



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 7 SEPTEMBER 2004 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A

**** ** ***

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 24 August 2004

Minutes numbered 401 to 433

MINUTES FROM THE MAYOR

PETITIONS

REPORTS FROM COMMITTEES

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 **Election Of Deputy Mayor For The 2004/2005 Term** **1**

File: S03662

To elect the Deputy Mayor for the period 2004/2005.

Recommendation:

That Council elect the Deputy Mayor using the ordinary (exhaustive) ballot method.

GB.2 **1b Kalang Avenue, Killara - Detached Dual Occupancy** **3**

File: DA564/03

Ward: Gordon

Applicant: Lynne & Tao De Haas

Owner: Lynne & Tao De Haas

Determination of a DA for construction of a new detached dual occupancy dwelling involving site landscaping, removal of an existing pool/decking and construction of a detached garage accessible from Illeroy Avenue in accordance with SEPP53.

Recommendation:

Approval.

GB.3 154 to 158 Mona Vale Road, St Ives - Lot Consolidation, Demolition Of Existing Structures and Erection of a SEPP (Seniors Living) 2004 Development 68

File: DA0378/04

Ward: St Ives

Applicant: Ross Derham, c/o Glendinning Minto & Associates Pty Ltd

Owner: Mr P M & Mrs J M Blazey, RF & JL Derham and Pymble Golf Club

To determine Development Application 378/04 which seeks consent for the consolidation of 3 lots, the demolition of existing structures and the construction of a Seniors Living development.

Recommendation:

Approval

GB.4 60 Coonanbarra Road, Wahroonga - Option to Renew 135

File: P39835

To advise Council of Kindergarten Union (KU) Children's Services exercising its option to renew the lease for the premises located at 60 Coonanbarra Road, Wahroonga to operate the Wahroonga Pre-school.

Recommendation:

That Council authorise the exercise of the option by KU Children's Services for the premises at 60 Coonanbarra Road, Wahroonga.

GB.5 261 Mona Vale Road, St Ives - Option to Renew Lease 138

File: P52684

To advise Council of St Ives Occasional Care Inc. exercising its option to renew the lease for the premises located at 261 Mona Vale Road, St Ives.

Recommendation:

That Council authorise the exercise of the option by St Ives Occasional Care Inc. for the premises at 261 Mona Vale Road, St Ives.

GB.6 4 Babbage Road, Roseville - Option to Renew Lease 141

File: P33559

To advise Council of Roseville Kids' Care Association exercising its option to renew the licence for the premises located at 4 Babbage Road, Roseville.

Recommendation:

That Council authorise the exercise of the option by Roseville Kids' Care Association for the premises at 4 Babbage Road, Roseville.

GB.7 30 Lofberg Road, West Pymble - Option to Renew Lease 144

File: P64548

To advise Council of Kindergarten Union (KU) Children's Services exercising its option to renew the lease for the premises located at 30 Lofberg Road, West Pymble to operate the West Pymble Pre-school.

Recommendation:

That Council authorise the exercise of the option by KU Children's Services for the premises at 30 Lofberg Road, West Pymble.

GB.8 West Pymble Bowling Club House Site - Five Year Lease With Two Further Five Year Options - 161-163 Ryde Road, West Pymble 147

File: S02710

For Council to consider granting a five year Lease with two further options of five years to the West Pymble Bowling Club Inc located at 161-163 Ryde Road, West Pymble.

Recommendation:

That Council grant a five year lease with two further options of five years to the West Pymble Bowling Club Inc and authorise the Mayor and General Manager to sign the documentation and affix the Common Seal of Council to the Lease, subject to no significant objections being received to the proposal.

GB.9 Nomination For Committees - Parks, Sport & Recreation Reference Group/Bushland, Catchments & Natural Areas Reference Group 162

File: S03447, S03448

To select members from the nominations received for the Parks, Sport & Recreation Reference Group and for the Bushland, Catchments and Natural Areas Reference Group.

Recommendation:

That Committee Members be selected from the nominations received.

GB.10 Heritage Advisory Committee 176

File: S02152

For Councillors to determine a new Chairperson for the Heritage Advisory Committee.

Recommendation:

That Council elect a new Chairperson for the Heritage Advisory Committee.

GB.11 Design Competition

178

File: S02036

This report responds to a Council request to consider the benefit of a Design Competition as part of the planning for Stage 2 Residential Development Strategy centres.

Recommendation:

That Council approach urban design programs at universities to discuss the feasibility of involving students in coming up with urban design solutions for one or more of the commercial centres in Ku-ring-gai.

GB.12 Development Control Plan 56 - Notification

184

File: S03673

To obtain a resolution from Council that a Development Control Plan (DCP) for Notification be prepared.

Recommendation:

That a new DCP for Notification be prepared in accordance with the legislation. That the DCP incorporate a range of notification and advertising provisions appropriate to the different types of development applications received.

GB.13 Telstra/Optus Section 611 Charges

188

File: S02433

For Council to consider advice received from Mr Geoffrey Kennett, Barrister regarding the likely outcome of any federal court action regarding a one off compensation claim by Councils against telecommunications carriers.

Recommendation:

That Council resolved to discontinue any further proceedings against telecommunications carriers in this matter.

GB.14 Stage 2 Residential Development Strategy

File: S02921

To outline proposed approach to the planning of commercial centres and Stage 2 of the Residential Development Strategy.

Recommendation:

That Council resolve to prepare integrated plans for the centres of St Ives, Turramurra, Gordon, Pymble, Roseville and Lindfield and adopt the consultation and timeframe as set out in the plan subject to this being acceptable to the Minister.

NOTE: Report will be circulated separately.

EXTRA REPORTS CIRCULATED AT MEETING**MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN****NM.1 Council Meeting Cycle****194**

File: S02355

Notice of Motion from Councillor G Innes dated 23 August 2004.

I move:

That Council amend its Meeting Cycle to 2 Ordinary meetings per month on the 2nd and 4th Tuesday of each month.

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING REGULATION**QUESTIONS WITHOUT NOTICE****INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS**

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

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

C.1 **48 St Johns Avenue Gordon - Supreme Court Ruling On Drainage Nuisance**
(Section 10A(2)(g) - Advice concerning litigation)

1

File: P59001

Report by Director Technical Services dated 25 August 2004.

Brian Bell
General Manager

**** ** ***

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

Section 79C

1. Matters for consideration - general

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

a. The provisions of:

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

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

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

ELECTION OF DEPUTY MAYOR FOR THE 2004/2005 TERM

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To elect the Deputy Mayor for the period 2004/2005.
BACKGROUND:	Section 231 of the Local Government Act 1993 empowers Council to elect a Deputy Mayor.
COMMENTS:	It is customary in Ku-ring-gai Council elections to use the ordinary (exhaustive) ballot method of voting.
RECOMMENDATION:	That Council elect the Deputy Mayor using the ordinary (exhaustive) ballot method.

PURPOSE OF REPORT

To elect the Deputy Mayor for the period 2004/2005.

BACKGROUND

Section 231 of the Local Government Act 1993 empowers Council to elect a Deputy Mayor. The Deputy Mayor may be elected for the same term as the Mayor or a shorter period.

The Local Government Amendment (Mayoral Elections) Act 2004 has extended the term of the Mayor until September 2005.

Nominations should be in writing to the General Manager, if more than one nomination is received an election will be held.

COMMENTS

It is customary in Ku-ring-gai Council to use the ordinary (exhaustive) ballot method of voting for Mayoral/Deputy Mayoral elections and there would appear to be no reason to depart from this for this election.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

RECOMMENDATION

That Council elect the Deputy Mayor using the ordinary (exhaustive) ballot method.

Geoffrey O'Rourke
SENIOR GOVERNANCE OFFICER

Brian Bell
General Manager

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	1B KALANG AVENUE, KILLARA - DETACHED DUAL OCCUPANCY
WARD:	Gordon
DEVELOPMENT APPLICATION N^o:	564/03
SUBJECT LAND:	1B Kalang Avenue, Killara
APPLICANT:	Lynne & Tao De Haas
OWNER:	Lynne & Tao De Haas
DESIGNER:	Australian Construction Partners Pty Ltd
PRESENT USE:	Residential
ZONING:	Residential 2(b)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	KPSO, Dual Occupancy Development Control Code, Development Control Plan No 43 - Car Parking, Development Control Plan No 40 - Waste Management, Section 94 Contributions Plan
COMPLIANCE WITH CODES/POLICIES:	No – minor building envelope variation, garage located within front setback excavation exceeds 900mm, unauthorised structure (carport).
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy No 53 – Metropolitan Residential Development, State Environmental Planning Policy No 19 – Bushland on Urban Areas, State Environmental Planning Policy No 55 – Remediation of Land
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	13 May 2003
40 DAY PERIOD EXPIRED:	22 June 2003
PROPOSAL:	Detached dual occupancy
RECOMMENDATION:	Approval.

Item 2

DEVELOPMENT APPLICATION N^o	564/03
PREMISES:	1B KALANG AVENUE, KILLARA
PROPOSAL:	DETACHED DUAL OCCUPANCY
APPLICANT:	LYNNE & TAO DE HAAS
OWNER:	LYNNE & TAO DE HAAS
DESIGNER	AUSTRALIAN CONSTRUCTION PARTNERS PTY LTD

PURPOSE FOR REPORT

Determination of a DA for construction of a new detached dual occupancy dwelling involving site landscaping, removal of an existing pool/decking and construction of a detached garage accessible from Illeroy Avenue in accordance with SEPP53.

