed as it is located within the proposed building footprint of Building F.

The trees mentioned above provide valuable amenity to the site and broader landscape, and in conjunction with any proposed development for the site, can provide valuable scale and proportion.

Item 1

Existing shrub layer, particularly adjacent to the Pacific Hwy site frontage should be retained and enhanced as it is characteristic of the broader Wahroonga/Warrawee landscape. Particular attention should be given to the established/mature Camellia sasanqua hedge and exotic shrub planting. Revised plans show the Camellia hedge being retained.

The proposed driveway entry adjacent to the western site boundary in Munderah St is within close proximity of a mature and visually significant Eucalyptus saligna (Bluegum). To minimise adverse tree impacts, it is required that the proposed layback/passing bay be deleted or relocated outside of the canopy drip line of the tree. This will maximise available soft soil area within the critical root zone to ensure adequate moisture and gaseous exchange to the root system. This concern has been addressed and the layback/passing bay has been deleted from the proposal.

Adjacent to the southern site boundary there are a number of Cinnamomum camphora (Camphor laurel) that are adjacent to the existing battleaxe driveway. This tree species is identified as being an Urban Environmental Weed and as such under Councils Weed Policy is required to be removed as part of development works. The trees in question are approximately 14 – 18m high and provide screening amenity to the neighbouring heritage listed property. The Camphor laurels are not considered to be of age to be of heritage significance and have been given a SULE rating of 4E. It is considered preferable to remove the Camphor laurels as part of the development works, but to maintain amenity to the heritage property in the medium term, that it be requirement that super advanced (min 100Litre) native endemic evergreen trees and substantial shrub planting be implemented adjacent to the southern site boundary. This can be conditioned as advance plantings have not been shown on the submitted landscape plans.

Tree replenishment for the site will result in an additional forty three (43) trees being planted on site that will mature to a height greater than 13.0m. Under Council's DCP55 a total of 53 tall 'canopy' trees are required for the site. With the number of trees to be retained, and the additional trees to be planted, the development complies with Council's DCP55 requirements.

Arborist's report

A revised arborist's report has been submitted with the application. The revised report has provided further detail/information about existing trees located on site, but has not detailed the structural integrity of the trees as previously requested. It should be noted that many of the trees have varying degrees of storm damage and subsequent epicormic regrowth as a result of the severe storm that affected this area in 1991. The consulting arborist has failed to detail this and not provided further information/recommendations as to what works need to be undertaken, or whether or not the trees need to be removed due to structural issues. Further detail is required within the arborists report. This may require aerial inspections and resistograph testing to be undertaken. To address this oversight, it will be required as a consent condition that aerial inspections be undertaken along with resistograph testing to determine the structural integrity of the trees with a written report being provided prior to the issue of the Construction Certificate.

Amended landscape plan

Item 1

Proposed planting adjacent to site boundaries has been increased and multi-layered to, in time, improve and maintain neighbour amenity. Proposed trees to be planted adjacent to the heritage listed dwelling/southern site boundary are small. It is required that super advanced trees be planted in this locale, with a minimum height of 3.0m to provide some visual presence at the onset of the development. This can be conditioned. It will also be required that the trees to be planted be a mixed variety of native endemic trees species to maintain and enhance bio diversity, as per DCP55 guidelines.

Given the slope of the land (falling to the rear) substantial screen planting is required adjacent to the south west site boundaries to minimise overlooking into adjoining properties from the upper levels of the development. Planting as shown consists of a mix of low groundcovers and grasses and the retention of the existing trees which provide seasonal screening. It is required that a mix of substantial shrub species and trees be planted within this area to maintain and enhance landscape amenity (refer Condition No 38).

*It must be noted that no screen planting has been proposed adjacent to the southern site boundary adjacent to 9A Gilda Ave, and relies on the existing semi mature *Lophostemon confertus* (Brushbox) #'s 129, 130, 133, and 134. Given the proximity of the dwelling at 9A Gilda Ave to the site boundary (approx. 1.0m) and the poor condition of the Brushbox, it is recommended that the Brushbox be removed and appropriate screening shrubs planted adjacent to the site boundary along with additional tree planting within the site between the development (Building G) and 9A Gilda Ave. It must be noted that the amended arborists Report fails to discuss these trees (refer Condition No 38).*

*The revised landscape plan proposes large/tall canopy trees within the terraced gardens centrally located on site, which are only 1.0m wide. This is considered inappropriate, and it is required that the proposed planting of *Eucalyptus saligna* (Bluegum) be located outside of the terraced area where there is sufficient viable deep soil area for their establishment (refer Condition No 38).*

*Screen planting adjacent to the western site boundary adjacent to 2 Munderah St, has not addressed the neighbours objections/concerns with regard to overlooking and privacy. As proposed small (5L) plantings of *Pittosporum revolutum* (Yellow flowered Pittosporum) which grow to approximately 5.0m, are to be planted which will be under 1.0m in height at the time of planting. To overcome neighbours concerns, it will be conditioned that super advanced planting be undertaken where plants have a minimum height of 1.5m at the time of planting (refer Condition No 38).*

Boundary fencing

Concept details have been submitted for the proposed fence along the Pacific Hwy with the existing stone wall being maintained adjacent to the Pacific Hwy and Munderah St site corner and frontage. No objection is raised to the location of the fencing, but is preferred that rather than the fence being solid timber panels that an open palisade style be utilised to maximise soft landscape amenity. This will be conditioned (refer Condition No 39).

Item 1

No details have been received for other site boundary fencing, it is assumed that standard 1.8m high paling fences as per the 'Dividing fences Act' will potentially be constructed or existing fences, if applicable, be retained.

Drainage plan

A drainage easement for the site through adjoining properties will be needed to drain the site. It is required that the existing trees located within 10m on each side of this easement line be assessed and detailed by the arborist within the arborists report. The applicant has further stated that the development will not require any upgrade of the existing easement/drainage lines, if this is the case the previous request for further arboricultural assessment of the trees within or adjacent to the drainage easement is not required.

Previous concerns raised as to the location of drainage pits and pipes in close proximity to existing trees to be retained, have been addressed.

Deep soil landscaping

The proposed development, by the applicant's calculations will result in a deep soil landscaping area of 51.4% of the total site area, which numerically complies with the LEP requirements. However, Landscape Services is not in total agreement with the areas shown as being compliant with deep soil landscaping. Having said this, the additional areas that are non compliant would not exceed 1.4% and do not impede the site to comply with the intent of the deep soil landscaping requirements.

Driveway

The location of the proposed driveway is within the critical root zone of a mature Eucalyptus saligna (Bluegum) located adjacent to the Munderah St site frontage. The tree is highly significant within the broader landscape and adds positively to the surrounding treed streetscape character. Due to the length of this frontage and the proximity to the site corner with the Pacific Highway, it is preferable to have the driveway access in this general area. Subject to the driveway being constructed on top of existing grade or suspended within the critical root zone/drip line, no objections are raised.

It is noted that the proposed driveway is located immediately adjacent to the western side boundary with no setback, which does not enhance neighbour amenity, which is not particularly desired. However, to minimise potential tree impacts the greater the setback from tree #1, Eucalyptus saligna (Bluegum) the better. As a result the location of the proposed driveway can be supported.

Amphitheatre

The proposed amphitheatre has been deleted from the proposal and has been replaced with terraced gardens and grassed areas.

Fencing

It is noted on plans submitted that a fence is proposed adjacent to the site frontages. Although a fence is not actively discouraged for security reasons, it is required that any proposed fence be visually softened from view through the use of soft landscape elements. From this

Item 1

viewpoint it is preferred that the fence be setback from the site boundary to allow for soft landscape treatments on each side of the fence. Consideration should also be given to the materials used for its construction to ensure that the proposed fence is complimentary to the broader streetscape character and to the heritage property next door.

Landscape Services is prepared to support the application subject to conditions.”

Comment: Refer Condition Nos 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 92, 107, 108, 109, 110, 124 and 125.

Engineering:

Council’s Engineering Assessment Team Leader, Robyn Howard, has commented on the proposal as follows:

“Summary

In summary the engineering aspects of the application are considered satisfactory by Development Engineers, subject to the imposition of the engineering conditions of consent.

I have placed a condition in the consent that the applicant is to obtain the final requirements of Energy Australia prior to Construction Certificate issue, and comply with these prior to Occupation Certificate issue (refer Condition Nos 26, 87, 99).

A pre-DA meeting was held for this site in which the applicant was presented with assessment criteria and issues related to the engineering aspects. Generally the applicant has had regard to the engineering issues raised at this pre-DA meeting, and has submitted the requested information.

Subdivision and rights of carriageway

The DA form indicates that strata subdivision is proposed under this DA, hence strata subdivision conditions will be applied in this referral response. So that the building is not constructed across lot boundaries, the applicant will be required to consolidate all the Torrens lots prior to issue of the Construction Certificate for the construction stage (refer Condition No 96).

The subject site is burdened by a right of carriageway along the southern boundary. The lot benefiting from this right of carriageway currently has vehicular access available which will not be altered under the proposal. There are no permanent irremovable structures proposed in the location of the right of carriageway, and hence any future rights at law relating to the carriageway benefit will not be compromised under the current proposal.

Traffic generation and vehicle access and accommodation arrangements

Item 1

The proposal is classified as ‘Schedule 2’ development under State Environment Planning Policy 11 and was referred to the Ku-ring-gai Local Traffic Committee for comment. A copy of the report, dated 15 December 2004, follows:

Purpose of report

To consider the traffic implications of the proposed medium density residential development at 1580-1596 Pacific Highway, Wahroonga.

Background

Meriton Apartments have submitted a development application for a proposed residential apartment development at 1580-1596 Pacific Highway, Wahroonga. The proposal is for 157 apartments located in 7 buildings and 214 car parking spaces located over 2 basement levels. Access to the car park would be from Munderah Street, at the western end of the Munderah Street frontage. A site plan is attached.

Accompanying the application is a report analysing the traffic impacts of the proposal, which has been prepared by Masson Wilson Twiney (MWT).

The site is located on the western side of Pacific Highway, at its intersection with Munderah Street. Movements between Pacific Highway and Munderah Street are restricted to left in/left out due to the continuous median on Pacific Highway. Pedestrian activated traffic signals are located on Pacific Highway adjacent to the site. Wahroonga Railway Station is located about 630m walking distance (or about 9 minutes walk) from the pedestrian activated traffic signals. A 40km/h School Zone operates on Pacific Highway in front of the site before and after school hours.

Munderah Street is about 9.7m wide, with an asphalt kerb on the site’s frontage. The road is kerbed opposite the site. On-street parking in Munderah Street is unrestricted and the road width currently permits 2 travel lanes and kerbside parking.

The proposal has been assessed to identify the impacts on parking, access, traffic generation and access points. Council’s Car Parking Code - Development Control Plan (DCP) No. 43, Ku-ring-gai Local Environmental Plan No.194, the Roads and Traffic Authority’s ‘Guide to Traffic Generating Developments’ and Development Control Plan No.55 (Medium Density Housing – DCP55) have been referred to for assessing the application.

Parking provision

The lots forming this site have been rezoned by the NSW Government under LEP194 to permit medium density housing. Car parking provision rates are specified in the LEP, and are as follows:

<i>Apartment Size</i>	<i>Number Parking Spaces Required</i>
<i>1 bedroom unit</i>	<i>1</i>

Item 1

<i>2 bedroom unit</i>	<i>1</i>
<i>3 bedroom unit</i>	<i>1</i> <i>(2, if more than 400m</i> <i>from railway station)</i>
<i>Visitor Parking</i>	<i>1 space per 4 units</i>

The following parking spaces would then be required:

<i>Apartment Type</i>	<i>Number Parking Spaces Required</i>
<i>15 x 1 bedroom unit</i>	<i>15</i>
<i>121 x 2 bedroom unit</i>	<i>121</i>
<i>21 x 3 bedroom unit</i>	<i>42</i>
<i>TOTAL RESIDENT PARKING</i>	<i>178</i>
<i>Visitor Parking</i>	<i>40</i>
<i>TOTAL</i>	<i>218</i>

The submitted plans show 242 car parking spaces which include 39 visitor spaces and 24 parking spaces in a 'stack' arrangement. Excluding the 'stack' parking spaces, there would be 179 resident parking spaces. As there is an excess of resident parking spaces and a deficiency of visitor parking spaces, the excess resident parking space should be allocated to visitor parking, which would then satisfy the parking requirement.

DCP55 would require that bicycle parking be provided at the rate of 1 space per 5 units (for residents) and 1 space per 10 units (for visitors). Although the majority of residential parking spaces would be wider than the minimum and a number of them would also have storage capacity, there would be no dedicated facility for bicycle parking, particularly for those car spaces which do not have storage capacity. There also appears to be no provision for visitor bicycle parking.

Car parking dimensions

Applying DCP55 (Multi-Unit Housing) to the site would require that parking areas be designed in accordance with DCP43 (Council's Car Parking code). According to DCP43, resident parking spaces are to be 2.5m wide x 5.4m long.

Also, DCP55 requires that 1% of visitor parking spaces (with a minimum of 1 space) are to be designed as disabled parking in accordance with AS2890.1. Accordingly, the following comments are made in relation to parking space dimensions.

<p>Parking Level 1 Spaces are 2.5m wide (min) x 5.4m long, which is satisfactory. Typical space width is 2.7m-3.0m. Resident and visitor disabled parking spaces 3.2m wide (min) x 5.4m long, which is satisfactory.</p>
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Item 1

<p>Parking Level 2 Spaces are 2.5m wide (min) x 5.4m long, which is satisfactory. Typical space width is 2.7m-3.0m.</p>
<p>Parking Level 3 Spaces are 2.8m wide (min) x 5.4m long, which is satisfactory. Typical space width is 3.0m.</p>
<p>Parking Level 4 Spaces are 2.8m wide (min) x 5.4m long, which is satisfactory. Space 1 is 2.6m wide but should be minimum 2.5m + 0.3m wide due to adjacent wall.</p>
<p>Parking Level 5 Spaces are 2.8m wide (min) x 5.4m long, which is satisfactory. Typical space width is 3.0m. Resident and visitor disabled parking spaces 3.2m wide (min) x 5.4m long, which is satisfactory.</p>

The visitor parking space located off the access driveway would be approximately 3.0m wide x 6.0m long. As DCP43 requires parallel parking spaces to be 2.5m wide x 6.2m long (for a road width of 3.6m and both ends obstructed), this visitor parking space would still be satisfactory due to the kerb overhang.

Access within car parking area

Applying DCP55 (Multi-Unit Housing) to the site would require that parking areas be designed in accordance with DCP43 (Council's Car Parking code). DCP43 requires that for 2.5m wide x 5.4m long parking spaces, the aisle width must be minimum 6.2m. However, wider parking spaces require less wide aisles, so that for 2.7m wide x 5.4m long parking spaces, the aisle width must be minimum 5.4m. Based on this, the following access and circulation comments are made:

<p>Parking Level 1 Main aisle width would be 6.5m (minimum 6.2m required), which would be satisfactory. Ramp down to P2 would be a curved ramp with 0.6m wide median, separating 3.9m wide roadways. These widths would be satisfactory. The outer radius of the ramp would be 13m (minimum 11.8m – AS2890.1), which would be satisfactory, as a median is indicated on the plan. The inner radius of the ramp would be 4.5m (minimum 4.0m), which would be satisfactory. A 0.3m clearance is available on the inner radius of the ramp, and 0.5m clearance has been provided on the outer radius of the ramp. This arrangement would be satisfactory. Ramp length is approximately 26m, resulting in a grade (along inner radius) of about 1:9. DCP43 requires that ramps greater than 20m should have a maximum gradient of 1:6, therefore the proposal would satisfy this requirement. The section of curved roadway between the curved ramp and Space 30 would have an outer radius of 11m, where a minimum of 11.8m is required. This is unsatisfactory, and a median would also be required. For the same section as above, the inner radius would be 4.25m (minimum 4.0m), which would be satisfactory.</p>

Item 1

<p>Parking Level 2 Main aisle width would be 6.5m (minimum 6.2m required), which would be satisfactory.</p>
<p>Parking Level 3 Main aisle width would be 6.4m (minimum 6.2m required), which would be satisfactory.</p>
<p>Parking Level 4 Main aisle width would be 6.4m (minimum 6.2m required), which would be satisfactory.</p>
<p>Parking Level 5 Main aisle width would be 6.5m (minimum 6.2m required), which would be satisfactory. Connecting two-way ramps (straight) would be 6.5m wide (minimum 5.5m required), which would be satisfactory</p>

As disabled visitor parking spaces are not readily visible from a vehicle at the entrance to the car parks, these spaces should have signposting (in accordance with AS1428.1) showing the direction to such spaces.

The 2-way access road/ramp between the driveway crossing and Ramp 1/Ramp 2 would be about 43m long, 7.2m wide and would have a gradient of 1:8, with the first 6m of road/ramp into the site at a gradient of 1:20. These grades would be satisfactory.

Ramp 1 would be about 53m long, 6.8m wide and would have a gradient of about 1:9. Ramp 2 would be about 11m long, 7.0m wide and would have a gradient of about 1:6. There would be a 2m transition at the top of this ramp, with a gradient of 1:12.5. A transition of 1:8 gradient at the bottom of the ramp is also proposed, although it is not clear from the plans how long the transition would be.

In general, the proposed grades of Ramp 1 and Ramp 2 would satisfy the requirements of DCP43, however, the transition at the bottom of Ramp 2 should be minimum 2m long.

*The plans indicate that gates will restrict access to visitor parking under Building A. Also, the Statement of Environmental Effects for the proposal states that visitors will be able to contact the building manager or the occupant they are visiting, via an intercom at the door, where the manager or occupant could then open the gates to allow access to the visitor. However, one of the controls in DCP55 requires visitor parking not to be obstructed by security grilles or similar devices. As a result, the location of the visitor parking with respect to the gates would not satisfy this control (**refer Condition No 73**).*

Access points

There is a site specific control proposed in DCP55 which requires that access to this site be from Munderah Street, at the furthest point from the intersection with Pacific Highway. The proposed access point would be located in Munderah Street at the furthest point from Pacific Highway, which would satisfy the location requirements according to DCP55.

DCP43 requires that adequate sight distance be provided from the access point to vehicles on the frontage road. This sight distance is based on the distances given in Figure 3.2 of AS2890.1-1993. However, this standard is now superseded by the 2004 version, which states

Item 1

that for a 50km/h frontage road, the sight distance should be a minimum distance of 45m and desirable distance of 69m. At the proposed access point location, the site distance to Munderah Street would be greater than 80m in a westerly direction, and up to 50m in an easterly direction if the nature strip and fence line in Munderah Street are kept clear of obstructions. Therefore, the access point satisfies the sight distance requirements of AS2890.1, provided that the nature strip and fence line at the property frontage in Munderah Street is kept clear of obstructions.

Service vehicle access and circulation

DCP55 requires that medium density developments provide a space for temporary parking of service and removalist vehicles, which should be clearly signposted as such. It also would permit the use of a visitor’s parking space provided that the space has minimum dimensions of 3.5m x 6m, with a minimum manoeuvring area 7m wide.

The loading area under Building A would be used as the waste collection point for the development. This area measures nearly 10m wide x 14m long (excluding access ramp to car park), and would have a height clearance of about 3.6m. This area could also be used as temporary parking by service vehicles and removalist vehicles. The space available is sufficient for an AS2890.2 medium rigid vehicle (8.8m) to manoeuvre into and out of in a forward direction, and is considered to be adequate for most service and removalist vehicles requiring access to Buildings A, B and possibly C.

However, for service or removalist vehicles requiring access to Buildings D, E, F and G, this location is not considered to be useful. Removalists may experience difficulties if parking in the above loading area and requiring access to Buildings D, E, F and G, due to the distance and physical separation of the 2 car parks.

Traffic generation

Existing

Existing traffic conditions at intersections surrounding the site were analysed by Masson Wilson Twiney using INTANAL intersection modelling software. The following results were obtained:

Intersection	Morning Peak Hour Level of Service	Evening Peak Hour Level of Service
<i>Pacific Highway/Ada Avenue</i>	<i>B</i>	<i>C</i>
<i>Ada Avenue/Munderah Street</i>	<i>A</i>	<i>A</i>
<i>Pacific Highway/Munderah Street</i>	<i>A</i>	<i>A</i>

Level of Service A indicates good operation, B indicates good intersection operation with acceptable delays and spare capacity, while Level of Service C indicates satisfactory

Item 1

operation. Levels of Service lower than D indicate that the intersection is operating at or beyond capacity.

The following existing peak hour traffic volumes (two-way) were recorded by Masson Wilson Twiney:

<i>Location</i>	<i>Morning Peak</i>	<i>Afternoon Peak</i>
<i>Ada Ave, south of Pacific Highway</i>	<i>471</i>	<i>636</i>
<i>Ada Ave, north of Munderah Street</i>	<i>431</i>	<i>375</i>
<i>Ada Ave, south of Munderah Street</i>	<i>435</i>	<i>317</i>
<i>Coonanbarra Rd, north of Pacific Highway</i>	<i>528</i>	<i>599</i>
<i>Munderah Street, east of Ada Avenue</i>	<i>94</i>	<i>74</i>
<i>Munderah Street, west of Pacific Highway</i>	<i>49</i>	<i>52</i>

Ada Avenue is a collector road while Munderah Street is a local road. The Roads and Traffic Authority Guide to Traffic Generating Developments suggests that in residential areas, a local road such as Munderah Street would have a desirable environmental traffic capacity of 200vph (two-way), and a maximum traffic environmental capacity of 300vph (two-way). Collector roads in residential areas, such as Ada Avenue, should have a desirable environmental capacity of 300vph and a maximum environmental capacity of 500vph.

Therefore, based on the above counts, the existing traffic volumes in the residential section of Ada Avenue during the peaks are below the maximum environmental capacity for a collector road. An exception to this is the section of Ada Avenue just south of Pacific Highway, where the adjoining land uses include Abbotsleigh School and a retirement complex. Similarly, the land uses adjoining Coonanbarra Road (north of Pacific Highway) are not exclusively residential. Therefore the environmental capacities would be higher in these roads. The higher traffic volumes in Ada Avenue, south of Pacific Highway during the afternoon peak, is probably due to the right turn restrictions from Coonanbarra Road into Pacific Highway, resulting in cars crossing the intersection into Ada Avenue and turning around to rejoin Pacific Highway (northbound). Existing speed humps in Ada Avenue also assist to lessen the impacts of the higher traffic volumes near Pacific Highway.

The existing traffic volumes in Munderah Street are lower than the desirable environmental traffic capacity for a local road.

Future

Item 1

The RTA Guide to Traffic Generating Developments defines a high density residential flat building as a multi-level building with 20 or more dwellings, usually over more than 5 levels, and usually with secure basement parking and in close proximity to public transport services. Traffic generation rates for high density residential flat buildings are based on the development being located in either Metropolitan Regional (CBD) centres or Metropolitan Sub-Regional centres.

The traffic assessment accompanying the application considers the development to be high density units but used a higher traffic generation rate of 0.4 vehicle trips per hour (per unit), rather than the RTA's rate of 0.29 vehicle trips per hour (per unit) for development in Metropolitan Sub-Regional centres. Based on this, the traffic generation from the site would be 63 vehicle trips per hour during the peak periods. Allowing for the existing detached dwellings on the site, the net traffic generation would be about 56 vehicle trips per hour during the peak periods. When distributed to the surrounding road network, it was found that surrounding intersections would continue to operate at satisfactory levels of service during the morning and evening peak hours.

While the development may meet some of the built form characteristics of a high density residential flat building as defined in the RTA Guide, it is not located near a metropolitan sub-regional centre. As a result, it is considered that this development would generate traffic more consistent with that of medium density residential flat buildings, which is defined as building containing between 2 and 20 dwellings. According to the Roads and Traffic Authority's Guide to Traffic Generating Developments, the traffic generation from medium density developments would be in the following range:

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

Assuming that the proposal would generate traffic in the middle of the ranges above, then the likely traffic generation would be about 73 vehicle trips per hour during the peak periods, rather than 63 trips anticipated in the traffic assessment. However, such an additional increase, once distributed to the surrounding road network, is not considered to have a significant further impact on the operation of the surrounding intersections.

Based on the existing traffic volumes, and adding those expected to be generated by the site, the following traffic volumes would result:

Location	Morning Peak	Afternoon Peak
<i>Ada Ave, south of Pacific Highway</i>	<i>484</i>	<i>654</i>
<i>Ada Ave, north of Munderah Street</i>	<i>444</i>	<i>393</i>

Item 1

<i>Ada Ave, south of Munderah Street</i>	471	342
<i>Coonanbarra Rd, north of Pacific Highway</i>	538	616
<i>Munderah Street, east of Ada Avenue</i>	143	118
<i>Munderah Street, west of Pacific Highway</i>	62	70

The expected future traffic volumes in Ada Avenue during the peaks would be near the maximum environmental capacity for a collector road, while the expected future traffic volumes in Munderah Street would still be lower than the desirable environmental traffic capacity for a local road. As the right turn from Pacific Highway into Ada Street is banned, vehicles arriving from the north on Pacific Highway would probably use Neringah Avenue/Warwilla Avenue then Coonanbarra Road to access Ada Avenue. As a result, there would be slight additional pressure on Coonanbarra Road between Pacific Highway and Warwilla Avenue, with an increase of about 10 vehicles per hour during the morning peak and about 15 vehicles per hour during the evening peak. However, based on the modelling results and observations on site, the increase in traffic movements in Coonanbarra Road should not have significant further impacts.

Cumulative impacts of surrounding land affected by LEP 194

An analysis was undertaken by MWT of the potential cumulative impacts of other land in the vicinity of the site which is affected by LEP 194. Consideration was given to sites permitting medium density development and sites permitting dual occupancy development, which included other areas in Munderah Street as well as areas in Ada Avenue, Gilda Avenue, Rhonda Close and Walpole Close. The report concluded that surrounding land affected by LEP 194 could generate an additional 120 vehicle trips per hour, but when distributed to the surrounding road network, the nearby intersections would still operate satisfactorily.

There would also be additional pressure on Coonanbarra Road between Pacific Highway and Warwilla Avenue, with an increase of 30 vehicles per hour during the morning peak and about 50 vehicles per hour during the evening peak. Again, this increase in traffic movements in Coonanbarra Road should not have significant further impacts.

Conclusions

As there is an excess of resident parking spaces and a deficiency of visitor parking spaces, the excess visitor parking space should be allocated to visitor parking, which would then satisfy the parking requirement.

- *On parking level 4, Space 1 is 2.6m wide but should be minimum 2.5m + 0.3m wide due to adjacent wall.*
- *On parking level 4, the section of curved roadway between the curved ramp and Space 30 would have an outer radius of 11m, where a minimum of 11.8m is required. This is unsatisfactory, and a median would also be required.*

Item 1

- *As disabled visitor parking spaces are not readily visible from a vehicle at the entrance to the car parks, these spaces should have signposting (in accordance with AS1428.1) showing the direction to such spaces.*
- *In general, the proposed grades of Ramp 1 and Ramp 2 would satisfy the requirements of DCP43, however, the transition at the bottom of Ramp 2 should be minimum 2m long.*
- *The location of the visitor parking with respect to the gates would not satisfy the requirements of DCP55*
- *The access point satisfies the sight distance requirements of AS2890.1, provided that the nature strip and fence line at the property frontage in Munderah Street is kept clear of obstructions.*
- *The loading area under Building A is considered to be unsuitable for the needs of service and removalist's vehicles requiring access to Buildings D, E, F and G.*
- *There would be some additional pressure on Coonanbarra Road between Pacific Highway and Warwilla Avenue, with an increase of about 10 vehicles per hour during the morning peak and about 15 vehicles per hour during the evening peak. However, based on the modelling results and observations on site, the increase in traffic movements in Coonanbarra Road should not have significant further impacts.*

The cumulative impacts of surrounding land affected by LEP 194 would result in an increase in traffic movements in Coonanbarra Road, although this is not considered to have significant further impacts.

Should the above 7 items be addressed, then the traffic-related aspects of the application could be supported.

The above matters discussed in the conclusion of the traffic assessment report are addressed via suitable conditions of consent and relate to internal amenity of the development rather than issues outside the site. The conditions of consent applied will require the necessary adjustments of the parking layout design (to be shown on the Construction Certificate plans) in order to achieve a layout fully in accordance with the relevant Australian Standard 2890.1 – 2004 "Off-Street car parking" and the above considerations.

Construction management

*Based on the scale of works and expected construction vehicle movements, a detailed construction traffic management plan must be submitted for review by Council Engineers prior to the commencement of any works on site. This has been conditioned (refer **Condition No 72**).*

Impacts on Council infrastructure and associated works – comments

The scale of construction work for this site has potential to damage the frontage road reserve. Accordingly, and for the amenity of the development, the following infrastructure works will be required as part of the consent:

- *Construction of a fully new concrete footpath over the full site frontage on Pacific Hwy. To be designed in accordance with Council's Technical Services specifications.*

Item 1

- *New concrete driveway crossing to access the site from Munderah Street.*
- *Removal of all redundant driveway laybacks and re-instatement to upright kerb and gutter.*
- *Replacement of the verge area to turfed verge between new footpath and existing kerb alignment.*
- *New upright kerb and gutter in Munderah Street over the site frontage.*
- *As with all development of this scale, there is the direct risk of damage to Council infrastructure during the course of the works. A \$50,000 bond to cover restoration of such damage (or completion of incomplete works by Council) is to be applied.*

Site drainage comments

I refer to the Stormwater Plan Report X04389-01 and corresponding drainage plans DA01, DA02, DA03, DA04 and DA05, dated December 2004, by Brown Consulting Engineers. This is a detailed drainage submission which incorporates the following stormwater management facilities for the development:

- *On site **retention** of stormwater for domestic re-use within the buildings and landscape irrigation (total volume of 471m³) resulting in an approximate rainfall volume leaving the site of 22%,*
- *On site **detention** of stormwater for controlling runoff rates into the receiving easement and piped system (total volume of 613 m³).*
- *A bioretention pond system for nutrient pollutant control.*

*The above stormwater management measures have been modelled and demonstrated using the relevant computer software. The result is that the post developed peak flows through the depression are controlled so that they are **less** than the pre-developed flows (a flowrate of 5.7m³/s is reduced to 5.1m³ /s). The result is an improved overland flow situation in the receiving piped and overland drainage system through to Gilda Ave up to and including the 1:100 year event. The pollutant load removal which complies with the controls in Council's water management DCP chapter 8.*

It is noted that the development site fall from the street is unable to convey its runoff directly to the frontage street. The development must therefore discharge its stormwater into an existing piped Council drainage system (covered by an easement on specific terms) which then passes over intervening downstream private properties before reaching Gilda Ave. At the moment, the terms of the said easement are not sufficiently wide enough for the subject development to legally drain its stormwater into the easement.

The applicant will need to have the terms of the existing easement in Council's favour extinguished and re-created on terms wide enough to permit a legal drainage connection from the subject site. The procedures available to Applicants to complete this process are contained at appendix 8 of Council Water Management DCP 47. Appendix 8 of DCP47 should be referred to if more information is sought by the readers of this report regarding the legal processes involved.

Item 1

At this stage of the development assessment, the applicant has completed easement negotiations with the necessary parties and obtained a council resolution for the extinguishment and recreation of the required easement (through Council resolution at meeting on Tuesday 26 April 2005). In this respect, it will be a condition of consent that the necessary easement is registered prior to any works generating runoff.

Geotechnical / structural comments

In support of the application, the applicant has submitted a preliminary geotechnical study prepared by Pells Sullivan Meynik Pty Ltd Consulting Engineers (refer report number PSM858.L3 Rev2 dated 1st October 2004).

The field assessment and subsequent report on the findings are considered appropriate for DA assessment based on the scale and location of excavations proposed within the site (i.e. reasonably large offset from adjoining boundaries). The report contains general information and recommendations on appropriate excavation and construction techniques. Attention is paid to support of the excavation faces. It is generally expected that the majority of excavation will be in residual clays and shale of various strengths. This implies that excavation can be carried out with earth moving machinery such as excavators. This has advantages in that the need for rock breaking machinery (and hence transmission of vibrations) is expected to be minimal, if at all.

Based on the preliminary geotechnical report and location of excavations on this site, I am satisfied that the geotechnical and excavation aspects of this DA can be addressed through suitable conditions of consent. These conditions will require geotechnical monitoring, excavation, construction and further professional geotechnical input as warranted. Buildings and structures on adjoining property are not expected to be within the zone of influence of the subject excavations although a condition is to be applied which requires this to be investigated by a consulting geotechnical engineer, with action as appropriate.

Conclusion

Based on the formal engineering assessment, Council's Development Engineer has determined that the proposal is satisfactory subject to the engineering conditions being imposed."

Comment: Refer Conditions Nos 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 81, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 126, 127, 128, 129, 130, 131, 132, 133, 134 and 135.

CONSULTATION - OUTSIDE COUNCIL

Energy Australia:

Energy Australia has commented on the proposal as follows:

Item 1

“As part of Council’s DA requirements for this very large development Energy Australia requests Council to include the following works as part of Council’s DA requirements.

- *Prior to issue of a satisfactory arrangement letter for electricity supply to this development and the issue of a completion certificate it will be necessary for the establishment of a substation in the property. The type and associated technical details to be determined;*
- *The developer is required to install conduits for electrical purposes in the footway of Pacific Highway along the full frontage of the development, design details to be determined;*
- *Complete undergrounding of the existing overhead electrical network along the full frontage of Pacific Highway for the above development on both the western and eastern side of Pacific Highway. These works will involve several under-bore road crossings to supply lighting on the eastern side of Pacific Highway. Please note it may be possible to reduce the number of under-bore road crossings after a detailed investigation and design is completed by Energy Australia;*
- *As a general safety concern for traffic on a major highway Council could give consideration to a Declaration Lane for Pacific Highway with a “setback Property Line” to enable safe exit/entry of vehicles from driveways;*
- *12m lighting standards (standard columns or pillar columns) would replace existing would poles and be setback a minimum of 1.0m from the property line or a “setback property line” (as described above) with appropriate out-reach for lighting purposes for the classified highway ie TRL traffic route lighting.*
- *Replacing overhead conductors by undergrounding is a NSW State Government objective. The NSW State Government has placed these requirements and responsibilities onto developers and the local Councils to facilitate this requirement through the DA process.”*

Comment: Council’s Development Engineer has reviewed these comments and has recommended conditions requiring compliance with the above requirements of Energy Australia (**refer Conditions Nos 75, 87, 98, 99 and 136**).

RTA

The RTA has commented on the proposal as follows:

“The RTA has reviewed the development application and associated plans prepared by Meriton Apartments Pty Ltd.

It is noted that all vehicular access to the subject development is proposed to be via Munderah Street. Therefore no objection is raised to the development application, as the proposed development will not have significant impact on the classified road network.

However, the RTA offers the following advisory comments to Council for its consideration in the determination of the development application:

Item 1

- *The access for demolition and construction vehicles off Munderah Street should be situated as far away as possible from the Pacific Highway intersection.*
- *The layout of the carparking associated within the subject development (including driveways, turn paths, sight distance requirements, aisle widths, and parking bay dimensions) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002.*
- *All vehicles should be able to enter and exit the site in a forward direction.*
- *The proposed development should be designed such, that road traffic noise from Pacific Highway is mitigated by durable material, in accordance with EPA criteria for new land use developments (The Environmental Criteria for Road Traffic Noise, May 1999). The RTA's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.*
- *Where the EPA external noise criteria would not practically or reasonably be met, the RTA recommends that Council applies the following internal noise objectives for all habitable rooms under ventilated conditions complying with the requirements of the Building Code of Australia:*
 - *All habitable rooms other than sleeping rooms: 45dB(A) Leq (15hr) and 40dB(A) Leq (9hr) and*
 - *Sleeping rooms: 35dB(A) Leq (9hr).*
- *Any redundant driveways along Pacific Highway frontage to be removed and kerb and gutter reinstated to match existing.*
- *All works associated with the subject development shall be at no cost to the RTA."*

The issues raised by the RTA have been considered by Council's Development Engineer and Council's Traffic Generating Development Committee and, where appropriate, specific conditions have been recommended in response (refer **Conditions Nos 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 81, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 127, 128, 129, 130, 131, 132, 133, 134, 135 and 136**).

STATUTORY PROVISIONS

State Environmental Planning Policy No. 11 –Traffic Generating Developments

The proposal is classified as 'schedule 2' development under State Environment Planning Policy 11 and was referred to the Ku-ring-gai Local Traffic Committee for comment. A copy of the report, dated 15 December 2004, is included in Council's Engineering comments in 'Consultation within Council'.

The report concludes:

Item 1

“As there is an excess of resident parking spaces and a deficiency of visitor parking spaces, the excess visitor parking space should be allocated to visitor parking, which would then satisfy the parking requirement.

- *On parking level 4, Space 1 is 2.6m wide but should be minimum 2.5m + 0.3m wide due to adjacent wall.*
- *On parking level 4, the section of curved roadway between the curved ramp and Space 30 would have an outer radius of 11m, where a minimum of 11.8m is required. This is unsatisfactory, and a median would also be required.*
- *As disabled visitor parking spaces are not readily visible from a vehicle at the entrance to the car parks, these spaces should have signposting (in accordance with AS1428.1) showing the direction to such spaces.*
- *In general, the proposed grades of Ramp 1 and Ramp 2 would satisfy the requirements of DCP43, however, the transition at the bottom of Ramp 2 should be minimum 2m long.*
- *The location of the visitor parking with respect to the gates would not satisfy the requirements of DCP55*
- *The access point satisfies the sight distance requirements of AS2890.1, provided that the nature strip and fence line at the property frontage in Munderah Street is kept clear of obstructions.*
- *The loading area under Building A is considered to be unsuitable for the needs of service and removalist’s vehicles requiring access to Buildings D, E, F and G.*

There would be some additional pressure on Coonanbarra Road between Pacific Highway and Warwilla Avenue, with an increase of about 10 vehicles per hour during the morning peak and about 15 vehicles per hour during the evening peak. However, based on the modelling results and observations on site, the increase in traffic movements in Coonanbarra Road should not have significant further impacts.

The cumulative impacts of surrounding land affected by LEP194 would result in an increase in traffic movements in Coonanbarra Road, although this is not considered to have significant further impacts.

Should the above 7 items be addressed, then the traffic-related aspects of the application could be supported.”

Council’s Engineering Assessment Team Leader has reviewed these issues and advised that the above matters are addressed via suitable conditions of consent and relate to internal amenity of the development rather than issues outside the site. These conditions will require the necessary adjustments of the parking layout design (to be shown on the Construction Certificate plans) in order to achieve a layout fully in accordance with the relevant Australian Standard 2890.1 – 2004 “Off-Street car parking” and the above considerations (**refer Conditions Nos 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 81, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 127, 128, 129, 130, 131, 132, 133, 134, 135 and 136**).

State Environmental Planning Policy No. 55 – Remediation of Land

Item 1

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The applicant has submitted a preliminary contamination assessment report prepared by Urban Environmental Consultants. A preliminary investigation was carried out on the site as per the NSW EPA guidelines.

The report concludes that, based on a site inspection, historical evaluation of site usage, back to 1896, review of aerial photography and discussions with site occupants, the site has a history of predominately residential land use. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

State Environmental Planning Policy No. 65 – Design quality of residential flat development

The application includes a design verification statement by chief architect for Meriton Apartments, Alan Johnson. Mr Johnson has verified that he is a qualified designer and member of the NSW Architects Registration Board and has designed the proposal in accordance with the design quality principles set out in Part 2 of SEPP 65.

The application has been assessed in terms of the Design Quality Principles set out in SEPP 65. The design quality principles do not generate design solutions, but provide a guide to achieving good design and the means of evaluating the merits of the proposal. The assessment is summarised as follows:

Context:

The development is located to the immediate south of a large area of Residential 2(d3) zoned land. This area is undergoing transition and the proposed development of seven apartment buildings will be consistent with the future character of the area. The development also allows for the retention of significant trees along the Pacific Highway and Munderah Street which will enhance the character of the area and be in keeping with the aims of DCP 55 where vegetation dominates the built form.

The surrounding development to the south and west is characterised by Residential 2(c3) land in which dual occupancy and apartment conversions are permissible with development consent under Clause 25F and 25G of LEP 194. The proposed development relates well to the adjoining properties to the south and west, with reasonable setbacks to allow for landscaping screening and the grouping of the apartments towards the centre of the site and away from adjoining single residences.

Scale:

The proposed development provides substantial setbacks to the front, side and rear boundaries in order to minimise the impacts on adjoining properties and allows for substantial landscaping to complement the existing leafy character of the area. The Residential 2(d3) zoning of this site adjoins another large rezoned area of 2(d3) zoning, which runs the entire length of the northern side of Munderah Street. Taking this future development quantum into consideration, the development

Item 1

on the subject site will result medium density housing which will be in keeping with the future character of the area as defined in Sections 3.2 and 7.2 of DCP 55.

Built form:

The development has been broken into seven (7) apartment blocks so as to provide good levels of amenity and landscaping to its future residents. The development has been broken into three (3) main buildings facing the Pacific Highway, with a good level of articulation from projecting balconies and recessed walls. Block C is set on an angle to the Pacific Highway to allow for an increased landscape area and views through the site.

Extensive setbacks, in keeping with existing dwellings, have been proposed along Munderah Street to allow substantial areas of canopy tree planting and spatial separation from the existing single dwellings in the street.

Blocks D, E, F and G have also been designed with suitable setbacks to adjoining properties. The articulation provided to the elevations also assists to minimise the impact of the development on adjoining properties and to allow for the retention of significant trees.

The external materials proposed are reflective of existing materials and colours within the locality. The development will contribute to the streetscape of Pacific Highway and Munderah Street with regard to built form and be in keeping with the future character of the area.

Density:

The development has a density of 0.96:1 or 15,231.1m² which is well below the maximum FSR of 1.3:1 provided for in DCP 55, for residential flat buildings on sites greater than 2400m.

The proposal is consistent with the envisaged future density of the site.

Resource, energy and water efficiency:

The proposal achieves a 4.5 star+ NatHERS energy rating for 91% (143 out of 157) of the apartments, with all apartments achieving a minimum standard of 3.5 stars.

73% of the apartments have been provided with cross-ventilation.

Conditions have been recommended in regard to use of energy efficient appliances and storage of rainwater for landscape purposes (**refer Conditions Nos 58 and 85**).

Landscape:

The proposal provides for 51.4% deep soil landscaping which complies with the minimum requirements of Clause 251(2) of LEP 194. Substantial areas for landscaping have been provided throughout the site to ensure the landscaping can be integrated into the layout of the apartment blocks.

Item 1

Particular attention has also been paid, where possible, to the retention of existing significant trees on the site. Apartment Block G has been redesigned to ensure the retention of a significant Sydney Blue Gum in the south-western corner of the site. An increase in the basement setbacks to the southern boundary and street frontage, facing Pacific Highway, has also ensured that sufficient planting may be provided in order to create a development in which tree canopy will soften the buildings and contribute to the existing and future character of the area.

Amenity:

The proposed development provides for a mix of 1, 2 and 3 bedroom apartments, all which attain a minimum NatHERS rating of 3.5 stars. The development has been designed so that the majority of the apartments have been orientated to the north or east to ensure good levels of solar access are provided and minimal overlooking of the adjoining properties to the south and west.

The development also provides good levels of private (balconies and courtyards) and communal open space areas, which have been designed to face away from adjoining properties. This further assists in the useability of the site and improves privacy and general amenity to adjoining properties.

Safety and security:

The proposed development provides good levels of safety and security through:

- Maximising opportunities for surveillance of public spaces facing Pacific Highway and Munderah Street from the orientation of the apartments and balconies and also internal observation of the open space areas.
- The provision of pedestrian access paths across the site linking each building to the main pedestrian entrances off Pacific Highway and Munderah Street.
- The use of landscaping and fencing along the Pacific Highway to ground floor apartments and courtyard areas.
- Security parking for residents beneath the apartment blocks.

Social dimensions:

The development provides a good mix of apartment styles, with 1, 2 and 3 bedroom apartments catering to a variety of community needs. The development also meets the minimum requirements of Clause 25N 'Manageable housing' of LEP 194, with the provision of 16 apartments (10% of apartments) which is in accordance with AS 429901995 Adaptable Housing.

The development site is also within close proximity to public transport, with Warrawee and Wahroonga train stations being within walking distance and access to buses available along the Pacific Highway

Aesthetics:

Item 1

The external design of the seven (7) apartment blocks has used a variety of materials and finishes which reflect those materials common in the surrounding built environment. The use of terracotta tiles, brick work and earthy finishes is in keeping with the predominant colours in the locality including natural colours of the landscaping.

The setbacks to Pacific Highway and Munderah Street allow for the retention of several significant trees on the site and also for the planting of replacement and additional planting in order to reflect the existing streetscape which is generally dominated by mature native tree canopy.

Block G, in the south-western corner of the site, has considered the retention of the existing trees which has allowed for additional setbacks to the adjoining properties to allow for a suitable transition of scale between the Residential 2(d3) zoning and the adjoining Residential 2(c2) zoning.

In this regard the development is acceptable with regard to the future character of the area and is consistent with the aims of SEPP 65.

Residential Flat Design Code:

The considerations contained in the Residential Flat Design Code are as follows:

Relating to the local context

The development is broken into seven (7) apartment buildings which have been designed to step down the sloping site. Given the sloping nature of the site from the Pacific Highway, this is the most appropriate development form. The use of seven stepped apartment buildings allows for the break down of bulk and scale when viewed from the public domain and adjoining properties and the inclusion of substantial landscaping areas assists in the scaling of the development to relate to adjoining sites.

The development is proposed over eight (8) existing allotments and will require consolidation. Council's Development Engineer has recommended a suitable condition (**refer Condition No 96**).

The building envelope proposed for the site is generally in keeping with the recommended building footprints in Section 7.2.5 of DCP 55. Variations to this building envelope have been addressed elsewhere in this report and are considered to meet the aims of the control.

The height, building depth, separation, setbacks and floor space ratio are also satisfactory and have been assessed in more detail elsewhere in this report.

Site analysis

A satisfactory site analysis was submitted indicating the merits of the development in regards to building edges, landscape response, access and parking for the site and building performance. These requirements have also been supported by specialist reports addressing impacts of the proposed development on the subject site and surrounding locality.

Item 1

The proposed fencing along the Pacific Highway and Munderah Street will provide a clear definition between public and private land, while also providing a good level of privacy and security to the apartments. With a setback of the fence from the front boundary and additional landscaping within this setback, the development will contribute to the amenity of the streetscape.

Council’s Landscape Officer has reviewed the proposed landscape plan and supporting documentation and is satisfied that the design of the landscaping will add value to the residents’ quality of life with regard to optimising the site’s useability with a central, north facing outdoor communal area and by providing adequate space between buildings for landscaping and the improvement of stormwater quality and biodiversity.

Sufficient open space (private and communal) has been provided within the design of the development. A large communal open space area has been provided to the immediate north of apartment Block D. Apartment Block D also houses the proposed gym and swimming pool for the use of the residents. Therefore, the location of the communal open space, immediately adjacent to this, will allow for a good communal area which receives excellent levels of solar access and casual surveillance from a large proportion of the apartments.

Private open space has been provided by way of balconies and courtyards for each of the apartments. The size and location of these private open space areas has taken into consideration solar access, privacy, landscape design and useability.

The site design has also taken into consideration the provision of appropriate parking on the site, pedestrian and vehicular access both to and from the site and within the sites itself, furthermore, the preservation of visual privacy with the use of staggered balconies, windows and use of privacy screens and landscaping where appropriate has been well considered within the design.

Building design

The proposed development is satisfactory in terms of its internal layout, natural ventilation and solar access. Up to 81.5% of the apartments receive a minimum of 3 hours solar access during the winter solstice, with 100% of the common open space receiving at least 3 hours solar access during this period. The apartments also achieve a minimum NatHERS rating of 3.5 stars.

The design of each of the seven apartment buildings has encouraged the use of multiple entrances and lifts to minimise long, dark lobbies which has allowed for apartments which receive good levels of natural daylight and adequate ventilation.

All other relevant matters under “Building Design” have been assessed elsewhere in the report and are satisfactory.

Ku-ring-gai Planning Scheme Ordinance (KPSO) – LEP 194

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 2400m²	15,867m ²	YES

Item 1

Deep soil landscaping (min): 50%	51.4%	YES
Street frontage (min): 30m	137m to Pacific Highway 46m to Munderah Street	YES YES
Number of storeys (max): 5	Buildings A, B, C, D, E and F: 5 storeys Building G: 4 storeys	YES YES
Site coverage (max): 35%	33.9%	YES
Top floor area(max): 60% of the level below	Block A: 55% Block B: 59% Block C: 60% Block D: 60% Block E: 60% Block F: 60% Block G: 60%	YES YES YES YES YES YES YES
Storeys and ceiling height (max) (not inclusive of 5th floor): 4 storeys and 13.4m	4 storeys and < 13.4m	YES
Car parking spaces (min): <ul style="list-style-type: none"> • 1 resident car space per dwelling if site >400m from railway station = 178 resident spaces • 1 visitor car space per 4 dwelling = 40 visitor spaces 	178 resident spaces 40 visitor spaces	YES YES
Zone interface setback (min): 9m for the 3 rd and 4 th storey on land zoned 2(d3) to land that is not zoned 2(d3)	Block C: 9m-10m Block D: 9.7m-10.4m Block E: 17.8m Block F: 13.8m-19m Block G: 9m-12m	YES YES YES YES YES
Manageable housing (min): 10% = 16 apartments	A minimum of 16 apartments will meet the requirements of <i>AS 4299-1995 – Adaptable Housing</i> .	YES
Lift access: required if greater than three storeys	Provided to all buildings from basement levels to fifth floor.	YES

Clause 61E - Development within the vicinity of heritage items

As required by this clause, a heritage impact statement has been submitted which addresses the impact that the proposed development will have on the heritage significance of the adjoining dwelling at 1574 Pacific Highway. The development has been designed to be sensitive to the adjacent heritage item as discussed in detail under section 7.2 of DCP 55 of this report.

POLICY PROVISIONS

Item 1

Development Control Plan No. 55 – Railway/Pacific Highway Corridor and St Ives Centre

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 Local context:		
Development adjacent to heritage item		
<ul style="list-style-type: none"> Min 10m from heritage item 	10m from courtyard of Block C to garage, 19m to dwelling	YES
<ul style="list-style-type: none"> 3rd and 4th storeys min 15m from heritage item 	13m-14m from 3 rd storey to garage, 21.5m-22.5m to dwelling	NO
<ul style="list-style-type: none"> Setback from front boundary equal of great to that of heritage item (approx 28m) 	12.3m-21.8m from apartment Block C	NO
<ul style="list-style-type: none"> Screen planting a minimum of 4m along all adjoining boundaries 	Minimum height of 4m landscaping along southern boundary	YES
<ul style="list-style-type: none"> Colours and materials to be complementary 	Schedule of finishes complement heritage item	YES
<ul style="list-style-type: none"> Front fencing to be no higher than fence of adjoining heritage item 	1.8m-2.1m high lapped and capped fencing with brick piers setback from boundary to allow landscaping	YES
<ul style="list-style-type: none"> Development shall respect the aesthetic character of the item and not dominate it 	The development has included architectural elements reflective of the item and is setback sufficiently to allow suitable level of landscaping to be provided	YES
Part 4.1 Landscape design:		
Deep soil landscaping (min)		
<ul style="list-style-type: none"> 150m² per 1000m² of site area = 2381.4m² 	3545m ² +	YES
No. of tall trees required (min): 1 per 300m ² of site area = 52 trees	Minimum 52 trees to be planted on site	YES
Part 4.2 Density:		
Building footprint (max):		
<ul style="list-style-type: none"> 35% of total site area 	34%	YES
Floor space ratio (max):		
<ul style="list-style-type: none"> 1.3:1 	0.96:1	YES
Part 4.3 Setbacks:		
Street boundary setback (min):		
<ul style="list-style-type: none"> 10-12m (<40% of the 	10m-12m	YES

Item 1

zone occupied by building footprint)	67% (includes basement carpark)	NO
Rear boundary setback (min): 6m	Block G and F 12m to western boundary	YES
Side boundary setback (min): 6m	Block C: 6m-9m Block D: 6m-9.7m Block E: 17.885m Block F: 11.2m-17.885m Block G: 9m (S) and 6m-9m (E)	YES YES YES YES YES
Setback of ground floor terraces/courtyards to street boundary (min): 8m	10m to courtyard wall on Blocks A, B and C	YES
% of total area of front setback occupied by private courtyards (max): • 15%	5%	YES
Part 4.4 Built form and articulation:		
Façade articulation: • Wall plane depth >600mm • Wall plane area <81m ²	Wall plane depth >600mm Block A: 99m ² (SE) 86m ² and 93m ² (SW) Block B: 84m ² (SE) 107m ² (NW) Block C: 218m ² (W) 137m ² (E) Block D: 182m ² (W) 178m ² (E) Block E: 201m ² (E) Block F: 132m ² (W) Block G: 87m ² (S) 180m ² (W) 140m ² (N) NB: Only areas of non-compliance have been noted, all other elevations meet the required dimension of 81m ² .	YES NO NO NO NO NO NO NO NO NO
Built form: • Building width <36m	Block A – 36.5m Block B: 36.5m Block C: 24m Block D: 45m Block E: 20m Block F: 22.5m Block G: 37m	NO NO YES NO YES YES NO

Item 1

<ul style="list-style-type: none"> Balcony projection <1.2m 	Block A: 1.2m Block B: 1.2m Block C: 2.4m Block D: 2.4m Block E: 2.4m Block F: 2.4m Block G: 2.4m	YES YES NO NO NO NO NO
Part 4.5 Residential amenity:		
Solar access:		
<ul style="list-style-type: none"> >70% of units receive 3+ hours direct sunlight during winter solstice >50% of the principle common open space of the development received 3+ hours direct sunlight during the winter solstice <15% of the total units are single aspect with a western orientation: 	81.5% 100% 0%	YES YES YES
Visual privacy:		
Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site:		
Storeys 1 to 4		
<ul style="list-style-type: none"> 12m b/w habitable rooms 9m b/w habitable and non-habitable rooms 6m b/w non-habitable rooms 	8.75m (Between Blocks D & E) frosted windows 10.3m (Between Blocks C & D) frosted windows No direct relationship No direct relationship	YES YES N/A N/A
5 th storey		
<ul style="list-style-type: none"> 18m b/w habitable rooms 13m b/w habitable and non-habitable rooms 9m b/w non-habitable rooms 	9.5m (Between Blocks A & B) 10m (Between Blocks D & E) 14m (Between Blocks C & D) No direct relationship No direct relationship	NO NO NO N/A N/A
Internal amenity:		

Item 1

NB. At least one space >10m ² <ul style="list-style-type: none"> Primary outdoor space has a minimum dimension of 2.4m 		
Part 4.7 Social Dimension:		
Visitable units (min): <ul style="list-style-type: none"> 70% = 110 apartments 	70%	YES
Housing mix: <ul style="list-style-type: none"> Mix of sizes and types 	1,2 and 3 bedroom apartments	YES
Part 4.8 Resource, energy and water efficiency:		
Energy efficiency: <ul style="list-style-type: none"> >65% of units are to have natural cross ventilation Single aspect units are to have a maximum depth of 10m 25% of kitchens are to have an external wall for natural ventilation and light 90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating 	70.1% Max 10m depth 49% 4.5 star rating = 91% 3.5 star rating = 9%	YES YES YES YES YES
Part 5 Parking and vehicular access:		
Car parking (min): 167 resident spaces 40 visitor spaces TOTAL 207 spaces	178 spaces 40 spaces 218 spaces	YES YES YES
Part 7.2 1580-1596 Pacific Highway , Wahroonga – Specific controls for nominated areas		
Landscape character: <ul style="list-style-type: none"> Submission of arborists report addressing need to remove any trees Submission of Cultural Landscape report addressing cultural and 	Arborists report submitted. A cultural landscape report has not been submitted.	YES NO

Item 1

<p>visual significance of existing tree canopy</p> <ul style="list-style-type: none"> • Recommend appropriate tree replacement strategy for any trees to be removed 	<p>Appropriate replacement planting strategy provided on landscape plan and supported by Council's Landscape Officer.</p>	<p>YES</p>
<p>Built form character:</p> <ul style="list-style-type: none"> • Submission of statement addressing design of development with existing character of adjacent buildings • Design of buildings to respond to topography of site and existing built form character of the area. 	<p>The applicant has addressed the design of the development in under the Design principles of SEPP 65 and the statement of environmental effects.</p> <p>Amended architectural plans and written response to Council, dated 24 March 2005, addresses constraints of site and architectural design and layout response to adjoining properties. Stepping of development down the site and retention of significant trees.</p>	<p>YES</p> <p>YES</p>
<p>Recommended building envelope for the site:</p> <ul style="list-style-type: none"> • Justification to vary the indicative footprints 	<p>Proposed development provides suitable justification addressing amendment to building envelope in relating to providing appropriate carparking layout and provision of suitable landscaping along side boundaries.</p>	<p>YES</p>
<p>Building orientation:</p> <ul style="list-style-type: none"> • Buildings along the Pacific Highway should be orientated towards the road to allow casual surveillance. • Buildings at the rear of the site orientated in accordance with the allotment boundary to preserve most of the significant trees. • Buildings in the centre of the site orientated to maximise solar access with preservation of significant trees. 	<p>Blocks A, B and C are orientated towards the Pacific Highway.</p> <p>Blocks G and F designed to retain significant vegetation along western boundary of the site.</p> <p>Blocks D and E oriented towards the north and allow retention of significant trees along Munderah Street and Pacific Highway.</p>	<p>YES</p> <p>YES</p> <p>YES</p>
<p>Access and movement:</p> <ul style="list-style-type: none"> • Pedestrian access provided from all 	<p>Pedestrian access is provided from all apartment blocks through the site to the two main pedestrian</p>	<p>YES</p>

Item 1

<p>buildings via the most direct route</p> <ul style="list-style-type: none"> • Primary vehicular access via Munderah Street at the furthest point from the intersection with the Pacific Highway • Provision of an emergency and heavy vehicle access plan 	<p>entrances off Munderah Street and Pacific Highway.</p> <p>A single point of vehicular access is proposed from the site in the most western corner of the front boundary along Munderah Street.</p> <p>Traffic plan submitted detailing entry and access for heavy vehicles to enter site and gain access to all apartment blocks.</p>	<p>YES</p> <p>YES</p>
<p>Stormwater management:</p> <ul style="list-style-type: none"> • Post development runoff shall not exceed the existing runoff and where possible shall seek to reduce the runoff. • Provision of a floor routing analysis/flood study and on-site detention plans. • Site should consider the creation of an open space system that is associated with both the existing stormwater easement across the site and the overland flowpath that extends from the Pacific Highway to the south-western corner of the site. • The detention tank is to be located towards the lowest part of the site and should not result in the removal of any significant trees. 	<p>Discussed in detail under ‘Consultation within Council – Engineer Comments’</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
<p>Heritage impact:</p> <ul style="list-style-type: none"> • Development must be sensitive to adjoining heritage item at 1574 Pacific Highway 	<p>Discussed in detail under Part 3.5 Development within the vicinity of a heritage item and “Consultation within Council – Heritage Advisor”</p>	<p>YES</p>

Item 1

<ul style="list-style-type: none"> • Submission of heritage impact statement. 	A heritage impact statement has been submitted.	YES
<p>Excavation and natural ground level:</p> <ul style="list-style-type: none"> • Applicant should attempt to reduce amount of excavation on site by orientating buildings along contour lines • Ground floor units should be maximum of 1.0m of the natural ground level 	<p>Buildings have been orientated along the contour lines of the site to minimise excavation of the site.</p> <p>Ground floor units for all apartments blocks are = or >1.0m from the natural ground level.</p>	<p>YES</p> <p>YES</p>

Part 3 Local context:

Section 3.5 Development within the vicinity of a heritage item

Section 3.5 of DCP 55 specified controls which a development should adhere to if it is within the vicinity of a heritage item. The following requirements are to be met:

- The first and second storeys of the development should be set back at least 10m from the adjacent heritage building;
- The third and fourth storeys set back at least 15m;
- Be set back from the front boundary so that it is not closer than the adjoining heritage building;
- Screen planting on all adjoining boundaries which will achieve a height of at least 4m;
- New development shall respect the aesthetic character of the item and not dominate it;
- Colours and building materials are to be complementary to the heritage building;
- The solid component of front and side fences are not to be higher than the fence of the adjoining item and any additional height must be visually transparent; and
- An applicant's statement of environmental effects of the proposal on the heritage item.

Part of the proposed development fails to comply with the minimum setbacks to the heritage item for both the first and second floor setbacks (min 10m required) and the third and fourth floor setbacks (minimum 15m required). This non-compliance has been calculated to the existing detached garage on the heritage property. As assessment of the setbacks against the heritage dwelling indicate the development would substantially comply with the requirements of DCP 55, with setbacks from the first and second storeys of 19m and between 21.5m-22.5m for the third and fourth storeys. Given the focus of the heritage item is the dwelling and not as significantly the detached garage, the setbacks from Blocks C and D are considered acceptable.

Item 1

The aim of this control also ensures new development respects the heritage significance of the adjoining heritage item, does not visually dominate the item and does not impact on the garden of an item in terms of overshadowing or causing physical impacts on important trees.

Shadow diagrams submitted by JM Modelling demonstrate that, during the winter solstice, the area occupied by the grass tennis court to No. 1574 Pacific Highway will be partially in shade for the majority of the day. Given that the heritage item is located on the immediate southern boundary of the development site, it is reasonable to assume that some impact will be experienced during midwinter. However, the diagrams also indicate that the dwelling itself will not be affected by any overshadowing from Block C and Block D. On balance, the extent of overshadowing is not of determinative weight in of itself to warrant refusal of the application.

Council's Landscape Officer has reviewed the amended landscape plan submitted by the applicant and finds it to be satisfactory, subject to conditions requiring the planting of super advanced trees along the southern boundary. This will compensate for the loss of screening from the existing Camphor, which are proposed for removal, and will allow for an immediate softening of the buildings when viewed from the adjoining heritage property (**refer Condition No 38**).

The setback of Block C is between 12.3m-21.8m from the front boundary. DCP 55 requires new development to have a front setback that is not closer than that set by the existing heritage item. The adjoining heritage item at 1574 Pacific Highway has a setback of approximately 28m. Block C has been designed so as to provide a setback that is not identical to, but in sympathy to that set by the heritage item. The heritage item at 1574 Pacific Highway is well screened from the street by large existing canopy trees. A setback identical to the heritage item is not considered crucial in order to reduce any perceived impacts on the significance of the item. As already discussed, suitable landscaping and spatial separation will be provided between the two properties and, with the inclusion of additional canopy trees and landscaping along the front boundary, the variation to the setback is acceptable.

Part 4.3 Setbacks:

The proposed development fails to comply with the numerical standard of the DCP which requires that, within the 10-12m street boundary setback, a maximum of 40% of this zone may be occupied by the building footprint. The proposed development facing Pacific Highway has a maximum of 67% built upon area within the setback zone. The aim of this control is to ensure suitable setbacks are provided to development so that the buildings are dominated by canopy trees and landscaping.

The development achieves the 10-12m setback as required by Section 4.3 of the DCP. Council's Landscape Officer has reviewed the proposed landscape plan and advises that adequate space is provided along the Pacific Highway frontage to allow for the planting of significant endemic canopy trees. Two (2) large trees (Himalayan Cedar and Browns Pine) are to be retained along the Pacific Highway frontage. The variation of the setback zone will not restrict the ability to meet the aims of the control and will provide sufficient screening and canopy planting along the main frontage of the site. The variation is supported for these reasons.

Part 4.4 Built form and articulation

Item 1

Several wall planes of the proposed apartment blocks exceed the maximum 81m² as required under Section 4.4 of DCP 55. The areas which fail to comply are as follows:

Block A: 99m² (SE)
86m² and 93m² (SW)

Block B: 84m² (SE)
107m² (NW)

Block C: 218m² (W)
137m² (E)

Block D: 182m² (W)
178m² (E)

Block E: 201m² (E)

Block F: 132m² (W)

Block G: 87m² (S)
180m² (W)

140m² (N)

The aim of the control is to ensure that new developments are of a high architectural quality, have a predominance of soft landscaping features and mitigate change in scale between new development and existing, lower density, housing. The variations to these controls generally face towards large masses of landscaped area. These landscaped areas will provide for a mix of landscaping which will include canopy trees to assist in the softening of the building mass. The variety of finishes and materials utilised in the development will break down the perceived bulk of the development along these wall planes. The remaining elevations of the development provide extensive articulation with the varying wall plane depths and balconies.

Four of the seven apartment blocks fail to comply with the maximum building width of 36m. Blocks A, B and G have minor numerical non-compliances with this control of between 0.5m-1.0m. This variation is considered minor and will not undermine the aims of the control. Each of these apartment blocks are well articulated when viewed both internally from the site and from the adjoining residential properties and use a variety of building materials such as aluminium privacy screening, rendered brick work and glass balustrade which assist in the integration of the development with the surrounding residential area.

Block D has a maximum building length of 45m, 9m in excess of that specified by the DCP. Block D is located along the centre of the southern boundary adjoining the properties of 1574 and 1576 Pacific Highway. The setback of the apartment Block to the southern boundary will allow extensive landscaping to be provided to soften the length of the apartment block. A suitable level of articulation and use of materials and finishes has been provided on the southern façade of the southern boundary which will further assist to break down the building mass.

Amendments were made by the applicant to recess all balconies so that they protrude a maximum of 1.2m from Blocks A and B in accordance with the requirements of DCP 55. The balconies on Blocks C, D, E, F and G have not been amended as compliance with this control would lead to privacy issues between apartments. The apartments have been designed to provide additional articulation to the facades of the apartment blocks and will still allow landscaping to soften the

Item 1

features of the development. The variations to this control in the five apartment blocks will not have a detrimental impact on the design of the development and will ensure privacy and adequate levels of solar access are maintained to all of the apartments.

Part 4.5 Residential amenity:

Section 4.5.2 Visual privacy

The development fails to comply with the requirements of minimum setbacks between buildings for visual privacy as required by this section of the DCP. The aims of this control is to ensure that visual privacy is maintained for the residents of the development and residents of adjoining properties and that the landscaping forms an integral part of the design features.

The applicant has amended several of the non-complying elevations of the apartment blocks to include glass blocks and frosted windows to alleviate privacy concerns between the apartments.

Council's Landscape Officer has reviewed the proposed development with regard to the provision of appropriate landscaping to ensure a reasonable level of privacy between the development site and adjoining properties as well as between apartment blocks where appropriate. No issues have been raised in relation to privacy with adjoining property owners as the majority of apartments have been orientated away from the adjoining boundaries to ensure overlooking of these properties is minimised.

Roof terraces of the top floors of the apartment Blocks C and D have also been designed to face towards the centre of the site so as not to allow overlooking of the adjoining properties.

The separation between the fifth storeys of each of the following apartment blocks fails to meet the minimum 18m setback required by DCP 55:

Blocks A and B:	9.5m
Blocks C and D:	14.0m
Blocks D and E:	10.0m

This control is also provided in the SEPP 65 - Residential Design Code, to ensure that new development is scaled to support the desired character of the area with appropriate massing between buildings, the provision of visual and acoustic privacy for both existing and new residents and to control overshadowing of adjacent properties and private or shared open space areas.

The separation between each of these apartments buildings is assisted by the difference in ground levels, as the site falls away from the Pacific Highway. The setbacks between apartment Blocks C and D, D and E are stepped, which increases the amenity afforded to each of these top floor apartments.

The apartments on each of these fifth floors have expansive views across the site and surrounding areas. The primary location of the private open space for each of these apartments has been orientated so that increased separation would occur through the use of these outdoor areas. In order

Item 1

to achieve good levels of privacy for these fifth floor apartments, the provision of landscape planters along the adjoining areas will further assist in the provision of a good level of visual and acoustic separation between the habitable areas of the apartments (**refer Condition No 38**).

Section 4.5.5 Outdoor living

A total of thirty (30) apartments out of the proposed 157 fail to comply with the minimum private open space requirements required under DCP 55. These apartments are both 1 and 2 bedroom apartments. The aim of this control is to ensure that private open space for each of the apartments is functional and integrated well into the overall design of the development.

The Residential Flat Design Code, which is called up by SEPP 65, specifies the following minimum standards for private open space for 1 and 2 bedrooms apartments:

1 bedroom apartments: 8m²

2 bedroom apartments: 11m²

Block G has two, 1 bedroom apartments which propose private open space areas of 8m² each. These apartments fall below the specified minimum area of 10m² as required in DCP 55. The area of non-compliance with the DCP is considered minor and the balconies will still meet the minimum area specified under the Residential Flat Design Code and is therefore acceptable.

Blocks B, E and F have a total of 20 apartments which do not meet the minimum 12m² private open space requirements of DCP 55. These apartments are deficient in area by no more than 1m². This is a minor non-compliance with the DCP and, when compared against the requirements of the Residential Flat Design Code will fully comply. The lack of 1m² for each apartment will not restrict the functional use of the private open space for the future residents of the site. The private open space areas are considered to meet the other design objectives of the DCP by ensuring they are integrated into the overall design of the development and create a private and active recreational space for all occupants of the apartment.

Twelve (12) ground floor apartments out of a total thirty-six (36) ground floor apartments fail to provide a minimum 25m² outdoor private open space. These are all 1 bedroom apartments and provide a minimum 12m², with the exception of two apartments in Block G. The areas of private open space are considered suitable as the outdoor space provided will be for single bedroom units only and are capable of still allowing the functional use by future occupants.

Part 7.2 1580-1596 Pacific Highway, Wahroonga

Section 7.2.3 Landscape character

The DCP requires the submission of a cultural landscape report to assess the cultural and visual significance of the existing tree canopy. The applicant has not submitted this report. However, this matter is considered to have been appropriately addressed in the heritage impact statement prepared by City Plan, dated December 2004.

Development Control Plan No. 31 – Access

Item 1

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

Development Control Plan No. 40 – Construction and Demolition Waste Management

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

Development Control Plan No. 43 – Car Parking

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

Development Control Plan No. 47 – Water Management

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

Section 94 Plan

The development attracts a section 94 contribution of \$2,734,814.50 which is required to be paid by *Condition No. 90*.

The figure is calculated on the following basis, utilising Ku-ring-gai Section 94 Contributions Plan 2004-2009 Residential Development adopted 30 June 2004.

STRATA SUBDIVISION

The application is also for the strata subdivision of the apartments, parking area and common space after the completion of the building.

Relationship to adjoining development

The proposed strata subdivision will not alter the sites relationship to adjoining properties. The proposal will permit the units to be independently owned but does not alter their form, capacity or the facilities available to each. The impact of the strata subdivision on the amenity of the adjoining properties is considered acceptable.

State Environmental Planning Policy No. 10 Low Cost Rental Accommodation

The development is not defined as being affordable housing under the provisions of State Environmental Planning Policy No. 10 (SEPP No. 10) – Low Cost Rental Accommodation as it is not included in any of the following;

Item 1

- a. a boarding house
- b. a hostel
- c. a residential flat building containing a low-rental dwelling.

Therefore, the application is not required to be referred to the Director General of DIPNR in accordance with the requirements of Clause 7(3) of SEPP No. 10.

Statutory controls

The subject site is zoned residential 2(d3) under the provisions of the KPSO. Development for purposes of strata subdivision is permissible with the consent of Council. The proposed strata subdivision is considered to be consistent with the aims and objectives of the zone. A number of conditions in relation to strata subdivision requirements have been recommended (*refer Conditions 118, 119, 120, 121 and 122*).

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

ANY SUBMISSIONS

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

PUBLIC INTEREST

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

ANY OTHER RELEVANT MATTERS CONSIDERATIONS NOT ALREADY ADDRESSED

There are no other matters for assessment.

CONCLUSION

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

RECOMMENDATION

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

Item 1

THAT the Council, as the consent authority, grant development consent to DA1081/04 for the construction of seven (7) residential flat buildings containing 157 apartments and basement parking for 218 vehicles, including 40 visitor spaces and strata subdivision into 158 lots on land at 1580-1596 Pacific Highway, Wahroonga, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL

1. The development to be in accordance with Development Application No 1081/04 and Development Application plans prepared by Meriton Apartments Pty Ltd, reference number Drawing numbers: DA00(A), DA01(B), DA02(B), DA10 (A), DA11(A), DA12(A), DA13(A), DA14(A), DA15(A), DA16(A), DA17(A), DA18(B), DA19(B), DA20(B), DA21(B), DA22(B), DA31(A), DA32(A), DA41(A), DA42, (A) DA51(A), DA52(A), DA61(A), DA62(A), DA71(A), DA72(A), DA81(A), DA82(A), DA91(B), DA92(B), DA93(B), dated March 2005, dated March 2005 and lodged with Council on 6 April 2005.
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 external materials and finishes are to comply with the schedule of finishes prepare by Meriton Apartments Pty Ltd. In particular
 - Face brick – Cinnamon Smooth (Boral)
 - Roof – terracotta tile
 - Powder coated privacy screens and aluminum balustrade – Iron Bark (Dulux 52036)
 - Rendered and painted brickwork of balustrade – European White (Dulux)
 - Rendered and painted brickwork 'V' jointed – Delta Waters (Dulux 17.B2)
5. Peep holes" shall be provided to the entrance doors for all units for personal security.
6. 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.
7. 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.
8. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or stormwater drainage system is prohibited. These waters are to discharge via a permanent drainage line into the Sydney Water's sewer. Permission is to be obtained from the Sydney Water prior to the emptying of any pool to the sewer.

Item 1

9. To ensure compliance with the relevant standards, an effective and approved safety fence with self closing gate complying with the minimum requirements of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools" shall be provided to the Principal Certifying Authority's satisfaction in the location indicated on the approved plans prior to any water being placed in the pool.
10. For safety purposes, depth markers shall be provided at both ends of the pool.
11. For safety purposes, prior to the pool being filled a weather resistant poster detailing expired air resuscitation (mouth to mouth) methods shall be affixed within plain sight of the pool. A sign/notice with the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" shall be erected in clear view and in close proximity to the pool.
12. 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.
13. 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.
14. **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.
15. 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.
16. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.

Item 1

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

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

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

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

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

23. 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.

Item 1

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

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

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

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

26. The developer shall submit to Council a letter from the energy supply authority and either Telstra or Optus, confirming that satisfactory arrangements have been made for the provision of underground telephone and power services, prior to the release of the Subdivision Certificate or Occupation. Application may be made to Energy Australia Phone No. 13 1525 and either Optus, Network Operations, Facsimile No 9837 9060, Phone No 9837 9010, or Telstra Phone No 12 455.
27. All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measure at the nearest adjoining boundary.
28. The fence and footings shall be constructed entirely within the boundaries of the property.
29. Under no circumstances shall building materials, demolition waste, fill, soil or any other material from any source be placed or stored within any public reserve.
30. To preserve and enhance the natural environment, all soil erosion and sediment control structures shall be inspected following each storm event and any necessary maintenance work shall be undertaken to ensure their continued proper operation. Sediment shall be removed from the soil erosion and sediment control structures when no more than forty percent (40%)

Item 1

capacity has been reached. These structures shall continue in proper operation until all development activities have been completed and the site fully stabilised.

31. To preserve and enhance the natural environment, sediment removed from erosion and sediment control structures shall be disposed of to an approved sediment dump.
32. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
33. To prevent pollution, all vehicles making a delivery to or from the site are to be covered to prevent loose materials, dust etc falling from the vehicles.
34. The applicant's attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owner/s which may arise from this application and it is advised that enquiries in this regard may be made at the nearest Local Court.
35. External paved access for vehicles and pedestrians being provided with material which will provide some contrast to the finish of the pavement to the satisfaction of the Principal Certifying Authority.
36. No advertising signs are to be erected without the prior consent of Council.
37. 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.

38. Landscape works shall be carried out in accordance with Landscape Drawing No DA-0436-01 Rev B, DA-0436-02 Rev B, and DA-0436-03 Rev B prepared by Guy Sturt and Assoc. and dated 04/04/05 submitted with the Development Application, except as amended by the following:
 - The proposed planting of two Eucalyptus saligna (Bluegum) adjacent to the eastern side of the driveway within the proposed terraced gardens are to be relocated so that they are located no closer than 6.0m from any structure in the same vicinity.
 - Existing trees (#'s 129, 130, 133, and 134) Lophostemon confertus (Brushbox) located adjacent to the southern site boundary are to be removed and replaced with eight (8) Elaeocarpus reticulatus (Blueberry Ash) with a minimum pot size of 45 litres, evenly

Item 1

spaced at 4.0m intervals offset from the southern site boundary by 1.5m and planted in conjunction with appropriate native understorey planting screening shrubs able to attain a minimum height of 3.5m.

- The proposed planting of *Eucalyptus pilularis* (Blackbutt) adjacent to the southern site boundary (Landscape Plan Part B) are to be planted at an advanced size and have a minimum height at the time of planting of 4.0m.
- To maintain and enhance neighbour amenity, the proposed planting of *Pittosporum revolutum* (Yellow flowering pittosporum) adjacent to 2 Munderah St is to have a minimum height of 1.2m at the time of planting.
- To improve and maintain neighbour amenity it is required that proposed planting of the western site boundary adjacent to Buildings F and G be substantially increased with native endemic shrub species able to attain minimum heights of 3.0 to 4.0m. Understorey screening shrubs are to be planted at 2.0 to 3.0m intervals to ensure a dense screen planting.
- Raised fixed planter boxes/beds are to be provided along the entire south-eastern elevation of the terrace on level 5 of Block A and the entire north-western elevation of the terrace on Block B on level 5. The planter boxes/beds are to be planted with shrubs which achieve a cumulative total height of 2.0m

39. To enhance streetscape amenity the proposed timber fence panels adjacent to the Pacific Hwy and Munderah St frontages are to be deleted and replaced with an open palisade fence to the same dimensions.
40. To enhance and maintain streetscape amenity to both the Pacific Highway and Munderah St, any proposed fencing is to be located with a minimum 2.0m setback from the site boundaries. The proposed fence and fence piers are not to exceed 1.8m in height above ground level.
41. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
42. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
Tree numbers refer to Arborists Report by TALC dated 22 nd March 2005	
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	10.0m
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m

Item 1

#4 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	6.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	6.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	10.0m
#15 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	7.0m
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	4.0m (western side, 7.0m elsewhere)
#36 <i>Casuarina glauca</i> (Sheoak) Adjacent to western site boundary/2 Munderah Street	3.0m
#39 <i>Acer palmatum</i> (Japanese Maple) Adjacent to western site boundary/2 Munderah Street	4.0m
#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	5.0m
#123 <i>Camellia sasanqua</i> (Chinese Camellia) Adjacent to eastern site boundary within 1578 Pacific Hwy	4.0m
#127 <i>Eucalyptus nicholii</i> (Small leaf peppermint) Adjacent to eastern site boundary within 1578 Pacific Hwy	5.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	6.0m
#132 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	10.0m
#135 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to south west site corner in neighbouring property	10.0m

Item 1

#140 <i>Castanospermum australe</i> (Qld Blackbean) Adjacent to western site boundary within neighbouring property	4.0m
#141 <i>Angophora floribunda</i> (Rough barked apple) Adjacent to western site boundary within neighbouring property	4.0m
#166 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the rear north west site corner	7.0m
#170 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north-west site corner	3.0m
#171 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north-west site corner	8.0m
#178 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north-west site corner	10.0m
#180 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear northern site boundary	8.0m
#184 <i>Erythrina sykesii</i> (Coral Tree) Adjacent to rear northern site boundary in neighbouring property	7.0m
#189 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary	5.0m

43. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the Principal Certifying Authority shall be required at three monthly intervals. Documentary evidence of compliance with this condition shall be submitted to the principal certifying authority prior to the issue of the Occupation Certificate.

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

Tree/Location	Radius From Trunk
#1 <i>Eucalyptus saligna</i> (Bluegum)	10.0m

Item 1

Adjacent to northern/Munderah St site boundary	
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#4 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	6.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	6.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	10.0m
#15 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	7.0m
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	4.0m (western side, 7.0m elsewhere)
#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	5.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	6.0m
#132 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	10.0m
#189 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary	5.0m

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

Tree/Location	Radius From Trunk
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	7.0m

Item 1

#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	5.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	8.0m
#166 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the rear north west site corner	7.0m

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

Tree/Location	Radius From Trunk
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	5.0m
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	5.0m
#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	5.0m
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	4.0m
#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	3.0m

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

Tree/Location	Radius From Trunk
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	10.0m
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#10 <i>Eucalyptus saligna</i> (Bluegum)	6.0m

Item 1

Adjacent to western site boundary/2 Munderah St

#11 *Eucalyptus saligna* (Bluegum) 10.0m
Adjacent to western site boundary/2 Munderah St

#14 *Eucalyptus pilularis* (Blackbutt) 10.0m
Adjacent to eastern/Pacific Hwy site boundary

#15 *Eucalyptus saligna* (Bluegum) 10.0m
Adjacent to western site boundary/2 Munderah St

#25 *Eucalyptus saligna* (Bluegum) 7.0m
Adjacent to eastern/Pacific Hwy site boundary

#27 *Cedrus deodar* (Himalayan Cedar) 4.0m
Adjacent to eastern/Pacific Hwy site boundary

#131 *Eucalyptus saligna* (Bluegum) 6.0m
South west site corner

#132 *Eucalyptus saligna* (Bluegum) 10.0m
South west site corner

#166 *Eucalyptus saligna* (Bluegum) 10.0m
Adjacent to the rear north west site corner

48. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.

49. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Munderah St. The tree/s used shall be 25 litre container size specimen/s:

Tree Species

Eucalyptus pilularis (Blackbutt) x 2

50. The following noxious and/or undesirable plant species shall be removed from the property prior to completion of the proposed building works. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to the release of the final Compliance Certificate:

Plant Species

Hedera sp. (Ivy)

Ligustrum lucidum (Large-leaved Privet)

Ligustrum sinense (Small-leaved Privet)

Cinnamomum camphora (Camphor laurel)

Item 1

51. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.
52. If it is essential for scaffolding to be erected within a protected area, fencing should be erected to provide just sufficient space for scaffolding. The ground between this fence and the building should be protected by boarding (eg scaffold boards). A single thickness of boarding laid on the soil surface will provide sufficient protection for pedestrian loads, but more substantial boarding sufficient to spread the load should be used for heavier traffic. The ground beneath the boarding should be left undisturbed and should be protected with a porous geotextile fabric. If necessary, sand should be laid on the fabric to level the ground. When required, the building scaffolding should be erected. The boarding should be left in place until the building works are finished.
53. If temporary vehicle access is required near a tree to be retained, 75x75x2000mm hardwood planks are to be lain over a mulched area to a depth of 100mm with organic material being 75% leaf litter and 25% wood to distribute weight and to minimise compaction of soil profiles beneath. Timber lengths are to be secured on top of such to avoid movement and the structure should be constructed to accommodate vehicles that are to be used on site. Structural soil or similar should be used as a subgrade placed above existing soil levels for alternate driveway surfaces to support larger site vehicles or more rigid type temporary sealed road surfaces.
54. Tree protection signage is to be attached to each tree protection zone and displayed in a prominent position and the sign repeated at 10.0m intervals or closer where the fence changes direction. The signs to be a minimum size of 600mm x 500mm. Example details, as following
 1. Tree Protection Zone
 2. This fence has been installed to prevent damage to the trees and their growing environment contained within, to allow those trees to be retained as components of the existing landscape for incorporation into the landscape works for this site. It is the intent of this tree management process to retain these trees in a condition that is safe, viable and healthy, or a condition not less than that at the time of the commencement of this development
 3. Due to the critical nature of the Tree Protection Zone with regards to the long term viability of the tree/s, if encroachment or incursion into this zone is deemed to be essential the consulting Arborist should be informed to the undertaking of such works
 4. Name, address, and contact details of the developer.
55. In the event of prolonged dry periods, or where a tree has been transplanted, or where excavation nearby, especially up slope, leads to the drying out of soil profiles closest to the tree/s, the tree/s is to be deep watered thoroughly at least twice a week. In the event of disrupted ground or surface water flows to the tree due to excavation, filling, or construction, an irrigation system is to be installed, consideration must be given to volume, frequency and drainage of water delivered, and this is to be in consultation with a qualified consulting Arborist.