EXECUTIVE SUMMARY

Issues:

- Prior to the Minister's Gazettal of LEP 139 on 18 June 2004 to amend the zoning of Lot 11 DP 619620 from 6(a) Recreation Existing to Residential 2(b) as the proposed development was prohibited as a minor portion of the existing carport encroached upon the 6(a) Recreation Existing zone.
- The existing carport is an unauthorised structure.
- Minor variation to building envelope, front setback and excavation controls as prescribed in Council's Dual Occupancy Development Control Code.

Submissions: Four (4) submissions were received.

Land & Environment Court Appeal: N/A

Recommendation: Approval.

HISTORY

Property History:

Council in consideration a previous development application (DA 836/01) for a detached dual occupancy in the same area of the site refused development consent on 19 March 2002. A subsequent appeal to the Land & Environment Court was dismissed on the basis that the proposed

Item 2

development was excessive in visual bulk, height and inconsistent with the surrounding residential character.

Other approvals for alterations and additions and a swimming pool have been issued by Council for this site.

A portion of the existing carport encroaches over Lot 11 DP 619620 which was previously zoned 6(a) Recreation Existing prohibited dual occupancy development. Perusal of Council's records indicates that no approval has been granted for this structure, which appears to have been in existence for at least 10 years.

The Department of Infrastructure, Planning and Natural Resources forwarded Draft Local Environmental Plan No. 139 to the Minister to rezone Lot 11 DP 619620 from 6(a) Recreation Existing to 2(b) Residential 'B'. The Department advised in correspondence, dated 28 April 2004 that it would not be raising any objection to the draft plan being made and subsequently, LEP 139 was gazetted on 18 June 2004.

The current development application was lodged on 13 May 2003 and in comparison to the previously refused application, achieves a significant reduction in building bulk, improves site utilisation and reduces impacts to both the natural and built environment.

Development Application History:

- Building Application No. 88/1677 for alterations and additions approved by Council 10 October 1988. The existing carport which encroaches upon Lot 11 DP 619620 is noted on the development plans as 'existing', in the above application, yet there is no evidence on Council's records of any development consent pertaining to this structure.
- Building Application No. 88/01849 for a swimming pool approved 7 October 1988.
- Development Application No. 836/01 for a two storey dwelling creating a detached dual occupancy refused by Council on 19 March 2002.
- Land & Environment Court Appeal No. 10069/02 dismissed on 8 August 2002 by Commissioner Brown, having regard to Clause 32(h) of SEPP 53 relating to visual bulk, amenity and residential character. Commissioner Brown provided that these characteristics should be maintained where practicable and building heights of comparable buildings were desirable. In the Court's view, the above issue was a fundamental problem which could not be addressed by landscaping and, consequently, the previous development proposal did not have adequate regard to the visual bulk principles prescribed by Clause 32 of SEPP 53. Development Application No. 1233/01 for Torrens Title subdivision of the site was withdrawn on 20 August 2002.
- Development Application No. 564/03 lodged on 13 May 2003 for a detached dual occupancy under the provisions of SEPP 53 and is the subject of this report. At the request of the applicant, a planning consultant was requested to write the report as a result of the past appeal.

THE SITE

Zoning: Residential 2(b)

Item 2

Visual Character Study Category:	Post 1968
Lot Number:	52/11
DP Number:	17647/619620
Area:	1080.16m ² & 217m ² (access handle): 1297.16m ²
Side of Street:	Northern side of Kalang Avenue and southern side of Illeroy Avenue
Cross Fall:	South-east to-north-west
Stormwater Drainage:	To Illeroy Avenue
Heritage Affected:	No
Required Setback:	12.0 metres
Integrated Development:	Yes – within 40 metres of a waterway
Bush Fire Prone Land:	Yes – Bushfire Prone Vegetation Buffer 100m/30m
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No
Section 94 Contribution:	Yes

SITE DESCRIPTION

The subject site comprises Lot 52 DP 17647 and Lot 11 DP 619620 and is known as No. 1B Kalang Avenue, Killara.

The site is located at the northern end of the Kalang Avenue cul-de-sac adjoining Quarry Masons Forest between Illeroy Avenue and Kalang Avenue, Killara.

The subject site is predominantly rectangular in shape, having a 15.56 metres frontage to Illeroy Avenue and a site area of 1,080.16m² excluding the 217m² access handle from Kalang Avenue known as Lot 11 DP 619620. The property falls from the eastern corner (near Kalang Avenue) to the north-western boundary adjacent to Illeroy Avenue, with a fall of approximately 21.5 metres over the length of the site. Vehicular access is currently provided via Lot 11 DP 619620 to Kalang Avenue.

The subject site contains a two storey rendered brick dwelling, carport, garage and swimming pool with associated decking. A prominent rock ledge is located in the centre of the site. The existing carport encroaches upon Lot 11 DP 619620. Existing mature trees and shrubs are located on the site including a large *Eucalyptus palularis smith* (Black Butt) near the Illeroy Avenue frontage of the site. In addition, a stone wall is located along the length of the Illeroy Avenue frontage of the site.

The locality consists of single storey and two storey, split level dwellings generally built post-1968 and the established subdivision pattern features allotments of various sizes, including subdivided dual occupancy developments.

The adjoining dwelling to the east at No. 47 Illeroy Avenue is a two storey rendered brick dwelling with garage parking within the front setback area. No. 41 Illeroy Avenue is a rendered brick and sandstone cottage located to the west of the subject site.

THE PROPOSAL

Item 2

The proposal is to erect a two storey, split level, two bedroom dwelling in place of the existing swimming pool and decking as a detached dual occupancy in association with the existing house. The new dwelling will front Illeroy Avenue, with access to a double garage.

The proposed ground floor will be split level and contains a family room, kitchen, lounge, second bedroom and bathroom/laundry. The first floor will contain a main bedroom with a built-in robe and ensuite. Small Juliette balconies are proposed on the northern facade of the building on the first floor overlooking Illeroy Avenue, with a deck accessible from the ground floor family room. Open space is provided to the rear of the ground floor.

The proposed dwelling is to be constructed in double brick at the ground floor with the first floor to be timber construction with blue board and matching wall render. It is proposed to retain the existing rock face and remove numerous species of vegetation. The proposal incorporates an eastern side boundary setback to the detached garage of 1.5 metres, a western side boundary setback to the proposed new dwelling of 2 metres, a front boundary setback to Illeroy Avenue of 12 metres (except garage) and a side boundary (eastern) setback to the proposed new dwelling of 1.5 metres. Separation between the existing and proposed dwellings is approximately 9 metres and variable.

The existing stone wall adjacent to Illeroy Avenue is proposed to be reconstructed to facilitate the proposed new dwelling and double garage. The proposal seeks to retain significant vegetation, including the *Eucalyptus pilularis* tree on the Illeroy Avenue frontage. The existing dwelling will remain substantially unchanged by this proposal, excepting that its existing pool and decking will be demolished.

CONSULTATION - COMMUNITY

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

In response submissions from the following were received:

1. R Peacock, 8 Illeroy Avenue, Killara
2. M White, 47 Illeroy Avenue, Killara
3. P Williams, 40 Bimbarra Avenue, St Ives
4. K Williams, 40 Bimbarra Avenue, St Ives

The objections raised the following issues:

Large Eucalyptus pilularis smith (Black Butt) tree needs protection during construction.

A condition requiring protection of the Blackbutt during the construction phase has been recommended. In addition, Council's Landscape Development Officer has identified the significance of the *Eucalyptus pilularis* (Blackbutt) tree and recommended a cash bond/bank guarantee of \$5,000 to ensure that the tree remains undamaged. (**Refer Condition No.57**).

Item 2

Concern is raised with respect to the level of rock excavation and the need for a geotechnical report.

The architectural plans and documentation submitted to Council illustrate that the proposed split level dwelling will substantially retain the existing rock shelf. The floor level of the dwelling will be close to the existing surface level requiring a maximum excavation depth of 1m in the south-eastern corner.. The construction of the garage will require an excavation of 2m to 3m. A geotechnical report by Douglas Partners has been submitted by the applicant, which verifies that the impact on the existing rock shelf is within the limits of acceptability.

It is unclear why this new development application is being considered by Council given the previous application was rejected by Council and the Land & Environment Court and it seems apparent that removal of hard paving for the existing dwelling is necessary to comply with Council's site cover requirements. The proposal will further degrade the amenity of the neighbourhood and reduce privacy and enjoyment of surrounding residents and concern is raised with respect to the increased quantity of surface water given that the soil will not be able to absorb the increased flow.

Council consideration of development application

Council's refusal and subsequent defence of its decision in the Land & Environment Court has been addressed in the Background & History sections of this report. The current proposal is considered to be a substantial improvement on the previous application.

Site absorption

On-site detention is proposed to harness stormwater runoff from the site prior to entering Council's stormwater drainage system. Conditions of consent are recommended to ensure that both the proposed and existing dwellings are serviced by an appropriate on-site detention system. (**Refer Conditions 67 to 71, 76, 77, 80 and 82**)

Amenity and privacy

The proposed two storey, split-level, 2-bedroom dwelling will not create a significant adverse impact on the amenity of the neighbourhood partly due to the existence of mature vegetation and proposed landscaping which is able to screen the proposed dwelling. The location of proposed windows and living areas will ensure that the proposal will not significantly compromise the privacy and general amenity of surrounding residents.

Site cover

The Built Upon Area (BUA)/site cover of the proposed development at 51.7% complies with the maximum limits specified in the KPSO (60%). The proposal exceeds the maximum BUA limits specified in the Dual Occupancy Development Control Code (40%). The notional BUA for each dwelling in the event of a future subdivision is 50% for Dwelling 1 and 54.7% for Dwelling 2. A future subdivision would provide notional BUA's for both lots that complies with DCP 38 – The Ku-ring-gai Residential Design Manual.