Item 1

56. Where tree protection measures are to be removed or altered this must be undertaken in consultation with the consultant Arborist to ensure tree protection is maintained.
57. Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped and connected to the piped Council drainage system within the site. Drainage line connections to the system shall conform and comply with the relevant detail within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe") within Ku-ring-gai Council Water Management Development Control Plan 47.
58. A mandatory rainwater re-use tank system comprising stormwater tanks and rainwater tanks of minimum volume totaling 471m³, as required in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47, must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. A mains top-up shall be provided for periods of low rainfall, with a void space left for runoff storage purposes. An additional **on-site detention** system of volume 613m³ must be provided in accordance with the approved DA stormwater concept plans and supporting documentation.
59. For stormwater control, 200mm wide grated channel/trench drains with heavy-duty removable galvanised grates are to be strategically placed to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
60. A maintenance period of six (6) months shall apply to works in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
61. Where required, the adjustment of any 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 responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
62. To ensure structural stability, footings to be located adjacent to easements and/or Council drainage pipes shall be sited and constructed so that all footings are located outside of easement boundaries. The applicant shall refer to Council Plan 80-011 concerning such works. Footings must extend to at least the depth of the invert of the adjacent pipe within the easement unless the footings are to be placed on competent bedrock. If permanent excavation is proposed beneath the obvert of the pipe within the easement, suitable means to protect the excavation from seepage or other water flow from the pipe and trench, and means to retain the easement and associated pipe cover, are to be provided by the applicant at no cost to Council. Council accepts no liability for such seepage or water flows now or at any time in the future resulting from such excavation.

Item 1

63. All public footways and accessways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
64. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
65. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking".
66. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.
67. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Applicant shall refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
68. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).

Item 1

69. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure. Geotechnical aspects of the development work, namely:
- Appropriate excavation method and vibration control,
 - Support and retention of excavated faces,
 - Hydrogeological considerations,
- Must be undertaken in accordance with the recommendations of the Pells Sullivan Meynik Pty Ltd Consulting Engineers (refer report number PSM858.L3 Rev2 dated 1st October 2004) and all subsequent geotechnical inspections carried out during the excavation and construction phase. Approval must be obtained from all affected property owners, including Ku-ring-gai Council where rock anchors (both temporary and permanent) are proposed below adjacent property.
70. The geotechnical works implementation, inspection, testing and monitoring program for the construction works must be in accordance with the preliminary geotechnical study **prepared** by Pells Sullivan Meynik Pty Ltd Consulting Engineers (refer report number PSM858.L3 Rev2 dated 1st October 2004). Over the course of the works a qualified Geotechnical/hydrogeological Engineer must complete the following:
- Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
 - Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
 - Written report(s) and certification(s) of the geotechnical inspection, testing and monitoring programs.
71. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
72. All construction traffic control and management measures shall be implemented in accordance with an approved *Construction Traffic Management Plan* to be submitted and approved by Council prior to the commencement of works. The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works, and shall pay particular attention to traffic control during school drop off and collection hours. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.
73. In order to allow **unrestricted access at all times** for Council waste collection vehicles to the basement garbage storage and collection area, no doors, grilles, gates or other devices are to be provided in the access driveways to the basement carpark which would prevent this service.
74. To ensure compliance with Australian Standard 2890.1 – 2004 “Off-Street car parking”, no dividing structures such as cages or partitioning walls shall be placed that divide individual car spaces. The parking layout design is approved based on an open space parking layout.

Item 1

75. All new public utility services, or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.

76. It is the **full responsibility** of the Applicant and their contractors to:
- Ascertain the exact location of the Council drainage pipe traversing the site in the vicinity of the works, and
 - Take full measures to protect the in-ground Council drainage system, and
 - Ensure existing dedicated overland flow paths are satisfactorily maintained through the site.

Drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage and the like). All proposed structures and construction activities are to be sited fully clear of Council drainage pipes, drainage easements, watercourses and trunk overland flow paths on the site. Trunk or dedicated overland flow paths must not be impeded or diverted by fill or structures unless otherwise approved. In the event of a Council drainage pipeline being uncovered during construction, all work is to cease and the Principal Certifying Authority and Council must be contacted immediately for advice. Any damage caused to a Council drainage system must be immediately repaired in full as directed, and at no cost to Council.

77. No part of any building structure shall encroach over any easement and no loadings shall be imposed to utilities within any easement unless approved by the owner(s) appurtenant to the burden. This development consent does not set aside or affect in any way the exercise of any rights-at-law which may be conferred upon any parties by the existence and/or terms of the grant of any easements or rights-of-carriageway on or over the subject lot(s). It is the applicant's full responsibility to ensure that any rights-at-law are investigated and upheld. Council accepts no responsibility whatsoever, at any time, for any claim for any matter or thing arising from its approval to this application involving any encroachment or other influence upon any easement or right-of-carriageway. The applicant's attention is further directed to the rights of persons benefited by any easement or right-of-carriageway concerning the entry and breaking up of a structure approved by this consent. In the event that such a structure causes damage, blockage, impediment or other thing requiring maintenance to infrastructure within the easement or right-of-carriageway, or access is required to carry out maintenance, Council accepts no responsibility in this regard now or in the future.

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

78. 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.

79. 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

Item 1

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).

80. 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.
81. 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.
82. To ensure structural stability, engineer's details (in duplicate) of retaining walls, prepared by a qualified practising structural engineer, shall be submitted to the Principal Certifying Authority for consideration prior to the issue of the Construction Certificate.
83. All windows of habitable rooms on the western and eastern elevations of Block D, the eastern elevation of Block E, and the western elevation of Block C are to be of translucent glazing to

Item 1

ensure privacy is maintained to these apartments. Details are to be shown on the Construction Certificate plans.

84. Service ducts shall be provided within the building to keep external walls free of plumbing or any other utility installations. Such service ducts are to be concealed from view from the street. Details demonstrating compliance are to be provided in the Construction Certificate (*Reason: To ensure quality built form of the development*).
85. The following energy efficiency devices are to be installed within the development:
- a) Gas boosted solar, heat pump or electricity boosted solar, instantaneous gas or high efficiency centralized gas hot water heating system.
 - b) Dual flush toilets.
 - c) Low flow taps and showerheads.
- Details are to be submitted for approved with the Construction Certificate (*Reason: To promote the use of energy efficient appliances*).
86. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS 1668.1. Details demonstrating compliance are to be provided with the Construction Certificate (*Reason: To preserve community health and ensure compliance with acceptable standards*).
87. All overhead electricity and other lines (existing and proposed) shall be undergrounded from the proposed buildings on the site to the appropriate power pole(s) or other connection points, in accordance with the requirements of Energy Australia. Details to be shown on plans submitted with the Construction Certificate (*Reason: To provide infrastructure that facilitates future improvement of the streetscape by relocation of overhead lines below ground*).
88. Sixteen (16) of the proposed apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and level door handles and taps: such features to be designed generally in accordance with AS 1428.1 and AS 4299-1995 – Adaptable Housing. Details demonstrating compliance are to be submitted with the Construction Certificate (*Reason: to ensure equity of access and availability of accommodation in the future for an ageing population*).
89. One hundred and ten (110) of the proposed apartments are to be ‘*visitable housing units*’ in accordance with the requirements of AS 4299. These apartments are to be visitable by people who use wheelchairs. There must be at least one wheelchair accessible entry and path of travel to the living area and to a toilet that is either accessible (meeting the floor space requirements described in AS1428.1) or visitable toilet (minimum space of 1250mm in front of the toilet that is either accessible or visitable. Details demonstrating compliance are to be submitted with the Construction Certificate (*Reason: to ensure equity of access and availability for disabled persons*).

Item 1

90. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF 150 ADDITIONAL DWELLINGS IS CURRENTLY \$2,734,814.50. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council’s Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council’s adopted Section 94 Contributions Plan for Residential Development, effective from 30 June 2004, calculated for additional person as follows:

1. Community Facilities	\$1 117.76
2. Park Acquisition and Embellishment Works - Wahroonga	\$6 574.28
3. Sportsgrounds Works	\$1 318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75 sqm)	1.27 persons
Medium dwelling (75 - under 110 sqm)	1.78 persons
Large dwelling (110 – under 150sqm)	2.56 persons
Very Large dwelling (150sqm or more)	3.48 persons
New Lot	3.48 persons
SEPP (Seniors Living) Dwelling	1.3persons

91. A CASH BOND/BANK GUARANTEE of \$10 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of the 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

Item 1

is the responsibility of the applicant to make all arrangements regarding transference of the bond and to notify Council of such.

92. A CASH BOND/BANK GUARANTEE of \$45 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

Tree numbers refer to Arborists Report by TALC dated 22nd March 2005

#1 *Eucalyptus saligna* (Bluegum) \$3 000.00
Adjacent to northern/Munderah St site boundary

#2 *Eucalyptus saligna* (Bluegum) \$3 000.00
North east/Pacific Hwy/Munderah St site corner

#4 *Eucalyptus saligna* (Bluegum) \$3 000.00
Adjacent to northern/Munderah St site boundary

#10 *Eucalyptus saligna* (Bluegum) \$3 000.00
Adjacent to western site boundary/2 Munderah St

#11 *Eucalyptus saligna* (Bluegum) \$3 000.00
Adjacent to western site boundary/2 Munderah St

#14 *Eucalyptus pilularis* (Blackbutt) \$3 000.00
Adjacent to eastern/Pacific Hwy site boundary

#15 *Eucalyptus saligna* (Bluegum) \$3 000.00
Adjacent to western site boundary/2 Munderah St

#25 *Eucalyptus saligna* (Bluegum) \$3 000.00
Adjacent to eastern/Pacific Hwy site boundary

#27 *Cedrus deodar* (Himalayan Cedar) \$2 000.00
Adjacent to eastern/Pacific Hwy site boundary

#73 *Afrocarpus falcata* (Brown Pine) \$1 000.00

Item 1

Adjacent to eastern/Pacific Hwy site boundary

#131 *Eucalyptus saligna* (Bluegum) \$6 000.00
South west site corner

#132 *Eucalyptus saligna* (Bluegum) \$3 000.00
South west site corner

#166 *Eucalyptus saligna* (Bluegum) \$6 000.00
Adjacent to the rear north-west site corner

#171 *Eucalyptus saligna* (Bluegum) \$3 000.00
Adjacent to rear north-west site corner

93. Prior to the issue of any Construction Certificate the applicant shall lodge a \$50,000 (fifty thousand dollar) public infrastructure damage bond with Council. This bond is applied under the provisions of Section 97 of the Local Government Act to cover the restoration by Council of any damage to public infrastructure not repaired in full, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
 - b) The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
 - c) Works in the public road associated with the development are to an unacceptable quality.
94. Prior to issue of any Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably 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 DCP 47 (available on the Council website). The design may be generally in accordance with the Stormwater Plan Report X04389-01 and corresponding drainage plans DA01, DA02, DA03, DA04 and DA05, dated December 2004, by Brown Consulting Engineers, submitted with the development application, and advanced as necessary for construction issue purposes.
95. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the Applicant must demonstrate to the Principal Certifying Authority that the necessary easement(s) for drainage have been created to benefit the entire (consolidated) lot. The easement is to be created over all intervening downstream private properties as far as Gilda

Item 1

Ave and is to be over the existing Council drainage pipeline to which connection is proposed. The terms shall be sufficiently wide enough to permit Council to allow the subject site to discharge its runoff into this piped system. The evidence must be in the form of registered title documents indicating the benefits as necessary. The intent of the condition is to ensure that the necessary easement for drainage is in place when works generating runoff (i.e. concrete pouring) are commenced.

96. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the Applicant must consolidate the existing Torrens lots. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.
97. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, any security gate, grille or door shown on the DA plans which would prevent unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area must be deleted from the plans approved with the Construction Certificate. Such details shall be to the satisfaction of the Principal Certifying Authority (PCA).
98. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, a plan detailing services trenches in accordance with the relevant supply authorities (including electricity, gas, telephone, water and sewerage), shall be submitted for approval by the Principal Certifying Authority (Principal Certifying Authority).
99. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the Applicant shall contact Energy Australia with regard to power supply for the subject development. A written response detailing the full requirements of Energy Australia (including cabling, lighting, need for substations or similar within the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the relevant Construction Certificate issue. Any structures or requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate to the satisfaction of the PCA. The requirements of the utility provider shall be met in full prior to issue of the final Occupation Certificate.
100. Prior to issue of the Construction Certificate for works excluding site clearing and excavation, footpath and driveway levels for the required driveway crossing between the property boundary and road alignment must be obtained from 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. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council

Item 1

may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.** The 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. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

101. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, carwashing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use, including pumps and back up power supply shall be shown on these designs to a detail suitable for installation by the plumbing services contractors. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
102. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, 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 the on-site stormwater detention, retention and bioretention systems. The minimum storage volumes and designs shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), any manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. 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. The design is to be in accordance with the Stormwater Plan Report X04389-01 and corresponding drainage plans DA01, DA02, DA03, DA04 and DA05, dated December 2004, by Brown Consulting Engineers submitted with the development application, and advanced as necessary for construction issue purposes.
103. Prior to issue of a Construction Certificate for works excluding site clearing and excavation, 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, detention and bioretention devices. Plans and supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 and the relevant drainage codes. New connection points to the Council drainage system must be shown accurately on the plan and shall be made in accordance with

Item 1

the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The design of these drainage components may be generally in accordance with the Stormwater Plan Report X04389-01 and corresponding drainage plans DA01, DA02, DA03, DA04 and DA05, dated December 2004, by Brown Consulting Engineers submitted with the development application, and advanced as necessary for construction issue purposes.

104. Prior to issue of a Construction Certificate for works excluding excavation and site clearing, the applicant shall submit, for approval by the Principal Certifying Authority (PCA), revised plans for the basement and external vehicle access and accommodation arrangements. These plans must address the following details:
- a) Removal of all doors, grates or security grilles which would prevent access to the respective garbage collection and visitor parking areas within each building. This requirement is specified in Councils DCP 40 and DCP 55.
 - b) One of the resident parking spaces is to be allocated as visitor parking, which will then satisfy the visitor parking requirement of the LEP.
 - c) On parking level 4, Space 1 is to be a minimum 2.8m wide due to the adjacent wall.
 - d) On Parking Level 4, the section of curved roadway between the curved ramp and space 30 must have a minimum outer radius of 11.8m instead of 11 metres and a central median of 0.6 metres is required (refer to clause 2.5.2 of Australian Standard 2890.1 – 2004 “Off-Street car parking”).
 - e) All disabled visitor parking spaces must have signposting (in accordance with AS1428.1) showing the direction to such spaces.
 - f) The transition at the bottom of ‘Ramp 2’ is to be minimum 2m long.
105. Prior to issue of a Construction Certificate for any works excluding excavation and site clearing, the Applicant must have detailed engineering plans approved by Council for the following works in the frontage Road Reserves:
- Construction of a fully new concrete footpath, 1.2 metres wide or as directed, over the full site frontage on the Pacific Hwy and Munderah Street.
 - Construction of fully new kerb and gutter on the development side in Munderah Street, between the Pacific Highway intersection and the existing kerb and gutter.
- Development Consent under the EP&A Act does NOT give approval to these works on Council property. **THE APPLICANT MUST OBTAIN A SEPARATE APPROVAL UNDER SECTION 138 AND 139 OF THE ROADS ACT 1993** for the works in the Public Road, required by this condition. The Construction Certificate must not be issued, and these works must not proceed, until Council has issued a formal written consent under the *Roads Act 1993*.

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

Item 1

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

A minimum of three (3) weeks will be required for assessment of Roads Act submissions. Early submission is highly recommended to avoid delays in obtaining a Construction Certificate. An engineering assessment fee (set out in Council’s adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council’s Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

- 106. In the interest of public safety, existing tree numbers 1, 2, 4, 10, 11, 14, 15 and 25, as identified with the submitted arborist's report, are to have further investigative work undertaken including aerial inspections and resistograph testing to be undertaken by the consulting arborist prior to the issue of the construction certificate to determine their structural integrity as a result of previous storm damage and initial findings. Recommendations and works to be undertaken as a result of the further investigation is to be detailed in a report which is to be submitted to the principal certifying authority, with a copy to Council's assessing Landscape Development Officer. The recommendations and works detailed within the report are to be undertaken prior to the release of the construction certificate. In the event that the trees are recommended for removal, replacement trees of the same species with a minimum pot size of 45litre are to be planted within the same general vicinity.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

- 107. 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.
- 108. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in Metres
#2 <i>Eucalyptus saligna</i> (Bluegum) North east/Pacific Hwy/Munderah St site corner	10.0m
#14 <i>Eucalyptus pilularis</i> (Blackbutt) Adjacent to eastern/Pacific Hwy site boundary	7.0m

Item 1

#25 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to eastern/Pacific Hwy site boundary	6.0m
#27 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to eastern/Pacific Hwy site boundary	3.0m
#39 <i>Acer palmatum</i> (Japanese Maple) Adjacent to western site boundary/2 Munderah St	2.0m
#73 <i>Afrocarpus falcata</i> (Brown Pine) Adjacent to eastern/Pacific Hwy site boundary	2.0m
#123 <i>Camellia sasanqua</i> (Chinese Camellia) Adjacent to eastern site boundary within 1578 Pacific Hwy	4.0m
#127 <i>Eucalyptus nicholii</i> (Small leaf peppermint) Adjacent to eastern site boundary within 1578 Pacific Hwy	5.0m
#131 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	5.0m
#132 <i>Eucalyptus saligna</i> (Bluegum) South west site corner	8.0m
#135 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to south west site corner in neighbouring property	10.0m
#140 <i>Castanospermum australe</i> (Qld Blackbean) Adjacent to western site boundary within neighbouring property	5.0m
#141 <i>Angophora floribunda</i> (Rough barked apple) Adjacent to western site boundary within neighbouring property	4.0m
#166 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the rear north-west site corner	6.0m
#170 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north-west site corner	3.0m
#171 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north west site corner	8.0m

Item 1

#178 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear north-west site corner	10.0m
#180 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to rear northern site boundary	8.0m
#184 <i>Erythrina sykesii</i> (Coral Tree) Adjacent to rear northern site boundary in neighbouring property	7.0m

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

Tree/Location	Radius From Trunk
#1 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	10.0m
#4 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to northern/Munderah St site boundary	6.0m
#10 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	6.0m
#11 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#15 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	10.0m
#189 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to western site boundary/2 Munderah St	5.0m

110. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
111. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. 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.

Item 1

112. Prior to the commencement of **any** works on site the applicant shall submit to **Council** a full dilapidation report on the visible (**including photos**) and structural condition of the following public infrastructure:

- a) Full road pavement width, including kerb and gutter, of Munderah Street between the western most boundary alignment and the Pacific Hwy, including the intersection
- b) All driveway crossings and laybacks opposite the subject site.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both via photo and written) *existing* damaged areas on the aforementioned infrastructure so that:

- Council is fully informed when assessing the damage to public infrastructure caused as a result of the development, and
- Council is able to refund infrastructure damage bonds, in full or parts thereof, with accuracy

The developer may be held liable to all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works. In this respect, the infrastructure damage bond lodged by the subject developer may be used by Council to repair the damage regardless.

113. Prior to the commencement of **any** works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:

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 standing areas
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible

2. **Traffic Control Plan(s) for the site**

- All traffic control devices installed in the road reserve must be in accordance with the RTA publication "Traffic Control Worksite Manual" and be designed by a person licensed to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

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.**

Item 1

- Light traffic roads and those subject to a load or height limit must be avoided at all times.
- A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.

In addition, the plan must address:

- Evidence of RTA concurrence where construction access is provided directly or within 20m of an Arterial Rd.
- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.
- For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

The *Construction and Traffic Management Plan* shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation. As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

114. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. The application must be made at least 15 days prior to the commencement of any works on site approved under this consent. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.
115. Prior to the commencement of any works on site, a closed circuit television (CCTV) inspection and report on the existing condition of the entire section of Council drainage pipeline traversing the subject property must be completed. The report must be provided to

Item 1

Council, attention Development Engineer, prior to issue of the Construction Certificate. The report is to include a copy of the video footage of the pipeline.

116. Prior to the commencement of construction works on site the Applicant must liaise with the RTA in relation to installing 'No Stopping' signage over the Pacific Highway frontage of the site. The general requirement for the installation 'No Stopping' signage over the Arterial Road frontages of construction sites is specified by RTA.
117. Prior to the commencement of **any excavation works** on site the Applicant must submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations. This is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal. The report shall have regard to protecting the Applicant from spurious claims for structural damage and must be verified by all stakeholders as far as practicable. Where the consulting geotechnical engineer is of the opinion that no dilapidation reports on adjoining structures are required, certification to this effect shall be provided for approval by the Principal Certifying Authority prior to any excavation. Upon submitting a copy of the dilapidation report to Council (or certification that no report is required), a written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

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

118. The subdivision certificate must not be issued until a *final* Occupation Certificate is issued by the Principal Certifying Authority. This condition is imposed to ensure that all development works related to the subdivision are completed to an acceptable standard prior to transfer of responsibility for the site and development.
119. Prior to issue of the subdivision 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 detention, retention and re-use, and bioretention facilities. The terms of the instruments are to be generally in accordance with the Council's terms of Section 88B instrument for protection of detention and retention and re-use facilities (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. The locations of the facilities within common property are to be denoted on the final plan of subdivision.
120. Prior to issue of the subdivision certificate an easement for waste collection is to be created under Section 88B of the Conveyancing Act 1919. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to be generally in accordance with

Item 1

Council's draft terms for an easement for waste collection and shall be to the satisfaction of Ku-ring-gai Council.

121. 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.
122. For issue of the subdivision certificate, the Applicant shall submit an original plan of subdivision plus six (6) copies suitable for endorsement by the consent authority. The following details **must** be submitted with the plan of Subdivision and its six copies, where Council is the consent authority:
- a) The endorsement fee current at the time of lodgment.
 - b) The 88B Instrument plus six (6) copies,
 - c) A copy of the final Occupation Certificate issued under this consent.
 - d) The Section 73 (Sydney Water) Compliance Certificate for the subdivision.

All parking spaces and all areas of common property, including visitor car parking spaces and on-site detention facilities, which are to be common property, must be included on the final plans of strata subdivision. Where Council is the consent authority, officers will check the consent conditions on the subdivision. Failure to submit the required information will delay endorsement of the linen plan, and may require payment of rechecking fees. **Plans of subdivision and copies must not be folded. Council will not accept bonds in lieu of completing subdivision works. If the certifying authority is not Council, then a copy of all of the above must be provided to Council.**

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

123. 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.
124. A survey report shall be submitted to the Principal Certifying Authority prior to occupation, which certifies that the development has been constructed in accordance with the terms of this consent in relation to built upon area, building levels and setbacks.
125. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
126. On completion of the landscape works/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful

Item 1

to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.

127. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the preliminary geotechnical study prepared by Pells Sullivan Meynik Pty Ltd Consulting Engineers (refer report number PSM858.L3 Rev2 dated 1st October 2004) and subsequent geotechnical input must be compiled in report format and submitted to the Principal Certifying Authority for approval.
128. At the completion of works and prior to issue of the Occupation Certificate qualified practitioners must undertake a follow up closed circuit television (CCTV) inspection and then report on the existing condition of the entire section of Council drainage pipeline traversing the subject property. The report must be provided to Council, attention Development Engineer, prior to issue of the Occupation Certificate. The report is to include a copy of the video footage of the pipeline. Any damage to the pipe caused by the works shall immediately be repaired in full at no cost to Council.
129. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:
 - a) Completion of the new driveway crossing in accordance with levels and specifications issued by Council.
 - b) Completion of all works in accordance with the Council approved *Roads Act* plans.
 - c) Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to footway, turfed verge and upright kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - d) Full repair and resealing of any road surface damaged during construction.
 - e) Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. 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, crane use) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

130. Prior to issue of an Occupation Certificate the approved footpath and drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.

Item 1

131. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
132. Prior to issue of an Occupation Certificate a suitably qualified consulting civil/hydraulic engineer is to provide engineering certification for approval by the Principal Certifying Authority (PCA). The certification is to make specific reference to each of the following aspects of the installed drainage and stormwater management measures:
- a) That construction of the stormwater drainage management systems has been carried out by a plumbing and engineering contractor licensed to do so.
 - b) All Sydney Water approvals have been obtained for the use of reticulated water.
 - c) That the as-built detention, retention and bioretention systems achieve the design storage volumes approved by the Principal Certifying Authority with the Construction Certificate (engineer must complete the form in appendix 4 of DCP47 in relation to the on-site detention system).
 - d) The as-built drainage layout (including pits, pipes, spreaders and the like) is in accordance with the relevant stormwater management and drainage plans approved by the Principal Certifying Authority with the Construction Certificate,
 - e) That all enclosed floor areas, including habitable and basement levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, grading and provision of stormwater collection devices.
 - f) The overall as built drainage and stormwater management systems will achieve the discharge control intent of the approved construction plans and Councils Water Management DCP47.
133. Prior to issue of an Occupation Certificate the applicant shall submit Works-as-Executed (WAE) drawing(s) to the Principal Certifying Authority in relation to the installed stormwater drainage and managements systems. These plans shall cover:
- a) Completed bioretention basins and indicative levels within.
 - b) As built location and indicative internal dimensions of all detention and retention structures on the property (plan view) and horizontal distances to nearest adjacent boundaries and buildings on site
 - c) As built surface and invert levels for all drainage pits and junction points.
 - d) Gradients of drainage lines, materials and sizes.
 - e) As built level(s) at the approved point of discharge to the public drainage system.
 - f) As built locations of all access pits and grates in the detention, retention and bioretention systems, including dimensions.
 - g) The size of the orifices or pipe controls fitted.
 - h) Dimensions of the discharge control pit and access grates.
 - i) The achieved capacity of the retention and detention storages and derivative calculations.
 - j) The maximum depth of storage over the outlet control for on-site detention.
 - k) Top water levels of storage areas and indicative RL's through the escape flow path in the event of blockage of system.

The WAE(s) is to be prepared by a registered surveyor and shall show all critical constructed levels, materials and dimensions in comparison to those shown in the relevant designs approved by the Principal Certifying Authority with the Construction Certificate. All relevant

Item 1

details indicated must be marked in red on the Principal Certifying Authority stamped construction certificate stormwater drawings. The plan shall not be prepared until final surfaces (such as turf) are laid.

134. 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 drainage plans which show the bioretention systems, retention systems and detention systems.
 - b) A copy of all the works-as-executed drawings as specified in this consent relating to drainage and stormwater management,
 - c) The Engineer's certifications of the as-built drainage, retention and detention systems as specified in this consent.

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

135. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include full dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that:
- a) Vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 "Off-Street car parking" and
 - b) The revisions to the vehicle access and accommodation arrangements necessary under this consent, shown on the relevant approved Construction Certificate drawings, have been constructed, and
 - c) No security doors, grilles or gates are provided which would prevent access to the garbage storage area by Councils waste collection vehicle, including the truck manoeuvring area for forward egress.

136. Prior to issue of the Occupation Certificate, the provision of separate underground electricity, gas and phone, or appropriate conduits for the same, must be provided to the site 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.

BUILDING CONDITIONS

137. 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.

Item 1

- 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.

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

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

140. 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).

141. 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.

142. 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.

143. 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.

Item 1

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.

Catherine Otto
Executive Assessment Officer
Development Assessment - Central

Scott Cox
Team Leader
Development Assessment -Central

Matthew Prendergast
Manager
Development Assessment Services

Michael Miocic
Director
Development and Regulation

Attachments:

- Locality plan**
- Zoning extract**
- Architectural drawings**
- Stormwater plan**
- Landscape plan**
- Shadow diagrams**
- Site analysis**

Item 2

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	1 TO 3 ETON ROAD, 3 TO 11 BURLEIGH STREET & 207 TO 211 PACIFIC HIGHWAY, LINDFIELD - DEMOLITION OF 10 DWELLING HOUSES & CONSTRUCTION OF 2, 5- STOREY RESIDENTIAL FLAT BUILDINGS CONTAINING 88 UNITS & BASEMENT CAR PARKING FOR 136 VEHICLES
WARD:	Roseville
DEVELOPMENT APPLICATION N^o:	1260/04
SUBJECT LAND:	1 to 3 Eton Road, 3 to 11 Burleigh Street & 207 to 211 Pacific Highway, Lindfield
APPLICANT:	Tandi Developments Lindfield Pty Ltd
OWNER:	Tandi Developments Lindfield Pty Ltd
DESIGNER:	Marchese & Partners Pty Ltd
PRESENT USE:	Residential Dwelling Houses
ZONING:	Residential 2(D3)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	KPSO - LEP 194, DCP 31 - Access, DCP 40 - Waste Management, DCP 43 - Car Parking, DCP 47 - Water Management, DCP 55 - Multi-unit Housing
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy 11, State Environmental Planning Policy 55, State Environmental Planning Policy 65.
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	26 November 2004
40 DAY PERIOD EXPIRED:	5 January 2005
PROPOSAL:	Demolition of ten (10) dwelling houses and construction of two (2), five (5) storey residential flat buildings containing eighty-eight units and basement car parking for one hundred and thirty-six (136) vehicles.
RECOMMENDATION:	Approval

Item 2

DEVELOPMENT APPLICATION N^o 1260/04
PREMISES: 1-3 ETON ROAD, 3-11 BURLEIGH STREET &
207-211 PACIFIC HIGHWAY, LINDFIELD
PROPOSAL: DEMOLITION OF TEN (10) DWELLING
HOUSES AND CONSTRUCTION OF TWO (2),
FIVE (5) STOREY RESIDENTIAL FLAT
BUILDINGS CONTAINING EIGHTY-EIGHT
UNITS AND BASEMENT CAR PARKING FOR
ONE HUNDRED AND THIRTY-SIX (136)
VEHICLES.
APPLICANT: TANDI DEVELOPMENTS LINDFIELD PTY LTD
OWNER: TANDI DEVELOPMENTS LINDFIELD PTY LTD
DESIGNER : MARCHESE & PARTNERS PTY LTD

PURPOSE OF REPORT

To determine DA1260/04 which seeks consent for the demolition of ten (10) dwelling houses and construction of two (2), five (5) storey residential flat buildings containing eighty-eight (88) units and basement car parking for one hundred and thirty-six vehicles.

EXECUTIVE SUMMARY

Issues: Setback to Pacific Highway.
Submissions: Six in objection to the application.
Pre DA Consultation: Yes.
Land & Environmental Court Appeal: Not applicable.

HISTORY

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

Development application history:

DA 1260/04

6th October 2004 Pre-development application consultation held between Council officers and applicant. Particular concern was raised about: set-backs; lack of modulation and articulation of facades; fencing of site boundaries; lack of communal open space within the site; definition of entry areas; and privacy

Item 2

to units located on the southern side of the northern building given the location of the through link.

The above matters have been addressed and resolved in the submitted development application plans.

- 26th November 2004 Application lodged
- 8 February 2005 Request from Council for further planning, landscaping and engineering information.
- 28 February 2005 Further information submitted, including amended revised statement, landscape drawings, revised sediment & erosion control plan and revised stormwater drainage plan.
- 15 April 2005 Amended plans submitted showing revised internal layout of some apartments.

THE SITE AND SURROUNDING AREA

Zoning:	Residential 2(D3)
Visual Character Study Category:	1945-1968
Lot Number:	1, 1, 3, 5, 6, 2, 4, 5, 3 and 4
DP Number:	781965, 17445, 17445, 7770, 7770, 17445, 7770, 17445, 7770 and 17445
Heritage Affected:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The subject site is located within an entire block bound by Eton Road to the east, Burleigh Street to the west, Pacific Highway to the south and the Northern Railway line to the north.

The site comprises ten allotments being:

- No.3 Burleigh Street – Lot 1 DP 781965
- No.5 Burleigh Street – Lot 3 DP 7770
- No.7 Burleigh Street – Lot 4 DP 7770
- No.9 Burleigh Street – Lot 5 DP 7770
- No.11 Burleigh Street – Lot 6 DP 7770
- No.1 Eton Road – Lot 5 DP 17445
- No.3 Eton Road – Lot 4 DP 17445

- No.207 Pacific Highway – Lot 1 DP 17445

Item 2

No.209 Pacific Highway – Lot 2 DP 17445

No.211 Pacific Highway – Lot 3 DP 17445

Each of the above allotments is currently occupied by a single-storey dwelling house of brick and tile construction.

The site has a total area of 7178m² and is rectangular in shape, with a gradual slope from the southern boundary (Pacific Highway) to the northern boundary (rear), adjacent to the railway corridor.

The site has three street frontages, including a 70m frontage to Eton Road, 80m to Burleigh Street, and 97m to Pacific Highway. The fourth (rear or northern) boundary of the site adjoins the Railway corridor for 102m.

Millwood Park adjoins the subject site to the south, located immediately adjacent to the Pacific Highway.

Surrounding development:

The site forms part of the Pacific Highway and railway corridor, an area that is currently comprised of low density residential development and was recently rezoned to Residential 2(D3) for multi unit residential development under LEP194.

Existing development surrounding the site comprises a mixture of single storey dwelling houses and residential flat buildings. Lindfield Public School is located diagonally opposite the site, at the intersection of Pacific Highway and Grosvenor Road.

Development consent DA328/04, granted on 25 August 2004, was for the demolition of three (3) single storey dwellings and construction of two 3-storey residential flat buildings comprising 21 units at 2-4 Eton Road and 205 Pacific Highway, located directly opposite the subject site.

Development consent DA912/03, granted on 10 August 2004, was also for the demolition of the existing commercial/retail development and construction of a three (3) storey residential flat building comprising 17 units at No 210-214 Pacific Highway located south of the subject site on the opposite side of Pacific Highway.

THE PROPOSAL

The proposal is for the demolition of ten single-storey dwelling houses and construction of two (2), five (5) storey residential flat buildings (Building A (Railway) & Building B (Pacific Highway)) comprising eighty-eight units in total and basement car parking for 136 vehicles. Subdivision is not proposed.

Details of the proposed development is as follows:

Item 2

Building A (North Block – adjacent to Railway Corridor) contains a total of forty-four (44) units over five storeys, made up of 8 x 1 bedroom units, 22 x 2 bedroom units and 14 x 3 bedroom units.

Building B (South Block – Pacific Highway) contains a total of forty-four (44) units over five storeys made up of 8 x 1 bedroom units, 24 x 2 bedroom units and 12 x 3 bedroom units.

Units within both buildings will range in size from 68m² to 137m², twenty-eight (28) of which will be multi-level (2 storey). Private open space is provided for each unit in the form of terraces at ground floor and balconies for upper level units.

The buildings will be setback between 13.5m-20m from Eton Road, 14m-20m from Burleigh Street and 6m from the Railway Corridor. The setback to Pacific Highway varies from 7m increasing to 16m to provide a continuous landscaped area to the adjoining park. The maximum perimeter height of the development will be 13.4m and the total floor space ratio is 1.3:1.

Resident and visitor car parking spaces (114 spaces for residents, 22 spaces for visitors) will be located in the 2 basement car parking levels with a lift providing access to the upper levels of each building.

Vehicle access to the site will be provided via three entry/exit driveways as follows:

- Two separate vehicle entry/exit driveways to Basement Level 2, located at the northern end of Burleigh Street and Eton Road.
- One vehicle entry/exit driveway to Basement Level 1, located at the northern end of the Eton Road frontage.

A public through link will be established in the centre of the development between the north and south blocks. This link provides a pedestrian connection between Eton Road and Burleigh Streets, as well as access to ground floor units within the development. Two entrance lobbies at ground floor level will be located at the eastern and western ends of each building, for access to the upper level units.

The main pedestrian entry points from Eton Road and Burleigh Street will be marked with pergola structures and letterboxes. Entry pathways lead to the foyers of the buildings through the communal landscaped areas.

It is proposed to clear the majority of existing trees and vegetation on site, with the exception of a few trees located immediately adjacent to the site. A total of forty-two (42) large canopy trees will be planted on site, being a mixture of native and exotic species. Other smaller feature trees will also be planted throughout the site.

Amended plans dated 7 May 2005

Revised drawings (DA2.02 C -DA2-07 C) reflecting amendments to the internal layout of apartments within the development.

Item 2

CONSULTATION - COMMUNITY

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

Original scheme dated 26 November

1. M & J MacNamara – 9 Burleigh Street, Lindfield
2. C Hallissey – 14/2-12 Llewellyn Street, Lindfield
3. M McCluskey – 20 St Johns Avenue, Gordon
4. S Ricketts – 4/181 Pacific Highway, Roseville
5. J Mitchell – 25/2-12 Llewellyn Street, Lindfield
6. T Lees & Y Lin – 10 Burleigh Street, Lindfield

The submissions raised the following issues:

Traffic and parking implications (vehicle access, traffic flows, parking, driver sight lines, driver and pedestrian safety, traffic generation).

The application has been reviewed by the Ku-ring-gai Traffic Generating Developments Committee and Council's Engineering Assessment Officer, Kathy Hawken, in relation to traffic generation, vehicle access and car parking.

Council's Engineering Assessment Officer did not raise any objection to the development on traffic or other engineering grounds, subject to conditions. **(Refer Condition No's 54-68, 74-80, 87-89, 94-102).**

The traffic committee did not raise any objection to the development. However, recommended that conditions be imposed for the installation of a bus shelter and potentially a bus bay outside the subject site. **(Refer Condition No.68).**

LEP194 requires that the proposal provide a minimum of 114 parking spaces, including 22 visitor car parks. The proposal provides 136 car parking spaces in total and complies accordingly. Vehicles will enter and exit the development in a forward movement, with adequate driver sightlines for both driver and pedestrian safety. Appropriate on site truck access and manoeuvring areas for waste collection vehicles is provided, preventing potential traffic congestion in Eton Road and Burleigh Street.

Scale of development and loss of distant views

The development is within the prescribed building envelope controls which apply to the site under LEP194. Therefore, the proposed building is of a scale, bulk and height anticipated for sites zoned Residential 2(D3).

Item 2

In comparison to the existing structures on the site, the proposed development will, to some extent, obstruct distant views from dwellings located opposite the subject site. The extent of impact is minimal and is not of sufficient weight in of itself to refuse the development application. However, the development will not obstruct views from any surrounding dwellings to the road, street or any public outdoor open space areas.

The use of two buildings provides for a large view corridor through the centre of the site, with extensive landscaping and allows for maintenance for a large proportion of existing distant views and views that would otherwise have been compromised by an alternative building design.

Use of incompatible materials for building facades

The development has been reviewed by Council's Urban Design Consultant, Mr. Russell Olssen, who comments that the proposed materials and colour scheme are appropriate and will relate well to the colours of the predominantly native trees in the landscaped setting.

Noise pollution created by additional people in the area

The proposal is permissible within the zoning. The intent of rezoning for multi-unit residential development is to establish higher density living in proximity to transport nodes, educational and health facilities and local business centres.

The submitter has not specified what type of noise they have concerns about however the density of the development is appropriate for the site and anticipated within the area. Accordingly, no adverse noise associated with an increased density is anticipated.

Loss of privacy to surrounding residences

The development is adequately set back from Eton Road (13.5m-20m) and Burleigh Street (14m-20m) and further separated from residential properties located opposite the site by the road and extensive canopy planting along site boundaries and throughout the development.

The outlook from the living, balcony and terrace areas within the development is focused towards the centre of the site. This is achieved through the orientation of the two buildings with larger elevations to the north and south and smaller facades to Eton Road and Burleigh Street, where residential properties are located.

Further, where windows of the development have outlook towards neighbouring properties, separation distances are in excess of the 12m habitable to habitable room requirement of DCP55.

Accordingly, no adverse privacy effects to surrounding properties are anticipated.

Pressure on existing infrastructure

Item 2

Council's Engineering Assessment Officer, Kathy Hawken, has reviewed the proposal in relation to infrastructural aspects. Based on this assessment, it has been determined that the proposal is satisfactory, subject to conditions.

In particular, conditions relating to infrastructure will include a \$50,000.00 bond for any damage to public infrastructure caused as a result of the development; construction of a new concrete footpath over the site frontage, new driveway crossings from Eton Road and Burleigh Street, reinstatement of kerb and gutter, and replacement of the road reserve area between the new footpath and existing kerb alignment. **(Refer Condition No.80).**

Decrease in property values

The proposal is permissible under the zoning of the site. Potential impacts on property values are not a consideration under s79C of the Environmental Planning and Assessment Act 1979.

Solar access to No.10 Burleigh Street, Lindfield

The development will be adequately separated from No.10 Burleigh Street by the road and a 14m setback to the Burleigh Street boundary. The development complies with the prescribed height controls and building envelope controls of LEP194. Shadow diagrams submitted with the application indicate that solar access to No.10 Burleigh Street will not be adversely affected by the development.

Heritage impacts

There are no heritage items or conservation areas in the immediate vicinity of the development.

CONSULTATION - WITHIN COUNCIL

Urban Design Consultant

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

“Context

This site is bordered by the northern railway line, the Pacific Highway and 2 streets. Millwood Park is located between the Pacific Highway and the site, in part. The site is therefore an "island" site, has no neighbours on the railway side and is well separated from existing properties on the other 3 sides, which are located on the opposite side of the highway or adjoining streets. The buildings are well set back from the street frontages, which will minimise the visual impact on the surrounding areas. The future planning context for this site is set by the LEP 194 and DCP 55 controls. The proposal largely complies with these controls. The potential impact of the proposal on the existing context is negligible due to its "island" location and substantial setbacks. It will be in context with the future context as it largely complies with the planning controls.

Item 2

Scale

The 5 storey height of the buildings has been visually reduced by:

- *setting back the top floor from the facade on some elevations.*
- *building the top floor within the roof on the southern elevations.*
- *projecting a 2 storey high framing device around the 1st and 2nd floor elevations.*
- *setting back the ground and 3rd floors.*
- *projecting a pergola/cornice line from the 3rd floor façade.*

This composition effectively reduces the scale of the buildings from 5 storeys to 3 storeys, with the dominant element being the 2 storey mid-section. It also creates a strong horizontal emphasis, which reduces the perceived height. This 2 storey horizontal band is broken down vertically on the Pacific Highway elevation to further reduce the scale. The development complies with the controls. However, it has also visually reduced the scale of the buildings with good facade composition.

Built form

The setbacks are all substantial, as they are greater than 12m from Eton and Burleigh Streets and 15m from the Pacific Highway. The lesser setback of approximately 7m from the park is acceptable, as the visual separation from the highway is 15m and the well landscaped setback area and park provide enough of a landscaped setting.

Density

The development complies with density controls in LEP 194.

Resource, energy and water efficiency

The development performs well in terms of natural ventilation, with 88% of apartments being cross ventilated, and sun access, with 100% of living rooms having a northerly aspect. Sufficient deep soil planting areas and water retention have been provided.

Landscape

The landscape design is well considered, with levels changes, sandstone walls, pergolas, fences, paths and the like being extensively detailed. The proposed tree selections and locations will provide an appropriate landscape setting for the buildings.

Amenity

There are no amenity issues with regards to the considerations listed above.

Item 2

Safety and security

There are no issues regarding safety or security.

Social dimensions

A good mix of 1, 2 and 3 bedroom apartments has been provided for various household sizes.

Aesthetics

Facades are strongly articulated and their composition is well considered. Rendered facades are acceptable, particularly as the mid - tonal range of wall colours and the zinc coloured metal roofing will relate well to the colours of the predominantly native trees in the landscaped setting.

Conclusion and recommendations

This is an exemplary design. There are no recommended changes.”

Landscaping

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

“It is proposed to demolish the existing dwellings and associated structures and construct a five storey, multi-unit development, comprising eighty eight dwellings within two detached buildings with basement car parking. The site is presently ten separate residential lots, comprising a total area of 7150sqm with three street frontages, Pacific Hwy, Burleigh St and Eton Rd. The fourth boundary of the site is adjacent to the North Shore Railway corridor. The site is characterised by an established landscape setting with mature trees and shrubs within formal garden beds and grassed areas. Planting is made of predominantly exotic plant species with some native tree species. The site as a whole is typically urban with ‘improved’ garden settings for domestic use.

The site adjoins Millwood Park which is located immediately adjacent to the Pacific Hwy to the south east. Millwood Park is a small urban ‘pocket’ park that serves the local community and Lindfield Primary School as a rest area and pick up point. Millwood Park is characterised by established native trees within grassed expanses and shrub borders.

Impacts on trees/trees to be removed/tree replenishment

A total of ninety-one (91) trees are identified as being located on or associated with the site, of which sixty-one (61) are proposed for removal and thirty (30) are to be retained. Of those to be removed, six (6) are identified as having high landscape significance. The most significant trees associated with the site are located within Millwood Park and within the railway corridor. The six trees identified as having high landscape significance proposed for

Item 2

removal include #'s 11, 12, 13, 78, 79 and 91. All of these identified trees are located within the proposed building footprint and are part of a grouping located centrally adjacent to the north- east portion of the site.

Additional trees to be removed located off site within Council's nature strip/road reserve (included within the sixty one trees to be removed) include #'s 15-18, 24, 33-35, 55, 56, and 70-72. #'s 15-18, 24, and 33-35 are all located within the Burleigh St nature strip and are visually prominent within the existing streetscape character. All have been heavily pruned to accommodate overhead wires which have compromised the shape and habit of the trees. As the existing services/overhead wires are to be placed underground as part of development works, the trees will be impacted upon by significant root severance which will ultimately cause them to go into decline. It is appropriate in this instance to remove the existing trees and replant with native indigenous trees to enhance the future streetscape setting.

Tree #59 Glochidion ferdinandi (Cheese Tree) located adjacent to the Pacific Highway frontage and within proposed communal open space was also proposed for removal when viewing the submitted plans. Given that the tree is located within a proposed landscaped area, is outside of development works, and is a native indigenous species with moderate landscape significance it is required that the tree be retained. This can be conditioned, but has been addressed by the applicant with revised plans.

In effect the entire site, with the exception of a few trees located immediately adjacent to the site is to be cleared of existing trees and vegetation. As proposed a total of 42 tall 'canopy' trees will be planted on site, being a mix of both native endemic and exotic tree species which is reflective of the broader landscape character of Lindfield/Roseville. Other smaller feature trees are also be planted throughout the site for seasonal variation and to address privacy and screening issues.

Landscape services can support the removal of the nominated trees.

Arborist's report

A detailed arborist's report by Footprint Green Pty Ltd (Melanie Howden) has been submitted with the application. The report identifies and details the existing trees located on site and those associated with the site on adjoining lands. Landscape Services agrees with the comments and recommendations made within the submitted arborist's report.

Landscape plan

As the site is to be cleared of existing trees and vegetation, the proposed landscape for the site is vital to ensure that the ongoing character of the site is enhanced and maintained to be cohesive with the general character of the vicinity. As proposed extensive landscape works are to be undertaken on site to provide valuable amenity to the future residents and the community.

Revised landscape plans have addressed previous concerns with regard to lack of detail for the plant material.

Item 2

Drainage works

Landscape Services raises no objection to the proposed location of drainage works as they do not conflict with existing or proposed trees.

Deep soil landscaping

The proposed deep soil landscaping area as calculated by the applicant is approximately 50.2% of the site. LEP194 requires that a minimum 50% of the site is maintained as deep soil landscaping. Deep soil is defined as being 'a part of a site area that: a/ is not occupied by any structure whatsoever, whether below or above the surface of the ground (except for paths up to 1.0m wide), and b/ is not used for car parking.

It is noted that the proposed area as shown by the applicant as being deep soil also includes proposed footpaths over 1.0m wide. These pathway areas exceed 0.2% of the site area, resulting in non-compliance with the LEP requirements. It will be conditioned that these paths not exceed 1.0m width to enable the proposed development to comply with the LEP requirements.

Millwood Park/Pacific Hwy frontage

The proposed development site is located immediately adjacent to Millwood Park, which is a small 'pocket' park located to the south west on the Pacific Hwy. Millwood Park is used as a short term rest area and pick up for the local community and provides a valuable area to grow substantial native indigenous trees. The proposed development will result in the park being visually extended along the Pacific Hwy frontage which will provide a valuable screening buffer of trees to the development site and in turn provide shelter from the western sun and south westerly winds. The proposed communal area adjacent to the park and Pacific Hwy although in private ownership will not be fenced and as such available for public use. Subject to adequate protective fencing being installed adjacent to the site boundaries that border the park there should not be any detrimental impacts to the existing park/public open space. It will be required that tree species planted adjacent to the Pacific Hwy frontage be consistent with the existing tree species in Millwood Park to provide a cohesive and compatible setting.

The application can be supported by Landscape Services, subject to conditions.'

The applicant has agreed in writing to a condition reducing the above mentioned pathways to 1m in width. **(Refer Condition No.73)**

Engineering

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

“Summary

Item 2

The applicant has submitted amended plans to address previous concerns raised. The plans are satisfactory and the recommended conditions have been updated to reflect the new documentation.

Construction management

A construction management program prepared by Kell & Rigby has been submitted, as well as an amended sediment & erosion control plan, by Lipscombe & Associates. The construction entrances are now consistent, and the plan includes for limited protection of undisturbed areas as well as collection and treatment of stormwater from basement excavations.

The Construction Management Program includes a traffic controller to be at the site entry and exit during school start and finish times. It is considered that it will be safer to require truck movements not to occur during these times, as has been recommended for other comparable developments. A condition has also been recommended that a "Works Zone" be set aside for the construction period. This requires Traffic Committee approval and the payment of fees.

Traffic generation

The applicant has submitted a Traffic Report with the Development Application (refer appendix 1 of the Statement of Environmental Effects, report by Masson Wilson Twiney).

Because the site is within 90 metres of an arterial road and comprises more than 75 units, the application was referred to the Ku-Ring-Gai Traffic Generating Developments Committee under SEPP 11. The committee did not have any objection to the development. Some aspects of the design were not in line with DCP55; however the application was lodged prior to its adoption by Council. There were several minor non-compliances with AS2890:1 and AS2890:3 which are dealt with by way of conditions.

The Committee requested that the applicant be required to install a bus shelter and investigate the feasibility of providing an indented bus bay outside the property. This is included in the recommended conditions.

Vehicle access and accommodation layout

The proposed loading space has been deleted, and the aisle widths and bicycle storage areas amended to comply with AS2890.1 and 3. This is satisfactory.

Garbage collection

A waste storage and collection area is required internally under Council's DCP 40 for Waste Management. This has been provided in the basement parking area and there is adequate

Item 2

provision to be provided for Council's waste collection vehicle to enter the subject site, collect the garbage and then exit the site.

Flooding and Overland comments

The site is located towards the top of the local catchment and as such the site will not be affected by trunk flows of sufficient volume around the site to cause concern. The driveway level at the property boundary shall be set a minimum of 150mm above the top of the frontage kerb to prevent inundation of the basement level by flows overtopping in the gutter system.

Geotechnical / Structural Comments

The applicant has submitted a geotechnical investigation report prepared by Jeffery and Katauskas, dated 10 November 2004. Because of the clay and weathered rock underlying the site and the large setbacks associated with this development, the report allows for the excavated faces to be battered at 45 degrees, which will not impact on Council's roads or the railway land. If hydraulic impact hammers are to be used, the report recommends that vibrations be checked initially by a geotechnical engineer. This recommendation has been included in the conditions.

Site drainage comments

Amended plans H02 to H04 and H11 have been submitted, accompanied by calculations for water use and a sketch showing water quality devices. These plans are now satisfactory.

There remain no engineering objections to the development."

Prior to the receipt of amended plans Council's Engineering Assessment officer, Kathy Hawken made the following comments with regard to site drainage.

Site drainage comments

The submitted concept stormwater services plans, Lipscombe & Associates Drawings H01 to H10, have been designed generally in accordance with the Council requirements contained in Water Management DCP 47. A stormwater retention requirement of 3000 litres per unit applies – and this water is to be used for toilet flushing, laundry, car washing and irrigation (as a minimum).

The plans show a large combined rainwater/stormwater storage tank at the lowest point of the site, with the stored water pumped back into the development for irrigation, toilet flushing and washing machine cold water. Although this scheme is not recommended due to the need for additional treatment of stormwater prior to its use in the building (separate storages for roofwater and runoff from driveways and garden areas will be more appropriate), there is gravity drainage for this site and sufficient space on site for the stormwater management

Item 2

measures. Water quality measures have not been included and nor is an analysis provided to demonstrate that the large retained volume will actually be used within the development.

The Sediment & Erosion Control Plan, Lipscombe & Associates Drawing 20040094/H11/B, dated 12/1 1/04, is not adequate. The site area is 7150m², and the plan shows three stabilized accesses and a perimeter silt fence. Considerable excavation is proposed, and staged plans should be prepared. The recommended conditions require this plan to be augmented and resubmitted prior to Construction Certificate issue.

CONSULTATION – OUTSIDE COUNCIL

RTA (Roads & Traffic Authority)

The proposal falls within the ambit of SEPP11 – ‘Traffic Generating Development’ by virtue of the erection a residential flat building comprising 75 or more dwellings and was therefore referred to the RTA.

The RTA has commented on the proposal as follows:

“The RTA has assessed the development application and raises no objection to the development on road safety and/or traffic efficiency grounds.”

STATUTORY PROVISIONS

Context:

The subject site is bordered by the northern railway line, Pacific Highway, Eton Road and Burleigh Street. As a result the site is effectively an ‘island’ site in terms of not adjoining any residential properties. The nearest residential properties are located on the opposite side of the Pacific Highway or Eton Road and Burleigh Street.

Surrounding properties within Eton Road and Burleigh Street have also been re-zoned to Residential 2(d3) for multi-unit development. Development approval for 3 storey multi-unit residential development has already been obtained for some of these properties prior to the gazettal of LEP 194.

Aside from surrounding residential development and the railway, there is a variety of uses on the other side of Pacific Highway, including retail commercial and institutional buildings.

Overall, in terms of the future character of the area the development is appropriate within this locality.

Scale:

Item 2

The development meets the prescribed building envelope requirements of LEP194, including building height, site coverage, setbacks and top floor controls.

The mass and scale of the buildings has been further reduced by architectural treatment of the buildings. In particular, the upper floor of Building B has been contained within the roof, thereby reducing the impact of built form and perceived height to Pacific Highway. The upper floor of both buildings has also been set back from the building façade on some elevations, particularly along the Eton Road and Burleigh Street elevations.

The dominant element of each building is the two-storey mid section where a framing device has been constructed around the first and second floors of both buildings. This results in projection of the buildings at these levels, with the ground and third floor set back creating a strong horizontal emphasis and reducing perceived height. This element has been broken down vertically on the Pacific Highway elevation.

The top floor on both buildings has been set back from the perimeter of the building and use of different balcony, window and material treatments contributes to the highly articulated facades that provide shading, depth and modulation to the elevations.

Built form:

The setbacks of the development are varied (e.g. Eton Road 13.5-20m, Burleigh Street 14m-20m and Pacific Highway 7m-16m) creating visual interest and substantially reducing the perceivable scale and mass of the development. The strong horizontal facades are broken up with extensive articulation in the format balcony depth, varied materials, building alignment and fenestration detailing.

A significant upper floor setback has been provided along the Eton Road and Burleigh Street frontages where the greatest sensitivities exist.

The reduced setback of 7m to Millwood Park, applies to 32m of Building B's southern elevation then increases to up to 17m for the remainder of the elevation. The 17m set back has been provided to allow for the continuation of a park setting along the full frontage to Pacific Highway. The reduced setback to Millwood Park is acceptable given that the transition from the park to the landscaped area of the subject site will be seamless and will contain species similar to those currently established within the park, providing an effective visual landscaped buffer to the Highway. Accordingly, appropriate visual separation from the Highway will be achieved.

Density:

The proposed density is compliant with the maximum F S R control, reflects the desired future character of the area is appropriate for the site and can be serviced adequately by existing infrastructure.

Resource, energy and water efficiency:

Item 2

The development achieves good results in terms of energy efficiency and cross flow ventilation with 88% of the apartments being cross ventilated and 90% of apartments achieving a 4.5 star energy rating. 100% of living rooms have a northerly aspect and sufficient deep soil landscape areas and water retention have been provided.

Amenity:

The development contains 88 dwellings, ranging from 68m² to 137m², with balconies or ground level open space. The dwelling layout, design and orientation ensure high levels of acoustic and visual privacy and internal amenity in terms of natural light and cross ventilation. Living areas have been orientated to take advantage of the northern aspect. Access to all units is satisfactory in terms of access and mobility standards.

Each unit will include balconies to upper floor units or terrace areas at ground floor level. Some apartments also have secondary balconies. Most units will feature recessed balconies with glazed sliding doors and windows.

Safety and security:

Siting, internal planning and design of the development ensures a high level of surveillance of Eton Road, Burleigh Street, the Railway, Pacific Highway and the internal open space. This is achieved by the provision of large terrace and balcony areas for each dwelling with outlook and extensive common outdoor spaces throughout the site.

The proposed central access path runs through the centre of the site, between the two buildings from both Eton Road and Burleigh Street, with Buildings A and B located either side. Outlook from the majority of units over the path and to other outdoor areas on site allows for casual surveillance of the site.

Social dimensions:

The proposal provides a mix of apartments in size and orientation. In particular, the development provides 16 x 1-bedroom dwellings, 46 x 2-bedroom dwellings and 26-six x 3-bedroom dwellings. The apartments provide a range of dwelling sizes (68m² - 137m²) and will provide high quality living environments for existing residents in the locality in close proximity to public transport modes.

Extensive landscape areas are provided and the landscaping on the Highway acts as a continuation of Millwood Park and can be used as one continuous park area.

Aesthetics:

The facades are strongly articulated and their composition is well considered. Use of mid-tonal range wall colours and the zinc coloured metal roofing will relate well to the colours of the

Item 2

predominantly native trees in the landscaped setting. Use will be made of external shading to facades, including architectural elements such as blade walls and recessed glazing.

The development is also consistent with considerations of the Residential Flat Design Code. These considerations include how the development relates to the local context, building design and site analysis. Each of these matters are satisfactory and have been discussed elsewhere in this report.

Residential Flat Design Code

The considerations contained in the Residential Flat Design Code are as follows:

Relating to the local context:

The proposal, sited over ten separate allotments, will require their consolidation. This amalgamation will result in a site of 7178m² which is capable of accommodating the proposed density of five storeys. (**Refer Condition No.69**)

The site is currently occupied by ten detached residential dwelling houses and comprises an entire block bordered by the northern railway line, Eton Road, Burleigh Street and Pacific Highway. The site is therefore an 'island' site and sufficiently separated from existing properties located on the opposite side of the Pacific Highway, Eton Road or Burleigh Street.

The development complies with the prescribed building envelope controls of LEP194 and DCP55. In particular, maximum building height, number of storeys, top floor percentage, site coverage, FSR, and setbacks and is therefore of a scale and density anticipated for the area within these planning instruments and policy documents.

Surrounding sites have also been zoned for multi-unit development as discussed earlier in this report and reflect the future context of the area.

The development is satisfactory having regard to the anticipated future character of the locality.

Site analysis

A satisfactory site analysis was submitted, indicating how the proposal performs in terms of building edges, landscape response, access and parking and overall building performance in respect of overall energy sustainability.

In terms of site configuration, the proposal will ensure adequate areas for private and common open space and deep soil landscaping areas. The orientation of the development ensures adequate solar access to habitable areas and private open space, both internally and to adjoining residential development and also provides appropriate frontages to Eton Road, Burleigh Street and Pacific Highway.

Building design

Item 2

The proposal is satisfactory in terms of its internal building configuration and will achieve the objectives of providing function and organised space and a high level of residential amenity. In addition, the proposal provides adequate habitable space having access to north-facing windows.

All other relevant matters under 'Building Design' have been assessed elsewhere in the report and are satisfactory.

State Environmental Planning Policy No. 55 – Remediation of Land

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

State Environmental Planning Policy No. 11 – Traffic Generating Development

The provisions of SEPP 11 require that the traffic authority is (a) made aware of and, (b) is given an opportunity to make representation in respect of development referred to in Schedule 1 or 2.

In this regard, Schedule 2 (a) refers to development for the purposes of or being:

- (a) the erection of, or the conversion of a building into, a residential flat building comprising 75 or more dwellings or the enlargement or extension of a residential flat building by the addition of 75 or more dwellings.

The proposed development proposes construction of two residential flat buildings comprising a total of eight-eight dwellings and has been reviewed by the RTA (Roads and Traffic Authority) who raise no objection to the development on road safety/traffic efficiency grounds, subject to conditions.

Such conditions relate to stormwater drainage, noise mitigation measures and compliance with off-street parking standards. **(Refer Condition No's.54-68, 75-81, 88-90, 95-103)**

Ku-ring-gai Planning Scheme Ordinance (KPSO)

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 1200m ²	7178m ²	YES
Deep landscaping (min): 50%	50% (3589m ²)	YES
Street frontage (min): 23m	Eton Road 70m Burleigh Street 80m Pacific Highway 97m	YES
Number of storeys (max): 5	Five (5)	YES
Site coverage (max): 35%	34.8%	YES

Item 2

Top floor area (max): 60% of level below	60%	YES
Storeys and ceiling height (max): 4 and 13.4m	4 and 13.4m	YES
Car parking spaces (min): <ul style="list-style-type: none"> • 22 (visitors) • 114 (residents) • 136 (total) 	22 (visitors) 114 (residents) 136 (total)	YES YES YES
Zone interface setback (min): 9m	>9m (Residential 2(d3) zoning on opposite sides of Burleigh Street and Eton Road).	YES
Manegeable housing (min): 10% 8.8 units	10.2% 9 units	YES
Lift access: required if greater than three storeys	4 lifts provided (2 per building)	YES

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

POLICY PROVISIONS

Development Control Plan No. 55 – Railway/Pacific Highway Corridor & St Ives Centre

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 4.1 Landscape design:		
Deep soil landscaping (min) <ul style="list-style-type: none"> • 150m² per 1000m² of site area = 1050m² 	3589m ²	YES
No. of tall trees required (min): 24 trees	42 trees	YES
Part 4.2 Density:		
Building footprint (max): <ul style="list-style-type: none"> • 35% of total site area 	35% (2524m ²)	YES
Floor space ratio (max): <ul style="list-style-type: none"> • 1.3:1 	1.3:1 (9397m ²)	YES
Part 4.3 Setbacks:		
Street boundary setback (min): <ul style="list-style-type: none"> • 10-12 metres (<40% of the zone occupied by building footprint) • 13-15 metres 	Eton Road 13.5-20m Burleigh Street 14m-20m Pacific Highway 7m-16m	YES
Rear boundary setback (min): <ul style="list-style-type: none"> • 6m 	6m-8m	YES

Item 2

Side boundary setback (min): <ul style="list-style-type: none"> 6m 	The site contains three (3) street frontages and one (1) rear boundary.	N/A
Setback of ground floor courtyards to street boundary (min): <ul style="list-style-type: none"> 11m 	>11m	YES
% of total area of front setback occupied by private courtyards (max): <ul style="list-style-type: none"> 15% 	>15%	YES
Part 4.4 Built form and articulation:		
Façade articulation: <ul style="list-style-type: none"> Wall plane depth >600mm Wall plane area <81m² 	<600mm <81m	YES YES
Built form: <ul style="list-style-type: none"> Building width < 36m Balcony projection < 1.2m 	Building A 66m Building B 66m >1.2m	NO YES
Part 4.5 Residential amenity		
Solar access: <ul style="list-style-type: none"> >70% of units receive 3+ hours direct sunlight in winter solstice >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice <15% of the total units are single aspect with a western orientation 	78% 78% 16 units are single aspect but all have northern orientation.	YES YES YES
Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site:		

Item 2

Storeys 1 to 4 <ul style="list-style-type: none"> • 12m b/w habitable rooms • 9m b/w habitable and non-habitable rooms • 6m b/w non-habitable rooms 5th Storey <ul style="list-style-type: none"> • 18m b/w habitable rooms • 13m b/w habitable and non-habitable rooms • 9m b/w non-habitable rooms 	16.7m + 16.7m + 16.7m + 18-20m 18-20m 18-20m	YES YES YES YES YES YES YES
Internal amenity: <ul style="list-style-type: none"> • Habitable rooms have a minimum floor to ceiling height of 2.7m • Non-habitable rooms have a minimum floor to ceiling height of 2.4m • 1-2 bedroom units have a minimum plan dimension of 3m in all bedroom • 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms • Single corridors: <ul style="list-style-type: none"> - serve a maximum of 8 units - >1.5m wide - >1.8m wide at lift lobbies 	2.7m No less than 2.4m >3m >3m Up to 14 units (Levels 1 & 3 only) 1.5m 1.8m	YES YES YES YES NO YES YES
Outdoor living: <ul style="list-style-type: none"> • ground floor apartments have a terrace or private courtyard greater than 25m² in area • Balcony sizes: <ul style="list-style-type: none"> - 10m² – 1 bedroom unit - 12m² – 2 bedroom unit - 15m² – 3 bedroom unit NB. At least one space >10m ²	>25m ² (55m ² -255m ²) 10m ² -19m ² 12m ² -16m ² 10m ² - 19m ² (R202, R207, R302, R305, R402, R407 & H202, H207, H302, H305, H402, H407).	YES YES YES YES NO

Item 2

<ul style="list-style-type: none"> primary outdoor space has a minimum dimension of 2.4m 	>2.4m	YES
Part 4.7 Social dimensions:		
Visitable units (min): <ul style="list-style-type: none"> 70% 	68%	NO
Housing mix: <ul style="list-style-type: none"> Mix of sizes and types 	Mix of 1, 2 & 3 bedroom units	YES
Part 4.8 Resource, energy and water efficiency:		
Energy efficiency: <ul style="list-style-type: none"> >65% of units are to have natural cross ventilation single aspect units are to have a maximum depth of 10m 25% of kitchens are to have an external wall for natural ventilation and light >90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating 	82% >10m (10-18m) 36% 4.5 star rating = 90% 3.5 star rating = 10%	YES YES YES YES YES
Part 5 Parking and vehicular access:		
Car parking (min): <ul style="list-style-type: none"> 1 space per 1 bed unit - 16 1 space per 2 bed unit- 46 1.5 spaces per 3 bed unit - 39 Total -101 resident spaces required 1 visitor space per 4 units Total: 22 visitor spaces required 123 total spaces required 	114 resident spaces provided 22 visitor spaces provided 136 spaces	YES YES YES

Part 4.4 Built form and articulation:

The proposed buildings will each be 66m in width, with direct frontage to the Pacific Highway for 32m and Millwood Park for 34m. While the proposed width of the buildings is in excess of 36m, the visual bulk has been effectively reduced by designing the development around a central building element (32m) with smaller components at each end along the Eton Road and Burleigh Street frontages (17m), separated by void spaces.

Item 2

The proposed development provides a setback of the upper level on both buildings, but with an emphasis on transition of scale to the Eton Road and Burleigh Street frontages, where the greater sensitivities exist. Although an upper floor setback has not been incorporated along the railway and Pacific Highway elevations, the upper floor to the Pacific Highway elevation has been built within the roof to minimise dominance of built form. The Pacific Highway setback is to accommodate significant landscaping which will provide extensive screening along this elevation.

To the northern boundary, the nearest residential properties are separated by the railway line. Accordingly, the upper floor will not result in any overshadowing overbearing visual impacts on these properties.

The proposed development provides significant building separation and setback areas along the frontages to Eton Road, Burleigh Street and Pacific Highway. The setback areas, combined with large areas of common open space on the site, provide opportunities for significant tree planting. Further, a high level of visual interest has been achieved in the building design through the provision of a central building element and smaller scale building 'wings' which provide a positive address to Eton Road and Burleigh Street.

Building design and the 'island' site location of the development provides increased visual separation from neighbouring properties and reduces perceived scale of the development.

The development is an appropriate design response and substantially complies with the controls of DCP 55 in terms of built form and articulation.

Part 4.5 Residential amenity:

The corridor on levels one and three will serve up to 14 units in total, however, on remaining floors the corridors serve as little as two units. This occurs due to the multi-level nature of some units within the development, requiring access from the corridor to units at one level, thereby negating the need for corridor access at another level. This in turn, allows dual aspect units (on Levels 2 & 4) that extend the full width of the building, improving overall internal amenity and increased opportunities for solar access and effective cross-ventilation. The corridor width itself is in accordance with the requirements of DCP55 and will allow for appropriate furniture removal and access to units. Accordingly, the number of units serviced by the corridor on Levels 1 & 3 are satisfactory.

A number of 3-bedroom units within the development will provide balcony areas between 10-12m² in size. These are Units R202, R207, R302, R305, R402, R407 located in Building A and Units H202, H207, H302, H305, H402, H407 located within Building B accounting for twelve (12) of the twenty-six (26) 3-bedroom units within the development. Although these proposed balcony areas are less than the 15m² requirement of the DCP, the extent of the non-compliance is minimal and due to design constraints.

Item 2

The balconies within the development, have been designed to integrate with the overall façade design and to increase the width of these areas would result in an incompatible projection from the building façade. Further, due to the corner location of each of these units, provision of secondary balconies would result in direct overlooking of other units within the development. Most of the balcony areas exceed the minimum area requirements of DCP 55, with secondary balconies provided where possible.

Part 4.7 Social dimensions:

The development provides 68% 'visitable' units. Although slightly less than the 70% required by the DCP, the proposal still provides an acceptable number of units for wheelchair access.

Development Control Plan 31 – Access

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

Development Control Plan 40 – Construction and Demolition Waste Management

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

Development Control Plan No. 43 – Car Parking

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

Development Control Plan 47 – Water Management

Matters for assessment under DCP 47 have been taken into account in the assessment of this application by Council's Engineering Assessment Officer, who concludes that the proposal would be compliant with DCP 47, subject to conditions.

Section 94 Plan

The development attracts a section 94 contribution of \$1,465,196.68 which is required to be paid by **Condition No. 70.**

Likely Impacts

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

Suitability of The Site

Item 2

The site is suitable for the proposed development.

Any Submissions

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

Public Interest

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

Any other Relevant Matters Considerations Not Already Addressed

There are no other matters for assessment.

CONCLUSION

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

RECOMMENDATION

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

THAT the Council, as the consent authority, grant development consent to DA 1260/04 for demolition of ten (10) detached dwelling houses and construction of two (2) five (5) storey residential flat buildings containing a total of eighty-eight units and basement car parking for one hundred and thirty six (136) vehicles on land at 1-3 Eton Road, Lindfield, 3-11 Burleigh Street, Lindfield and 207-211 Pacific Highway for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans identified in the following table, and endorsed with Council's approval stamp, except where amended by the following conditions:

Dwg No.	Rev.Description	Author	Dated	Lodged
DA1.03 Site Coverage	A	Marchese & Partners Architects Pty Ltd	Feb 2005	Feb 2005
DA1.04 Deep Soil Diagram	B	Marchese & Partners Architects Pty Ltd	Feb 2005	Feb 2005
DA2.00 Plan Level Basement 2	B	Marchese & Partners Architects Pty Ltd	Feb 2005	Feb 2005
DA2.01 Plan Level Basement 1	B	Marchese & Partners Architects Pty Ltd	Feb 2005	Feb 2005

Item 2

DA2.02 Plan Level Ground	C	Marchese & Partners Architects Pty Ltd	May 2005	May 2005
DA2.03 Plan Level 1	C	Marchese & Partners Architects Pty Ltd	May 2005	May 2005
DA2.04 Plan Level 2	C	Marchese & Partners Architects Pty Ltd	May 2005	May 2005
DA2.05 Plan Level 3	C	Marchese & Partners Architects Pty Ltd	May 2005	May 2005
DA2.06 Plan Level 4	C	Marchese & Partners Architects Pty Ltd	May 2005	May 2005
DA2.07 Plan Level Roof	C	Marchese & Partners Architects Pty Ltd	May 2005	May 2005
DA3.00 Section A-A & B-B	A	Marchese & Partners Architects Pty Ltd	Feb 2005	Feb 2005
DA4.00 Street Elevations	A	Marchese & Partners Architects Pty Ltd	Feb 2005	Feb 2005
DA4.01 Courtyard Elevations	A	Marchese & Partners Architects Pty Ltd	Feb 2005	Feb 2005
DA4.02 Side Elevations	A	Marchese & Partners Architects Pty Ltd	Feb 2005	Feb 2005
DA7 Sample Board	A	Marchese & Partners Architects Pty Ltd	Feb 2005	Feb 2005

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

Item 2

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

7. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
8. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
9. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
10. To maintain existing ground levels all excavated material shall be removed from the site.
11. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
12. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
 - a. The type and size of machinery proposed.
 - b. The routes of all trucks to convey material to and from the site.
 - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.
13. For the purpose of maintaining visual amenity, no permanent electricity supply poles are to be erected forward of the building setback without the prior Consent of Council. It is the onus of the applicant to consult with the authorised statutory electricity provider prior to construction commencing to ensure that direct connection to the building is possible. Details of any proposed permanent pole must be submitted to and approved by Council prior to installation.
14. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
15. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

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

Item 2

16. 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.
17. To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the SUBDIVISION OR OCCUPATION Certificate.
18. If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

19. All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measure at the nearest adjoining boundary.
20. The fence and footings shall be constructed entirely within the boundaries of the property.
21. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
22. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
23. 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

Item 2

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

24. 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.

25. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
26. 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.
27. 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.
28. 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.
29. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.

Item 2

30. 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.
31. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
32. Fire hoses are to be maintained on site during the course of demolition.
33. A traffic management plan shall be submitted to and approved by the Principal Certifying Authority, where major demolitions are likely to impact on arterial or main roads.
34. 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.
35. 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.
36. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
 37. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
 38. 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.

39. 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

Item 2

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).

40. 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.
41. 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.
42. 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

Item 2

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.

43. Landscape works shall be carried out in accordance with Landscape Drawing No LA01 Rev B, LA03 Rev B, LA04 Rev B, LA05 Rev B, LA06 Rev B and LA07 Rev A prepared by Taylor Brammer Landscape Architects and dated 26/10/2004 submitted with the Development Application, except as amended by the following:
- Proposed tree planting of *Alectryon tomentosus* (Rambutan) within the Eton Rd and Burleigh St nature strips are to be deleted and replaced with *Eucalyptus saligna* (Bluegum) with a minimum pot size of 25 Litre.
 - The proposed planting of eight *Syncarpia glomulifera* (Turpentine) adjacent to the Pacific Hwy and Millwood Park are to be deleted and replaced with a mix of *Eucalyptus pilularis* (Blackbutt), *Eucalyptus saligna* (Bluegum), and *Angophora floribunda* (Rough barked apple) with minimum pot sizes of 25 Litre.
 - The proposed retaining walls within the courtyard gardens of units R102, R105, R106 and R107 are to have a minimum setback of 2.0m from the northern/railway corridor site boundary.
44. REMOVAL of the following tree/s from Council's nature strip shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000,000.

Tree numbers refer to arborists report by Footprint Green dated 11th November 2004

Tree/Location

#15 *Jacaranda mimosifolia* (Jacaranda)
Burleigh St nature strip

#16 *Jacaranda mimosifolia* (Jacaranda)
Burleigh St nature strip

#17 *Callistemon salignus* (Willow Bottlebrush)
Burleigh St nature strip

#18 *Cupressus* sp. (Cypress)
Burleigh St nature strip

#24 *Prunus* sp. (Flowering Plum)
Burleigh St nature strip

#33 *Callistemon viminalis* (Weeping Bottlebrush)

Item 2

Burleigh St nature strip

#34 Callistemon viminalis (Weeping Bottlebrush)
Burleigh St nature strip

#35 Callistemon viminalis (Weeping Bottlebrush)
Burleigh St nature strip

#55 Eucalyptus scoparia (Willow Gum)
Pacific Hwy nature strip

#56 Eucalyptus scoparia (Willow Gum)
Pacific Hwy nature strip

45. All disturbed areas, which are not to be built upon or otherwise developed, shall be rehabilitated to provide permanent protection from soil erosion within fourteen (14) days of final land shaping of such areas.
46. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
47. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
Beneath the canopy drip line of ANY tree to be retained on site or adjoining properties	

48. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the principal certifying authority shall be required at three monthly intervals. Documentary evidence of compliance with this condition shall be submitted to the principal certifying authority prior to the issue of the occupation certificate.
49. 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.
50. Following removal of the nominated trees from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Director Open Space at no cost to Council.

Item 2

51. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.
52. To preserve the ongoing health and vigour of tree #81 no excavation for the proposed vehicular access is permitted within 3.0m of the base of the tree trunk. If minor leveling is required it is to be undertaken by hand to ensure that no roots greater than 30mm in diameter are severed.
53. To preserve the ongoing health and vigour of tree #84 Eucalyptus haemastoma (Scribbly Gum) located adjacent to the eastern site boundary/Eton rd frontage, no excavation is permitted within a 2.0m radius of the base of the tree trunk. If minor leveling is required, this is to be undertaken by hand to ensure that no roots greater than 30mm in diameter are severed.
54. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the in-ground system in Burleigh Street via the approved site stormwater management system.
55. A mandatory rainwater re-use tank system must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. A mains top-up shall be provided for periods of low rainfall.
56. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
57. A maintenance period of six (6) months shall apply to the work in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
58. Where required, the adjustment of any 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 responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
59. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and

Item 2

protective barricades must be installed in accordance with AS1742-3 1996 “*Traffic Control Devices for Work on Roads*”. **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

60. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
61. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 “Off-Street car parking”.
62. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.
63. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
64. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
65. Geotechnical aspects of the development works, particularly excavation and support, must be undertaken in accordance with the recommendations of Jeffery and Katauskas as given in their report No. 18998SLrpt dated 10 November 2004, or subsequent reports issued in respect of the development. If hydraulic impact hammers are to be used, vibrations are to be checked initially by a geotechnical engineer.

Item 2

66. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
67. Signs are to be provided in the basement carparks indicating the location of visitor and bicycle parking.
68. The applicant is to arrange for the installation of a bus shelter, and liaise with the Ku-ring-gai Local Traffic Committee regarding the feasibility of providing an indented bus bay on the Pacific Highway frontage of the site. If the Committee approves the bus bay, then installation is to be in accordance with any conditions imposed including the provision of design plans and application to Council and the RTA if necessary for approval of the works under the Roads Act. It is recommended that the liaison with the Traffic Committee be commenced early in the construction stage.

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

69. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing ten Torrens lots. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to the issue of the Construction Certificate. The condition is imposed to ensure a continuous structure will not be placed across separate titles.
70. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE (1) ADDITIONAL DWELLINGS IS CURRENTLY \$465,196.68. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 30 June 2004, calculated for additional person as follows:

1. Community Facilities (If Seniors Living \$412.07)	\$1 117.76
2. Park Acquisition and Embellishment Works - Roseville	\$6 384.75
3. Sportsgrounds Works	\$1 318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

Item 2

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75 sqm)	1.27 persons
Medium dwelling (75 - under 110 sqm)	1.78 persons
Large dwelling (110 – under 150sqm)	2.56 persons
Very Large dwelling (150sqm or more)	3.48 persons
New Lot	3.48 persons
SEPP (Seniors Living) Dwelling	1.3persons

- 71. A CASH BOND/BANK GUARANTEE of \$10 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of the 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.

- 72. A CASH BOND/BANK GUARANTEE of \$8 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

#69 Angophora floribunda (Rough Barked Apple) \$3 000.00
Eton Rd nature strip

#81 Corymbia citriodora (Lemon Scented Gum) \$3 000.00

Item 2

Eton Rd nature strip

#86 Eucalyptus species (Eucalypt) \$2 000.00
Adjacent to northern site boundary in railway corridor

73. To ensure compliance with LEP194 deep soil landscaping requirements the following proposed 1.2m wide pedestrian paths are to be reduced in width to have a maximum width of 1.0m. Documentary evidence of compliance with this condition is to be submitted to the principal certifying authority for approval prior to the issue of the construction certificate.
- The pedestrian path that runs parallel to the Pacific Hwy/Southern site boundary between Burleigh St and Eton Rd.
 - The pedestrian path that is located between Unit H108 and Eton Rd.
 - The pedestrian path that is located between Unit R108 and Eton Rd.
 - The pedestrian path that is located between the courtyard of Unit R107 and Eton Rd.
 - The pedestrian path that is located between Unit R102 and Burleigh St, including the area between the gate and Burleigh St.
 - The pedestrian path that is located between Unit r101 and Burleigh St.
74. Prior to issue of the Construction Certificate, footpath and driveway levels for the required driveway crossings between the property boundary and road alignment must be obtained from 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. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.
- The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.** The 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. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.
75. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004) and Section 8.2 of Councils

Item 2

Water Management DCP 47 (available on the Council website). The plan may be generally in accordance with Lipscombe & Associates Drawing H11 revision C, dated 28/02/05.

76. 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 retention system. The storage volumes and design shall comply with Councils 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 the entire roof area as a minimum. 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. The design may be generally in accordance with the detail H02 to H04 Revision C by Lipscombe & Associates, and advanced as necessary for construction issue purposes.
77. A dedicated carwashing area is to be shown on the Construction Certificate plans. The waste collection vehicle manoeuvring area or a visitor parking bay may be used for this facility. The plans are to be approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
78. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, carwashing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use shall be shown on this design to a detail suitable for installation by the plumbing contractor. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
79. 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.
80. Prior to the issue of a Construction Certificate the applicant shall lodge a **\$50,000** (fifty thousand dollars) public infrastructure damage bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of all works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council

Item 2

shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b) The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
- c) Works in the public road associated with the development are to an unacceptable quality.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

- 81. 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.
- 82. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location	Radius in Metres
#69 Angophora floribunda (Rough Barked Apple) Eton Rd nature strip	4.0m
#86 Eucalyptus species (Eucalypt) Adjacent to northern site boundary in railway corridor	4.0m
#84 Eucalyptus hamastoma (Scribbly Gum) Adjacent to eastern/Eton Rd site boundary	4.0m
#8 Eucalyptus sp. (Eucalypt) Adjacent to northern site boundary in railway corridor	4.0m
#59 Glochidion ferdinandi (Cheese Tree) Adjacent to the southern/Pacific Hwy site boundary	3.0m
#4 Eucalyptus sp (Eucalypt) Adjacent to northern site boundary within the railway corridor	3.0m

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

Item 2

Tree/Location	Radius From Trunk
#81 Corymbia citriodora (Lemon Scented Gum) Eton Rd nature strip	5.0m

84. To preserve the existing trees within Millwood Park and to maintain public safety, a protective fence is to be located immediately adjacent to the site boundaries with the park within the site, to prevent direct access between the site and the park. The protective fence is to be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
85. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
86. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. 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.
87. Prior to the commencement of any works on site the applicant shall submit **to Council** a full dilapidation report on the visible (including photos) and structural condition of Eton Road for the frontage of the site, Burleigh Street, Llewellyn Street and the lane from Llewellyn Street to Burleigh Street including full road width, kerb and gutter, and intersections. The report must be completed by a consulting structural/civil engineer. A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council. Other Council roads in the area are not available for construction traffic apart from vehicles less than 3.0 tonne gross unless written approval is received from Council and a dilapidation report has been completed on the roads.
88. Prior to the commencement of any works on site the applicant must submit, for review by Council Engineers, a **construction site layout plan**. This is to entail a plan view of the entire site and frontage roadways indicating scale locations for:
 - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and vehicles in the frontage roadway,
 - Turning areas within the site for construction vehicles, allowing a forward egress for all construction vehicles on the site,
 - The locations of proposed Work Zones,
 - 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.

Item 2

- The provision of parking for employees, tradesperson and construction vehicles

The construction site layout plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained and submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. The traffic management measures contained in the approved plan shall be implemented in accordance with the above plans prior to the commencement of any works on-site including excavation.

Heavy construction vehicles are not to use the Eton Road/Ortona Road/Grosvenor Road route to access the site.

For traffic and pedestrian amenity purposes, no truck movements shall occur in Eton Road or Burleigh Street during school drop-off (8.00 am to 9.30 am) nor during school collection hours (2.30 pm to 4.00 pm).