Item 2

Council's indemnity is requested to ensure that development will not cause failure of any future retaining wall.

The proposed dwelling will be mounted on solid foundations in accordance with the relevant Australian Standards and criteria prescribed by the Building Code of Australia and, therefore, will not be solely reliant upon any retaining wall for the purposes of supporting the structural integrity of this development.

Notwithstanding, Douglas Partners have identified that excavation equipment will result in vibration of the surrounding ground which may be transmitted to nearby structures or services. Accordingly, an appropriate condition of consent is recommended to ensure that vibration levels are maintained within acceptable limits. **(Refer to condition 13).**

A dilapidation report is also recommended prior to the issue of a Construction Certificate. **(Refer to condition 113).**

Concern is raised with respect to the accuracy of calculations for floorspace ratio, site cover, landscaping, etc, and the level of paving proposed to the north of the existing dwelling.

The floor space ratio, height, site cover, landscaping and other calculations have been independently checked during the assessment of this application. Levels of paving to the north of the existing decking are considered appropriate in the context of this development.

Shadow diagrams have not been included with this application.

The architectural plans by Australian Construction Partners Pty Ltd include shadow diagrams (DWG No. 020315-A) which indicate that the proposed dwelling will not excessively overshadow adjoining development during the hours of 9am to 3pm during the winter solstice (June 22).

Insufficient landscaping detail has been provided and should include treatment of the area between the existing residence and the right of carriageway.

A landscape plan by Wallman Partners Pty Ltd and arboricultural report by Footprint Green have been submitted with the development application and supported by Council's Landscape Development Officer. There are no changes proposed to the existing dwelling (apart from the demolition of the pool at the rear) and the area between the dwelling and the right of carriageway, and as such the existing streetscape is to remain. Further landscape treatment of this area would be unreasonable as established gardens exist.

Encroachment of the southern corner of the existing carport over land zoned for recreation purposes is considered to be illegal and a non-permissible use.

The existing carport does encroach over the boundary of Lot 52 DP 17647 into Lot 11, DP 619620 which provides access to the existing dwelling from Kalang Avenue. LEP No. 139 was gazetted by the Minister, Department of Infrastructure, Planning & Natural Resources, on 18 June 2004 which amended the zoning of Lot 11, DP 619620 from 6(a) Recreation Existing, to 2(b) Residential 'B'.

Item 2

Lot 11, DP 619620 is now zoned 2(b) Residential 'B' and the applicant has applied for a Building Certificate to address the absence of development approval for the existing carport.

The proposed dwelling fails to comply with the building envelope standard and setback to Illeroy Avenue frontage and the height of the upper level ceiling exceeds the permissible standard, which may prompt the need for a SEPP 1 objection.

The proposed dwelling marginally exceeds the building envelope control as prescribed in the Dual Occupancy Development Control Code. However, the front setback to Illeroy Avenue complies (with the exception of the proposed garage). The height of the upper level ceiling acceptable having regard to the slope of the site. The proposed development complies with standards contained within the Ku-ring-gai Planning Scheme Ordinance, and therefore, objections under State Environmental Planning Policy No. 1 are not required.

The proposed development fails to maintain or improve the existing amenity and environmental character of the residential zone and as such, is contrary to Schedule 9 of Ku-ring-gai Planning Scheme Ordinance.

The proposed dual occupancy will involve construction of a two storey, split level, 2-bedroom dwelling and is considered to be reasonable in terms of its impact on the existing amenity and environmental character of the surrounding locality.

The proposed development does not conflict with the aims and objectives for residential zones contained within Schedule 9 of Ku-ring-gai Planning Scheme Ordinance.

CONSULTATION - WITHIN COUNCIL

Heritage/Urban Design

Council's Heritage Advisor has made the following comment on the application:

"I accept the comments provided by the applicant. This is obviously a difficult site but the streetscape is not highly sensitive so the proposal is acceptable in terms of its apparent height. Extensive landscaping in the front yard will screen the home of view in any case."

Comment

A combination of existing and proposed landscaping will screen the dwelling. Two *Eucalyptus saligna* (that have the ability to attain a maximum height of 20) in association with a planting schedule that includes trees and shrubs of height capacities between 4m to 8m are to be planted in front the proposed dwelling. An existing Eucalypt with a canopy spread of approximately 13m is sited at the front of the property and will provide screening of the proposed dwelling.

Landscaping

Council's Landscape and Tree Assessment Officer commented as follows:

“Revised plans have been received and can be supported.

The Site

It is proposed to construct a detached dual occupancy on the existing allotment of 1075.00sqm, with vehicular access gained from Illeroy Ave (lot 521) and Kalang Ave (Lot 522). The Illeroy Ave site is characterised by an established tree canopy of both exotic and native indigenous trees. The understorey planting consists of exotic shrubs and weed species. There is a large natural rock outcropping located adjacent to the north/east site boundary below the existing swimming pool. A two storey brick dwelling is located towards the Kalang Avenue (Lot 522) frontage with an elevated concrete swimming pool located towards the centre of the site.

Impact on trees

The proposed Dual Occupancy proposes to remove a number of trees on site plus an additional two on the nature strip. The most prominent/significant tree is a Eucalyptus pilularis (Blackbutt) located on the nature strip adjacent to the neighbouring property is to be retained. The existing trees on site consist primarily of indigenous species of Bloodwoods which are in moderate condition. These trees have little individual significance, however they do contribute to a continuous interconnecting tree canopy that strongly characterises the streetscape character.

Impacts upon streetscape character

The general streetscape character of this section of Illeroy Ave is that of established trees and a bushland setting. Existing houses are located within established gardens primarily on the upper (higher) side. The lower side is characterised by bushland and a creek line undergoing bushland regeneration.

A distinguishing feature immediately adjacent to the site is the dry stone retaining wall. The proposed driveway crossover, pathway and garage approximately 11.0m of this retaining wall will be removed and partly reconstructed.

As quoted in Council’s Visual Character Study, Illeroy Ave is noted as being a special landscape including features such as;

‘Car accommodation mostly not visible from the street and located to the side or rear of the residence’ and

Open space all around buildings with generous setbacks well in excess of the minimum setbacks from boundaries.’

It is noted that the proposed development does not comply with both these visual qualities, primarily due to the proposed double garage located on the Illeroy Ave site boundary further impacting upon the visual amenity of the streetscape character. It is noted that the garage on the neighbouring property is located in much the same way as the proposed garage.”

Comment

Appropriate conditions of consent are recommended. **(Refer to Condition 56 and 57).**

Item 2

The slope of the site restricts full compliance with the visual qualities of Council's Visual Character study. However, having regard to the existing surrounding development, the proposed garage is acceptable within the context of the surrounding streetscape and site constraints. In particular given the slope of the site and the rock platform, it is impractical to site car parking anywhere else but at the boundary of the site. Otherwise, excessive amounts of excavation will be required and the natural topography of the site unreasonably altered. The provision of a garage at the front boundary is consistent with the garage locations on adjoining properties in Illeroy Avenue. The garages have been constructed into the slope of the sites so as to reduce their prominence. The proposed garage at 1B Kalang will incorporate landscaping as part of the roof area. The location of the garage within the front setback is reasonable in the circumstances of the proposal.

Engineering

Council's Engineering Assessment Officer commented as follows:

"The development is for a dual occupancy development. The existing dwelling is to be retained and one new dwelling is to be constructed as a detached dual occupancy.

The land drains to the street with the increased stormwater runoff being dealt with by the construction of a stormwater detention system for both the new dwelling and the existing dwelling.

The applicant will be conditioned to provide a first flush water quality treatment system as per Council's normal procedure.

The existing public road will adequately handle the increase in traffic resulting from the development.

There are no engineering objections to the proposal. The engineering works to be constructed in relation to this development are:

- 1. On-site detention for the existing dwelling and the new dwelling.*
- 2. Drainage from the development to be connected to the street system.*
- 3. Interallotment drainage line.*
- 4. First flush stormwater system."*

Comment

Appropriate conditions addressing stormwater management have been recommended. (**Refer to Condition 67 to 71, 76, 77, 80 and 82**)

CONSULTATION – OUTSIDE COUNCIL

Rural Fire Service

The subject site is located within the 100 metres and 30 metres bushfire prone vegetation buffer and, accordingly, concurrence was sought from the NSW Rural Fire Service in accordance with Section 79BA of the Environmental Planning and Assessment Act, 1979.

Item 2

Correspondence received by Council on 24 June 2003 indicated that, *“having considered the proposal, the NSW Rural Fire Service raises no concerns or special considerations in relation to bushfire matters”*.

PROVISIONS OF RELEVANT LEGISLATION

The Environmental Planning & Assessment Amendment Act 1979 - Section 79C

1. Environmental Planning Instruments

State Environmental Planning Policy No. 53

Clauses 16, 17 & 18 of SEPP No. 53 permit with Council's consent the creation of a dual occupancy development, provided a dwelling house is permitted to be erected on the allotment of land under another environmental planning instrument. Ku-ring-gai's Planning Scheme Ordinance permits dwelling houses in the 2(b) Residential 'B' zone, and the proposed dual occupancy is therefore permissible development subject to Council's consent.

Clauses 19 & 20 specify standards that must be complied with. A summary of compliance is as follows:

COMPLIANCE TABLE		
Development Standards	Proposals Numeric Compliance	Complies
Allotment Size (cl.19(1)(a)) • 600m ² detached dual occ.	1,080.16m ² (excluding Lot 11 DP 619620)	YES
Floor Space Ratio (cl.19(1)(b)) • 0.5:1 (max)	FSR 0.35:1	YES
Car Parking (cl.20) • 2 car spaces – existing dwelling • 2 car spaces – proposed dwelling	2 car spaces 2 car spaces	YES YES

The proposed development complies with the minimum allotment size, FSR and car parking requirements of SEPP 53 as noted in the above table.