The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works, and shall pay particular attention to traffic control during school drop off and collection hours. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.

89. Prior to the commencement of any works on site, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install a 'Work Zone' along a suitable section of the frontage of the site. Further, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed and the adopted fee paid prior to commencement of any works on the site. Where such a 'Work Zone' is not considered to be feasible by Council Traffic Engineers, the zone will not be required. This condition is to facilitate a dedicated on-street parking area for construction related vehicles during work hours. A need for a 'Work Zone' arises given the scale of the works, existing on-street parking restrictions around the site and the existing high demand for on-street parking in this location.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

90. 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.

Item 2

91. A survey report shall be submitted to the Principal Certifying Authority prior to occupation, which certifies that the development has been constructed in accordance with the terms of this consent in relation to built upon area, building levels and setbacks.
92. The landscape works shall be completed prior to the issue of the Occupation Certificate and maintained in a satisfactory condition at all times.
93. On completion of the LANDSCAPE WORKS/TREE PLANTING OR SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.
94. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:
 - a) Completion of the new driveway crossings in accordance with levels and specifications issued by Council.
 - b) Full reconstruction of (or construction of new) concrete footpath over the entire site frontage of Eton Road, Burleigh Street (and Pacific Highway if damaged).
 - c) Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to footway, turfed verge and upright kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - d) Full repair and resealing of any road surface damaged during construction.
 - e) Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. 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, crane use) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

95. 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 on-site stormwater detention and retention facilities (including all ancillary reticulation plumbing) 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 on-site detention and retention facilities (DCP47 appendix 14) 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 issue of an Occupation Certificate.

Item 2

96. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
97. Prior to issue of an Occupation Certificate a certification and a works-as-executed (WAE) plan, in relation to the installed rainwater retention/detention 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 specifically state compliance with each of the relevant controls set out in appendix 6.2 of Council Water Management Development Control Plan 47. 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.

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

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

98. Prior to issue of an Occupation Certificate the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:
- a) Construction of the stormwater drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and
 - b) The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500.3.2, and

Item 2

- c) All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

- a. As built reduced surface and invert levels for all drainage pits and connection points.
 - b. As built reduced level(s) at the approved point of discharge to the public drainage system.
 - c. Gradients of drainage lines, materials and dimensions.
99. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” and the parking layout plans approved for the Construction Certificate.
100. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, an easement for waste collection must be provided. This is to permit legal access for Council, and Council’s contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council’s contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council’s draft terms for an easement for waste collection.
101. Prior to issue of an Occupation Certificate, the applicant is to arrange for the installation of the bus shelter on the Pacific Highway frontage of the site, and the indented bus bay if approved by the Traffic Committee. Installation is to proceed in accordance with any conditions imposed including the provision of design plans, and application to Council and the RTA if necessary for approval of the works under the Roads Act.
102. Prior to issue of the Occupation Certificate the applicant shall submit **to Council** a follow up dilapidation report on the visible (including photos) and structural condition of Eton Road for the frontage of the site, Burleigh Street, Llewellyn Street and the lane from Llewellyn Street to Burleigh Street, including full road reserve width and kerb and gutter. The report must be completed by a consulting structural/civil engineer. The structural conditions of all structures originally assessed prior to the commencement of works, must be assessed and the results submitted to Council.

Item 2

BUILDING CONDITIONS

103. 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.
104. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
105. 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.
106. 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.

Item 2

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.

107. 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.

S Watson
Executive Assessment Officer

R Kinninmont
Team Leader
Assessment Team South

M Prendergast
Manager
Development Assessment Services

M Mioic
Director
Development & Regulation Services

Attachments:

- Locality Map**
- Zoning Extract**
- Site Analysis**
- Architectural Drawings**
- Sample Board**
- Perspectives**
- Landscape Concept Plan**
- Landscape Planting Plan**
- Shadow Diagrams**

26 TO 30 MARIAN STREET, KILLARA - SUPPLEMENTARY REPORT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To respond to the issues raised at the Council site inspection 30 April 2005 and seek Council's determination of the development application.
BACKGROUND:	<ul style="list-style-type: none">• Application lodged 23 November 2004• Report considered by Council at meeting 26 April 2004• Consideration pending site inspection which took place on 30 April 2004
COMMENTS:	The issues raised at the site inspection are addressed in this report.
RECOMMENDATION:	Approval, subject to conditions.

PURPOSE OF REPORT

To respond to the issues raised at the Council site inspection 30 April 2005 and seek Council's determination of the development application.

BACKGROUND

- Application lodged 23 November 2004
- Report considered by Council at meeting 26 April 2004
- Consideration pending site inspection which took place on 30 April 2004

COMMENTS

1. **Clarification or further information is obtained from Council officers in relation to the optimum size and canopy spread of trees and plantings proposed along with their size at planting.**

Council's Landscape Assessment Officer has provided the following comments:

'Heights at maturity for proposed plantings are detailed within the plant schedule on the submitted landscape plan. With regard to proposed trees, the planting of Blue gums will at maturity reach heights of 20-25m+ with a spread up to 10-12m. Heights at planting will vary as plants are sized by pot size not the height of the plant. As proposed the pot size will be 400mm which is super advanced by nursery standards. It is envisaged that the height of the Blue gums at the time of planting will be between 1.5 - 2.0m. Given the 'tap' root system for native trees, it is not possible to get trees much larger as they do not readily transplant and if grown on in pots become 'girdled'.

The proposed Jacaranda's will be planted from 200Litre pot sizes which may have a height of greater than 3.0m with a 2.0m spread at the time of planting. Exotic/deciduous tree species have a fibrous root system and grow easily (with care) to very advanced sizes in pots, unlike their native counter parts.

Other shrubs will vary greatly in their widths and heights and will also be determined by whether or not they will be maintained as hedges.'

2. **Council officers to confirm the overall height of the building in relation to the centre of the site and its height in relation to its level above Marian Street. Further, Council officers to confirm the pitch of the roof form as seen from Marian Street.**

At the centre of the site, the building will have a maximum height of 15.6m, 16.7m to the western ridgeline and 17.6m to the eastern ridgeline. The roof will be pitched at 25° when viewed from Marian Street.

Item 3

DA1243/04
16 May 2005

3. Council officers confirm/clarify the setback dimension and detail compliance with DCP No 55 to No.2 Caithness Street.

To ensure visual privacy, DCP 55 requires a 12m minimum separation distance between habitable rooms windows and balconies of the development and windows of any habitable room in neighbouring building on site or adjoining land.

The rear (southern) elevation of the proposed development will be set back 12m from the residential dwelling house at No.2 Caithness Street and thereby complies with the requirements of DCP55.

4. Council officers to consider increasing the setback of the fence to Caithness Street and incorporating a landscaping component along this boundary in front of the fence. Consideration to and or possible constraints to this alternative should be detailed by Council officers.

The existing fence/wall in Caithness St is being retained and, as such, the development at pedestrian level will not impact upon the existing streetscape character as the existing elements are being retained. Sufficient deep soil landscaping has been proposed within the setback and will provide an adequate buffer and landscaped setting to Caithness Street.

Consideration has been given to increasing the setback of the fence to Caithness Street and incorporating a landscaping component in front of the fence to provide a landscape buffer to Caithness Street.

It is noted that the land immediately behind the existing fence/wall is higher than street level. The change in level will require further excavation to accommodate a new fence with an increased setback and further require an encroachment to the setback area. This will also reduce the available land for deep soil landscaping within the Caithness Street setback. It is therefore preferred that the existing fence/wall remain.

5. Council officers provide further information regarding the position of the top storey.

The top storey has been recessed from the perimeter of the building as follows:

- 1m-4.2m – Eastern (Caithness Street) elevation
- 2.2m-9m - Western elevation
- 1m-10m – Northern (Marian Street) elevation
- 0 to 11m – Setback Southern (rear) elevation

The recession of the top storey allows for greater setbacks to site boundaries and reduces the apparent scale and bulk of the building. Due to additional recession of the building in the centre (19.5m from the Marian Street boundary and 21m from the rear (southern) boundary) the building narrows considerably and therefore limits a central location of the top storey, hence the eastern and western ‘wings’ on the top storey. The positioning of the top floor further provides a balanced appearance, particularly when viewed from Marian Street where the building presents as two pavilions, rather than one continuous building. The central

Item 3

DA1243/04
16 May 2005

recession of the building further allows for extensive landscaped areas to the rear of the development.

The top storey complies with the prescribed standards of LEP194 and is consistent with the objectives of both LEP194 and DCP 55.

6. That Council officers confirm the ground water level in relation to the development.

Council's Engineering Assessment Team Leader provides the following comments:

"To support the development application the applicant has provided Council with a Geotechnical Report by Jeffery and Katauskas Consulting Geotechnical Engineers (reference 18987Vrpt) dated 5th November 2004. I reviewed this report carefully when I carried out the engineering assessment.

The report notes that groundwater was encountered during drilling of the boreholes on the site. The groundwater has been established to be generally above the lowest basement level and the objector's observations are valid in that the groundwater level is high. This does not necessarily imply a problem for the development proposal, although does add additional geotechnical/hydrogeological considerations into the excavation and construction phases.

Accordingly, it has been determined that the basement would need to be constructed having due regard to the higher groundwater level. In simple technical terms, this means that that suitable through drainage is required both during and after construction behind all retaining walls and below the basement slab. The report recommends that careful monitoring of seepage be implemented during excavation works.

The report goes on to say "Nevertheless, the subsurface profile as a whole is composed of relatively low permeability strata (residual clay and shale) and therefore, we do not expect the construction of the proposed basement to be any more difficult than deep basements in similar strata in the surrounding area. In summary, we do not consider that there is a likelihood of the construction of the basement causing significant interference to the groundwater flow nor it being untowardly affected by the groundwater provided proper drainage systems are designed and installed by a qualified hydraulic/drainage engineer. We again qualify this statement by advising that there is the need to complete additional boreholes with standpipes and groundwater monitoring once site demolition is completed."

I have applied a number of conditions in the consent which require the applicant to carry out the further geotechnical and hydrogeological investigations discussed in the submitted geotechnical report, throughout the course of the excavation and construction phases. These conditions are 69, 70, 94 and 113.

In summary, Jeffery and Katauskas Consulting Geotechnical Engineers have a reputable and extensive history in geotechnical investigation and reporting. From my experience they provide thorough and clear geotechnical reports based on appropriate field investigations and I have no reason to question or doubt the findings of their geotechnical report for this development. As such, I consider this proposal is feasible from a geotechnical perspective

Item 3

DA1243/04
16 May 2005

provided the applicant complete the ongoing geotechnical investigations, excavation and construction techniques as the development proceeds - as recommended in the geotechnical report and conditioned accordingly.

It is inherent in any DA consent issued that the contractors completing the approved work will be competent professionals who adhere to the specialist reports, guidelines, codes, standards and conditions of consent relevant to the work they are completing.'

SUMMARY

Section 79C of the Environmental Planning & Assessment Act 1979 has been considered and the proposal is acceptable in this regard. The proposed development complies with the prescribed building envelope controls which apply to the site under LEP194 and provides adequate areas for deep soil landscaping on site. Further, Council's Engineers raise no objection to the proposal, subject to conditions.

The proposal is therefore recommended for approval, subject to conditions.

RECOMMENDATION

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

THAT the Council, as the consent authority, grant development consent to DA 1243/04 for the demolition of three (3) residential dwellings and construction of a five (5) storey residential flat building containing twenty-seven (27) units and basement car parking for sixty one (61) vehicles on land at 26-30 Marian Street, Killara, on a Deferred Commencement basis, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

SCHEDULE A

1. In order to activate the consent, the Applicant shall obtain a resolution from Ku-ring-gai Council that it will consent to the extinguishment of the existing Council easement(s) for drainage which currently burden the subject property. As the easement for drainage will no longer be required over the subject site (pipes are to be re-diverted in the frontage road reserve), approval is not required to re-create easements for drainage on the subject property. Councils Technical Services department will be responsible for preparing the necessary report to Council regarding the extinguishment of the existing easement burdening the site, subject to payment of the adopted fee for the preparation of such reports.

NOTE: The matters referred to in Schedule A must be completed to Council's satisfaction before the Consent operates.

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

Item 3

DA1243/04
16 May 2005

This consent will be issued subject to conditions as specified hereunder in Schedule B.

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

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

SCHEDULE B

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans identified in the following table and endorsed with Council's approval stamp, except where amended by the following conditions:

Dwg No:	Rev.	Description	Author	Dated	Lodged
DWG 01	A	Roof, Site & Location Plans	Ercole Palazzetti Pty Ltd	Oct 2004	26-11-2004
DWG 02	A	Car Park Basement 1	Ercole Palazzetti Pty Ltd	Oct 2004	26-11-2004
DWG 03	A	Car Park Basement 2 -	Ercole Palazzetti Pty Ltd	Oct 2004	26-11-2004
DWG 04	B	Ground Floor	Ercole Palazzetti Pty Ltd	Oct 2004	18-02-2005
DWG 05	A	Levels 1, 2 & 3	Ercole Palazzetti Pty Ltd	Oct 2004	26-11-2004
DWG 06	A	Level 4	Ercole Palazzetti Pty Ltd	Oct 2004	26-11-2004
DWG 07	A	Sections A-A & B-B	Ercole Palazzetti Pty Ltd	Oct 2004	26-11-2004
DWG 08	A	Elevations (N&E)	Ercole Palazzetti Pty Ltd	Oct 2004	26-11-2004
DWG 09	A	Elevations (S&W)	Ercole Palazzetti Pty Ltd	Oct 2004	26-11-2004
DWG 10	A	Site Analysis Plan	Ercole Palazzetti Pty Ltd	Oct 2004	26-11-2004

2. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
3. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
4. For the purpose of 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

Item 3

DA1243/04
16 May 2005

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.

5. 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.

6. 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.
7. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
8. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
9. To maintain existing ground levels all excavated material shall be removed from the site.
10. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
11. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
 - a. The type and size of machinery proposed.
 - b. The routes of all trucks to convey material to and from the site.
 - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.
12. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.

Item 3

DA1243/04
16 May 2005

13. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

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

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

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

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

15. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
16. To maintain residential amenity, all electrical services to the site are to be provided underground and must not disturb the root system of any trees. Please contact the energy supply authority's local customer service office to obtain documentary evidence that the authority has been consulted and that their requirements have been met. This information is to be submitted to Council prior to the release of the Occupation Certificate.
17. If the work involved in the erection or demolition of a building:
- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

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

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

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

Item 3

DA1243/04
16 May 2005

18. All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measure at the nearest adjoining boundary.
19. The fence and footings shall be constructed entirely within the boundaries of the property.
20. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
21. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
22. 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.
23. 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.
24. 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.

25. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
26. 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;

Item 3

DA1243/04
16 May 2005

- 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.
27. 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.
 28. 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.
 29. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
 30. 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.
 31. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
 32. Fire hoses are to be maintained on site during the course of demolition.
 33. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
 34. A traffic management plan shall be submitted to and approved by the Principal Certifying Authority, where major demolitions are likely to impact on arterial or main roads.
 35. 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.
 36. 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.
 37. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
 38. 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

Item 3

DA1243/04
16 May 2005

- 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.
39. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
 40. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.
 41. Sites shall not be re-shaped, re-contoured, excavated nor the levels on any part of the site altered without the Consent of the Council being obtained beforehand.
 42. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
 43. 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.

44. The landscape works shall be completed prior to issue of the Occupation Certificate and maintained in a satisfactory condition at all times.
45. Landscape works shall be carried out in accordance with Landscape Drawing No DA-L-01 Rev B, DA-L-02 Rev B and DA- 1-03 Rev A, prepared by Oculus and dated 19/11/2004 submitted with the Development Application, except as amended by the following:
 - The Eucalyptus saligna (Bluegum) proposed immediately adjacent to the western side of the proposed building is to be relocated so that it is no closer than 5.0m from the building footprint, but still within the western side area.
 - The proposed planting adjacent to the western site boundary is to include an additional eight (8) Elaeocarpus reticulatus (Blueberry Ash) to enhance privacy and neighbour

Item 3

DA1243/04
16 May 2005

amenity. The proposed planting is to be spread over the western site boundary length rather than grouped together in one location.

- An additional *Eucalyptus saligna* (Bluegum) is to be planted adjacent to the south western site corner within the proposed garden bed.
- The proposed *Eucalyptus saligna* (Bluegum) located adjacent to the proposed driveway and eastern site boundary is to be replaced with a *Nyssa sylvatica* (Tupelo). The tree is to be located so that it is no closer than 3.0m from any structure including the proposed drainage pit and existing retaining walls.
- The planting adjacent to the southern/rear site boundary is to be supplemented with an additional three *Angophora floribunda* (Rough barked apple). The trees are to be planted within the proposed garden bed areas. A minimum pot size of 15 Litre is required.
- The proposed garden bed/planting area adjacent to the western site boundary is to have a minimum width of 2.0m to allow adequate area for the establishment and growth of screen planting and tree replenishment.

46. Canopy and/or root pruning of the following tree/s which is necessary to accommodate the approved building works shall be undertaken by an experienced and practicing Arborist/Horticulturist, with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate:

Tree/Location

No's 6, 31, 32 *Eucalyptus saligna* (Bluegum)
Adjacent to the Marian St/Northern site frontage

47. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

48. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period. Tree numbers refer to Tree Survey plan submitted with the development application.

Tree/Location

Radius From Trunk

No's 31, 32, 6 *Eucalyptus saligna* (Bluegum)
Adjacent to the Marian St/Northern site frontage

9.0m

No.34 *Nyssa sylvatica* (Tupelo)
Adjacent to south east site corner

4.0m

No's 27, 28, 29 *Jacaranda mimosifolia* (Jacaranda)
Marian St nature strip planting

3.0m

Item 3

DA1243/04
16 May 2005

No.21 <i>Cupressus macrocarpa</i> (Lamberts Cypress) Adjacent to western site boundary	3.0m
No.16 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to southern site boundary	4.0m
No.15 <i>Cedrus deodar</i> (Himalayan Cedar) Adjacent to southern site boundary	4.0m
No.4 <i>Agonis flexuosa</i> (Weeping Myrtle) Adjacent to southern site boundary in neighbouring property	4.0m
No.3 <i>Melaleuca bracteata</i> (White Cloud Tree) Adjacent to southern site boundary	3.0m
No.2 <i>Tibouchina lepidota</i> 'Alsonville' Adjacent to southern site boundary	3.0m
No.1 <i>Magnolia soulangeana</i> (Soul's magnolia) Adjacent to southern site corner	3.0m
No.33 <i>Cornus florida</i> (Dogwood) Adjacent to south east site corner	4.0m

49. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the principal certifying authority with a copy to Council shall be required at quarterly/three monthly intervals. Documentary evidence of compliance with this condition shall be submitted to Council with the Occupation Certificate.

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

Tree/Location	Radius From Trunk
No's 31, 32, 6 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the Marian St/Northern site frontage	8.0m on site or 4.0m within Council's nature strip

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

Item 3

DA1243/04
16 May 2005

Tree/Location	Radius From Trunk
No.'s 31, 32, 6 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the Marian St/Northern site frontage	8.0m on site
No.34 <i>Nyssa sylvatica</i> (Tupelo) Adjacent to south east site corner	4.0m

52. 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.

53. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Marian St and Caithness St. The trees are to be evenly spaced and planted as a formal avenue planting within the existing nature strip. The tree/s used shall be 25 litre container size specimen/s:

Tree Species

Jacaranda mimosifolia (Jacaranda) x 7
(Four in Marian St and three in Caithness St)

54. Transplanting of the following trees/shrubs shall be directly supervised by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

Species/Location

No.30 *Magnolia soulangeana* ((Soul's Magnolia)
Within proposed building footprint adjacent to western site boundary

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

56. 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.

57. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the (new) in ground street drainage system in Caithness Street, via the approved site stormwater management system. New drainage line connections shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47. A pit shall be constructed to facilitate connection to the street drainage system.

Item 3

DA1243/04
16 May 2005

58. A mandatory rainwater re-use tank system comprising stormwater tanks and rainwater tanks of minimum volume required in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), must be provided for the development. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. A mains top-up shall be provided for periods of low rainfall, with a void space left for runoff storage purposes.
59. For stormwater control the overland flow path through the site (conveyed through the basement structure) must re-enter the downstream system so that the pre-developed overland flow regimes are maintained without detriment to downstream property. This will require the installation of suitable cut-off structures, re-grading, inlets and/or barriers that direct the overland flows to the drainage system in Caithness Street.
60. For stormwater control, 200mm wide grated channel/trench drains with heavy-duty removable galvanised grates are to be strategically placed to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
61. A maintenance period of six (6) months shall apply to all works in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
62. Where required, the adjustment or additions of any 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 responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
63. All public footways and accessways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
64. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps

Item 3

DA1243/04
16 May 2005

must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

65. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” as a minimum requirement.
66. For the purpose of any further plan assessment and works inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final sign-off from Council.
67. The Applicant must obtain a Section 73 Compliance Certificate under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Applicant shall refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
68. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
69. Geotechnical aspects of the development works, particularly excavation, support, retention and hydrogeological considerations must be undertaken in accordance with the recommendations of the Report on Geotechnical Investigation by Jeffery and Katauskas Consulting Engineers (refer report 18987Vrpt dated 5th November 2004) and the subsequent geotechnical investigations carried out for construction purposes.
70. The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the construction works must be in accordance with the Report on Geotechnical Investigation by Jeffery and Katauskas Consulting Engineers (refer report 18987Vrpt dated 5th November 2004). Over the course of the works a qualified Geotechnical/hydrogeological Engineer must complete the following:
 - Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
 - Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,

Item 3

DA1243/04
16 May 2005

- Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.
71. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.
 72. All construction traffic control and management measures shall be implemented in accordance with an approved *Construction Traffic Management Plan* to be submitted and approved by Council prior to the commencement of works. The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works, and shall pay particular attention to traffic control during school drop off and collection hours. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.
 73. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, no doors or gates shall be provided in the access driveways to the basement carpark which would prevent this service.
 74. All new public utility services, or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage shall be provided underground by the developer in accordance with the specifications of the supply authorities.
 75. Staging of trunk drainage diversion works must take place in the following sequence:
 1. Ku-ring-gai Council approves through resolution the extinguishment of the Council drainage easement through the site (in accordance with schedule A condition).
 2. Applicant prepares construction detail drainage plans for the new drainage line in the frontage road reserve, to Council specifications.
 3. Plans reviewed, approved and stamped by Council Technical Services department prior to commencement of **any** works within site and prior to issue of the Construction Certificate by the Principal Certifying Authority. Plan assessment and inspection fees paid to Council.
 4. The Council approved drainage works in the road reserve are completed by Applicant in accordance with terms of Council *Roads Act* approval and prior to commencement any works within the site. The existing operating Council drainage line through the site is maintained during pipe laying works in road reserve.
 5. The Council drainage line traversing site is decommissioned and new drainage line in road reserve made operative.
 6. Applicant may commence works in site to remove the decommissioned Council drainage system, subject to Principal Certifying Authority approval.
 76. In order to achieve an acceptable fit with the nearby heritage items and the National Trust UCA, external masonry finishes to the basement and ground floor of the building are to be clad with face brick or stone. The colour of the face brick or stone is to be approved by Council. The colour should be an earthy tone and should be common in the immediate streetscape.

Item 3

DA1243/04
16 May 2005

A colour scheme for the exterior colours of the external walls is to be submitted and approved by Council. The colour scheme should use two or three colours for the external walls to assist in blending the massing of the new building into the existing streetscape. Earthy recessive colours are suggested with one of two lighter colours.

77. "Peep holes" shall be provided to the entrance doors of all units for personal security.

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

78. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing three Torrens lots. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to the issue of the Construction Certificate. The condition is imposed to ensure a continuous structure will not be placed across separate titles.
79. 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.

80. 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).
81. 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

Item 3

DA1243/04
16 May 2005

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.

82. 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.
83. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF TWENTY-FOUR (24) ADDITIONAL DWELLINGS IS CURRENTLY \$759,946.08. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 30 June 2004, calculated for additional person as follows:

1. Community Facilities <i>(If Seniors Living \$412.07)</i>	\$1 117.76
2. Park Acquisition and Embellishment Works - <i>Killara</i>	\$6 384.75
3. Sportsgrounds Works	\$1 318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75 sqm)	1.27 persons
Medium dwelling (75 - under 110 sqm)	1.78 persons

Item 3

DA1243/04
16 May 2005

Large dwelling (110 – under 150sqm)	2.56 persons
Very Large dwelling (150sqm or more)	3.48 persons
New Lot	3.48 persons
SEPP (Seniors Living) Dwelling	1.3persons

84. A report is to be submitted to Council and approved by the heritage officer prior to commencement of the work and prior to issue of a Construction Certificate.

The report is to be prepared by a heritage consultant included in the NSW Heritage Office list of recognized consultants or other suitably qualified consultants who have knowledge and experience in preparing archival recording documents.

The report is to be a bound A4 report and must include copies of drawings submitted with the application including site surveys and specialist reports such as heritage assessments, dilapidation report, and builders or engineers reports. Three copies of the report is to be submitted, one copy with negatives. Any archival documents such as family records, old photographs should also be included.

All photographs to be to be mounted, labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. A photographic recording sheet is to be included. Photographs of the following:

- Each elevation
- Photographs of specific details nominated by Council
- All structures on site such as sheds, outhouses and significant landscape features
- Several photographs of house from public streets or laneways including several views showing relationship to neighbouring buildings.

Minimum requirements:

- Title page
- Statement of reasons the recording was made
- Location Plan showing relationship of site to nearby area
- Site plan to scale (1:200 – 1:500) showing all structures and site elements
- Floor Plan (1:100)
- Black & White archival quality photographs, contact prints with negatives and selected prints (one copy of negatives other copies with contact sheets and selected prints)
- Colour slides (one set)
- Colour photographs (one copy with negatives)

Digital images and CDs may be submitted as supplementary information.

85. A CASH BOND/BANK GUARANTEE of \$10 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Item 3

DA1243/04
16 May 2005

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

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

86. A CASH BOND/BANK GUARANTEE of \$32 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Tree/Location

No's 31, 32, 6 *Eucalyptus saligna* (Bluegum) \$10 000.00 each
Adjacent to the Marian St/Northern site frontage

No.34 *Nyssa sylvatica* (Tupelo) \$2 000.00
Adjacent to south east site corner

87. To preserve the following tree/s, footings of any proposed masonry works shall be isolated pier or pier and beam construction within the specified radius of the trunk/s. The piers shall be located such that no roots of a diameter greater than 50mm shall be severed or injured in the process of any site works during the construction period. The beam shall be located on or above existing soil levels.

The location and details of the footings shall be submitted to the principal certifying authority and be approved prior to release of the Construction Certificate.

Tree/Location

Radius in Metres

No's 31, 32, 6 *Eucalyptus saligna* (Bluegum)
Adjacent to the Marian St/Northern site frontage

8.0m

No.34 *Nyssa sylvatica* (Tupelo)
Adjacent to south east site corner

4.0m

Item 3

DA1243/04
16 May 2005

88. Prior to issue of the Construction Certificate the Applicant must have engineering plans and specifications prepared (to a detail satisfactory for construction) and **approved by** Council engineers, which detail the following infrastructure works required in Marian Street and Caithness Street:

- A fully new in-ground piped drainage system in Marian Street and Caithness Street, comprising inlet/junction pits and Reinforced concrete piping of nominal 750mm diameter, at suitable alignment to avoid damage to significant trees and accommodate existing services. This drainage line is to replace the Council drainage system which currently traverses the subject site.
- Construction of a fully new concrete footpath, minimum 1.2 metres wide or as directed, over the full site frontage on Caithness Street.

Development Consent under the EP&A Act does NOT give approval to these works on Council property. **THE APPLICANT MUST OBTAIN A SEPARATE APPROVAL UNDER SECTION 138 AND 139 OF THE ROADS ACT 1993** for the works in the Road Reserve, required by this consent. The Construction Certificate must not be issued, and these works must not proceed, until Council has issued a formal written consent under the *Roads Act 1993*. Construction of the works must proceed in accordance with any conditions attached to the Council *Roads Act 1993* approval. All works are to be designed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004 and Council Water Management DCP 47, chapter 9. The drawings must detail existing services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998).

A minimum of three (3) weeks will be required for assessment of Roads Act submissions. Early submission is highly recommended to avoid delays in obtaining a Construction Certificate. An engineering assessment and inspection fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

89. Prior to issue of the Construction Certificate, the approved drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full. At the completion of these works the existing Council drainage line

Item 3

DA1243/04
16 May 2005

traversing the subject site must be decommissioned. A letter from Ku-ring-gai Council stating that the works have been completed in full and this condition has been satisfied must be submitted to the Principal Certifying Authority prior to issue of any Construction Certificate.

90. Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.
91. Prior to issue of the Construction Certificate any security gate, grille or door shown on the DA plans, which would prevent unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, must be deleted from the plans to be approved with the Construction Certificate. Such details shall be to the satisfaction of the Principal Certifying Authority (PCA).
92. Prior to issue of the Construction Certificate , a plan detailing services trenches in accordance with the relevant supply authorities (including electricity, gas, telephone, water and sewerage), shall be submitted for approval by the Principal Certifying Authority (PCA). The notice of requirements for Sydney Water must be obtained prior to issue of the Construction Certificate.
93. Prior to issue of the Construction Certificate the Applicant shall contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including cabling, need for substations or similar within the development) shall be submitted to the Principal Certifying Authority (PCA) for approval prior to Construction Certificate issue. Any structures or requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate to the satisfaction of the PCA. The requirements of the utility provider shall be met in full prior to issue of the Occupation Certificate.
94. Prior to issue of any Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of all neighbouring buildings within the 'zone of influence' of the excavation. This is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted Report on Geotechnical Investigation by Jeffery and Katauskas Consulting Engineers (refer report 18987Vrpt dated 5th November 2004). A second dilapidation report, recording structural conditions of all structures originally assessed prior to issue of the Construction Certificate, must be carried out at the completion of the works and be submitted to Council. The report shall have regard to protecting the Applicant from spurious claims for structural damage and shall be verified by all stakeholders as far as practicable.
95. Prior to issue of the Construction Certificate, footpath and driveway levels for the required driveway crossing between the property boundary and road alignment must be obtained from

Item 3

DA1243/04
16 May 2005

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. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.** The 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. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

96. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website). The design may be generally in accordance with the Concept Stormwater Management & Environmental Site Management Concept Plans, C1A, C2D, C3A, C4A & C5A, dated November 2004 and February 2005, by Appleyard Forrest Consulting Engineers submitted with the development application, and advanced as necessary for construction issue purposes.
97. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details and specifications for the proposed overland flow conveyance structures through the site. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer who shall recommend an appropriate design storm event (1:100 year storm as an absolute minimum) in order to reasonably protect all ground floor units from inundation over the life of the development. Inlet pits for the system on the upstream side of the basement must be located on common property.
98. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, carwashing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use, including pumps and back up power supply in the event of blackout, shall be shown on these plans to a detail suitable for installation by the

Item 3

DA1243/04
16 May 2005

plumbing services contractors. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.

99. 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 the on-site stormwater retention system. The minimum storage volumes and designs shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), any manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. 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. The design is to be in accordance with the Concept Stormwater Management & Environmental Site Management Concept Plans, C1A, C2D, C3A, C4A & C5A, dated November 2004 and February 2005, by Appleyard Forrest Consulting Engineers submitted with the development application, and advanced as necessary for construction issue purposes.
100. 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 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. New connection points to the Council drainage system must be shown accurately on the plan and shall be made in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The design of these drainage components may be in accordance with the Concept Stormwater Management & Environmental Site Management Concept Plans, C1A, C2D, C3A, C4A & C5A, dated November 2004 and February 2005, by Appleyard Forrest Consulting Engineers submitted with the development application, and advanced as necessary for construction issue purposes.
101. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$50,000 (fifty thousand dollar) public infrastructure damage bond with Council. This bond is applied under Section 97 of the Local Government Act to cover the restoration by Council of any damage to public infrastructure not repaired in full, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development and **at the end of any maintenance period** stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:

Item 3

DA1243/04
16 May 2005

- a) Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
- b) The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
- c) Works in the public road associated with the development are to an unacceptable quality.

102. Prior to issue of the Construction Certificate for any works excluding excavation and site clearing, the applicant shall submit, for approval by the Principal Certifying Authority (PCA), revised plans for the basement and external vehicle access and accommodation arrangements. These plans shall incorporate the following details:

- a) Removal of all doors, grates or security grilles which would prevent access to the respective garbage collection and visitor parking areas within each building. This requirement is specified in Councils DCP 40 and DCP 55.

103. Prior to issue of the Construction Certificate the Applicant shall submit, for approval by the Principal Certifying Authority (PCA), a scale dimensioned layout plan for all aspects of the vehicle access and accommodation arrangements. A qualified civil/traffic engineer must provide specific written certification with these parking layout plans that:

- a) All parking space dimensions, driveway and aisle widths, grades, transitions, circulation ramps, blind aisle situations and trafficked areas comply with Australian Standard 2890.1 – 2004 “Off-street car parking”.
- b) A height clearance of 2.5 metres headroom requirement under DCP40 for waste collection trucks over the designated garbage collection truck manoeuvring areas.
- c) No doors or gates are to be provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection from the basement garbage storage area.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

104. 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.

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

Tree/Location	Radius in Metres
No.34 <i>Nyssa sylvatica</i> (Tupelo) Adjacent to south east site corner	4.0m
No.27, 28, 29 <i>Jacaranda mimosifolia</i> (Jacaranda)	3.0m

Item 3

DA1243/04
16 May 2005

Marian St nature strip planting

No.21 *Cupressus macrocarpa* (Lamberts Cypress) 3.0m
Adjacent to western site boundary

No.16 *Cedrus deodar* (Himalayan Cedar) 4.0m
Adjacent to southern site boundary

No.15 *Cedrus deodar* (Himalayan Cedar) 4.0m
Adjacent to southern site boundary

No.4 *Agonis flexuosa* (Weeping Myrtle) 4.0m
Adjacent to southern site boundary in neighbouring property

No.3 *Melaleuca bracteata* (White Cloud Tree) 3.0m
Adjacent to southern site boundary

No.2 *Tibouchina lepidota* 'Alsonville' 3.0m
Adjacent to southern site boundary

No.1 *Magnolia soulangeana* (Soul's magnolia) 3.0m
Adjacent to southern site corner

No.33 *Cornus florida* (Dogwood) 4.0m
Adjacent to south east site corner

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

Tree/Location	Radius From Trunk
No.'s 31, 32, 6 <i>Eucalyptus saligna</i> (Bluegum) Adjacent to the Marian St/Northern site frontage	8.0m

107. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.

108. Upon completion of the installation of the required tree protection measures you are required to contact the principal certifying authority to arrange an inspection of the site. 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.

Item 3

DA1243/04
16 May 2005

109. Prior to the commencement of any works on site the applicant shall submit **to Council** a full dilapidation report on the visible (**including photos**) and structural condition of the following public infrastructure:

- a) Full road pavement width, including kerb and gutter, of Marian Street and Caithness Street over the site frontage, including the full intersection.
- b) All driveway crossings and laybacks opposite the subject site.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both via photo and in written format) *existing* damaged areas on the aforementioned infrastructure so that:

- Council is fully informed when assessing any damage to public infrastructure caused as a result of the development, and
- Council is able to refund infrastructure damage bonds, in full or parts thereof, with accuracy.

The developer may be held liable to all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works. In this respect, the infrastructure damage bond lodged by the subject developer may be used by Council to repair the damage regardless.

A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council.

110. Prior to the commencement of *any* works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:

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 any 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 any Work Zones in the frontage roadways,
 - Location of proposed crane standing areas
 - A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
 - Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - The provision of an on-site parking area for employees, tradesperson and construction vehicles where possible

2. Traffic Control Plan(s) for the site

Item 3

DA1243/04
16 May 2005

- All traffic control devices installed in the road reserve must be in accordance with the RTA publication “Traffic Control Worksite Manual” and designed by a person licensed to do so (minimum RTA ‘red card’ qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
 - Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.
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 at all times.
 - A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.

In addition, the plan must address:

- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.
- For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel’s vehicles do not impact on the current parking demand in the area.

The *Construction and Traffic Management Plan* shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained and submitted to the Principal Certifying Authority prior to the commencement of any works on site. The Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. 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.

111. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the ‘Work Zone’. The application must be made at least 15 days prior to the commencement of any works on site approved under this consent. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for

Item 3

DA1243/04
16 May 2005

approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

112. 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.
113. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the Report on Geotechnical Investigation by Jeffery and Katauskas Consulting Engineers (refer report 18987Vrpt dated 5th November 2004), and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
114. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:
- a) Completion of the new driveway crossing in accordance with levels and specifications issued by Council.
 - b) Completion of all new footpath works in accordance with the Council approved *Roads Act* plans.
 - c) Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to footway, turfed verge and upright kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - d) Full repair and resealing of any road surface damaged during construction.
 - e) Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. 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, crane use) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

115. Prior to issue of an Occupation Certificate the Council approved footpath works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993*

Item 3

DA1243/04
16 May 2005

drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full. A letter from Ku-ring-gai Council stating that the works have been completed in full and this condition has been satisfied must be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

116. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
117. Prior to issue of an Occupation Certificate a suitably qualified consulting civil/hydraulic engineer is to provide engineering certification for approval by the Principal Certifying Authority (PCA). The certification is to address each of the following aspects of the installed overland flow conveyance infrastructure:
- a) That the overland flow conveyance infrastructure through the basement (culvert system) has been constructed to convey the design storm through the development site.
 - b) That the necessary overland flow inlet systems, cut-off structures, regrading of landscaped areas on the upstream and downstream sides of the basement structure are suitable to convey the overland flows through the site and back into the trunk drainage system downstream
 - c) That all enclosed floor areas, including habitable and basement levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of the suitable stormwater collection devices.
118. Prior to issue of an Occupation Certificate a suitably qualified consulting civil/hydraulic engineer is to provide engineering certification for approval by the Principal Certifying Authority (PCA). The certification is to make **specific reference** to each of the following aspects of the installed drainage and stormwater management measures:
- a) That construction of the stormwater drainage and management systems has been carried out by a contractor licensed to do so.
 - b) That all necessary Sydney Water approvals have been obtained for the domestic use of reticulated water.
 - c) That the as-built retention systems achieve the design storage volumes approved by the Principal Certifying Authority with the Construction Certificate (engineer must complete the form in the appendices of DCP47 in relation to the system).
 - d) The as-built drainage layout (including pits, pipes and ancillary plumbing) is in accordance with the relevant stormwater management and drainage plans approved by the Principal Certifying Authority with the Construction Certificate,
 - e) The overall as built drainage and stormwater management systems will achieve the discharge control intent of the approved construction plans and Councils Water Management DCP47.

Item 3

DA1243/04
16 May 2005

119. Prior to issue of an Occupation Certificate the applicant shall submit a Works-as-Executed (WAE) drawing(s) to the Principal Certifying Authority in relation to the installed stormwater drainage and managements systems. These plans shall show:

- a) As built location and indicative internal dimensions of the retention structures on the property (plan view) and horizontal distances to nearest adjacent boundaries and buildings on site
- b) As built locations of all access pits and grates in the retention systems, including dimensions.
- c) The achieved capacity of the retention storages and derivative calculations.
- d) Top water levels of storage areas and indicative RL's through the escape flow path in the event of blockage of system.
- e) Size, depth and location of the overland flow path inlet pits, together with surface levels, invert levels and indicative grading levels in surrounding landscaped area.
- f) Location and dimensions of overland flow conveyance culverts through the basement structure.
- g) As built surface and invert levels for all drainage pits and junction points.
- h) Gradients of drainage lines, materials and sizes.
- i) As built level(s) at the approved point of discharge to the public drainage system.

The WAE(s) is to be prepared by a **registered surveyor** and shall show all critical constructed levels, materials and dimensions in comparison to those shown in the relevant designs approved by the Principal Certifying Authority with the Construction Certificate. All relevant details indicated must be denoted **in red** on the Principal Certifying Authority stamped construction certificate stormwater drawings. The plan shall not be prepared until final surfaces (such as landscaping) are laid.

120. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):

- A copy of the approved Construction Certificate stormwater drainage plans which show the retention systems.
- A copy of all the works-as-executed drawings as specified in this consent relating to drainage and stormwater management,
- All Engineer's certifications specified in this consent.

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

121. Prior to occupation or 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 on-site stormwater retention 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 facilities - to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying

Item 3

DA1243/04
16 May 2005

Authority (PCA) prior to issue of an Occupation Certificate. It is assumed that the legal instruments will transfer to any future subdivision plan at the time of registration.

122. 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 overland flow path conveyance infrastructure provisions on the site. The restriction on use shall be worded to prevent any future interference with the overland flow infrastructure provisions - to the written satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority (PCA) prior to issue of an Occupation Certificate. It is assumed that the legal instruments will transfer to any future subdivision plan at the time of registration.
123. Prior to issue of the Occupation Certificate an easement for waste collection must be provided. This is to permit legal access for Council, and Council's contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection. It is assumed that the legal instruments will transfer to any future subdivision plan at the time of registration.
124. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include full dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that:
- a) Vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 "Off-Street car parking" and
 - b) The revisions to the vehicle access and accommodation arrangements necessary under this consent, shown on the relevant approved Construction Certificate drawings, have been constructed, and
 - c) No security doors, grilles or gates are provided which would prevent access to the garbage storage area by Councils waste collection vehicle, including the truck manoeuvring area for forward egress.
125. Prior to issue of the Occupation Certificate the provision of separate underground electricity, gas, phone cable, sewer and water services shall be provided for the development in accordance with those utility providers. A suitably qualified and experienced engineer or surveyor is to provide certification to the Principal Certifying Authority that the development has ready underground access to the services of electricity, gas, phone cable, sewer and water. Alternatively a final compliance letter from the respective supply authorities may be supplied for approval.

BUILDING CONDITIONS

Item 3

DA1243/04
16 May 2005

126. 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. Retaining walls and associated drainage.
 - d. Wet area waterproofing details complying with the Building Code of Australia.
 - e. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
 - f. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - g. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
127. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
128. 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.
129. 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.
130. 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:

Item 3

DA1243/04
16 May 2005

- 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.

131. 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.

S Watson
Executive Assessment Officer

R Kinninmont
Team Leader
Assessment Team- South

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development & Regulation Services

Attachments: Marian Street (Northern) elevation indicating building height

Item 4

1, 3, AND 5 LYNBARA AVENUE AND 12 PORTERS LANE, ST IVES

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To refer the application back to Council following a site meeting and seek Council's determination of development application.

BACKGROUND:

- Application lodged 17 November 2004.
- Council considered a report at its meeting on 26 April 2005.
- Consideration pending site inspection which took place on 30 April 2005.

COMMENTS:

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

RECOMMENDATION:

That the additional information be noted, and the application be approved.

Item 4

PURPOSE OF REPORT

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BACKGROUND

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- Council considered a report at it's meeting on 26 April 2005.
- Consideration pending site inspection which took place on 30 April 2005.

COMMENTS

The following matters were raised at the site inspection and are addressed accordingly.

1. Visual privacy

It was acknowledged that the proposed development has provided a rear setback in excess of the required six metres at the ground and first floor levels and significant vegetation located within common property will be planted in order to reduce the impact on the privacy of the properties to the rear. The Councillors seek clarification of the following:

- *What are the growth rates of the proposed screen trees along the north-western boundary?*

According to Council's Landscape Assessment Officer, growth rates are very dependent upon the care of the landscape and the subsequent establishment of the plantings. But given that the parent soil type is fertile, with appropriate care, the trees and screen planting should establish within the short to medium term and have significant effect within 5 years, which is the short term when looking at the lifespan of trees etc.

- *What is the probability of survival of the new plantings?*

As it's a new landscape with little competition from existing planting, subject to reasonable care and maintenance, their survival probability is very high. Consent conditions will require their replacement should they be removed or die prior to reaching a height protected by a Tree Preservation Order (**Condition No 64 and 84**).

- *What are the minimum sizes to be planted?*

The minimum sizes at planting are indicated in the Landscape Plan Plant Schedule which includes the pot size at planting. It is not always the preferred option to choose mature trees as smaller trees grow at a faster rate and adapt more quickly to the new environment, compared to

Item 4

larger trees that are transferred into a new environment. The new trees will generally be between 1.5-2m high at the time they are planted.

- *What is the potential canopy overhang to properties along the north-western boundary of proposed development site?*

As with many large 'canopy' trees there will be some overhang in the medium to long term, as the trees mature. The selected species (turpentine) are strong, hardy trees and long lived but not overly wide in their canopy. Shade from the trees onto adjoining properties would be unlikely as the neighbouring residential properties are to the north and any shade will be cast upon the development site.

2. Overshadowing

What will be the impact of overshadowing from the proposed landscaping on adjoining properties?

The overshadowing will be predominantly to the three street frontages, (i.e. Lynbara Avenue, Porters Lane and Stanley Street). There are no shadow impacts to the residents of Eden Brae. There is some minor impact only to the properties on the opposite of Lynbara Avenue and Porters Lane during the afternoon hours. All affected properties will have well in excess of 3 hours of solar access to their private open space and habitable rooms.

3. Car parking/traffic generation rates

Council acknowledged the proposal meets the RTA guidelines' for traffic generation, but sought clarification and justification on the use of the RTA guidelines when assessing developments of this nature.

Council's Engineering Officer states that the RTA is the authority overseeing roads in NSW. The "RTA Guide to Traffic Generating Developments" is used in NSW to assess the traffic generating impact of development on the RTA road network. As such it is applicable in Sydney and to all LEP 194 Developments.

The RTA Guide 79C is designed to be used to address the provisions of Sections 79C of the EP and A Act relevant to traffic and safety in the development assessment process and is the traffic engineering industry adopted standard for use in this situation. Its use is recognised in the NSW Land and Environment Court.

4. Drainage

It was requested that the shortfall in the drainage concept plans be identified and an explanation of the condition addressing the shortfall be provided.

The shortfall in the drainage concept plans lodged with the DA amount to the applicant showing less rainwater storage for re-use on the site (shown at 84m³) than is required under Water Management Development Control Plan 47 (147m³). It is felt that the shortfall can be addressed through a suitable condition requiring the storage tank under the driveway to be made larger

Item 4

(deepened and/or widened sideways and lengthways) to accommodate the difference (**See Condition No 92 in main report**). The condition is as follows:

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 storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. In this respect, the submitted DA concept stormwater services plans (refer plans C00 to C01 by MPN , dated 2/11/04) must be revised as follows:

- *The minimum rainwater tank(s) volume provided on site shall be increased to 147m³ (not 83.6 m³) as specified in section 6.4 of Water Management DCP 47 and the plans are to be advanced as necessary for construction issue purposes.*

Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. 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.

5. Internal amenity

Will there be any adverse health impacts on the residents that may occupy the units that do not receive direct solar access?

Depending on the site and its orientation, the provision of solar access to 100% of the units is not possible. This issue is recognised within Council's DCP as well as the Residential Flat Design Code to SEPP 65. In some instances, southerly facing units are required as they provide a better streetscape response or take advantage of views which offset the reduced amenity. This development provides an optimum level of solar access to a significant majority of the units, while still providing a useable and functionable development that addresses the streets. The provision of a greater number of units facing the north will undoubtedly have a significant adjustment to the northern façade resulting in a greater number of units facing Eden Brae. Having regard to the health of the residents living in units which do not have solar access, there is unlikely to be any health associated risks.

6. Non compliance

The application complies with all the LEP194 development standards. It is requested that a table be prepared that identifies all the non compliances with DCP 55 with an explanation for the non compliance. This was provided in the officer's report to Council and is reproduced below.

Item 4

POLICY PROVISIONS

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

COMPLIANCE TABLE		
Development control	Proposed	Complies
Street boundary setback (min):		
13-15 metres (<40% of the zone occupied by building footprint)	Porters Lane: Average setback of 12 metres (from 9 to 14 metres) Stanley Street: Average Setback of 10 metres (from 8 to 12 metres)	NO NO
Setback of ground floor terraces/courtyards to street boundary (min):		
8m/11m	Average 10 m (7m to 15 m)	NO
Part 4.4 Built form and articulation:		
Façade articulation: • Wall plane area <81m ²	Wall plane depths >81m ² (articulated by cantilevered louvered screens, so it does not appear as one continuous plane)	NO
Built form: • Building width < 36m	54 m to Lynbarra Avenue (55m ² /650m ²)	NO
• Balcony projection < 1.2m	A total of 3 balconies project more than 1.2m	NO

Part 4.3 Setbacks:

Because of the villa development to the north-east of the site, the applicant has set the proposed building back from this boundary at a distance of between 9 and 16.5 metres, which is well in excess off the required 6 metres minimum setback, to address the potential for overlooking from the apartments along this facade down to the villa development. This allows a large area for deep soil landscaping to screen the adjoining villa development. Therefore, the building does not achieve the 13 to 15 metres setback to the three street frontages (Clause 4.3 C-2 of DCP 55).

The proposed setback from Lynbarra Avenue is 12m at the western end (Unit 4), stepping to 14.5m and 17.5m towards the centre of the site (units 6 and 7). The building steps from 17.5m setback in the centre of the site to 9m at the corner, with one balcony being set back 7m from the boundary. The average of this setback is much greater than 12m, with 143 m² of building being set back greater than 12m and 48 m² of building being set back less than 12m. The average setback from Porters Lane is about 10 metres and the average setback from Stanley Street is 9 metres.

Item 4

The proposed building provides a variety of street and rear setbacks in order to achieve good articulation and interest to the streetscape.

Part 4.4 Built form and articulation:

The built form and articulation of the building is well conceived, with good wall plane depths, building width and limited balcony projections.

Several of the wall planes do exceed DCP55 Part 4.4 C-2, which sets a maximum wall plane area of 81m². The areas which fail to comply are to the rear (north-west) and section of the façade adjacent to the 'pocket park', however, these are either set well back from the street or at 90° orientation to it. These areas are sufficiently articulated by cantilevered louvered screens, such that the intent of this clause is achieved. It does not appear as one continuous flat plane.

Part 4.8 Resource, energy and water efficiency:

DCP55 requires 90% of units to meet with the NatHERS rating of 4.5 stars and above. The application proposes 100% of units which meet with the 3.5 star NatHERS rating, but only 36% of units which comply with the NatHERS 4.5 star rating. The applicant has stated that the introduction of Basix in 2005 will look to address energy conservation as a whole and not sporadically as NatHERS does. The design for climate and energy efficiency needs to be looked at in conjunction with solar access and natural ventilation.

Given that all of the apartments are provided with at least 3 hours of sunlight and that most of the units have at least two aspects with good cross ventilation, it is thought that the NatHERS non-compliance is acceptable.

7. Aesthetics of car entry at Stanley Street

Concern was raised about the appearance of the driveway and basement opening. A question was raised as to whether additional curves could be provided within the driveway design.

The driveway opening is set back 9 metres from Stanley Street. A proposed slight curve has been designed but it is not possible for a greater curve due to the depth that the driveway has to reach in a short distance available. In addition, driving safety aspects are also required to be taken into account. Landscaping has been proposed on either side of the driveway to somewhat reduce the impact of the basement opening to the building. Council's engineers have confirmed that this is the best position for a driveway entry to the proposed building.

8. Conflicting montage

Clarification of the conflicts that exist between the photomontage prepared by the residents and the photomontage prepared by the applicant.

The applicant's montage showed a somewhat lesser impact to the residents of Eden Brae as the residents had not shown the presence of existing and proposed screen landscaping, including trees.

Item 4

The photomontage provided by the residents' accentuated the height of the proposed building in relation to some of the taller trees that are to remain on the site.

RECOMMENDATION

THAT the Council, as the consent authority, grant development consent to DA 1219/04 for the demolition of existing structures on site and the construction of 21 x 3 bedroom dwellings, 24 x 2 bedroom dwellings and 4 by 1 bedroom dwellings within the building and a two level basement parking on land at 1, 3 and 5 Lynbara Avenue and 12 Porters Lane, St Ives, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL

1. The development must be carried out in accordance with plans identified within the following table, and endorsed with Council's approval stamp, except where amended by the following conditions:

Dwg No.	Rev.	Description	Author	Dated	Lodged
A01	B	Site Analysis Plan	Futurespace	16-03-05	18-03-05
A02	B	Basement Level 1	Futurespace	16-03-05	18-03-05
A03	A	Basement Level 2	Futurespace	13-09-04	17-11-04
A04	B	Ground Floor Plan	Futurespace	16-03-05	18-03-05
A05	B	1 st and 2 nd Floors	Futurespace	16-03-05	18-03-05
A06	B	3 rd and 4 th Floors	Futurespace	16-03-05	18-03-05
A07	B	Roof Plan	Futurespace	16-03-05	18-03-05
A08	B	Elevations	Futurespace	16-03-05	18-03-05
A09	B	Sections	Futurespace	16-03-05	18-03-05
A10	A	Shadows	Futurespace	13-09-04	17-11-04
LCP.01	A-	Landscape Plan	N.S Botanica	Nov. 2004	17-11-04
CO1	-	Stormwater Plan	MPN Group	Nov 2004	17-11-04
C00	-	Engineering notes	MPN Group	Nov 2004	17-11-04

2. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
3. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
4. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority. *(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance).*

Item 4

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

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

7. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
8. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
9. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
10. To maintain existing ground levels all excavated material shall be removed from the site.
11. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
12. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
 - a. The type and size of machinery proposed.
 - b. The routes of all trucks to convey material to and from the site.
 - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.

Item 4

13. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
14. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

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

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

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

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

16. 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.
17. Any fencing and associated footings shall be constructed entirely within the boundaries of the property.
18. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
19. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
20. 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.
21. 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

Item 4

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.

22. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
23. 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.
24. 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.
25. 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.
26. 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.
27. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
28. 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.

Item 4

29. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
30. Fire hoses are to be maintained on site during the course of demolition.
31. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
32. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
33. 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.
34. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
35. 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.
36. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
37. "Peep holes" shall be provided to the entrance doors of all units for personal security.
38. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the in-ground system in Stanley Street via the approved site stormwater management system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
39. A mandatory rainwater re-use tank system of minimum volume 147m³ as required in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), must be provided

Item 4

for the development. The drainage plans submitted w with the DA will require amendment to reflect these requirements where to be advanced for Construction Certificate issue purposes. Retained water must be made available for garden irrigation, car washing, all toilet flushing and laundry use within each unit. DCP47 is available in hard copy at Council and on the Council website. A mains top-up shall be provided for periods of low rainfall, with a void space left for runoff storage purposes.

40. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided to collect driveway runoff and must be connected to the main stormwater drainage system. The channel drain shall have an outlet of minimum diameter 150mm to prevent blockage by debris.
41. A maintenance period of six (6) months shall apply to the work in the public road reserve carried out by the applicant after works have been completed to Council's satisfaction. In that period, the applicant shall be liable for any section of the work which fails to perform in the manner outlined in Council's specifications, or as would reasonably be expected under the operating conditions.
42. Where required, the adjustment of any 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 responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
43. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
44. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
45. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking".

Item 4

46. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.
47. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
48. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems shall be installed to control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority (PCA).
49. Geotechnical aspects of the development works, particularly excavation and support, must be undertaken in accordance with the recommendations of the “Report to Mr. Cameron Nelson on Geotechnical Investigation for Proposed Residential Development at 1 to 5 Lynbarra avenue and 12 Porters Lane, St Ives NSW” (project 18895VBrpt, dated 21st October 2004) prepared by Jeffery and Katauskas Consulting Engineers.
50. The geotechnical implementation plan, testing and monitoring program for the construction works must be in accordance with the “Report to Mr Cameron Nelson on Geotechnical Investigation for Proposed Residential Development at 1 to 5 Lymbara Avenue and 12 porters lane, St Ives NSW” (project 18895Vbrpt, dated 21st October 2004) prepared by Jeffery and Katauskas Consulting Engineers. A qualified Geotechnical/hydrogeological Engineer must complete the following:
 - Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
 - Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
 - Written report(s) and certification(s) of the geotechnical inspection, testing and monitoring programs.
51. Approval is to be obtained from Ku-ring-gai Council Traffic Committee for any temporary public road closures and/or placement of cranes on public land.

Item 4

52. All construction traffic control and management measures shall be implemented generally in accordance with the *Construction Traffic Management Plan* prepared by Masson Wilson Twiney, dated October 2004, submitted with the DA. The Principal Certifying Authority shall monitor the traffic control and management situation over the course of construction works, and shall pay particular attention to traffic control during school drop off and collection hours. Where it is found that the Traffic control and management measures may be improved, this shall be undertaken under the supervision of qualified traffic control persons and in consultation with Council.
53. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage/collection area, no doors or gates shall be provided in the access driveways to the basement carpark which would prevent this service. Where required, any security gate or door shown on the DA plans which would prevent this service must be deleted from the plans approved with the Construction Certificate.
54. To ensure compliance with Australian Standard 2890.1 – 2004 “Off-Street car parking”, no dividing structures such as cages or partitioning walls shall be placed that divide individual car spaces. The design is approved based on an open space parking layout.
55. 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.

56. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
57. Landscape works shall be carried out in accordance with Landscape Drawing No LCP.01/A Job No. 040903 prepared by Botanica and dated 26/10/2004 submitted with the Development Application, except as amended by the following:
 - The *Jacaranda mimosifolia* (Jacaranda) trees proposed adjacent to the north-west (rear) site boundary are to be replaced with *Syncarpia glomulifera* (Turpentine) of the same pot size and spacing.
 - The proposed planting of *Prunus blireana* (Double flowering Plum) are to be replaced with another small ornamental tree species such as *Malus ioensis* ‘Plena’ or similar.
 - Proposed planting of *Melia azederach* (White Cedar) are to be replaced with *Sapium sebifferum* (Chinese Tallow Tree).

Item 4

- The proposed garden shed is to be located at the rear of the proposed building behind the building setbacks, so that it is not within any of the site frontages.
58. Removal/pruning of the following tree/s from Council's nature strip to permit vehicular access shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000.000.

Tree/Location
 #65 *Syncarpia glomulifera* (Turpentine)
 Stanley Street frontage within proposed driveway entry/exit

59. All disturbed areas, which are not to be built upon or otherwise developed, shall be rehabilitated to provide permanent protection from soil erosion within fourteen (14) days of final land shaping of such areas.
60. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
61. All excavation carried out within the specified radius of the trunk/s of the following tree/s shall be hand dug:

Tree/Location	Radius From Trunk
#13 <i>Araucaria hetrophylla</i> (Norfolk Is. Pine) Adjacent to Lynbara Avenue site frontage	5.0m
#16 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to Lynbara Avenue site frontage	5.0m

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

Tree/Location	Radius From Trunk
#25 <i>Corymbia maculata</i> (Spotted Gum) Adjacent to Porters Lane site frontage	7.0m
#26 <i>Corymbia maculata</i> (Spotted Gum) Adjacent to Porters Lane site frontage	7.0m
#13 <i>Araucaria heterophylla</i> (Norfolk Is. Pine) Adjacent to Lynbara Avenue site frontage	5.0m

Item 4

#16 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to Lynbara Avenue site frontage	5.0m
#32 <i>Jacaranda mimosifolia</i> (Jacaranda) Porters Lane nature strip	4.0m
#18 <i>Liquidambar styraciflua</i> (Sweet Gum) Lynbara Avenue nature strip	3.0m
#7 <i>Franklinia axillaris</i> (Gordonia) Lynbara Avenue nature strip	3.0m
#8 <i>Acer palmatum</i> (Japanese Maple) Adjacent to Lynbara Avenue site frontage	3.0m

63. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree numbers refer to Arborist's Report by TLC Tree Solutions

Tree/Location	Radius from Trunk
#25 <i>Corymbia maculata</i> (Spotted Gum) Adjacent to Porters Lane site frontage	7.0m
#26 <i>Corymbia maculata</i> (Spotted Gum) Adjacent to Porters Lane site frontage	7.0m
#13 <i>Araucaria heterophylla</i> (Norfolk Is. Pine) Adjacent to Lynbara Avenue site frontage	5.0m
#16 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to Lynbara Avenue site frontage	5.0m
#63 <i>Araucaria heterophylla</i> (Norfolk Is. Pine) Adjacent to driveway/Stanley Street frontage	5.0m
#62 <i>Eucalyptus piperita</i> (Sydney Peppermint) Adjacent to Stanley Street frontage/Northern site corner	6.0m
#32 <i>Jacaranda mimosifolia</i> (Jacaranda) Porters Lane nature strip	4.0m
#18 <i>Liquidambar styraciflua</i> (Sweet Gum)	3.0m

Item 4

Lynbara Avenue nature strip

#7 *Franklinia axillaris* (Gordonia) 3.0m
 Lynbara Avenue nature strip

#8 *Acer palmatum* (Japanese Maple) 3.0m
 Adjacent to Lynbara Avenue site frontage

- 64. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the principal certifying authority shall be required at three monthly intervals. Documentary evidence of compliance with this condition shall be submitted to the principal certifying authority prior to the issue of the Occupation Certificate.
- 65. To preserve the ongoing health and vigour of existing trees to be retained, the consulting Arborist is to directly supervise all excavation beneath the canopy drip line of any tree to be retained on site or on adjoining properties.
- 66. No mechanical excavation of the proposed structure shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning by hand along the perimeter line of such works is completed:

Tree/Location	Radius From Trunk
#25 <i>Corymbia maculata</i> (Spotted Gum) Adjacent to Porters Lane site frontage	9.0m

#63 <i>Araucaria heterophylla</i> (Norfolk Is. Pine) Adjacent to driveway/Stanley Street frontage	5.0m
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- 67. Excavation for the installation of CONDUITS/SEWER/STORMWATER/GAS within the specified radius of the trunk/s of the following tree/s shall be carried out using the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground surface at the tree/s to minimise damage to tree/s root system. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.

Tree/Location	Radius From Trunk
#25 <i>Corymbia maculata</i> (Spotted Gum) Adjacent to Porters Lane site frontage	7.0m

#26 <i>Corymbia maculata</i> (Spotted Gum) Adjacent to Porters Lane site frontage	7.0m
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#13 <i>Araucaria heterophylla</i> (Norfolk Is. Pine) Adjacent to Lynbara Avenue site frontage	5.0m
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Item 4

#16 *Liquidambar styraciflua* (Sweet Gum) 5.0m
Adjacent to Lynbara Avenue site frontage

#63 *Araucaria heterophylla* (Norfolk Is. Pine) 5.0m
Adjacent to driveway/Stanley Street frontage

68. 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.

69. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Lynbara Ave and Stanley St. The tree/s used shall be 25 litre container size specimen/s:

Tree Species

Syncarpia glomulifera (Turpentine) x 3 (2 in Stanley Street and 1 in Lynbara Avenue)

70. On completion of the landscape works/tree planting or screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.

71. 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.

72. The colour, texture and substance of all external materials shall be generally as detailed in the application. The colour of the building be changed from white to glass palace grey-green.

73. Eighty-six (83) car parking spaces shall be provided and maintained at all times on the subject site. The spaces shall be allocated in the following proportions:

- 73 - Residential
- 10 - Visitors/Service Vehicles

Such spaces are to be identified on-site by line-marking and numbering upon the completion of the works. Car-parking provided shall only be used in conjunction with the uses contained within the development and in the case of Strata subdivision, shall be individually allocated to residential units. Under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building. (*Reason: To ensure that adequate parking facilities to service the development are provided on site*)

74. At least one external visitor parking bay shall be provided with a tap, for car washing purposes, in accordance with DCP55 Part 5.

Item 4

75. Should Energy Australia, or any other energy provider, require a substation to be installed for the development, it should be located well outside the canopy drip line of ANY tree to be retained. It should be located within the landscape so that it can be screened from view.

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

76. 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.

77. 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).
78. 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.
79. 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:

Item 4

- 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.
80. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF FORTY FIVE (45) ADDITIONAL DWELLINGS IS CURRENTLY \$785,064.41. This is based on 49 dwellings less the existing 4 dwellings. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 30 June 2004, calculated for additional person as follows:

1. Community Facilities	\$1,117.76
2. Park Acquisition and Embellishment Works	\$6,574.28
3. Sportsgrounds Works	\$1,318.32
4. Aquatic / Leisure Centres	\$27.82
5. Traffic and Transport	\$150.28
6. Section 94 Plan Administration	\$100.04

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75sqm)	1.27 persons
Medium dwelling (75 - under 110sqm)	1.78 persons
Large dwelling (110 - under 150sqm)	2.56 persons
Very Large dwelling (150sqm or more)	3.48 persons
New Lot	3.48 persons
SEPP (Seniors Living) Dwelling	1.3persons

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

Item 4

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

82. To preserve the ongoing health and vigour of tree #'s 13 and 16, the proposed drainage lines and pits as detailed on the Stormwater Plan dated 02/11/2004 are to be relocated so that they are no closer than 3.0m from the base of the respective tree trunks. Documentary evidence of compliance with this condition is to be submitted to the principal certifying authority for approval prior to the issue of the construction certificate.
83. To minimise potential landscape impacts, if an electrical substation is required by the energy authority, it is not to be located beneath the canopy drip line of ANY tree to be retained. It is preferred that the substation, if required, be located adjacent to a side site boundary so that it is not dominant within the landscape setting. Documentary evidence of compliance with this condition, showing the location of the proposed substation on a site plan is to be submitted to the principal certifying authority for approval prior to the issue of the construction certificate.
84. A CASH BOND/BANK GUARANTEE of \$10,000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of this bond will be refunded upon issue of the Occupation Certificate, 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.

85. A CASH BOND/BANK GUARANTEE of \$6,000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

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

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

Item 4

Tree/Location

#25 *Corymbia maculata* (Spotted Gum) \$2,000.00
Adjacent to Porters Lane site frontage

#26 *Corymbia maculata* (Spotted Gum) \$2,000.00
Adjacent to Porters Lane site frontage

#13 *Araucaria heterophylla* (Norfolk Is. Pine) \$1,000.00
Adjacent to Lynbara Avenue site frontage

#63 *Araucaria heterophylla* (Norfolk Is. Pine) \$1,000.00
Adjacent to driveway/Stanley Street frontage

86. Prior to issue of the Construction Certificate, the Applicant must consolidate the existing four Torrens lots. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. The condition is imposed to ensure a continuous structure will not be placed across separate titles.
87. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), details of the proposed Vibration Monitoring Program as specified in section 4.2 of the "Report to Mr Cameron Nelson on Geotechnical Investigation for Proposed Residential Development at 1 to 5 Lynbarra avenue and 12 Porters Lane, St Ives NSW" (project 18895VBrpt, dated 21st October 2004) prepared by Jeffery and Katauskas Consulting Engineers. This is to ensure that vibration created by the method of construction does not adversely impact surrounding property and infrastructure. A qualified and practising geotechnical engineer must prepare the Vibration Monitoring Program and undertake all associated investigations. Details to be included in Vibration Monitoring Program to include:
 - a. pre-set acceptable limits for the variation of:
 - i. settlement
 - ii. deflection or movement of retaining mechanisms such as shoring and bracing and
 - iii vibration in accordance with AS 2187.2 1993 Appendix J, including acceptable velocity of vibration.
 - b. the location and type of monitoring systems to be used
 - c. Recommended hold points to allow for inspection and certification by a geotechnical engineer and
 - d. A contingency plan should the pre-set acceptable limits be exceeded.
88. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA) (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition all buildings within the 'zone of influence' defined as the horizontal distance from the edge of the excavation to twice the excavation

Item 4

depth. This requirement for a dilapidation report is specified in section 4.2 of the DA submission "Report to Mr Cameron Nelson on Geotechnical Investigation for Proposed Residential Development at 1 to 5 Lynbara avenue and 12 Porters Lane, St Ives NSW" (project 18895VBrpt, dated 21st October 2004) prepared by Jeffery and Katauskas Consulting Engineers. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional. A second dilapidation report, recording structural conditions of all structures originally assessed prior to issue of the Construction Certificate, must be carried out at the completion of the works and be submitted to Council.

89. Prior to issue of the Construction Certificate, the Applicant must submit engineering plans for the following works in the Road Reserve.

Construction of a fully new concrete footpath, 1.2 metres wide, over the full site frontage in Porters Lane and Lynbara Ave.

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

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

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

A minimum of three (3) weeks will be required for assessment of Roads Act submissions. Early submission is highly recommended to avoid delays in obtaining a Construction Certificate. An engineering assessment fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

90. Prior to issue of the Construction Certificate, footpath and driveway levels for the required driveway crossings between the property boundary and road alignment must be obtained from

Item 4

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. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.** The 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. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

91. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the LANDCOM document "Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).
92. 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 storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. In this respect, the submitted DA concept stormwater services plans (refer plans C00 to C01 by MPN , dated 2/11/04) must be revised as follows:
 - The minimum rainwater tank(s) volume provided on site shall be increased to 147m³ (not 83.6 m³) as specified in section 6.4 of Water Management DCP 47 and the plans are to be advanced as necessary for construction issue purposes.

Rainwater tank(s) shall be designed to capture and retain runoff from the entire roof area as a minimum. 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.

Item 4

93. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including general garden irrigation, car washing, laundry and toilet flushing within each unit. The necessary plumbing components for re-use shall be shown on this design to a detail suitable for installation by the plumbing contractor. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer.
94. 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. New connection points to the public drainage system must be shown accurately on the plan and shall be made in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004.
95. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$50,000 (fifty thousand dollars) public infrastructure damage bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development and at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
- Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
 - The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
 - Works in the public road associated with the development are to an unacceptable quality.
96. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), advanced plans for the basement and external vehicle access and accommodation arrangements. These plans shall incorporate the following details:
- Installation of convex mirrors or traffic signals on single width circulation ramps to ensure ingressing and egressing drivers are aware of each other.
97. Service ducts shall be provided within the building to keep external walls free of plumbing or any other utility installations. Such service ducts are to be concealed from view from the

Item 4

street. Details demonstrating compliance are to be provided in the Construction Certificate.
(Reason: To ensure quality built form of the development).

98. The following energy efficiency devices are to be installed within the development:
- a. Gas boosted solar, heat pump or electricity boosted solar, instantaneous gas or high efficiency centralised gas hot water heating system.
 - b. Dual flush toilets.
 - c. Low flow taps and showerheads.

Details are to be submitted for approval with the Construction Certificate. (Reason: To promote the use of energy efficient appliances)

99. All overhead electricity and other lines (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point, in accordance with the requirements of Energy Australia. Details to be shown on plans submitted with the Construction Certificate. (Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground).
100. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1. Details demonstrating compliance are to be provided with the Construction Certificate (Reason: To preserve community health and ensure compliance with acceptable standards).
101. Two (2) of the proposed apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps; such features to be designed generally in accordance with Australian Standards 1428.1 and 4299. Details demonstrating compliance are to be submitted with the Construction Certificate. (Reason: To ensure equity of access and availability of accommodation in the future for an ageing population).
102. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or other areas of the building and is not to be located on the roof. Details demonstrating compliance are to be submitted with the Construction Certificate application. (Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality).

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

103. 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.

Item 4

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

Tree/Location	Radius in Metres
#25 <i>Corymbia maculata</i> (Spotted Gum) Adjacent to Porters Lane site frontage	6.0m
#26 <i>Corymbia maculata</i> (Spotted Gum) Adjacent to Porters Lane site frontage	7.0m
#13 <i>Araucaria heterophylla</i> (Norfolk Is. Pine) Adjacent to Lynbara Avenue site frontage	5.0m
#16 <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to Lynbara Avenue site frontage	3.0m
#63 <i>Araucaria heterophylla</i> (Norfolk Is. Pine) Adjacent to driveway/Stanley Street frontage	3.0m
#62 <i>Eucalyptus piperita</i> (Sydney Peppermint) Adjacent to Stanley Street frontage/Northern site corner	3.0m
#32 <i>Jacaranda mimosifolia</i> (Jacaranda) Porters Lane nature strip (pedestrian access to be maintained at all times)	4.0m
#18 <i>Liquidambar styraciflua</i> (Sweet Gum) Lynbara Avenue nature strip (pedestrian access to be maintained at all times)	3.0m
#7 <i>Franklinia axillaris</i> (Gordonia) Lynbara Avenue nature strip (pedestrian access to be maintained at all times)	3.0m
#8 <i>Acer palmatum</i> (Japanese Maple) Adjacent to Lynbara Avenue site frontage	3.0m

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

Item 4

inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

107. Prior to the commencement of any works on site the applicant shall submit **to Council** a full dilapidation report on the visible (**including photos**) and structural condition of the following public infrastructure:

- a. Full road pavement width, including kerb and gutter, of Lynbara Ave between Porters Lane and Stanley Street, including the intersections
- b. Full road pavement width, including kerb and gutter, of Stanley Street over the full site frontage.
- c. Full road pavement width, including kerb and gutter, of Porters Lane over the full site frontage.
- d. All driveway crossings and laybacks opposite the subject site.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both via photo and written) *existing* damaged areas on the aforementioned infrastructure so that:

- Council is fully informed when assessing the damage to public infrastructure caused as a result of the development, and
- Council is able to refund infrastructure damage bonds, in full or parts thereof, with accuracy

The developer may be held liable to all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works. In this respect, the infrastructure damage bond lodged by the subject developer may be used by Council to repair the damage regardless.

A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council.

108. Prior to the commencement of *any* works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:

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 any pedestrians and construction related vehicles in the frontage roadways,
- Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
- The locations of proposed Work Zones in the frontage roadways,
- Location of any proposed crane standing areas

Item 4

- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles where possible

2. Traffic Control Plan(s) for the site

- All traffic control devices installed in the road reserve must be in accordance with the RTA publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

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

In addition, the plan must address:

- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods. For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

The *Construction and Traffic Management Plan* shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained and submitted to the Principal Certifying Authority prior to the commencement of any works on site. The Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. 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.

Item 4

109. Prior to the commencement of any works on site the applicant must submit, for review by Council Engineers, a **construction site layout plan**. This is to entail a plan view of the entire site and frontage roadways indicating scale locations for :
- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and vehicles in the frontage roadway,
 - Turning areas within the site for construction vehicles, allowing a forward egress for all construction vehicles on the site,
 - The locations of proposed Work Zones in the frontage roadways,
 - A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
 - Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - The provision of an on-site parking for employees, tradesperson and construction vehicles
 - The plan shall be prepared in conjunction with the Construction Traffic Management Plan prepared by Masson Wilson Twiney, dated October 2004, submitted with the Development Application.
 - The construction site layout plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained and submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. The traffic management measures contained in the approved plan shall be implemented in accordance with the above plans prior to the commencement of any works on-site including excavation.
110. Prior to the commencement of any works on site, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install a 'Work Zone' as close as possible to the site. Further, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed and the adopted fee paid prior to commencement of any works on the site. Where such a 'Work Zone' is not considered to be feasible by Council Traffic Engineers, the zone will not be required. This condition is to facilitate a dedicated on-street parking area for construction related vehicles during work hours. A need for a 'Work Zone' arises given the scale of the works, existing on-street parking restrictions around the site and the existing high demand for on-street parking in this location.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

111. 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

Item 4

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.

112. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the "Report to Mr Cameron Nelson on Geotechnical Investigation for Proposed Residential Development at 1 to 5 Lynbara avenue and 12 Porters Lane, St Ives NSW" (project 18895VBrpt, dated 21st October 2004) prepared by Jeffery and Katauskas Consulting Engineers, must be supplied to the Principal Certifying Authority for approval.
113. Prior to issue of an Occupation Certificate the following works must be completed to the satisfaction of Council Engineers:
 - Completion of the new driveway crossings in accordance with levels and specifications issued by Council.
 - Full reconstruction of the concrete footpath over the entire site frontage of Porters Lane and Lynbara Avenue.
 - Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof). Full reinstatement of these areas to footway, turfed verge and upright kerb and gutter to the satisfaction of Council. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
 - Full repair and resealing of any road surface damaged during construction.
 - Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. 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, crane use) must be fully repaired to the satisfaction of Council Engineers. This shall be at no cost to Council.

114. 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 on-site stormwater detention and retention facilities (including all ancillary reticulation plumbing) 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 on-site detention and retention facilities (DCP47 appendix 14) 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 issue of an Occupation Certificate.
115. Prior to issue of an Occupation Certificate the following must be provided to Council (attention Development Engineer):

Item 4

- A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
- A copy of the works-as-executed drawing of the as-built on-site detention/retention system, and
- 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/retention systems, and also applies if the Principal Certifying Authority (PCA) is not the Council.

116. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
117. Prior to issue of an Occupation Certificate a certification and a works-as-executed (WAE) plan, in relation to the installed rainwater retention/detention 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 specifically state compliance with each of the relevant controls set out in appendix 6.2 of Council Water Management Development Control Plan 47. 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.
 - For the on-site detention control installed, a separate certificate is to specifically acknowledge compliance of the on-site detention system with the approved Construction Certificate plans and also compliance with the design requirements of appendix 5 in Councils Water Management DCP 47 - "Design of on-site detention systems". The Works-as-Executed details shall be marked in red on the approved Construction Certificate design for the on-site detention system, and shall specifically include:
 - As constructed levels in comparison to design levels
 - As built location of all detention devices on the property (plan view) and distances to nearest adjacent boundaries, buildings and easements
 - As built locations of all pits and grates in the detention system, including dimensions.
 - The size of the orifice or pipe control fitted.
 - Dimensions of the discharge control pit and access grates
 - The achieved capacity of the detention storage and derivative calculation.
 - The maximum depth of storage over the outlet control.
 - Top water levels of storage areas and RL's at overflow point(s)
118. Prior to issue of an Occupation Certificate the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:

Item 4

- Construction of the stormwater drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and
 - The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500.3.2, and
 - All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.
 - A Works-as-Executed (WAE) drawing of the property stormwater drainage system is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority (PCA) prior to issue of an Occupation Certificate. The WAE plan shall show the following as built details, marked in red on the approved construction certificate stormwater drawings:
 - a. As built reduced surface and invert levels for all drainage pits and connection points.
 - b. As built reduced level(s) at the approved point of discharge to the public drainage system.
 - c. Gradients of drainage lines, materials and dimensions.
119. Prior to issue of the Occupation Certificate, a qualified civil/traffic engineer must undertake a site inspection of the completed basement vehicle access and accommodation areas which shall include dimension measurements as necessary. At the completion of this site inspection, this engineer shall provide certification to the Principal Certifying Authority that vehicle access and accommodation arrangements (including but not limited to space dimensions, aisle, ramp and driveway widths and grades, height clearances and the like) comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” and the parking layout plans approved for the Construction Certificate.
120. Prior to issue of an Occupation Certificate the approved footpath works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant’s designing engineer and the works shall be completed and approved in full to the satisfaction of Council’s Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.

BUILDING CONDITIONS

121. 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.

Item 4

- 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. Retaining walls and associated drainage.
 - d. Wet area waterproofing details complying with the Building Code of Australia.
 - e. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
 - f. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - g. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
122. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
123. 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.
124. 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.

125. 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.

Item 4

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.

S Segall
Executive Assessment Officer

S Cox
Team Leader
Development Assessment - Central

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development & Regulation

Attachments: Copy of initial report to Ordinary Meeting of Council held 26 April 2005

ANALYSIS OF LAND & ENVIRONMENT COURT COSTS 3RD QUARTER 2004/2005

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To provide information in relation to proceedings to which Council is a party in the Land and Environment Court for the third quarter ended 31 March 2005, including appeals commenced, costs incurred by Council and outcomes.

BACKGROUND:

An applicant may commence proceedings in the Land and Environment Court for an application which has either been refused by Council or is deemed to have been refused. An appeal may also be commenced in relation to conditions in any consent granted by Council.

COMMENTS:

For the third quarter ended March 2005, Council's legal costs and associated expenses in relation to Land & Environment Court matters were \$1,150,300. This compares to the year to date budget of \$1,031,250.

RECOMMENDATION:

That the analysis of land & Environment Court costs for the quarter ended March 2005, be received and noted.

PURPOSE OF REPORT

To provide information in relation to proceedings to which Council is a party in the Land and Environment Court for the third quarter ended 31 March 2005, including appeals commenced, costs incurred by Council and outcomes.

BACKGROUND

Pursuant to the *Environmental Planning and Assessment Act 1979*, an applicant may commence proceedings in the Land and Environment Court in respect of an application for which Council was the relevant consent authority and which has either been refused by Council or is deemed by the Act to have been refused (a development application is deemed to have been refused if it has not been determined within a period of 40 days or such longer period that may be calculated in accordance with the Act). An appeal may also be commenced in relation to conditions imposed in relation to consent granted by Council. Council is a respondent to such proceedings.

Under Section 428 of the *Local Government Act 1993*, Council is required to report legal costs, and the outcome of each case in its Annual Report.

COMMENTS

APPEALS LODGED

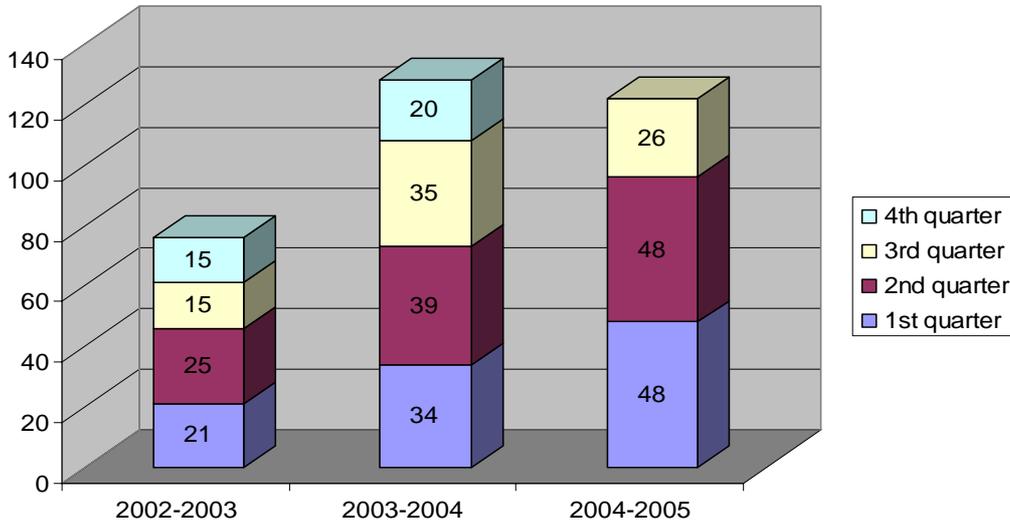
For the nine months to March 2005, there have been 122 new appeals lodged in respect of development applications with the Land and Environment Court. This represents an increase in the number of appeals compared to previous years. The number of appeals received in prior years is as follows:

Financial year	Number of appeals received (whole year)
2001/2002	75
2002/2003	76
2003/2004	128
2004/2005 @ 31 March	122

Item 5

S02466
15 April 2005

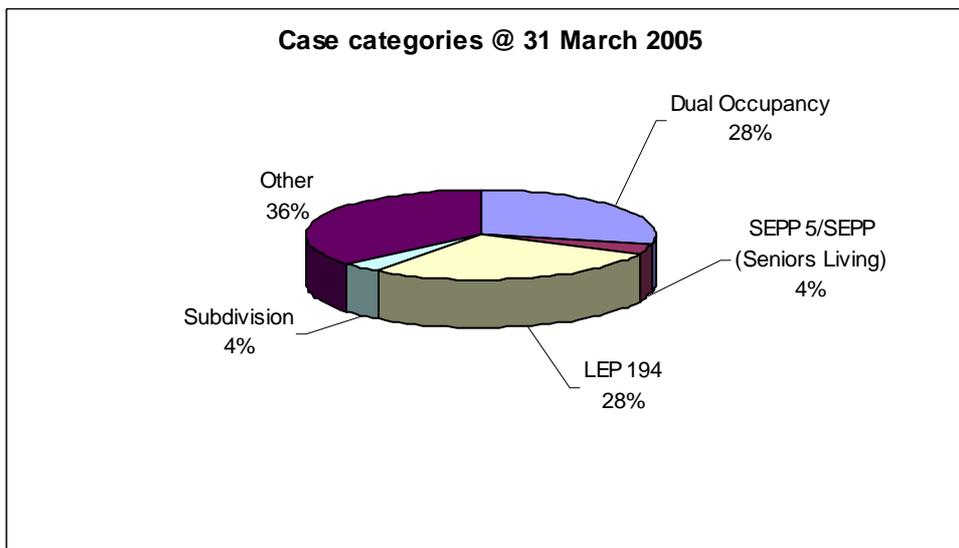
Number of Appeals Commenced



The revised procedures in the Land and Environment Court, which commenced in February 2004 and have significantly, streamlined appeal procedures and reduced timeframes, is a factor which is encouraging more applicants to lodge appeals with the Court.