The following section discusses the primary objectives of the SEPP, that being to create opportunities for dual occupancy development that has a full understanding of the opportunities and constraints of each site and has been designed having regard to the following principles: streetscape; visual & acoustic privacy; solar access & design for climate; stormwater; crime prevention; accessibility; waste management; & visual bulk:

Site Analysis (cl.31)

Item 2

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

Design of Residential Development (cl.32)

(i) Streetscape (cl.32(a))

Council's Heritage advisor feels that the proposal is acceptable in terms of its contribution to the Kalang Avenue/Illerooy Avenue streetscape, given the mixture of both single and two-storey housing development with varied architectural styles and materials.

The proposal is a significant improvement in terms of compatibility with the existing residential streetscape of Illerooy Avenue when compared with the previous development application refused by Ku-ring-gai Council and the Land & Environment Court. This is largely due to a reduction in bulk and scale and an increased front setback.

The proposal's character and identity will assist with the creation of an attractive residential environment and will not create an adverse impact on nearby items of heritage significance.

The proposed garage on Illerooy Avenue is located within the front setback and requires site excavation. Despite not achieving full compliance with Council's Dual Occupancy Development Control Code, the proposed garage is able to integrate into the streetscape character of Illerooy Avenue, given the presence of similar garages within close proximity to the site. The location of garages forward of the building line in Illerooy Avenue has occurred as a result of the slope and geology of the individual sites. It is impractical to locate the garage with a greater setback as extensive cutting of the site which includes large portions of rock would be involved. The appearance of the garage door on Illerooy Avenue will have less impact than a mass cut of the site and the provision of a long driveway to meet the garage. The extent of landscaping will be reduced if such a cut was imposed. The proposed garage will result in an acceptable impact on the streetscape of Illerooy Avenue and will provide for safe, efficient parking and access to address Council's requirements, with an acceptable impact on the natural environment.

(ii) Visual & acoustic privacy (cl.32(b))

The proposed dwelling is well separated from the adjoining dwelling to the west at No. 41 Illerooy Avenue and the adjoining dwelling at No. 47 Illerooy Avenue. Internally, the two main buildings will be separated by a distance of approximately 9 metres, minimising any potential privacy impacts between the dwellings.

The proposed dwelling is approximately 7.2 metres from the southern boundary shared with the existing dwelling and screen planting to a height of 3m and 4m is proposed along the southern boundary of the site as indicated on the landscape plan (DWG No. L2). The combination of the proposed side setbacks, the topography of the land and the use of the first floor, being limited to the main bedroom and ensuite, result in the proposal having acceptable visual and acoustic privacy impacts on neighbouring development.

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

The design of the proposed dwelling seeks to maximise access to the northerly aspect, being the Illeroy Avenue frontage. Adequate solar access to the proposed dwelling is achieved and the new dwelling will have no overshadowing impact on the existing dwelling which will be retained on the site located upslope from the proposed dwelling.

The primary private open space is proposed off the southern part of the site, accessible from the ground level and will receive predominantly early morning and late afternoon sunlight.

As previously discussed and indicated on the shadow diagrams (DWG No. 020315-A), the degree of overshadowing to the neighbouring properties is not significant, with the expected shadow effect being generally well within the boundary of the subject site, with the exception of the 9am shadow which falls onto the adjoining property but does not affect the adjoining dwelling at No. 41 Illeroy Avenue. The degree of resultant solar access would comply with AMCORD guidelines.

(iv) Stormwater (cl.32(d))

Council's Engineers have commented on the proposed development indicating that the proposed method of stormwater disposal to existing infrastructure in Illeroy Avenue is satisfactory, subject to appropriate conditions of development consent included in the recommendation of this report. **(Refer to condition no's 67 to 71, 76, 77, 80 and 82)**

(v) Crime prevention (cl.32(e))

The proposal offers adequate opportunities to observe people approaching the front door of the dwellings. Observation of the street is also possible from some rooms.

(vi) Accessibility (cl.32(f))

The proposed dual occupancy development will occupy a sloping site with a topography that is not conducive to providing unrestricted access for differently abled persons. However, in its context as a dual occupancy development, access to the development is considered acceptable.

(vii) Waste management (cl.32(g))

The proposed development can be provided with standard waste management facilities in accordance with Council's requirements that will maximise recycling. An appropriate condition of development consent recommended of this report. **(Refer to Condition 54)**

(viii) Visual bulk (cl.32(h))

Item 2

The revised design presents a substantial reduction in bulk and scale when compared with previous development application and is acceptable in the context of the existing residential streetscape and the relationship of the proposal to the existing dwelling on the site. When viewed from Illeroy Avenue, adequate spatial and visual separation is achieved between the proposed dwelling and buildings positioned on either side of the subject site. The second storey/split level is designed to minimise the apparent bulk of the dwelling and where possible, follow the sloping topography of the site whilst minimising the visual bulk of the building when viewed from surrounding properties.

Adequate articulation has been provided through stepping the first floor back from the side and rear boundaries, providing variations to elevations and articulation through wall relief and the roof form. The proposed dwelling will be screened from the public domain by existing and proposed landscaping, and the finished floor levels of the dwelling are not set excessively high above natural ground level.

State Environmental Planning Policy No. 19 – Bushland in Urban Areas

Clause 9 of State Environmental Planning Policy No. 19 applies to land adjoining land zoned or reserved for public open space. The subject site adjoins Quarry Masons Forest and, accordingly, Clause 9(2)(b) applies as follows:

- 9(2)(b) *Where a public authority proposes to grant approval for development consent in relation to development on land to which this clause applies, the public authority shall not carry out that development or grant the approval or development consent unless it has taken into account:*
- (c) a need to retain any bushland on the land,*
 - (d) the effect of the proposed development on bushland zoned or reserved for public open spaces, and in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland; and*
 - (e) any other matters which in the opinion of the approving or consent authority are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

Council's Landscape Development Officer has reviewed the proposal including the proposed landscape plans and subsequent removal and retention of species on the subject site and has raised no objection.

Significant, mature species of vegetation are to be retained and the proposed development is anticipated to have minimal effect on the adjoining bushland zoned 6(a) Recreation Existing, having regard to the potential for soil erosion, siltation and deposition and the spread of weeds and exotic plants into Quarry Masons Forest. Moreover, the proposed development involves the construction of a new dwelling to create a detached dual occupancy and the majority of construction works will occur adjoining Illeroy Avenue, which is further removed from Quarry Masons Forest than the existing dwelling accessible from Kalang Avenue.

Item 2

Consequently, the proposal is considered satisfactory having regard to clause 9 of State Environmental Planning Policy No. 19.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

There is no clear evidence to suggest that the site is contaminated nor is there evidence available to link the site to contaminating activities. In the opinion of Don Fox Planning Pty Ltd, based on the available information in relation to the site, it would be unreasonable for Council to require the applicant to have a contamination assessment prepared in the absence of clear evidence indicating that the site is at risk of being contaminated.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

The Ku-ring-gai Planning Scheme Ordinance contains little in the way of specific controls in relation to dual occupancy developments. However, the proposed development is considered to have satisfied the relevant aims and objectives for residential development as outlined in Schedule 9.

The subject site is zoned 2(b) Residential 'B' and the erection of dwelling houses is permissible under this zoning, subject to development consent. A portion of the subject site known as Lot 11 DP 619620 was formerly zoned 6(a) Recreation Existing, and has now been rezoned 2(b) Residential 'B' pursuant to the Minister's gazettal of LEP 139 on 18 June 2004.

As noted above, the aims and objectives for residential zones as contained within Schedule 9 of the Ku-ring-gai Planning Scheme Ordinance are applicable to this development proposal. The proposal has been designed to have a sympathetic relationship with the adjoining development, maintain a reasonable level of sunlight to adjoining properties, minimise overlooking and provide for tree replacement in accordance with Council's policy and the objectives of Schedule 9 of the Ku-ring-gai Planning Scheme Ordinance.

The proposal does not provide reasonable space on the site for the forward entrance and exit of vehicles, however, given the steep slope of the site, this would not be practicable and refusal of the application on this basis would prevent further reasonable development on this site from achieving the objects of the Environmental Planning & Assessment Act 1979.

COMPLIANCE TABLE		
Development Standard	Proposals Numeric Compliance	Complies
Site Area: (m ²)	1080.16m ²	YES
Building Height 8m (max)	6.5m	YES
Built-Upon Areas 60% (max)	51.7%	YES
As a percentage of lots created as a future subdivision	Dwelling 1 – 50%	YES
	Dwelling 2 – 54.7%	YES

The following is a detailed assessment of the proposal in relation to the above relevant matters:

Item 2

Height of Buildings (cl.46)

Clause 46(1) specifies a maximum height of 8 metres. The proposal complies with this control, with a height of 6.5 metres to the uppermost ceiling.

Built-Upon Areas (cl.60C)

Clause 60C(2) of the KPSO applies a maximum built upon area of 60% for dwelling houses. The proposal complies with this requirement. In the event of a future subdivision, the BUA will comply for each lot created.

Development Control Plan 40 – Waste Management

The site is of a sufficient size to accommodate waste storage and recycling facilities associated with the proposed use. In regard to the waste generated from the demolition works and construction activities, an appropriate condition is included in the recommendation.
(Refer to Condition 54)

Development Control Plan No. 43 – Car Parking

COMPLIANCE TABLE		
Development Controls	Proposals Numeric Compliance	Complies
Car Parking (cl.20) • 4 car spaces	4 car spaces	YES

Both dwellings exceed 125m² and, therefore, a minimum of 4 car spaces is required. The existing dwelling will maintain its existing parking provision of a garage/carport and the new dwelling is provided with a double garage accessible from Illeroy Avenue. The proposal therefore meets the parking provision and design element requirements of Development Control Plan No. 43.