Seventy-one of the one hundred and twenty two new appeals were in relation to deemed (as opposed to actual) refusal of an application. Despite an overall increase in the number of appeals, this proportion (58%) represents a reduction in percentage of deemed refusal appeals compared to earlier periods. The percentage of deemed refusal appeals in the year 2003-2004 was 77%.

Appeals commenced in the third quarter ended March 2005 are made up of the following development categories:



Item 5

S02466
15 April 2005

The larger categories are appeals in respect of dual occupancy development (28%) and multi-storey residential buildings pursuant to LEP 194 (28%).

The “Other” category in the previous chart comprises single dwellings, additions and alterations, fences, demolition, telecommunications structures and appeals against conditions of consent.

COSTS

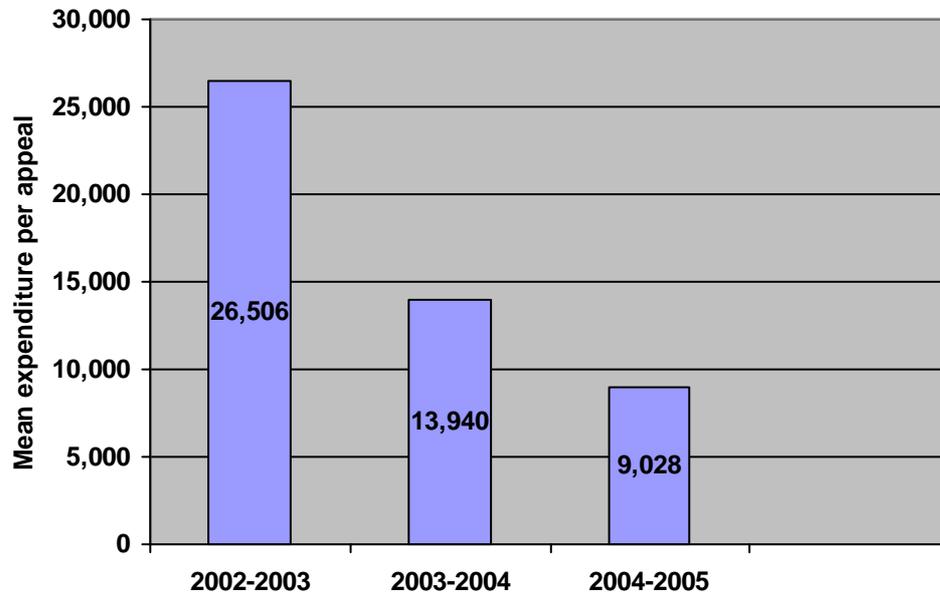
During the first three quarters ended March 2005, Council expended \$1,150,300 on legal costs and associated expenses in relation to Land & Environment Court matters. This is \$119,050 more than the year-to-date budget of \$1,031,250, but \$300,700 less than the same period in 2003/2004 and \$268,700 less than the same period in 2002/2003

These costs are made up of legal fees, fees charged by consultants retained as expert witnesses (largely court-appointed experts) and other costs incurred as a result of Council’s role in the proceedings. In addition to expenditure on appeals, a further amount of \$13,000 was spent on expert legal advice regarding development assessment matters.

Legal Costs and Associated Expenses 2001/2002 - 2004/2005 as at 31 March 2005				
<i>Financial Year</i>	<i>1st quarter September</i>	<i>2nd quarter December</i>	<i>3rd quarter March</i>	<i>4th quarter June</i>
2001/2002 (75 appeals lodged)	\$420,000	\$423,000	\$500,000	\$761,000
2002/2003 (76 appeals lodged)	\$302,000	\$452,000	\$665,000	\$833,000
2003/2004 (128 appeals lodged)	\$468,000	\$378,000	\$605,000	\$754,000
2004/2005 (122 appeals lodged)	\$274,000	\$562,000	\$314,000	-

The above table indicates that, despite an increasing number of appeals, there has been a significant reduction in costs incurred compared to the same period in the previous year. Costs for the 12 month period April 2004 to March 2005 were \$380,000 less than in the period April 2003 to March 2004.

A comparison of the average total costs incurred in relation to matters commenced in the past three years indicates that the cost per appeal incurred by Council has reduced substantially:



Factors which may be regarded as contributing to this reduction in costs are:

- More efficient processing of development applications that are subject to deemed refusal appeals so that they are determined at an earlier stage of Court proceedings;
- More efficient management of the process of instructing Council’s external legal representatives;
- faster progress and determination of appeals by the Court as a result of the revised practice directions;
- the practice of the Court of frequently appointing Court-appointed experts to provide expert opinion/evidence rather than allowing the parties to call their own witnesses, which results in the parties sharing the cost of the witness.

A total of \$433,000, or 38% of the total costs, was incurred in relation to 43 matters that commenced in the current financial year. The balance relates to appeals that were commenced prior to 1 July 2004.

SUMMARY BY WARD

A summary of Land & Environment Court costs by ward is shown in the following table:

Land & Environment Court costs by Ward for the third quarter ended March 2005		
Comenarra	\$89,813	7.8%
Gordon	\$276,607	24.0%
Roseville	\$143,816	12.5%
St Ives	\$241,779	21.0%
Wahroonga	\$398,317	34.7%
Total Costs	\$1,150,332	100.0%

OUTCOMES

At an early stage of each appeal, Council, as respondent, is required to file with the Court a Statement of Issues outlining the grounds which Council asserts as warranting refusal of a development, or alternatively, that may be addressed by way of conditions of consent.

In cases where issues raised by Council are capable of resolution by the provision by the applicant of additional information or amendment of the proposal, it is the Court's expectation that this should occur. The Court's current practice of appointing a Court-appointed expert witness, rather than allowing the parties to call their own expert evidence, strongly encourages this.

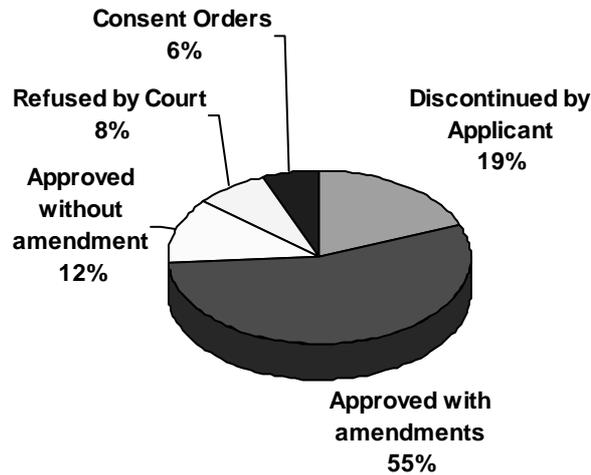
In this context, any of three outcomes can be regarded as favourable, namely:

1. If the appeal is in relation to a deemed refusal of an application which, upon assessment, is appropriate for approval: that the development is determined by Council, allowing the appeal to be discontinued by the applicant and avoiding as much as is practicable the incurring of unnecessary legal costs;
2. If the issues raised by Council are capable of resolution by the applicant providing further information, or amending the proposal: that this occurs, so that development consent should be granted, either by Council or the Court;
3. If the issues raised by Council are either not capable of resolution, or the applicant declines to take the steps that are necessary to resolve them: that the appeal is either discontinued by the applicant, or dismissed (refused) by the Court.

Item 5

S02466
15 April 2005

Of the 122 appeals commenced in the period 1 July 2004 to 31 March 2005, 67 appeals, or 55%, were resolved as at 31 March 2005. The following diagram illustrates the outcomes of those proceedings:



As indicated, over one quarter (27%) of the appeals concluded were either discontinued by the applicant or refused by the Court outright. Of the other appeals, a substantial majority were subject to significant amendment to address some or all of the issues raised by Council prior to consent being granted by the Court.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Land & Environment Court legal costs form part of Council’s recurrent operating budget.

Notwithstanding the cost reductions achieved through the more efficient management of appeals on the part of Council and the Land and Environment Court, there is still a discrepancy between the budget and actual costs as at March 2005. There are three key reasons for this:

1. The considerable increase in numbers of appeal lodged, due, at least in part, to the Court’s new practice directions.
2. Over 60% of the legal costs incurred in the first, second and third quarters of this financial year were in relation to appeals commenced before July 2004. This includes a significant

Item 5

S02466
15 April 2005

proportion of appeals lodged in response to the previous backlog of development applications.

3. Dual Occupancy developments and developments pursuant to LEP 194 are the most significant appeal categories. In relation to LEP 194 development in particular (being large-scale development), an economic incentive operates on developers to commence appeals in relation to deemed refusal, if the opportunity exists, at or shortly after the fortieth day.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This report has been developed with input from Council's Corporate Lawyer, Finance and Business Development and Development and Regulation department directors.

SUMMARY

For the third quarter ended March 2005 Council has expended \$1,150,300 on legal costs and associated expenses in relation to Land & Environment Court matters. This compares to the year-to-date budget of \$1,031,250, a negative variation of \$119,050.

Actual expenditure is \$300,700 less than for the same period in 2003/2004. Despite cost reductions achieved through the more efficient management of appeals on the part of Council and the Land and Environment Court, there is still a discrepancy between the budget and actual costs as at March 2005. There are three key reasons for this:

1. The considerable increase in numbers of appeal lodged.
2. Costs incurred from appeals commenced prior to July 2004. (60%)
3. Costs associated with Dual Occupancy and developments pursuant to LEP 194.

RECOMMENDATION

That the analysis of Land & Environment Court costs for the third quarter ended March 2005 be received and noted.

Jamie Taylor
Corporate Lawyer

John McKee
Director Finance & Business

Michael Miocic
Director Development and
Regulation

Attachments: Legal costs by case type March 2005 (Confidential)

BUDGET 2004/2005 3RD QUARTER REVIEW AS AT END MARCH 2005

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To present to Council the quarterly financial review for the 3rd quarter ended 31 March 2005.
BACKGROUND:	This is a statutory requirement under the Local Government (Financial Management) Regulation Part 2 paragraph 7.
COMMENTS:	This review analyses the financial performance of the Council for the 3rd quarter of the 2004/2005 budget comparing actual expenditure and revenue for the quarter against the budget.
RECOMMENDATION:	That Council approve the budget transfers and restrictions to reserves as outlined in this report.

PURPOSE OF REPORT

To present to Council the quarterly financial review for the 3rd quarter ended 31 March 2005.

BACKGROUND

This is a statutory requirement under the Local Government Financial Management Regulation 1999, Part 2 Clause 7 and it is an essential aspect of Council's financial management.

At the Council meeting held on 22 June 2004, Council adopted the 2004-2008 Management Plan, which incorporated the annual budget for Council for 2004/2005. The resolution adopting this Management Plan was under Minute 294.

COMMENTS

General Budgetary Position

This review analyses the financial performance of the Council for the 3rd quarter of 2004/2005 comparing actual expenditure and revenue for the quarter against budget. Council's budgetary position for the quarter ended 31 March is within expectations. The organisation's year to date net expenditure shows a surplus of \$7,884,839 compared to a budget surplus of \$4,871,185, a positive variance of \$3,013,654.

Having said this, the year to date position for waste management is a positive variation of \$634,666. Additionally, Council has received \$3,578,036 in Contributions against a year to date budget of \$1,500,000. As these amounts are externally restricted, it is appropriate that they are removed from the general budgetary surplus. This results in a positive cash variance of \$300,952.

The financial position of the council is satisfactory, having regard to the original estimate of income and expenditure.

This total variance is broken down as follows:

	Budget YTD	Actual YTD	Variance
Expenditure	\$56,737,301	\$53,731,788	\$3,005,513
Income	\$61,608,486	\$61,616,627	(\$8,141)
Sub Total	\$4,871,185	\$7,884,839	\$3,013,654
Less External Restrictions			(\$2,712,702)
Net Result			\$300,952

DEPARTMENTS	March YTD (Net)			Year
	\$ Actual	\$ Budget	\$ Variance	\$ Budget
Civic Management	1,768,519	1,701,108	(67,411)	2,268,700
Community Services	4,749,444	4,905,084	155,640	6,279,200
Development & Regulation	1,990,557	1,864,254	(126,303)	2,486,800
Finance & Business	(28,552,351)	(26,621,964)	1,930,387	(33,068,500)
Open Space	5,267,743	5,331,503	63,760	7,081,750
Planning & Environment	626,915	743,806	116,891	988,750
Technical Services	6,722,025	7,028,049	306,024	9,086,800
Waste Management	(457,691)	176,975	634,666	569,300
Net Expenditure / (Revenue)	(7,884,839)	(4,871,185)	3,013,654	(4,307,200)

Restricted Income

Section 94 - As at 31 March 2005, Council has received \$3,577,939 in Section 94 Contributions. Of this amount \$3,515,387 relates to the 2000/2003 Residential Plan with \$60,712 relating to the new SEPP 5 Plan.

A further breakdown of these contributions is shown in **Appendix B**.

Internally Restricted Reserves

At the beginning of the 2004/2005 financial year, balances available in internally restricted reserves totalled \$9,401,402. During 2004/2005, Council has committed to spend \$7,077,600 from internal reserves. This is partially offset by the transfer in of \$4,314,200 and additional interest of \$298,300 attributable to these reserves.

The committed funds include funds drawn from the property reserve to purchase 48 St Johns Ave which is held for resale in the current financial reporting period.

Assuming that all capital works/projects are fully spent at year end, this will decrease the total balance available in internally restricted reserves to \$6,936,302.

It is noted that the public auction of 48 St Johns Avenue will occur on 26 May 2005. Proceeds from this sale will be allocated back to the Property Reserve, thus increasing this figure.

\$75,000 will be transferred into Council’s superannuation reserve in this quarterly review which brings the balance of this reserve to \$1,000,000.

Internally Restricted Assets	\$
Opening Balance	9,401,402
Less : Commitments	7,077,600
Add: Transfers	4,314,200
Add: Interest	298,300
Closing Balance	6,936,302

Summary of requested budget adjustments

DEPARTMENT	Additional Expense	Additional Revenue
	\$	\$
COMMUNITY SERVICES		
- operational	8,100	(36,500)
- capital projects	128,500	108,500
Sub Total	136,600	72,000
OPEN SPACE		
- operational	0	(5,000)
- capital projects	149,600	149,600
Sub Total	149,600	144,600
PLANNING & ENVIRONMENT		
- operational	(15,000)	0
- capital projects	0	0
Sub Total	(15,000)	0
TECHNICAL SERVICES		
- operational	(60,000)	8,700
- capital projects	909,500	909,500
Sub Total	849,500	918,200
CIVIC MANAGEMENT		
- operational	84,600	19,000
- capital projects	0	0
Sub Total	84,600	19,000
FINANCE & BUSINESS		
- operational	(21,500)	20,000
- capital projects	0	0
Sub Total	(21,500)	20,000
DEVELOPMENT & REGULATION		
- operational	93,000	103,000
- capital projects	0	0
Sub Total	93,000	103,000
Total Council Budget Adjustments	1,276,800	1,276,800
NET EXPENDITURE	0	

Community Services

Community Services require additional funds of \$64,600. There were several minor adjustments within the department; the most significant being a reduction of school holiday income of \$20,000.

Item 6

S03096
6 May 2005

As part of the December Review resolution \$17,500 has been added back to library book acquisitions.

Open Space

The net result for budget changes in Open Space is a reduction in internal services income of \$5,000. This however, is offset by a reduction in expenditure within Community Services, as Internal Service charges do not affect the operating result of Council. Other significant variations were made to capital works where \$232,871 was transferred back to the Golf Course Reserve.

Planning & Environment

Planning & Environment produced budget savings of \$15,000 due to a reduction in employee costs within the management support area and other minor savings within the environmental policy area.

Technical Services

Technical Services produced budget savings of \$68,700. The most significant variations are savings in salaries and wages across the department and increases in driveway application income.

Civic Management

Civic Management require additional funds of \$65,600. The most significant variation is an additional \$50,000 for recruitment costs.

Finance & Business

Finance and Business produced budget savings of \$41,500. The most significant being an increase in revenue of \$20,000 for the department.

Development and Regulation

The net budget result for Development and Regulation is a positive variance of \$10,000. There were many minor variations within the department the most significant being an increase in DA income of \$52,000.

(Details of variations for each department are outlined in **Appendix A.**)

Item 6

S03096
6 May 2005

Net totals for each department are as follows:

Department	Amount \$
Community Services	64,600
Open Space	5,000
Planning & Environment	(15,000)
Technical Services	(68,700)
Civic Management	65,600
Finance and Business	(41,500)
Development and Regulation	(10,000)
Net Expenditure	0

An overall summary of 2004/2005 budget adjustments are shown in the table below:

2004/2005 Budget Summary	Original Budget	Carry Forwards	September Review	December Review	March Review	Council Resolutions	Revised Budget
	\$	\$	\$	\$	\$	\$	\$
Operating Budget							
Total Cash In	69,290,900	140,200	172,800	202,000	465,000		70,270,900
Total Cash Out	58,561,600	0	(242,200)	109,500	14,200		58,425,600
Headline Budget Surplus/(Deficit)	10,729,300	140,200	415,000	92,500	450,800	0	11,845,300
Funds To Restricted Assets	6,645,800	0	92,500	92,500	75,000		6,923,300
Operating Surplus/(Deficit)	4,083,500	140,200	322,500	0	375,800	0	4,922,000
Capital Works Program Projects Funded By							
Operating Surplus	778,800	140,200	322,500		375,800		1,617,300
Infrastructure Levy	1,704,700	0					1,704,700
Loans	1,600,000	0					1,600,000
Sub Total	4,083,500	140,200	322,500	0	375,800	0	4,922,000
Section 94	27,600	136,000	37,200		33,200		234,000
Other Restricted Assets	4,763,400	1,003,200	0	2,250,000	(68,100)		7,948,500
Working Funds	0	428,400	(15,000)			10,000	423,400
Total Funding	8,874,500	1,707,800	344,700	2,250,000	340,900	10,000	13,527,900
Net Surplus/(Deficit)	0	0	0	0	0	0	0

Working Funds

The following table provides a summary of working funds adjustments during 2004/2005.

Projected Working Funds Position as at 30 June 2005	
Working Funds 1 July 2004	\$481,000
Less	
Carried Forward Works from 2003/2004	(\$428,400)
Unrestricted Working Funds	\$52,600
Plus Variations September 2004 Review	\$15,000
Plus Variations December 2004 Review	\$0
Plus Variations March 2004 Review	\$0
Less Council Resolution Minute No. 636	(\$10,000)
Projected Unrestricted Working Funds 30 June 2005	\$57,600
Council's unrestricted working funds reflect the short-term ability of the Council to fund unplanned expenditure.	

Capital Works & Projects

	March YTD Actual	Full Year Budget	Variance
Civic Management	\$696	\$0	(\$696)
Community Services	\$75,718	\$91,900	\$16,182
Finance & Business	\$2,689,966	\$2,797,300	\$107,334
Open Space	\$641,979	\$2,228,400	\$1,586,421
Planning Environment	\$97,885	\$785,400	\$687,515
Technical Services	\$6,541,907	\$7,293,800	\$751,893
Waste Management	\$68,342	\$0	(\$68,342)
	\$10,116,493	\$13,196,800	\$3,080,307

Gross expenditure for capital works & projects for the period ended 31 March 2004 is \$10,116,493 against a full year budget of \$13,196,800. (this includes the purchase of 48 St Johns Ave and operational and passenger fleet.)

CONSULTATION

Not Applicable

FINANCIAL CONSIDERATIONS

Should Council adopt the recommendations of this report, Council's working fund balance will remain unchanged.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Finance and Business staff have worked closely with the General Manager and Directors of each department in reviewing their budgets to provide this quarterly review.

SUMMARY

The net result of the March Review will not change Council's current working fund balance being \$57,600. In addition \$75,000 will be transferred to Council's superannuation reserve and \$232,800 transferred back to the Golf Course Reserve.

RECOMMENDATION

- A. That Council adopt the variations contained in this report.
- B. That \$75,000 be transferred to the Superannuation Reserve.
- C. That \$232,800 be transferred to the Golf Course Reserve.

Michael Lopez
Management Accountant

John Mckee
Director Finance & Business

Brian Bell
General Manager

Attachments: **Appendix A - Summary Review**
 Appendix B - Restricted Assets
 Appendix C - March Financial Reports

KU-RING-GAI ACCESS ADVISORY COMMITTEE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To provide Council with the Minutes of the Ku-ring-gai Access Advisory Committee of 17 February 2005.
BACKGROUND:	The Ku-ring-gai Access Advisory Committee provides a forum between Ku-ring-gai Council, the community representatives and service providers on access issues in the Ku-ring-gai area. The Committee meets every two months.
COMMENTS:	General access issues were discussed during the meeting with a number of actions flowing from the Ku-ring-gai Access Advisory Committee meeting.
RECOMMENDATION:	That the Minutes of the Ku-ring-gai Access Advisory Committee of 17 February 2005 be received and noted.

PURPOSE OF REPORT

To provide Council with the Minutes of the Ku-ring-gai Access Advisory Committee of 17 February 2005.

BACKGROUND

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

COMMENTS

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

CONSULTATION

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

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

That the Minutes of the Ku-ring-gai Access Advisory Committee of 17 February be received and noted.

Martin Butcher
Community Development Officer
Aged & Disability Services

Janice Bevan
Director Community Services

Attachments: **Access Advisory Committee Minutes of 17 February 2005**

OUTDOOR DINING AND FOOTPATH TRADING POLICY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To present the "Outdoor Dining and Footpath Trading Policy" to Council for adoption.

BACKGROUND:

The Draft Policy was previously placed on exhibition in the format of a Draft Development Control Plan. Since then, the Draft DCP has been modified to a Policy as it concerns activities undertaken within a road reserve. Such activities are beyond the scope of a DCP and are instead considered by Council under the Roads Act 1993.

COMMENTS:

The Draft Policy has been amended following input from the community and further work by Council officers.

RECOMMENDATION:

That Council adopt recommendations A to D as outlined in this report for the "Outdoor Dining and Footpath Trading Policy" as included in Attachment A to this report.

PURPOSE OF REPORT

To present the "Outdoor Dining and Footpath Trading Policy" to Council for adoption.

BACKGROUND

On 6 May 2003, Council resolved:

- A. *That attached Draft Development Control Plan No 54 – The Commercial Use of Footpaths, Plazas and Public Areas, as amended, be placed on public exhibition in accordance with the provisions of the Environmental Planning and Assessment Act and Regulations.*
- B. *That all existing outdoor dining and footpath activity licence holders be notified of the exhibition of Draft DCP 54 as part of the exhibition process.*
- C. *That all Business Centres Consultative Committee Members and the relevant Chambers of Commerce be notified of the exhibition and sent a copy of the Draft Development Control Plan No 54 as part of the exhibition process.*
- D. *That the issue of an appropriate low level of advertising suitable for utensils and furniture (eg. Umbrellas) be investigated by Council officers and report be brought back to Council outlining options and amendments to Draft DCP No 54 – The Commercial Use of Footpaths, Plazas and Public Areas and DCP No 28 – Display and Erection of Advertisements and Advertising Structures.*

Draft DCP54 was publicly exhibited from 14 May 2003 until 11 June 2003. In accordance with Council's resolution, all existing outdoor dining and footpath activity license holders, Business Centres Consultative Committee (BCCC) and the relevant Chambers of Commerce were notified of the exhibition.

Two submissions were received during the public exhibition period, from the BCCC and the Wahroonga Chamber of Commerce.

Following the exhibition, the document has been modified from a DCP to a Policy, as it concerns activities undertaken within a road reserve. Such activities are outside the scope of a DCP and are instead considered by Council under the Roads Act 1993.

COMMENTS

The 'Outdoor Dining and Footpath Trading Policy' has been developed to promote and control the use of Council owned footpaths, plazas and public areas that may be used for commercial purposes. Furthermore, as part of Council's Residential Design Strategy – Stage 2, an increase in opportunities to conduct outdoor dining and footpath trading activities will become available.

Item 8

S03004
5 May 2005

Following exhibition and consultation, a number of changes are proposed:

1. Advertising

Submissions made to Council during the exhibition period called for the policy to permit appropriate forms of advertising within outdoor dining areas. The particular concern was that small business operators may be disadvantaged by a prohibition on advertising and outdoor furnishings as the costs of these furnishings (such as tables, chairs and umbrellas) are often met by companies who use these as an advertising source to promote their products.

In accordance with the Council's Resolution "D" on 6 May 2003, research was therefore conducted into the relevant policies of 11 metropolitan Sydney Councils to determine the feasibility of permitting certain forms of third party advertising on the furnishings of outdoor dining areas.

The research conducted indicated that certain limited forms of advertising on the furnishings of the outdoor dining areas were permitted by other Councils and that, provided it remains limited, can promote outdoor dining in a way that is not offensive. Accordingly, it is proposed to amend the document so as to permit low level advertising, specifically the advertising logos of a single company per dining area. However, in order to maintain an acceptable standard of advertising, applicants would be required to supply Council with the details of any advertising materials before a permit may be granted.

The proposal to amend the document to permit some forms of advertising does not, however, extend to A-frame style signs which should not be permitted as they have the potential to obstruct footpaths and this could present a safety issue.

Should these proposed amendments be accepted, it will also be necessary to review 'DCP28 – Advertising Signs'.

2. Placement of Outdoor Dining Furnishings

Concern was raised during the exhibition period that the provisions of the exhibited document did not enable a departure from the numerical controls relating to the placement of dining furnishings in the event that the objectives were met in full. This is considered to be reasonable and would be consistent with the provisions of Council's DCPs and Policies.

It is therefore proposed to amend the document to require applicants to support their application with justification for their departure from these requirements.

3. Fees

It is proposed to delete reference to Rental Fees for the costs of renting Council owned footpaths, plazas and other public places from the policy. These costs are contained within the 'Fees and Charges' of Council's Management Plan and are reviewed annually. It is not appropriate to include such information in a more permanent document.

4. Heating Structures

Item 8

S03004
5 May 2005

It is proposed to amend the document to permit heating structures in outdoor dining areas. A new section has been included in the Policy to this effect.

5. Planter Boxes

Following recommendations raised in submissions, it is proposed to modify the document so as to permit the use of planter boxes in outdoor dining areas. This is because planter boxes may be beneficial in certain circumstances, for example, to provide separation between the adjoining areas of other businesses or soft landscaping.

It is therefore proposed that a new section be added to the document which permits planter boxes, providing that they are not permanently positioned and used only to enhance the amenity of the outdoor dining area rather than to define the perimeter of the outdoor dining area.

6. User-friendliness of the Policy

In order to assist applicants in their understanding of the Policy, it is proposed to include appendices that illustrate the means of correctly interpreting the requirements. These appendices expand on those that were provided with the exhibited document and have primarily been designed to assist in the preparation of applications. Reference is made to these appendices in the body of the document.

7. General Changes

Several minor changes have also been made to the document to correct grammatical errors and the overall formatting of the document.

CONSULTATION

During the exhibition period, consultation was conducted with Council's Business Centres Consultative Committee at their meeting on 4 June 2003. The committee outlined several issues for review, which have been the basis for several of the proposed changes to the document's content.

FINANCIAL CONSIDERATIONS

Council costs have primarily related to staff time required for the preparation and review of the policy as well as the costs of advertising and exhibition of the document. These costs have been met by the planning budget of the Department of Planning and Environment.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The development and review of the document has been a collaborative effort between Council's Planning and Environment, Technical Services, Finance and Business and Development and Regulation Departments.

SUMMARY

Activities undertaken within a road reserve, including a footpath, are considered by Council under the Roads Act 1993 rather than as a development application. The requirements for footpath trading cannot therefore be contained within a DCP. For this reason, the exhibited 'Draft Development Control Plan No.54 – The Commercial Use of Footpaths, Plazas and Public Areas' is now being presented to Council as 'The Outdoor Dining and Footpath Trading Policy'.

Several changes to the content of the document are proposed that to respond to concerns raised during the exhibition period and research conducted in accordance with a previous Council resolution. Minor changes are also proposed to make the document more user-friendly.

Should the proposed amendments be adopted, it will also be necessary to review "DCP-28 Advertising Signs" for consistency.

RECOMMENDATION

- A. That Council adopt the 'Outdoor Dining and Footpath Trading Policy' under Section 68 of the Local Government Act as a Local Approvals Policy.
- B. That the relevant Chambers of Commerce and current permit holders be notified of Council's decision.
- C. That Council review 'Development Control Plan No 28 – Advertising Signs' to ensure consistency with 'The Commercial Use of Footpaths, Plazas and Public Areas Approvals Policy'.
- D. That a report be brought back to Council on the proposed amendment to DCP 28 – Advertising Signs.

Antony Fabbro
Manager Urban Planning

Katherine Lustig
Environmental Planner

Leta Webb
Director Planning &
Environment

Attachments: Outdoor Dining and Footpath Trading Policy.

2004 TO 2008 MANAGEMENT PLAN 3RD QUARTER REVIEW AS AT 31 MARCH 2005

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To report to Council on progress made towards achieving Key Performance Indicators as contained in Council's 2004 - 2008 Management Plan.

BACKGROUND:

Section 407 of the Local Government Act requires Council to report, within two months after the end of each quarter, the extent to which the performance targets set in Council's current Management Plan have been achieved during that quarter.

COMMENTS:

A progress report for all Objectives, Actions and Key Performance Indicators contained in the 2004 - 2008 Management Plan is attached.

RECOMMENDATION:

That the 3rd quarter 2004-2008 Management Plan review be received and noted.

PURPOSE OF REPORT

To report to Council on progress made towards achieving Key Performance Indicators as contained in Council's 2004 - 2008 Management Plan.

BACKGROUND

Section 407 of the Local Government Act requires Council to report, within two months after the end of each quarter, the extent to which the performance targets set in Council's current Management Plan have been achieved during that quarter.

The 2004 - 2008 Management Plan was adopted by Council on 22 June 2004.

The Management Plan contains seven principal activities, namely:

- Civic Leadership
- Integrated Planning
- Community Development
- Natural Environment
- Built Environment
- Financial Sustainability
- Council's Corporate Services

Each of the principal activities contain a series of Objectives, Actions and Key Performance Indicators which provide detail on how Council plans to achieve desired outcomes and how performance will be measured.

COMMENTS

The requirements set out in Council's Management Plan provide the foundation for measuring the performance of the organisation at a given point in time.

To ensure that the reporting of performance is both accurate and meaningful the attached report tracks progress using a status code and comments as to the current status of all Key Performance Indicators. The options available under the heading 'status code details' are as follows:

Status Code	Definition
Completed	KPI has been carried out in accordance with the Management Plan.
Achieved to Date	Work has been undertaken in accordance with the project plan to ensure that the task will be fully complete by the final due date.
Not Yet Due	Timeframe for commencement of the KPI has not been reached.
Deferred	KPI has been placed on hold.
Not Achieved	KPI has not been completed as required in the Management Plan.

All Key Performance Indicators are categorised by one of the above five status codes to indicate current performance against the Management Plan.

Analysis of Results

Council's 2004 - 2008 Management Plan contains 127 KPIs. The following table shows Council's overall KPI achievement results as at the end of March 2005.

Status	Achievement	Percentage
Completed	59/127	46.5%
Achieved to Date	26/127	20.5%
Not Yet Due	16/127	12.6%
Deferred	4/127	3.1%
Not Achieved	22/127	17.3%

Discounting the KPIs which are not yet due, completion statistics are as follows:

Status	Achievement	Percentage
Completed	59/111	53.2%
Achieved to Date	26/111	23.4%
Deferred	4/111	3.6%
Not Achieved	22/111	19.8%

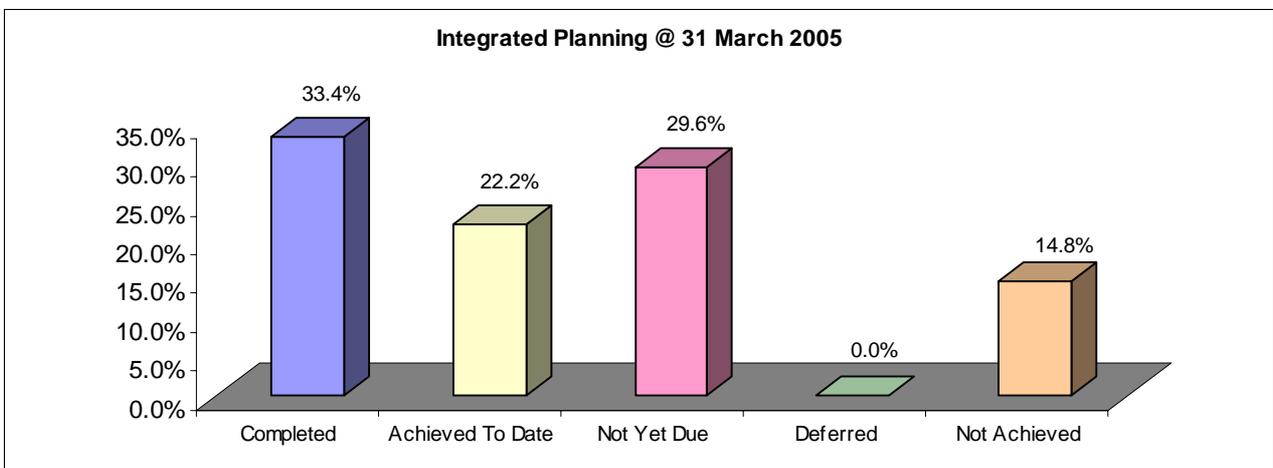
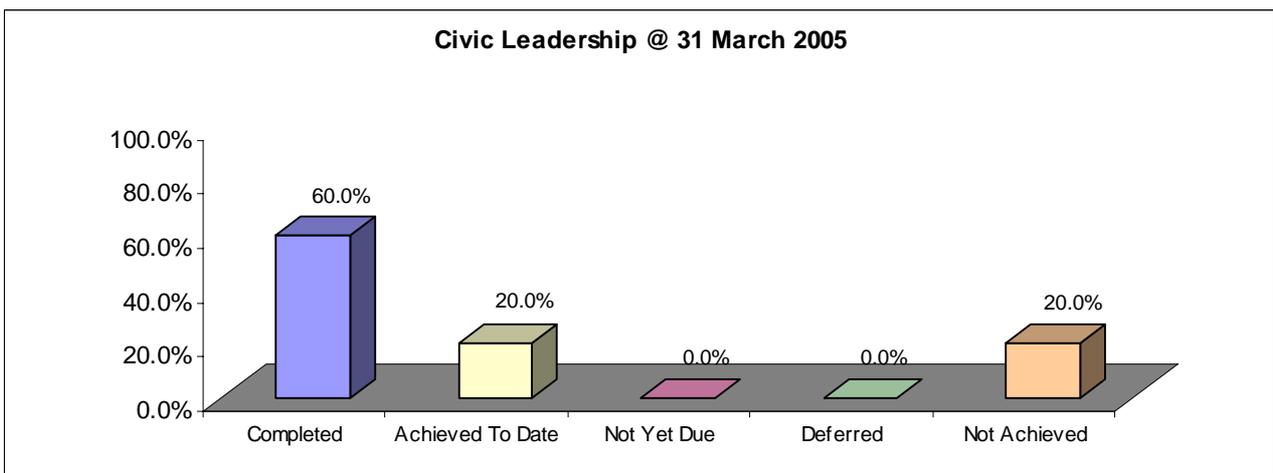
Item 9

S03096
6 May 2005

The following table provides an analysis by Principal Activity as at 31 March 2005.