Council's Dual Occupancy Development Control Code

Council's Policy for Dual Occupancy development applies to all applications undetermined by Council as at 16 April 2003. The policy does not have savings provisions and is not formally recognised as a Development Control Plan but functions as a design code. The weight given to the provisions of this policy is limited as the provisions of SEPP No. 53 prevail to the extent of any inconsistency between the SEPP and any other planning instrument.

The Policy sets out standards for dual occupancy development as detailed below:

Section 4: Planning Controls – Elements of Good Design		
4.2 Streetscape:		
Architectural Design		

Item 2

<ul style="list-style-type: none"> Reinforce existing streetscape character, roof forms, building height, colour, material, etc 	New dwelling will have a direct frontage to Illeroy Avenue	YES
Roof Pitch <ul style="list-style-type: none"> 3m max roof height-2 storey Roof pitch 35⁰ (max) 	Split-level design minimises bulk and overshadowing, but exceeds 3m 30 ⁰ /22.5 ⁰ roof pitch	NO YES
Fences <ul style="list-style-type: none"> Height:900mm (solid fence) 	No fencing proposed	YES
4.4 Solar Access and Design for Climate:		
Solar Access <ul style="list-style-type: none"> Dual Occupancy receive 3+ hours of solar access between 9am and 3pm Neighbouring properties receive 3+ hours of solar access between 9am and 3pm 	Greater than 3 hours Greater than 3 hours	YES YES
Energy Efficiency <ul style="list-style-type: none"> 3.5 NatHERS Rating 	Required by condition	YES
4.7 Accessibility:		
Vehicular Access and Car Parking <ul style="list-style-type: none"> Comply with SEPP 53 Carport – 2.7m x 5.4m Garage – 3.1m x 5.4m 	Refer consideration under SEPP 53 No No	YES Existing NO
4.9 Visual Bulk:		
Building Setbacks <ul style="list-style-type: none"> Front Building Line- 75% (average setback): 12m 25% (min setback) Setbacks between dual occ -7m or 5m (50% of building) Side Setback: Rear: Min 3m from all boundaries 	Garage on Illeroy Avenue located within the front setback 7m 1.5/2m	NO YES NO
Building Form <ul style="list-style-type: none"> Unrelieved Wall Length: 12m (max) Total Building Length: 24m (max) 	No walls exceed 12 metres without articulation <24m	YES YES

Item 2

Built-upon Area <ul style="list-style-type: none"> Built upon Area (max): 40% 	39% Notional BUA for each dwelling Dwelling 1 – 50% Dwelling 2 – 54.7%	YES NO NO
Floor Space Ratio <ul style="list-style-type: none"> FSR (max): 0.5:1 1st floor – 40% 	0.35:1 1 st floor <40% - split-level design	YES YES
Height of Buildings <ul style="list-style-type: none"> Height for dwelling fronting Illeroy Avenue Building Envelope: 45⁰ from horizontal at any point 3m above boundary 	6.5m from NGL to uppermost ceiling. 800mm encroachment on western side.	YES NO
Cut and Fill (Building Works) (i) Design Controls <ul style="list-style-type: none"> Cut & Fill: 900mm & Total 1800mm 	3.5m for garage.	NO
Section 5: Landscaping & Open Space		
Landscaping Design <ul style="list-style-type: none"> Soft Landscaping : 60% 	60%	YES
Tree Retention and Refurbishment <ul style="list-style-type: none"> No. of Trees:7 	Tree protection measures to be installed. All significant trees to be retained	YES
Cut & Fill (Landscaping) <ul style="list-style-type: none"> Cut & Fill: 900mm & Total 1800mm 	1200mm	YES
Open Space Provisions <ul style="list-style-type: none"> Area: 100m² or 2 x 75m² areas 50% receives 3+ hours solar access 	Dwelling 1 – 136.5m ² Dwelling 2 – 97.23m ² Open space at rear of proposed dwelling on southern side	YES NO NO

The following is a detailed discussion of the abovementioned non-compliances and other matters for consideration under the Code:

Visual character

The proposal will integrate into the predominant residential character of the area.

Architectural design

Item 2

The proposed building is split level, max. 2 storeys and is located 12m from Illeroy Avenue with no significant adverse impact on Illeroy Avenue and Kalang Avenue streetscape.

Roof pitch

The proposed height of the new dwelling complies with the Ku-ring-gai Planning Scheme Ordinance and State Environmental Planning Policy No. 53.

Fences

No fences are proposed. The existing stone wall is to be reconstructed around new garage on Illeroy Avenue.

Visual privacy

There are no significant visual privacy issues.

Acoustic privacy

Potential noise transmission is acceptable.

Solar access

Solar access within the proposed dwelling is acceptable and complies with Council's Code and AMCORD guidelines. The rear private open space area is located to the south of the proposed dwelling and its position on the site is otherwise constrained by slope and vegetation.

Energy efficiency

A condition is recommended to include thermal insulation of roof, walls and ceiling. (**Refer condition No.116**).

Preservation of water courses and drainage systems

The site is not within a 100 year flood or a riparian zone.

Stormwater disposal

Council's Development Engineer is satisfied with the proposed stormwater disposal arrangements, subject to conditions. (**Refer to Conditions Nos 67 to 71, 76, 77, 80 and 82**).

On-site detention

OSD is required by condition for both the existing and proposed dwelling. (**Refer to Conditions Nos 67 to 71, 76, 77, 80 and 82**).

Rainwater Tanks

Not proposed. The installation of rainwater tanks is not mandatory.

Site and building design/landscaping

Observation of the street is considered satisfactory. Other requirements can be met.

Waste storage facilities

There is appropriate space on site for Council's garbage and recycling containers. Access to kerbside collection is available to both dwellings. Dwelling 1 has access to Kalang Avenue, Dwelling 2 has access to Illeroy Avenue for collection.

Building setbacks

The existing dwelling (dwelling 1) has side setbacks of 1m The Dual Occupancy Development Control Code requires a minimum side setback 2m. There are to be no alterations to the existing dwelling and the existing reduced setback will not impact on the new dwelling or neighbouring properties.

The proposed dwelling (dwelling 2) will have side setbacks of 1.5m (north-eastern boundary) and 2m (north-western boundary). The Dual Occupancy Control Development Code requires rear detached dual occupancies to have minimum setbacks to all boundaries of 3m. Although a rear detached dual occupancy, the dwelling will front and have access from Illeroy Avenue. The 1.5m side setback is satisfactory as it will not cause overshadowing to 47 Illeroy as it faces north - east and won't impact on privacy levels of 47 Illeroy as only a bathroom window will be located along this side.

The garage to dwelling 2 will be located forward of the required setback of 12m and building line. The positioning of the garage further from the from boundary would result in a greater excavation of the site, reducing the landscape potential of the site to provide for a longer driveway. The proposed location of the garage will enable it to form part of the slope and permit landscaping of the roof to reduce its appearance from Illeroy Avenue.

Building form

A minor portion of the roof form on the western side of the northern elevation encroaches beyond the permissible building envelope. However, the proposed departure from Council's standards can be supported on the basis that the variation is minor and allows for a roof form that complements the design of the proposed dwelling and surrounding development. Furthermore, the first floor is stepped from the ground floor level and the proposed development is not excessive in bulk and scale.

Cut and fill (Building Works)

The proposed garage requires approximately 3 metres excavation and, having regard to the slope of the site and the requirement for car parking provision to address Council's parking requirements, the proposed excavation is considered acceptable on the basis that the proposed parking provision is consistent with surrounding development and will not result in a significant detrimental impact on the natural environment and topography of the land.

Views:

The proposed development does not compromise any significant views afforded to any of the surrounding properties.

Open space provisions:

The open space provided for the proposed development at the rear of the site of some 97m² will adequately service future occupants of the building and offer reasonable amenity. In addition, a large deck is provided which overlooks Illeroy Avenue on the northern side of the dwelling.

The remaining open space on the site is at grade and is therefore considered unusable.

Section 94 Plan

This proposal will be subject to the provisions of Council's adopted Section 94 Contributions Plan for Residential Development. A condition of development consent is recommended to address Section 94 levies applicable to this development. (See condition 52)

2. Likely Impacts

The proposed development involves the construction of a detached dual occupancy on a sloping site in an established residential area of Killara. The proposal is unlikely to result in any significant adverse impact upon the natural or built environment. The site is not located within an area identified as being environmentally sensitive and will not result in a significant social or economic impact on the surrounding locality.

3. Suitability of The Site

The land is of a satisfactory shape and size to accommodate the proposed development and to enable it to integrate with the surrounding development in which to provide a suitable level of amenity for future occupants. Utility services are available to the site and the site is not affected by hazards such as flooding or land slip. Despite the site's slope, it is considered that the proposed detached dual occupancy is suitable for the proposed development having regard to its residential zoning and general compliance with State Environmental Planning Policy No. 53.

Item 2

4. Any Submissions

All submissions received have been reviewed and have been considered within the assessment of this development application.

5. Public Interest

The application proposes a more intensified use of residential land in an established residential area. The proposal is compatible with the existing and desired future environment and its approval is in the wider public interest, as envisaged by State Environmental Planning Policy No. 53.

Approval of the application is considered to be in the in the public interest.

Any other Relevant Matters Considerations Not Already Addressed

There are no other relevant matters that have not already been addressed in this report.

UNAUTHORISED WORKS

The existing carport was erected without development consent being obtained from Council. The carport does not generate any adverse impacts upon the adjoining properties nor does it result in any adverse streetscape impact. It is understood that a Building Certificate application to regularise the carport has been lodged.

CONCLUSION

Dual occupancies are permissible with consent under the provisions of SEPP 53 – Metropolitan Residential Development, having regard to the permissibility of dwellings in the Residential 2(b) zone under Ku-ring-gai Planning Scheme Ordinance. The existing carport does not benefit from development consent. Lot 11 DP 619620 has recently been the subject of LEP 139 which amends the previous 6(a) Recreation Existing zone to 2(b) Residential ‘B’.

Hence, Council could not formally approve and issue a Development Consent prior to the gazettal of LEP 139 on 18 June 2004, nor could Council issue a retrospective approval for the existing unauthorised carport.

The proposal, subject to conditions, complies with the general aims, objectives and development standards of the environmental planning instruments which apply to dual occupancies. The development will provide greater housing choice in the Killara area and will provide an acceptable level of amenity for future occupants. With the management of issues such as completion of vegetation and disposal of stormwater runoff, the proposal will not create a significant adverse impact upon the amenity of adjoining properties or character of the surrounding area.

Accordingly, the proposed development is recommended for approval, subject to conditions.

RECOMMENDATION

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

- A. That the Council, as the consent authority, grant development consent to DA 564/03 for demolition of the existing pool, construction of a new dwelling as a detached dual occupancy with new detached garage with car parking for 4 vehicles and the consolidation of Lot 52 DP 17647 and Lot 11 DP619620 at Lot 52 DP 17647 and Lot 11 DP 619620 (No. 1B) Kalang Avenue, Killara, for a period of 2 years, subject to the following conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No. 564/03 lodged with Council on 13 May 2003 and development application plans prepared by Australian Construction Partners Pty Ltd, Reference Drawing No's 020310-A, 020311-C, 020312-A, 020313-C, 020315-A dated 5 March 2003. Drainage Drawing No's 0307-1, 0307-2 dated May 2003 by Ian Young & Associates Pty Ltd. Landscape Drawing No's L2 & L3 dated October 2003 by Wallman Partners Pty Ltd, Geotechnical Report by Douglas Partners dated 26 February 2004, Arborist Report by Footprint Green received by Council 16 October 2003, and Statement of Environmental Effects by Australian Construction Partners Pty Ltd dated April 2003, except as amended by the following conditions:
2. All works to comply with the provisions of the Building Code of Australia.
3. Lot 52, DP 17647 is to be consolidated with Lot 11, DP 619620. The Registered Linen Plan is to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.
4. The works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within two (2) years from the date of commencement.
5. All works proposed must be designed, constructed and operated to minimise sedimentation, erosion and scour of the banks or bed of the watercourse and to minimise adverse impacts on aquatic and riparian environments.
6. Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained, for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse environment. These control measures are to be in accordance with the requirements of Council and best management practices as outlined in the NSW Department of Housing's "Managing Urban Stormwater: Soils and Construction" Manual (1998) – the 'Blue Book'.

Item 2

7. The Part 3A Permit from DIPNR is issued for works on FREEHOLD land only. This Permit is null and void for any works on Crown Land.
8. Rehabilitation of the area in accordance with the 3A Permit Conditions or any direction from DIPNR is the responsibility of the Permit holder and owner or occupier of the land.
9. Work as executed survey plans of a professional standard and including information required by DIPNR shall be provided by DIPNR on request.
10. If, in the opinion of a DIPNR officer, works are carried out in such a manner that they may damage or adversely affect the watercourse environment, the DIPNR officer may issue an oral or written direction to immediately stop all work/s.
11. If any DIPNR Part 3A Permit Conditions are breached, the Permit holder shall restore the site in accordance with the Conditions and any other necessary remedial actions as directed by DIPNR. If any breach of the Part 3A Permit Conditions requires a site inspection by DIPNR, then the permit holder shall pay a fee prescribed by DIPNR for this inspection and all subsequent breach inspections.
12. These Conditions apply only to the works granted on this site, under the subject Development Application.
13. 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.
14. Compliance with the general terms of approval issued by the Department of Infrastructure, Planning and Natural Resources.
15. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
16. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
17. All demolition material of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
18. The relocation or adjustment of any utility service facilities must be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
19. The burning of undergrowth, foliage, building refuse and like matter on the site is prohibited.

Item 2

20. 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.
21. 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.
22. Access for construction purposes associated with this building shall NOT be taken or gained through the adjoining public reserve. Should no alternative access exist, then application for access to the construction site via the public reserve shall be submitted to Council for consideration and approval before the commencement of works.
23. A Compliance Certificate pursuant to Section 73 Sydney Water Act 1994, as evidence of compliance with the provisions of Division 9 of that Act, to be obtained from Sydney Water prior to the commencement of any work on the site.

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

Application must be made through an authorised Sydney Water Coordinator, for details see Sydney Water web-site www.sydneywater.com.au/customer/urban/index or telephone 13 20 92.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. 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.

The Section 73 Certificate must be submitted to Council prior to release of the linen plan/occupation of the development.

NOTE - SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE

The types of development referred to Sydney Water for a Section 73 Compliance Certificate as a condition of Development Consent are:

- All subdivisions by Torrens, Community, Strata and Stratum Title, and subdivisions for lease purposes (this includes Strata Title conversion to Torrens Title).
- All dual occupancy developments, whether being subdivided as above or remaining un-subdivided.
- All medium density (multi-unit) residential development ie. applications for the erection of buildings. (See **EXCLUSIONS** for Strata Subdivision).
- All vacant single dwelling development **EXCEPT** those on lots created by subdivision where an earlier Sydney Water Section 73 Compliance Certificate

has been issued. This includes referral of developments where development consent is required for the erection of structures only. For example, existing undeveloped lots created prior to the Local Government Act, existing undeveloped lots previously rated with another lot (eg. Former tennis courts), or the demolition of a single dwelling and construction of separate single dwellings on existing multiple lots.

This referral is required because some lots in established areas may not have been previously issued with a Compliance Certificate at the subdivision stage and therefore may not have direct access to water or sewer services.

- All development on previously publicly owned land. For example: railway lands, or land resulting from road closures.
- All new development of vacant land for industrial and commercial use.
- All industrial and commercial re-development where new building is involved.

All industrial and commercial re-development, where a change in use of existing buildings and facilities may result in increased demand for water and/or the discharge of trade waste water from the premises. The types, which should be referred, are included in the tables below. Other changes of use need not be referred.

24. Without further written consent of Council, the development is to comply with the following indices:
- a. Maximum floor space ratio for the entire development not to exceed 0.35:1
 - b. Maximum built-upon area for the entire development not to exceed 40%.
 - c. For Lot A maximum floor space ratio not to exceed 30% and a maximum built-upon area not to exceed 32%.
 - d. For Lot B maximum floor space ratio not to exceed 37% and a maximum built-upon area not to exceed 44%.
- A Surveyor's Certificate is to be submitted to the Principal Certifying Authority confirming compliance with these requirements prior to occupation.
25. The applicant shall check any and all matters which may impact on, or prevent, the carrying out of this development in accordance with this consent including the checking of any matter dealing with services including any requirements for their adjustment, placement, provision or removal, and the checking of the title of the subject land to establish if the land is affected by any easements, covenants or restrictions on the use of the land.
26. 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.

Item 2

27. 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.
28. 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.
29. The works shall be erected in conformity with the approved plans and specifications and in accordance with the conditions of approval set out herein
30. 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.
31. For the purpose of safety and amenity of the area, no building materials , plants 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/building, as the case may be.
32. 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 12.00noon. 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.

33. 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 work.
34. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
35. To maintain existing ground levels all excavated material shall be removed from the site.

36. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
37. 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.

38. 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.
39. 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 Certificate.
40. 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.

41. 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 measured at the nearest adjoining boundary.

Item 2

42. To preserve and enhance the natural environment, all soil erosion and sediment control structures shall be inspected following each storm event and any necessary maintenance work shall be undertaken to ensure their continued proper operation. Sediment shall be removed from the soil erosion and sediment control structures when no more than forty percent (40%) capacity has been reached. These structures shall continue in proper operation until all development activities have been completed and the site fully stabilised.
43. Any future separation of title on the property shall be restricted to either Strata Title or Community Title and shall be the subject of a separate development application to Council.
44. Two(2) designated car spaces shall be provided for each dwelling.
45. Adequate lighting is to be provided to all paths, accessways, parking areas and building entries so as to enhance amenity and security around dual occupancy dwellings.
46. All new bathrooms and toilets must be provided with maximum 6/3 litre dual flush cisterns and showerheads with reduced water flow devices.
47. Pollution control shall be carried out in accordance with Council's Draft Water Management Plan DCP 47.

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

48. 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.
49. 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 commencement of the work).

Item 2

50. 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 the release of the Construction Certificate. 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 any earthworks or construction commencing. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
51. 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 of \$15.00 for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
52. 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 1 ADDITIONAL DWELLING IS CURRENTLY \$25973.53. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

- | | |
|-------------------------------------|---------|
| 1. Preparation of New Residents Kit | \$10.98 |
|-------------------------------------|---------|

Item 2

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

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

53. Thermal insulation shall be provided to external walls, roof and ceiling of the proposed new dwelling. A thermal assessment under Council's Energy Efficiency Housing Policy achieving a summer/winter rating of 60% for the proposed new dwelling or alternatively a NatHERS (or equivalent) certificate with at least a 3.5 star rating is to be submitted prior to the release of the construction certificate.
54. A site/construction management plan is to be prepared showing tree protection areas, machinery usage zones, storage areas and the location of erosion control devices. The plan is to be submitted and approved prior to the release of the construction certificate.
55. A complete waste management plan is to be prepared in accordance with the requirements of DCP 40 – Construction and Demolition Waste Management. The plan is to be submitted and approved prior to the release of the construction certificate.
56. The Construction Certificate shall not be released until a Site Management Plan is submitted to the Principal Certifying Authority and approved by a suitably qualified professional.