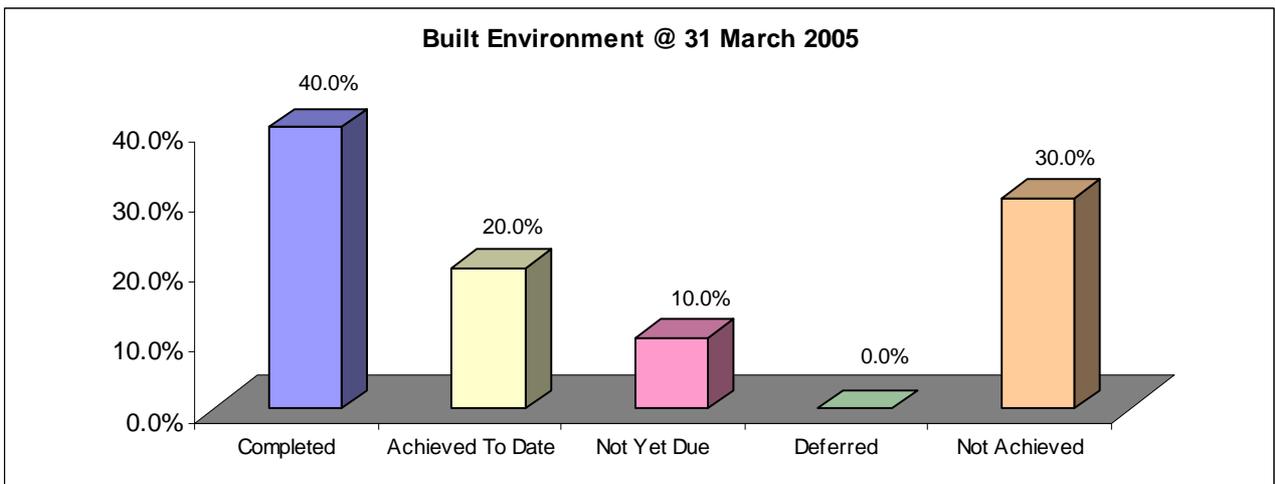
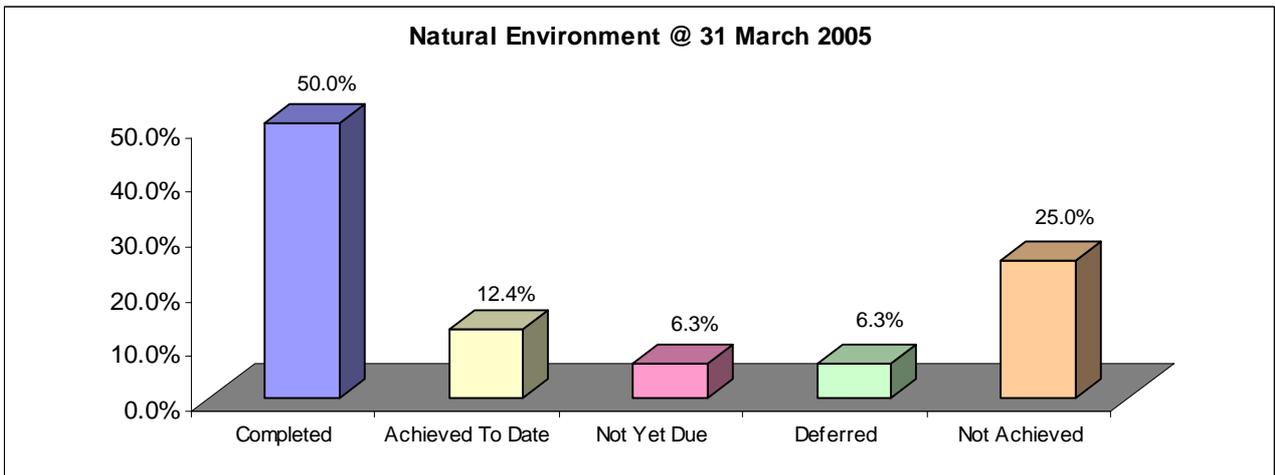
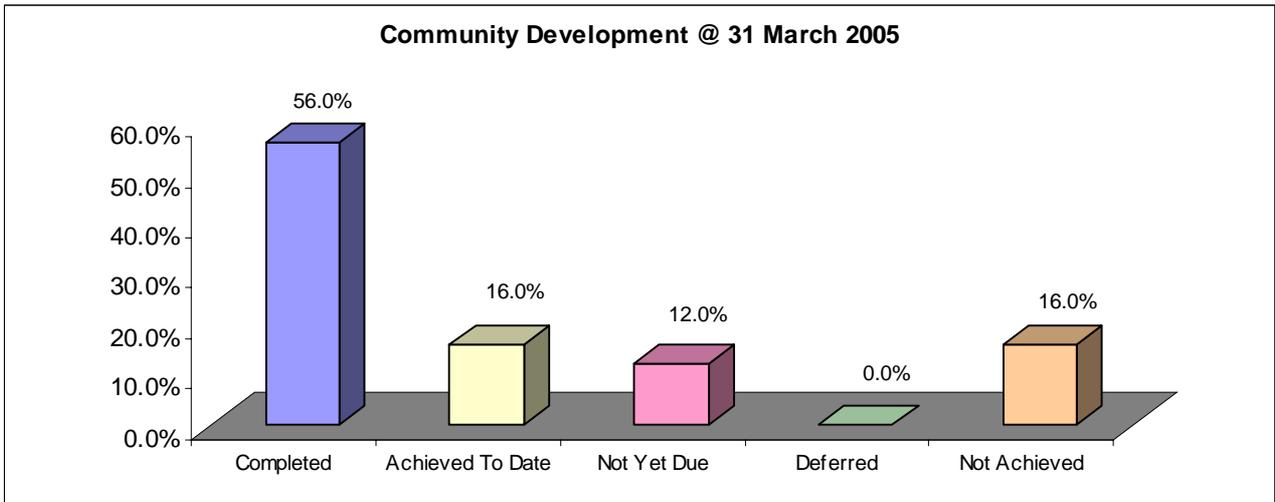
Principal Activity	No of KPI's	As at 31 March 2005				
		Completed	Achieved To Date	Not Yet Due	Deferred	Not Achieved
Civic Leadership	5	60.0%	20.0%	0.0%	0.0%	20.0%
Integrated Planning	27	33.4%	22.2%	29.6%	0.0%	14.8%
Community Development	25	56.0%	16.0%	12.0%	0.0%	16.0%
Natural Environment	16	50.0%	12.4%	6.3%	6.3%	25.0%
Built Environment	20	40.0%	20.0%	10.0%	0.0%	30.0%
Financial Sustainability	19	57.9%	21.0%	0.0%	15.8%	5.3%
Council's Corporate Services	15	40.0%	33.4%	13.3%	0.0%	13.3%
Total	127	46.5%	20.5%	12.6%	3.1%	17.3%

This is represented graphically below:



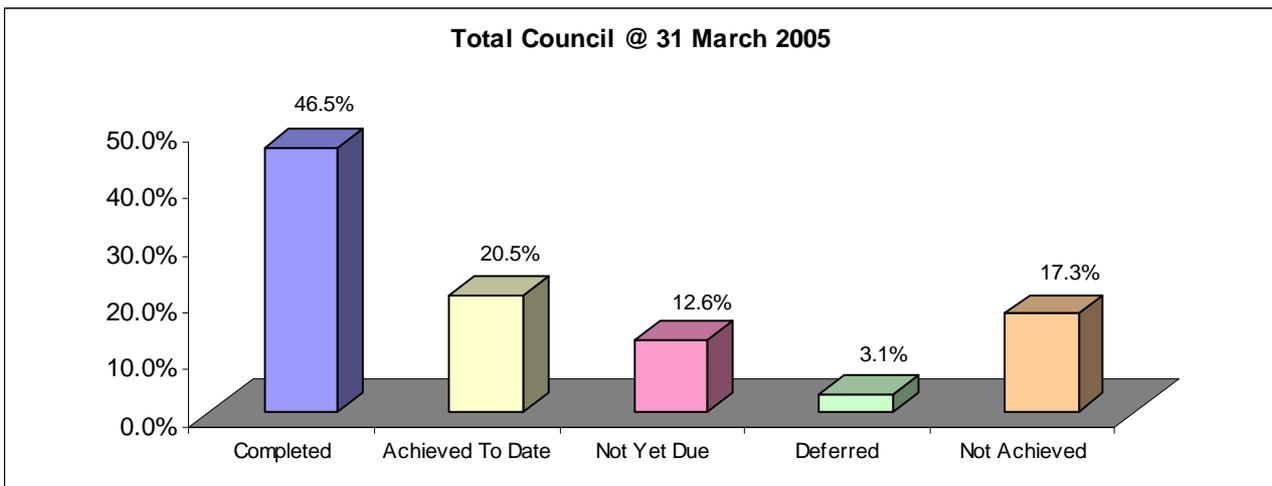
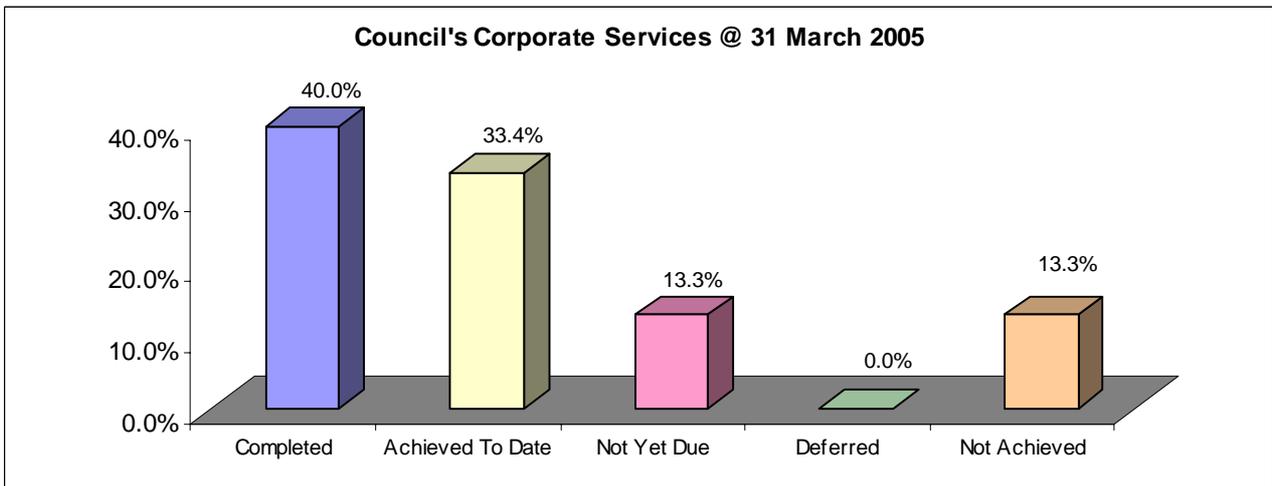
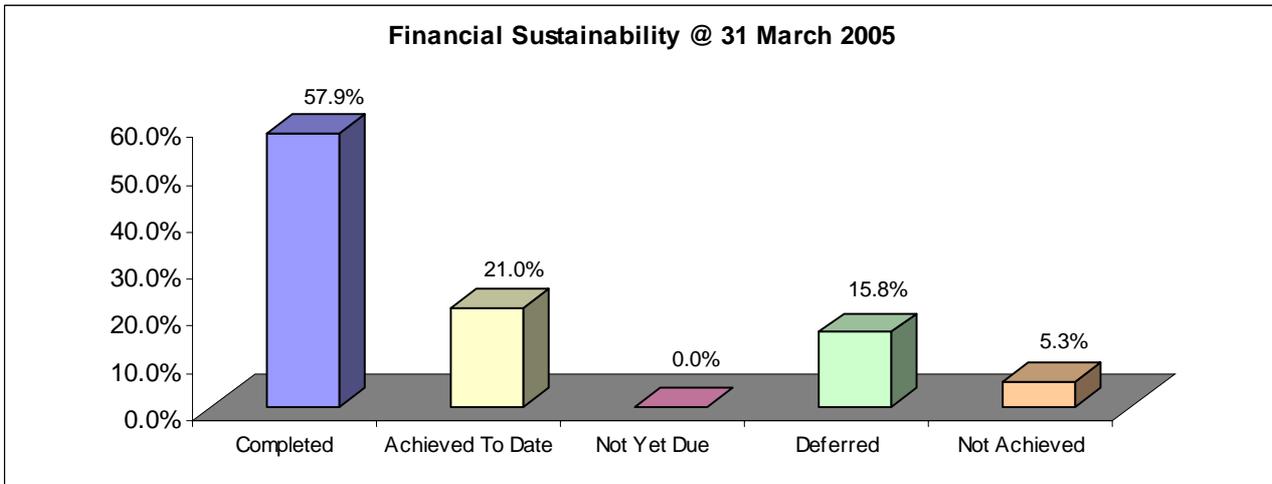
Item 9

S03096
6 May 2005



Item 9

S03096
6 May 2005



CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

The requirements outlined in the Management Plan 2004 - 2008 are funded in Council's budget

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

All departments have provided the status and comments on the progress of Key Performance Indicators in the attached report.

SUMMARY

There are currently 127 Key Performance indicators in the 2004/2008 Management Plan. As at 31 March 2005, a summary of the current status of these performance indicators is as follows:

Status	Achievement	Percentage
Completed	59/127	46.5%
Achieved to Date	26/127	20.5%
Not Yet Due	16/127	12.6%
Deferred	4/127	3.1%
Not Achieved	22/127	17.3%

RECOMMENDATION

That the Management Plan review for the period ended 31 March 2005 be received and noted.

John McKee
Director Finance and Business

Brian Bell
General Manager

Attachments: Management Plan Progress Report as at 31 March 2005.

INVESTMENT CASH FLOW & LOAN LIABILITY AS AT 30 APRIL 2005

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To present to Council the investment allocation and the performance of investment funds, monthly cash flow and details of loan liability for April 2005.

BACKGROUND:

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (Financial Management) Regulation (1999) and Council's Investment Policy which was adopted by Council on 12 December 2004 (Minute No.480).

COMMENTS:

The Reserve Bank of Australia (RBA) left the official cash rate unchanged at 5.50% during April.

RECOMMENDATION:

That the summary of investments, daily cash flows and loan liability for April 2005 be received and noted.

PURPOSE OF REPORT

To present to Council the investment allocation and the performance of investment funds, monthly cash flow and details of loan liability for April 2005.

BACKGROUND

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (Financial Management) Regulation (1999) and Council's Investment Policy which was adopted by Council on 12 December 2004 (Minute No. 480).

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

COMMENTS

During the month of April Council's cash decreased by \$3,500,000 and gross capital appreciation on Council's investments was \$86,700.

Council's total investment portfolio at the end of April 2005 is \$16,037,400. This compares to an opening balance of \$17,271,200 as at 1 July 2004.

Council's General Fund interest on investments for April year-to-date is \$847,000. This compares favorably to the year-to-date budget of \$770,800.

Council's total debt as at 30 April 2005 is \$10,125,900. This compares to a total debt of \$11,850,000 as at 1 July 2004.

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 annualized 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.

- **Allocation of Surplus Funds**

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

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

Item 10

S02722
12 May 2005

▪ **Summary of Borrowings**

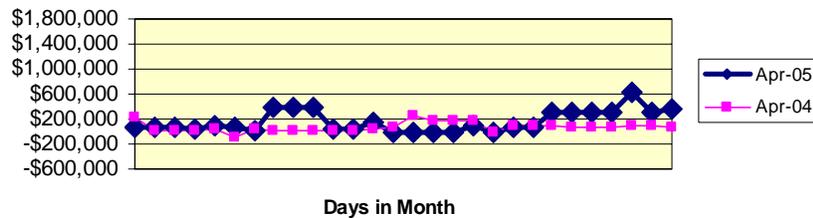
This is a summary of Council’s borrowings. It lists each of Council’s loans, original amounts borrowed, principal repayments made, outstanding balances, interest rates and maturity dates.

April 2005

Management of General Fund Bank Balance

During April Council had an outflow of funds of \$3,500,000. This was due to high level of expenditure and reduced income received during the month. Large monthly payments made to Collex Waste Management and Waste Services Australia, combined with the third instalment of the NSW Fire Brigade levy and loan repayments contributed significantly to the outflow.

Management of General Fund Bank Balance



Funds Performance against the UBS Bank Bill Index

The weighted average return for the total portfolio of managed funds during April was 6.30% compared to the benchmark of the UBS Bank Bill Index of 6.21%.

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

Fund Manager	Terms	Opening Balance	Cash flow Movement	Income Earned (net of fees)	Closing Balance	Interest Rate
BT Institutional Managed Cash	At Call	\$1,608,535	(\$450,000)	\$4,803	\$1,163,338	5.89%
Deutsche Income Fund	At Call	\$4,679,037		\$24,844	\$4,703,881	7.03%
Macquarie Income Plus Fund	At Call	\$4,701,345	(\$2,300,000)	\$14,458	\$2,415,804	6.00%
Perpetual Credit Enhanced Cash	At Call	\$5,389,138	(\$500,000)	\$25,275	\$4,914,413	6.26%
Turrumurra Community Bank	Term Deposit	\$500,000	-	\$2,358	\$500,000	5.66%
CBA Loan Offset No 1	Offset	\$1,170,000	(\$130,000)	\$5,125	\$1,040,000	5.39%
CBA Loan Offset No 2	Offset	\$1,430,000	(\$130,000)	\$6,264	\$1,300,000	5.39%
TOTALS		\$19,478,055	(\$3,510,000)	\$83,127	\$16,037,436	

Year-to-date Funds Performance against the UBS Bank Bill Index

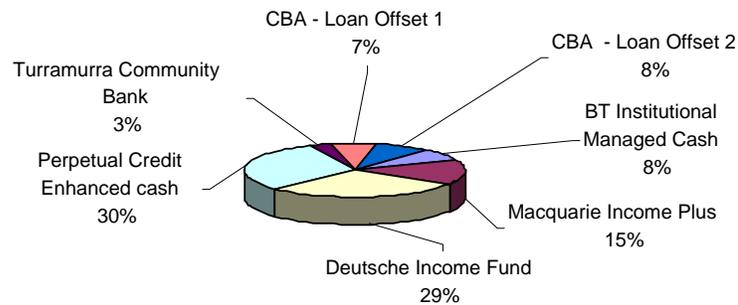
The following table provides a year-to-date analysis of each fund's performance against the industry benchmark.

Fund Manager	Performance Annualised for July 2004 –April 2005	UBS Bank Bill Index Annualised for July 2004 –April 2005
BT Institutional Managed Cash	5.70%	5.60%
Deutsche Income Fund	6.58%	
Macquarie Income Plus Fund	6.55%	
Perpetual Credit Enhanced Cash	6.56%	
Turrumurra Community Bank	5.66%	
CBA Offset No.1	5.39%	
CBA Offset No.2	5.39%	

Allocation of Investment Funds:

Council’s funds during April were allocated as follows:

Portfolio Allocation of Investment Funds



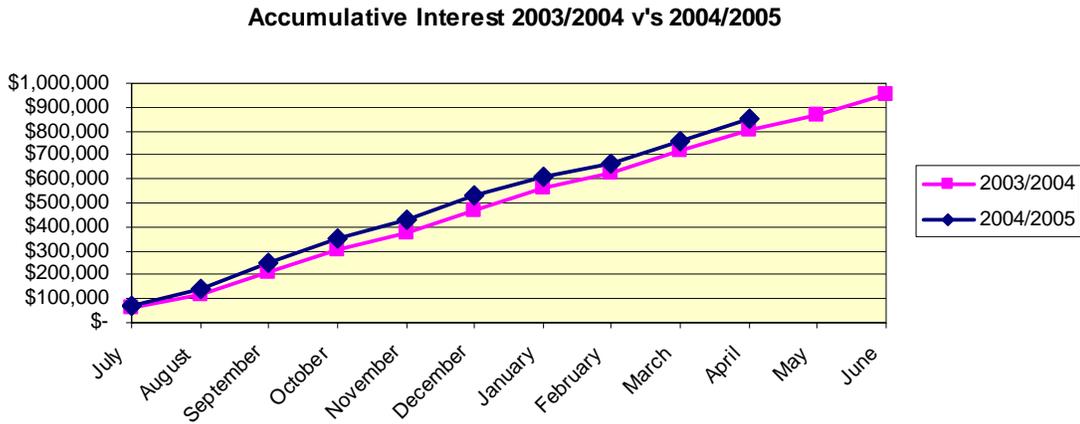
Item 10

S02722
12 May 2005

2003/2004 versus 2004/2005

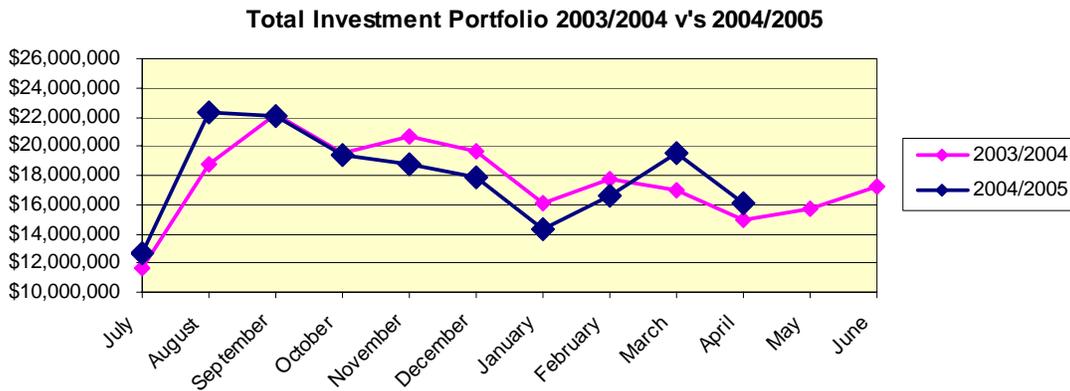
Accumulative Interest

The following graph compares the interest earned on an accumulative monthly basis for financial years 2003/2004 and 2004/2005. As at the end of April 2005, year to date interest earnings totalled \$847,000. This compares to \$802,400 at the same time last year, an increase of \$44,600.



Total Investment Portfolio

The following graph tracks the monthly investment portfolio balances for 2004/2005 in comparison to 2003/2004.



During April 2005 Council’s investment portfolio decreased by \$3,500,000. In comparison, during April 2004 Council’s investments decreased by \$2,110,000.

Council’s closing investment portfolio of \$16,037,400 in April 2005 is \$1,038,300 higher than the April 2004 closing balance of \$14,999,100.

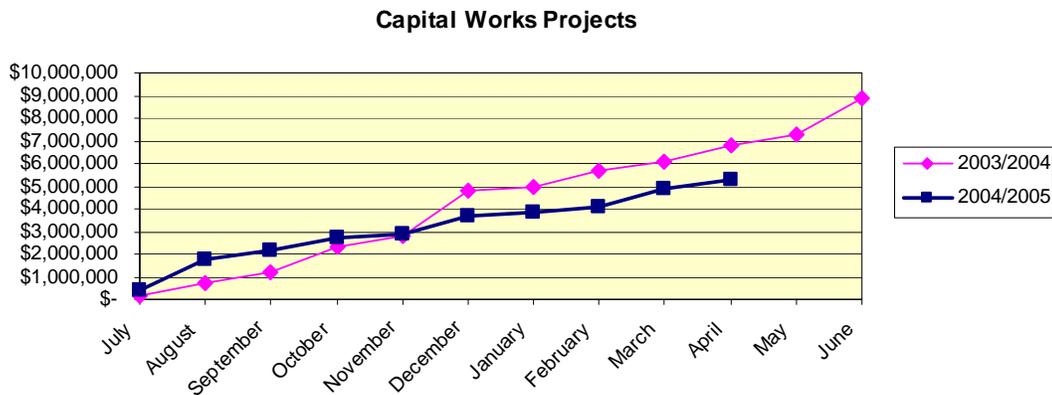
Capital Works Projects

At the end of April 2005 Council has expended \$5,258,900 net on capital works, which is \$1,519,900 lower than at the same time last year when \$6,778,800 had been expended.

During April 2005 Council expended \$304,000 on capital works, which compares to \$677,000 during April 2004, a decrease of \$373,000.

Council’s 2004/2005 total budget for capital works (excluding fleet replacement and purchase of the property at 48 St Johns Avenue, Gordon) is \$9,896,800 which leaves funds of \$4,637,900 unspent at the end of April.

The following graph compares the accumulative monthly expenditure totals for Capital Works for financial years 2003/2004 and 2004/2005.



Portfolio Performance Average Return 2003/2004 versus 2004/2005

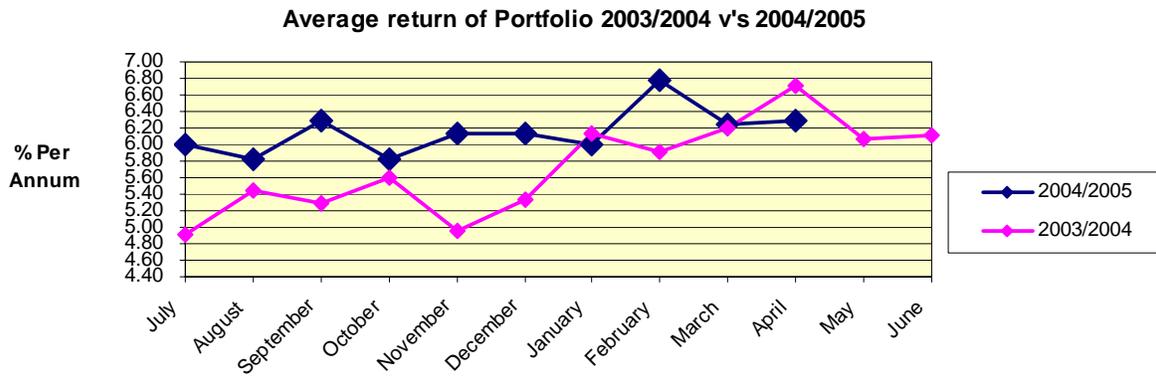
The following graph compares the monthly returns on Council’s portfolio for the financial years 2003/2004 and 2004/2005.

In April 2005 earnings before fees were 6.30%, this compares to 6.70% in April 2004.

For the period July 2004 – April 2005 Council’s average earnings before fees were 6.16%. This compares to 5.65% for the same period last financial year.

Item 10

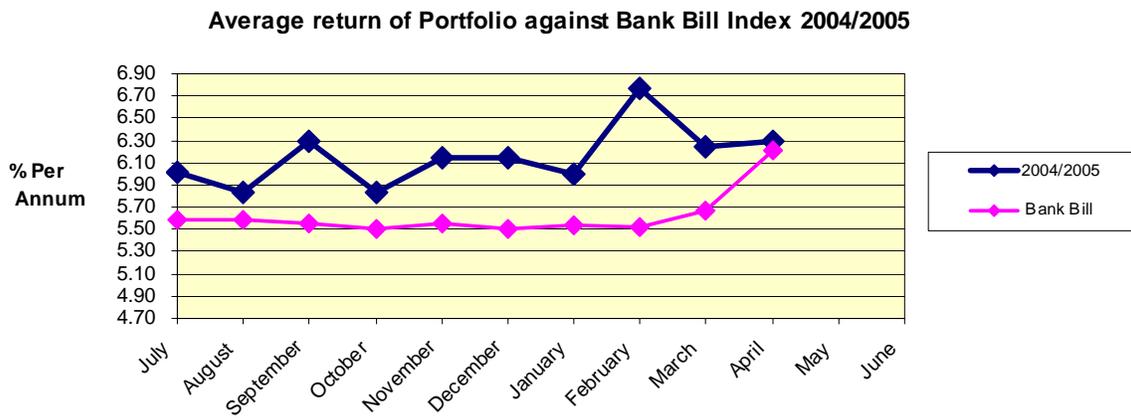
S02722
12 May 2005



2004/2005 Portfolio Performance against the UBS Bank Bill Index

Council’s average portfolio return performed above the UBS Bank Bill Index in April. Returns above benchmark have been achieved in each of the 10 months this financial year.

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



Summary of Borrowings

There were repayment's made in April, against loan number's 128 and 129 leaving the total level of debt at month end to \$10,125,900. This compares to a total debt at 1 July 2004 of \$11,850,000.

Lender	Loan Number	Original Principal	Principal Repayments	Balance Outstanding	Interest Rate	Draw Down Date	Maturity Date
Westpac	127	\$1,000,000	\$577,558	\$422,442	6.32%	29-Jun-98	29-Jun-08
CBA Offset No 1	128	\$2,600,000	\$1,560,000	\$1,040,000	5.54%	29-Jun-99	13-Jun-09
CBA Offset No 2	129	\$2,600,000	\$1,300,000	\$1,300,000	5.54%	13-Jun-00	14-Jun-10
CBA	130	\$2,600,000	\$732,979	\$1,867,021	6.32%	26-Jun-01	28-Jun-11
NAB	131	\$2,600,000	\$495,310	\$2,104,690	6.85%	27-Jun-02	27-Jun-12
Westpac	132	\$1,882,000	\$224,562	\$1,657,438	5.16%	27-Jun-03	27-Jun-13
CBA	133	\$1,800,000	\$65,647	\$1,734,353	6.36%	23-Jun-04	23-Jun-14
TOTAL		\$15,082,000	\$4,696,056	\$10,125,944			

CONSULTATION

Not applicable

FINANCIAL CONSIDERATIONS

The Reserve Bank of Australia (RBA) left the official cash rate unchanged at 5.50% during April.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

As at 30 April 2005:

- Council's total investment portfolio is \$16,037,400. This compares to an opening balance of \$17,271,200 as at 1 July 2004.
- Council's General Fund interest on investments totals \$847,000. This compares favourably to the year-to-date budget of \$770,800.
- Council's total debt is \$10,125,900. This compares to a total debt of \$11,850,000 as at 1 July 2004.

RECOMMENDATION

That the summary of investments, daily cash flows and loan liability for April 2005 is received and noted.

John McKee
Director Finance and Business

CODE OF CONDUCT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To report to Council following exhibition of the Code of Conduct.
BACKGROUND:	Council resolved on 8 March 2005 to exhibit the amended Code of Conduct.
COMMENTS:	No submissions received.
RECOMMENDATION:	That the Code of Conduct be adopted.

PURPOSE OF REPORT

To report to Council following exhibition of the Code of Conduct.

BACKGROUND

Council resolved on the 8 March 2005 that the amended Code of Conduct be placed on public exhibition for a period of 28 days and a further report be submitted following exhibition of the Code.

COMMENTS

No submissions were received from the public.

CONSULTATION

The amended Code of Conduct has been on public exhibition for 28 days with a further 14 days for written submissions to be received.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

That the Code of Conduct be adopted, as **attached**.

Gavin Beck
Internal Ombudsman

Brian Bell
General Manager

Attachments: Code of Conduct

PREPARATION OF DRAFT LOCAL ENVIRONMENTAL PLAN TO AMEND CLAUSE 25K OF THE KU-RING-GAI PLANNING SCHEME ORDINANCE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider the need to prepare a Local Environmental Plan to amend Clause 25K of the Ku-ring-gai Planning Scheme Ordinance.

BACKGROUND:

Clause 25K of LEP194 relates to development on steep slope sites. The intent of the clause is to resolve internal planning and architectural issues on steep sties and to avoid unnecessary non-compliance and SEPP1 objections.

COMMENTS:

There has been confusion over the interpretation and application of this clause by applicants resulting in poorly designed buildings that do not meet the intent of the clause. This report presents a methodology for interpreting Clause 25K. The recommended amendments to Clause 25K contained in this report address the identified shortcomings.

RECOMMENDATION:

That Council endorse the methodology for the interpretation of Clause 25K. That Council resolve to prepare and exhibit a Draft Local Environmental Plan to amend Clause 25K of the Ku-ring-gai Planning Scheme Ordinance.

PURPOSE OF REPORT

For Council to consider the need to prepare a Local Environmental Plan to amend Clause 25K of the Ku-ring-gai Planning Scheme Ordinance.

BACKGROUND

Clause 25K was incorporated into the Ku-ring-gai Planning Scheme Ordinance (KPSO) by Local Environmental Plan 194 (LEP194). The clause relates to development on steep slope sites and states the following:

25K Steep slope sites

Consent may be granted to a building on a site with a site slope greater than 15% that would:

- (a) exceed the number of storeys controls in clause 25I (8) by only one storey for up to 25% of the building footprint, or*
- (b) exceed the height controls in clause 25I (8), but only by up to 3 metres for up to 25% of the building footprint, or*
- (c) take advantage of the concessions conferred by both paragraphs (a) and (b), but only for up to the same 25% of the building footprint.*

The intent of the clause is to resolve internal planning architectural issues on steep sites and minimising the extent of excavation. The clause also avoids unnecessary non-compliance with clause 25I(8) resulting from steep sites and the subsequent needs for SEPP1 objections.

COMMENTS

There has been significant confusion over the interpretation and application of this clause, resulting in applicants presenting poorly designed buildings that do not satisfy the intent of the clause.

Methodology for Interpreting Clause 25K

A common misinterpretation is that the clause allows a building on a steep site over 2400sqm to have a 6th storey with an area of up to 25% of the building footprint. However, the maximum number of storeys is determined by cl.25I(5) and cl.25K does not provide for any relaxation of this clause.

The location and potential area of the additional storey permissible by cl.25K is complex and is dependant on site conditions and overall building design. As a result there is a need to establish an accepted clear and systematic methodology for the interpretation and application cl.25K. This will allow staff to assess applications in a consistent way and be able to advise applicants accordingly.

The matter was referred to Council's consultant architect to provide an independent interpretation of the clause and establish a methodology to assess applications. The following methodology is presented for Council consideration.

Item 12

S02036
24 May 2005

1. Establish the number of storeys and/or the perimeter height of the building, **excluding the top storey** with the reduced floor area because of cl.25I(7).

NB:

- A storey constitutes :
 - a. any habitable area of the building, including access thereto, and
 - b. any area exclusively used for car parking, plant and/or storage which is more than 1.2m above ground level.
 - The number of storeys is to be calculated in accordance with the requirements of *State Environmental Planning Policy No 6 – Number of Storeys in a Building (SEPP6)*
2. Establish the floor area/s of the building footprint that exceeds the maximum number of storey count and/or elevation height as contained in the table in Clause 25I(8).
 - The sum of this floor area/s must be no more than 25% of the ‘building footprint’ as defined by LEP 194.
 - The ‘perimeter ceiling’ height must be no more than 3m higher than the relevant height listed in cl 25I(8)
 3. Calculate the area of the each top floor separately. These should be no more than 60% of the area of the floor immediately below it.

NB:

- So as not to breach cl 25I(5) (Maximum number of storeys), the top floor is not to be located above any floor area which is generated by to the 25% concession in cl 25K.
- The floor area which is generated by to the 25% concession in cl 25K can be used for calculating the 60% for the top floor
- The top floor should be recessed on all side (as required by Section 4.3 C-9 in DCP 55).

Implication for Perimeter Ceiling height.

Clause 25K(b) & (c) allows for a building to exceed the perimeter ceiling height by up to 3 metres. This provides the potential for buildings on steeper slopes to have a five storey interface with adjoining sites or a five storey elevation to the street. This will have significant visual bulk impact on down hill properties and on streetscape. The minimisation of such bulk impacts are the reason for upper floors of buildings being limited to 60% of the area of the floor below by Clause 25I(7).

It is recommended that the KPSO be amended to delete Clauses 25K(b) and 25K(c) and to include a specific objective to minimise the perimeter bulk impacts of buildings seeking to use the additional storey concession of Clause 25K. This would require that any additional storey included in a building using 25K to be setback and limiting the perimeter height to a maximum of 4 storeys on any interface with adjoining sites or the street.

This amendment would not limit the ability to achieve the additional 25% extra storey, however, it would control where the extra storey component would be located on the building. Should an applicant seek to exceed the perimeter ceiling height, they would be required to submit a SEPP 1 objection that demonstrates that the objective in regard to the bulk impact is satisfied.

CONSULTATION

The proposed amendments will be placed on public exhibition in accordance with the requirements of Section 66 of the Environment Planning and Assessment Act 1979.

FINANCIAL CONSIDERATIONS

The direct costs will arise from the public exhibition process of the draft LEP. Other indirect costs relate to staff time and use of Council's resources. Clarifying the intention of the Clause could avoid litigation costs in the future.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The proposed amendments have been discussed with the Director Development and Regulatory Services and Council's Corporate Lawyer.

SUMMARY

There has been confusion over the interpretation and application of Clause 25K by applicants resulting in poorly designed buildings that do not meet the intent of the clause. The report outlines a proposed methodology for the interpretation and application of clause 25K.

It is also recommended that clauses 25K(b) and 25K(c) be deleted and a specific objective to minimise the perimeter bulk impacts of buildings be introduced.

RECOMMENDATION

- A. That Council endorse the methodology for applying clause 25K as outlined in the report.
- B. That Council resolve to prepare and exhibit a draft Local Environmental Plan to delete clauses 25K(b) and 25K(c) and to introduce a specific objective to minimise the perimeter bulk impacts the additional storey achieved by clause 25K.
- C. That Council consult with relevant authorities and notify the Department of Infrastructure Planning and Natural resources in accordance with the requirements of the Environmental Planning and Assessment Act.
- D. That a report be brought back to Council following completion of the exhibition period together with any submissions received.

Craige Wyse
Senior Urban Planner

Leta Webb
**Director Planning &
Environment**

Brian Bell
General Manager

WELLINGTON ROAD, EAST LINDFIELD - SALE OF FORMER WOMEN'S BOWLING CLUB SITE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider the response of the Department of Lands to requests to delay the sale of the Wellington Road site to consider options for the future of the land.

BACKGROUND:

Council's resolution of 10 May 2005, sought the withdrawal of the land at 104 Wellington Road from sale. Department of Lands officers have rejected Council's representations and a review of options available for Council has been undertaken.

COMMENTS:

The review of existing open space opportunities concludes that there is a deficiency of developed open space within the area and that the former bowling club site could help satisfy need for local open space in the area. However, Council is facing significant pressures to address acute shortages, accessible to the Pacific Highway corridor and Local Environment Plan 194 areas. Stage 2 of the Residential Development Strategy is anticipated to exacerbate these matters.

RECOMMENDATION:

That the Report be received and noted and a copy of the report be distributed to the interested residents.

PURPOSE OF REPORT

For Council to consider the response of the Department of Lands to requests to delay the sale of the Wellington Road site to consider options for the future of the land.

BACKGROUND

Council at its meeting of 10 May 2005 resolved in relation to the sale of 104 Wellington Road that -

1. *Council strongly encourage the Minister to withdraw the site from sale whilst the future of the land is determined, which should include a review of overall public parks and open space facilities and opportunities within this part of Lindfield.*
2. *Options to ensure the preservation of this open space are explored.*
3. *That staff prepare a report back to Council on the above matters within one month.*

The vacant land which was formerly the Lindfield Women's Bowling Club site was requested by Council to be converted from its previous open space usage as a bowling club to a general park location following representation from the community.

The site has a number of attributes that would make it a usable piece of open space and is already highly valued by the local community.

Following Council's request, the Department of Lands advised that the land has been identified for sale as a residential site. It is currently scheduled for auction on 31 May 2005.

Council appealed the decision to the Minister, however were informed that:-

"The decision to sell this Crown land was made after the Department of Lands reviewed the capabilities of the site having regard to the Principles of Crown Management as contained in the Crown Lands Act 1989. The review concluded that it is in the best interests of the State that this land be sold. The issue of public use and enjoyment, as specified in the Principles, was considered and the Department determined that ample public park and open space facilities already existed in this part of Lindfield"

Officers from the Department of Lands have indicated they are under instruction to achieve significant funds from asset disposal prior to the end of this financial year. The Department offered Council the opportunity to purchase the land at value consistent with its zoning.

Following Council's resolution to pursue the matter, letters have been written to both the Minister responsible and the Director General of the Department of Lands. Whilst a formal response has not been received, the matter has been discussed with the departmental officers who have been requested by the Minister's office to deal with the matter.

Item 13

P62942
23 May 2005

The Department has declined to meet to discuss any options for the future use or preservation of the open space, or to withdraw it from sale unless, Council determines to purchase the land.

Given the communication from the Department, Council's only apparent option for the preservation of the land as open space, would be to purchase the land.

Any consideration by Council for purchase of open space would need to consider the following matters as a minimum:

1. A funding source and available funds
2. A review of existing open space opportunities within the local area
3. Prioritisation against competing needs within the suburb and across the local government area.

COMMENTS

Review of existing open space opportunities within the local area

At the 2001 Census, East Lindfield had a population of 3,430 people, 30% of the total Lindfield population and 3.4% of the Ku-ring-gai population.

The population is one of the most diverse in Ku-ring-gai – with higher than average proportions of people aged 65+ years and children 5-9 years. The proportion of older people is, in fact, the highest in the LGA and the proportion of young children is the third highest.

Young children (including their parents/carers) and older people are typically the most frequent and regular users of local open space (where such space is accessible and meets at least their basic needs).

The main implication in terms of the recreation use of local parkland is that parks in East Lindfield need to be particularly accessible and suitable for young children and aged persons. At a minimum they will need to:

- provide sufficient space for children to play ('informal play' areas as well as play equipment) and for older people to sit, relax, walk and/or walk the dog and generally feel part of the wider community activities),
- be located within a reasonable walking distance for young children and aged people and
- be located on accessible and safe pathway links that facilitate the safe movement of older people, young children and people with prams around the area.

While East Lindfield is blessed with close proximity to substantial bushland reserves (along Gordon Creek and adjacent to Middle Harbour Creek) it has a very low per capita provision of developed parkland open space. As outlined in the 2004 Section 94 Plan, Lindfield has the lowest

Item 13

P62942
23 May 2005

provision of parkland of all suburbs (with only 0.38ha/1000 people compared to the much higher but still low LGA-wide provision of 0.58ha/1000 people).

An analysis of the supply of parkland in East Lindfield is even lower (at 0.33ha/1000 people). Put another way, while East Lindfield has 3.4% of Ku-ring-gai's population it has only 1.8% of its parkland.

The parkland open space within East Lindfield is comprised of five parks, as detailed below in Table 1.

Table 1. Parks in East Lindfield

Park	Area (ha)	Description
Soldiers Memorial Park	1.1727	Formal garden, playground, barbecues, picnic area
Pleasant Ave Reserve	0.2891	Good quality neighbourhood park, plantings, potential for further limited development
Follies Park	0.2783	Adjacent to bushland – potential for further development
Sylvan Ave Reserve	0.0491	Amenity value/linkage space only.
Karoo Ave Reserve	0.1740	Amenity value/linkage space only.
Total	1.9632	

Wellington Road Oval, although providing a large open space area, has not been included in the above analysis as it is heavily utilised as a sportsground and provides little opportunity for developed open space.

As well as the relatively low quantity of parkland open space in East Lindfield, there is also insufficient diversity in the existing supply.

Only one park, Soldiers Memorial Park, has the size, quality and diversity of facilities to provide the variety of features and uses generally identified as necessary within a sub-district parkland setting that ensure high levels of use and the generation of significant recreation value to the community. It accounts for 60% of developed open space within East Lindfield.

Despite their reasonable qualities, the other parks are all less than 0.3ha in size and therefore limited in their ability to provide diverse and high quality neighbourhood level recreation opportunities. This is particularly true of two of the parks – Sylvan Ave and Karoo Ave Walks, which only have the potential to function as open space links.

East Lindfield's 1.96 hectares of parkland open space is not distributed evenly throughout the precinct.

Item 13

P62942
23 May 2005

Approximately 30% or 1,200 residences within Lindfield are without reasonable access to developed parkland areas and around 25% (270 residences) are within East Lindfield. Almost all of these are in the far east of the precinct, east of Sylvan Avenue. In other words, nearly 1,000 people in the vicinity of the ex-Bowling Club site, many of whom are young children or aged people have poor access to parkland open space. It should also be noted that the presence of access barriers (steep slopes) and the modest size and development of parks within the immediate area may exacerbate the situation. It should also be noted that the same issues are evident across many areas of the Local Government Area.

Prioritisation against competing needs within the suburb and across the Local Government Area

While the need for additional accessible parkland in East Lindfield exists, there are even more urgent open space needs emerging within Lindfield and across the Local Government Area generally.

These are specifically within the areas subject to Council's Residential Housing Strategy. Stage 1 of the Strategy is forecast to generate an additional population of around 12,500 people over the next 10-20 years.

Densities are expected to increase substantially along the railway corridor and the St Ives town centre, with a doubling and more of the population in some areas. The flagged but currently unquantified Stage 2 of the Strategy will likely result in density increases within the major shopping centre precincts.

The changes in occupancy ratios and densities have significant implications for open space use and adequacy. The changes are increasing park catchment populations in some areas (ie in areas of medium density housing) which will certainly place greater pressures on existing parkland areas.

However, as identified in the Draft Open Space Strategy, the current distribution of local and neighbourhood parks is such that the forecast growth areas are not well served by local parks. Well over 50% of the designated growth areas within the corridor are beyond easy walking distance (up to 300 metres) from a local park and around 30% are beyond the 'maximum' walking distance (of 500 metres). The majority of local parks, in fact, are located well away from the railway/Pacific Highway corridor, presumably because land unsuitable for development was more plentiful in these areas.

This is particularly true of the proposed Residential Strategy growth areas in Lindfield which are almost totally outside the reasonable catchment areas for parkland open space.

With a forecast 910 additional people in the Lindfield growth areas (and an additional open space requirement for 5,300m²) by 2009, this supply deficiency could be exacerbated in future years without careful planning.

Item 13

P62942
23 May 2005

This is not to deny the importance of significant backlog open space needs in developed, low-growth areas such as East Lindfield. As identified in this review, the unmet needs here are also significant.

Council's limited resources for open space acquisitions (S94 and other) will need to focus in the first instance on the residential growth areas consistent with the expected high population growth in these areas. An Open Space Land Acquisition Study has been identified in Council's draft 2005/06 Management Plan to identify suitable opportunities and facilitate prioritised acquisition of open space.

Other strategies to combat the lack of "walk to" parks within the growth areas will be required. Some of those already identified in the existing Section 94 Plan include, significant improvement to district level parks such as St Ives Village Green and improved walking tracks.

Further directions outlined in the draft Open Space Strategy include improving pedestrian amenity, establishing linear connectivity for open space areas and undertaking substantial improvements to the accessibility, useability and quality of public domain areas.

CONSULTATION

Due to the limited period of time following Council's resolution, consultation has not been undertaken in the preparation of this report. It is recommended that copy of the report be distributed to interested residents including those who have petitioned Council to pursue the preservation of this open space.

FINANCIAL CONSIDERATIONS

The current balance of Section 94 funds in the 2000 Section 94 Plan, available for open space acquisition is approximately \$5.6 million across the entire Local Government Area, including \$2.4 million for Lindfield.

The land in question is approximately 5,000 m² in size. A valuation of the land has not been sought and any speculation as to its likely value is difficult given the particular circumstances of the parcel of land.

The purchase, utilising Section 94 funds, will constrain opportunities to purchase other parcels of open space that will be of higher priority closer to the Pacific Highway corridor and Local Environment Plan 194 areas.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Council's departments of Planning and Environment, Community Services and Finance and Business have assisted in the preparation of this report.

SUMMARY

Following Council's resolution of 10 May 2005, representation to the Minister and the Director General of the Department of Lands, to delay the sale of the land, have been rejected. A review of options to achieve preservation of the land as open space has been undertaken and concludes that purchase of the land is Council's only option.

A review of open space opportunities within the local area highlights the value of this open space and the opportunity for it to continue to satisfy demand for developed open space within this community. The review also highlights that more pressing priorities for the acquisition of open space will be necessary closer to the Pacific Highway corridor. A commitment to purchase this land, in advance of Council's intended Open Space Land Acquisition Study, may prevent the purchase of open space within those areas in the immediate future.

RECOMMENDATION

1. That the Report be received and noted.
2. That a copy of this report be distributed to interested residents.

Steven Head
Director Open Space

Attachment: Map outlining 104 Wellington Road, identified as Lindfield Womens' Bowling Club.

NOTICE OF MOTION

DEVELOPMENT APPLICATIONS FOR TORRENS TITLE SUBDIVISION

Notice of Motion from Councillor T Hall dated 11 May 2005.

I move:

That all development applications proposing Torrens title subdivision be determined by staff under delegated authority, excepting those that are called to full Council by a Councillor.

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Tony Hall
Councillor for St Ives Ward