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

Item 2

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

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

58. A CASH BOND/BANK GUARANTEE of \$5,000.00 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
Eucalyptus globoides (White Stringybark)
Illeroy Ave nature strip

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

59. 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.
60. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council prior to the commencement of work.
61. To preserve and enhance the natural environment, the downslope side of the proposed construction area of the site is to be enclosed with a suitable erosion control barrier

Item 2

(e.g. straw bales or geofabric fence) along contour before any other work on the site commences.

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

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

Tree/Location	Radius in Metres
<i>Eucalyptus globoides</i> (White Stringybark)	6.0m
Illeroy Ave nature strip	

64. The tree protection fence shall be constructed of galvanized 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.
65. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
66. The roof of the proposed garage adjacent to Illeroy Avenue is to be landscaped and non-trafficable. Details of compliance are to be provided to Council or to the principal certifying authority prior to the issue of the Construction Certificate.
67. For stormwater control all paved areas are to be drained to the main drainage system.
68. Stormwater runoff from all hard surfaces, or landscaped areas, which are not at natural ground level, shall be piped to the street drainage system. Drainage line connections to the kerb shall conform and comply with the detailed requirements contained within Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe"). Drainage crossings of the footway area shall be a suitably sized galvanised RHS. To ensure compliance with this condition, a Certificate from a suitably qualified person is to be submitted to the Principal Certifying Authority.
69. For stormwater control, an On-site Stormwater Detention System is to be provided in accordance with Council's Stormwater Management Manual.

OSD systems are to be provided for both the existing and the new residence.

Separate detention systems are to be provided for each residence, unless the OSD is cited in a common area and an appropriate legal instrument is set up to ensure the various parties equitably share the ongoing maintenance of the facility.

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

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

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

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

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

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

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

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

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

70. The stormwater line to the street shall be by way of a Steel Hot Dipped Galvanised Rectangular Hollow Section, of the appropriate size. This condition shall override any other condition or reference to uPVC pipe connections. This condition shall be ignored if the obvert of the subject pipe, is 300mm from the FGL, for its entire length.

Item 2

71. During construction of the crossing the contractor is to make provision for safety of pedestrians and passing vehicles. As a minimum traffic control measures must be provided in accordance with Figure 1 “Closing a footpath”, (being on Page 20 & 21), of SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1.

The traffic management measures shall be implemented prior to the commencement of any works on-site including excavation.

72. Submission to Council for approval of design documentation for the proposed interallotment drainage system from the existing house to Illeroy Ave. Plans are to be prepared by a suitably qualified and experienced consulting engineer or surveyor in accordance with the requirements of Council’s Stormwater Management Manual and include the following details:
- a. Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system.
 - b. Longitudinal section showing existing ground levels and proposed invert levels.
 - c. Means to preserve the root systems of trees within seven (7) metres of the drainage system.
 - d. New pipes within the downstream easement drainage system are to be sized to have adequate capacity to carry design flowrates, or detention system overflows where detention systems are to be provided, from the subject property.
 - e. Demonstration that any existing pipes within the easement system to be utilised, which are not proposed to be reconstructed, have adequate capacity to carry design flowrates, or detention system overflows where detention systems are to be provided, from the subject property.
73. If the proposed works are configured such that they will disrupt or disturb currently laid services for the existing dwelling, the applicant is to provide an alternative route for the effected services.
74. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities are to be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps are to be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
75. The relocation or adjustment of any utility service facilities are to be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
76. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works.

Item 2

77. The drainage concept design, by Ian Young & Associates, Drawing No. 0307-1, dated June 2002, is generally satisfactory, however the following issues are to be addressed prior to the issue of the Construction Certificate:-

- i. The OSD system must be provided for both the existing and the new dwelling.
- ii. The roof gutter, down pipe and drainage system of the dwelling is to be sized to catch and convey the 50 year ARI storm event to the OSD system. An engineer is to provide certification the Construction Certificate plans, that this has been achieved.
- iii. Suitable kerbs or other approved “cut off” systems are to be provided in the OSD design to ensure a maximum possible amount of overland flow is directed to the OSD system. These kerbs etc, are to be sized for all storms up to the 50 year ARI storm event. An engineer is to provide certification the Construction Certificate plans, that this has been achieved.
- i. A boundary pit is to be provided. The interallotment drainage line is to be moved to the east from a point 4.0m from the public Road. This move is to ensure the drainage lines are as far away from the existing trees as possible.
- ii. The stormwater outlet to the street from the Boundary pit to be by way of hot dipped galvanised steel section, of appropriate dimensions.
- iii. Where OSD storage is by way of underground storage,
 - a) Inflow pipes to the storage chamber are to be located below inspection grates.
 - b) If soil and turf are to cover the tank, then a minimum depth of soil to be 350mm.
- iv. Trees to be retained are to be drawn to scale.
- v. Drainage design details are to be compatible with the landscaping plans.
- vi. Councils landscape officer is to consider the final location of all drainage infrastructure including (a) drainage lines, (b) OSD tanks and (c) OSD basin walls. Only after the approval of Council’s landscape officer, can the Construction Certificate be issued.
- vii. The access grate above the control chamber is to be a grate of 600mm x 900mm or greater. Apart from the grate above the control chamber, other grates to have the following minimum sizes, depending on the pit depth as follows:-

Depth of Chamber below grate	Min grate and Pit size
Less than 300mm	300 square
Less than 450mm	450 square
Equal to or less than 600mm	600 square
Greater than 600mm	600 x 900

78. For stormwater retention and quality control, provision of a five (5) metre long first-flush absorption trench within the subject property designed to capture and retain the first-flush stormwater runoff from the subject property after which runoff bypasses the trench and reverts to the main drainage system. Design drawings shall be submitted and approved by the Principal Certifying Authority with the Construction Certificate.

Item 2

- NOTE 1: The first-flush system may be achieved by the use of a separate low-level outlet from a pit located on the main drainage system.
- NOTE 2: Where practicable, runoff from driveway and landscaped areas is to be directed to the retention system in preference to roof runoff.
- NOTE 3: The trench shall be 700mm wide x 700mm deep and fitted with half round PVC (230mm radius) dome sections backfilled with crushed or round river gravel to within 150mm of surface level, surrounded with suitable geofabric and finished with topsoil.
- NOTE 4: The trench is to be at least 5 metres from private property boundaries and 3 metres from the footings of any structure.
- NOTE 5: A suitably designed litter and coarse sediment 450mm square grated arrestor pit is to be provided immediately upstream of the trench.
- NOTE 6: The trench is not to require excavation underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).
- NOTE 7: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied.
- NOTE 8: This requirement does not apply where the Applicant considers installation to be impractical.

OR

For stormwater retention, provision of a 2000 litre rainwater tank within the subject property designed to capture and retain runoff from at least one roof downpipe after which runoff bypasses the tank and reverts to the main drainage system. Design drawings shall be submitted and approved by the Principal Certifying Authority with the Construction Certificate.

- NOTE 1: The tank is to be located at or above existing natural ground level.
- NOTE 2: If abutting a wall of the dwelling, the tank must be below the eaves line.
- NOTE 3: The tank must not be located on the front façade of a dwelling.
- NOTE 4: If the tank is to be attached to a structure then a structural engineer is to certify the adequacy of the design of the structure to carry the tank.
- NOTE 5: Maximum height of the tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.

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

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

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

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

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

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

79. For any new crossing or driveway works adjacent to the boundary the following will apply.

- **DRIVEWAYS AND FOOTPATHS:** Approval of this Development Application is for works wholly within the property and does not imply approval of footpath or driveway levels, materials or location regardless of whether this information is shown on the Application.
- Footpath and driveway levels at the property boundary/road alignment are to be obtained from Council's Technical Services Department prior to release of the Construction Certificate. All footpaths and driveways are to be constructed strictly in accordance with Council's specifications, "Construction of Gutter Crossings and Footpath Crossings" which is issued with alignment levels after payment of the appropriate fee.
- The grading of such footpaths or driveways outside the property is to comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant, and this may be affected by the alignment levels fixed by Council.

Note: 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.

80. Prior to the issue of the Construction Certificate, longitudinal sections are to be provided along both sides of the proposed driveway from the centreline of the street to the proposed garage/carport, demonstrating that vehicular access can be obtained

Item 2

using grades of 20% (25% maximum) or less without scraping the underside of a car. All changes in grade are to comply with AS 2890.1-1993. If a new driveway crossing is proposed then the longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application to Council's Technical Services Department.

Construction Certificate Plans to demonstrate that driveway and accessway gradients will be such that they permit the B99 Vehicle to enter and exit all car spaces on the site without scraping. The clearances for this vehicle are defined in AS 2890.1.

81. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage. This requirement is to be demonstrated on submitted Construction Certificate drawings.
82. The property drainage system shall be designed and prepared by a suitably qualified and experienced engineer or surveyor based upon 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces and in accordance with Council's Stormwater Management Manual. Design drawings shall be submitted and approved by the Principal Certifying Authority with the Construction Certificate.

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

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

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

83. Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention and supporting calculations are to be prepared by a suitably qualified and experienced consulting engineer or surveyor and submitted to and approved by the Principal Certifying Authority with the Construction Certificate.
84. Submission for approval with the Construction Certificate of a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater – Soils and Construction" (1998) by a suitably qualified and experienced engineer or surveyor. Such controls should include but not be limited to appropriately sized sediment basins, diversion systems, appropriate controls for each stage of works identified and barrier fencing which maximises and protects areas

which are not to be disturbed. The plan must also specify inspection and maintenance regimes and responsibilities and rehabilitation measures.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

85. 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.
86. 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.
87. Prior to occupation, the issue of an Occupation Certificate or the issue of a Subdivision Certificate, all disused driveway crossings, pipe crossing and/or kerb laybacks are to be reinstated as footway and kerb and/or gutter to the satisfaction of Council's Development Engineer. Any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer.
88. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced hydraulic engineer or surveyor, prior to Occupation, that:
 - a. The works were carried out and completed in accordance with the approved plans.
 - b. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier prior to Occupation.
89. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed drawing issued by a suitably qualified and experienced engineer or surveyor is to be submitted to the Principal Certifying Authority prior to occupation or issue of an Occupation Certificate.

NOTE 1: The Certificate is to be with respect to compliance with:

- a. The soundness of the structure.
- b. The adequacy of the outlet control mechanism to achieve the discharge as specified.
- c. The capacity of the detention storage as specified.
- d. The size of the orifice or pipe control fitted.
- e. The maximum depth of storage over the outlet control.
- f. The adequate provision of a debris screen.
- g. The inclusion of weepholes in the base of the outlet control pit.
- h. The provision of an emergency overflow path.

NOTE 2: The certifying engineer and surveyor is to also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

NOTE 3: The Works-as-Executed drawing(s) are to include all relevant levels including:

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

90. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property prior to occupation or the issue of an occupation or subdivision certificate. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA.
91. Where a new interallotment drainage line is required, the construction of the proposed interallotment drainage system must be undertaken to the satisfaction of Council's Development Engineer. The works are to be supervised by the designing engineer, (or surveyor), and certified upon completion that the as-constructed works comply with the approved design documentation and with Council's Stormwater Management Manual. A registered surveyor is to provide a Works-as-executed drawing of the as constructed works and must certify that all drainage structures are wholly contained within the drainage easement(s).

92. The dual occupancy development approved under this determination is to be completed to “lock-up” stage (being that stage where the building has the following components: external walls, cladding roofing, and all doors and windows with locks, installed, erected or constructed in their approved completed form) prior to a Subdivision Certificate being released by Council under any separate subdivision application.
93. If the OSD is a single system that favours both dwellings a restriction as to user is to be created over the subject land to proportion the responsibility relating to the OSD equally between each of the residences. The responsibility includes (a) maintenance, (b) upkeep and (c) replacement of the OSD system if it deteriorates to be unserviceable after a time.
94. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92.

Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/ release of the plan of subdivision.

95. For any of the legal instruments created as a requirement of this determination, Kuring-gai Council is to be named as the only authority empowered to release, vary or modify such instruments.
96. In order to maintain Council’s database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer’s certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to occupation, the issue of the Occupation Certificate or the issue of a subdivision certificate.
97. Prior to occupation, the issue of an Occupation Certificate or the issue of a Subdivision Certificate any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council’s Development Engineer.
98. Compliance with the following requirements as detailed in the geotechnical report by Douglas Partners dated 26/02/04:

Item 2

- (1) Limit the size of the hammer or use low-vibration excavation methods such as rock saws or grinders close to the boundaries;
- (2) A vibration monitoring trial is to be carried out during the initial excavation to check actual vibration levels from the excavation equipment are within acceptable limits (typically a peak particle velocity of about 5mm/second at the footing level of adjacent residential structures).

BUILDING CONDITIONS

99. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
 - a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
 - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
 - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
 - d. Retaining walls and associated drainage.
 - e. Wet area waterproofing details complying with the Building Code of Australia.
 - f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
 - g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
100. 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.
101. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
 - a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any pier holes and/or foundation material.

Item 2

- c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
- d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
- e. Any stormwater drainage works prior to covering.
- f. The completed landscape works in accordance with the approved plans.
- g. The completed structure prior to occupation.

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

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

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

- 102. 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.
- 103. 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).
- 104. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwellings 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.

105. 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.

106. 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.

107. Landscape works shall be carried out in accordance with Landscape Drawing No 02:7:2 L2 prepared by Wallman Partners and dated October 2003 submitted with the Development Application. The landscape works shall be completed prior to issue of the final Certificate of Compliance and be maintained in a satisfactory condition at all times.
108. 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.

Item 2

109. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location	Radius From Trunk
<i>Eucalyptus pilularis</i> (Blackbutt)	7.0m
Illeroy Ave nature strip	

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

Tree/Location	Radius From Trunk
<i>Eucalyptus pilularis</i> (Blackbutt)	7.0m
Illeroy Ave nature strip	

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.

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

Tree Species
<i>Corymbia gummifera</i> (Red Bloodwood) x 2

112. 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.

113. 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.

- 114.A Dilapidation Report is to be obtained by the applicant, at no cost to surrounding landowners, prior to the issue of the Construction Certificate.

- 115.A Building Certificate is to be obtained from Council prior to the issue of the Construction Certificate for the existing carport.

Item 2

116. In order to ensure that the new dwelling achieves a reasonable level of energy efficiency, the ceiling and wall are to lined with appropriate thermal insulation.

John McFadden
**Planning
Consultant, Don Fox
Planning Pty Ltd**

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

M Prendergast
**Manager
Development
Assessment
Services**

M Miocic
**Director
Environment &
Regulatory Services**

Attachments: **Architectural Plans
Landscape Plan
Locality Sketch**

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	154 TO 158 MONA VALE ROAD, ST IVES - LOT CONSOLIDATION, DEMOLITION OF EXISTING STRUCTURES AND ERECTION OF A SEPP (SENIORS LIVING) 2004 DEVELOPMENT
WARD:	St Ives
DEVELOPMENT APPLICATION N^o:	378/04
SUBJECT LAND:	154 to 158 Mona Vale Road, St Ives
APPLICANT:	Ross Derham, c/o Glendinning Minto & Associates Pty Ltd
OWNER:	Mr P M & Mrs J M Blazey, RF & JL Derham and Pymble Golf Club
DESIGNER:	Barry Rush & Associates Pty Ltd
PRESENT USE:	Residential
ZONING:	Residential 2C
HERITAGE:	No
PERMISSIBLE UNDER:	State Environmental Planning Policy (Seniors Living) 2004
COUNCIL'S POLICIES APPLICABLE:	Development Code 1/2003 Housing for Older People & People with a Disability (Seniors Living) 2004
COMPLIANCE WITH CODES/POLICIES:	Satisfactory level of compliance
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy (Seniors Living) 2004, State Environmental Planning Policy 55, Sydney Regional Environmental Plan No 20
COMPLIANCE WITH GOVERNMENT POLICIES:	Satisfactory level of compliance
DATE LODGED:	16 April 2004
40 DAY PERIOD EXPIRED:	1 July 2004
PROPOSAL:	Lot consolidation, demolition of existing structures and erection of a SEPP (Seniors Living) 2004 development
RECOMMENDATION:	Approval

Item 3

DEVELOPMENT APPLICATION N^o 378/04
PREMISES: 154-158 MONA VALE ROAD, ST IVES
PROPOSAL: LOT CONSOLIDATION, DEMOLITION OF
EXISTING STRUCTURES AND ERECTION
OF A SEPP (SENIORS LIVING) 2004
DEVELOPMENT
APPLICANT: ROSS DERHAM, C/O GLENDINNING
MINTO & ASSOCIATES PTY LTD
OWNER: MR P M & MRS J M BLAZEY, RF & JL
DERHAM AND PYMBLE GOLF CLUB
DESIGNER BARRY RUSH & ASSOCIATES PTY LTD

PURPOSE FOR REPORT

To determine Development Application 378/04 which seeks consent for the consolidation of 3 lots, the demolition of existing structures and the construction of a Seniors Living development.

EXECUTIVE SUMMARY

Issues: Visual bulk.

Submissions: One submission received.

Land & Environment Court Appeal: A deemed refusal application has been lodged with the Land & Environment Court. The Land & Environment Court has stood aside this matter for further consideration at a call over on 8 September 2004. At this call over, should Council have not determined this matter, the Council is to provide a Statement of Issues addressing Council's issues to the Land & Environment Court.

Recommendation: Approval.

HISTORY

Property History

The site is used for residential purposes. There is not history of the site relevant to the subject development application.

Development Application History

16 April 2004 Development Application lodged with Council.

28 April 2004 Notification period.

Item 3

to 27 May 2004

- 28 April 2004 Letter sent to applicant requesting the written consent of the intent to grant an easement from the affected downstream property owner.
- 4 May 2004 Additional information received.
- 16 July 2004 Receipt of Class 1 application to the Land & Environment Court in relation to the deemed refusal of the development application, 56 days after the Development Application was lodged.

There is not other development application history relevant to the proposed development.

THE SITE & THE SURROUNDING AREA

The Site

Zoning:	Residential 2C
Visual Character Study Category:	1920-1945
Lot Number:	Part A, 1 & 1
DP Number:	337944, 658920 & 613213
Area:	3753m ²
Heritage Affected:	No
Integrated Development:	Yes - RTA
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No
Section 94 Contributions:	Yes

The site is known as 154-158 Mona Vale Road, St Ives, being Lots Part A, 1 and 1, in DPs 337944, 658920 and 613213, respectively, and is located on the north-western side of Mona Vale Road, south of its intersection with Cowan Road. The property is a large, rectangular shaped, allotment with a frontage of 90.1 metres to Mona Vale Road with an area of 3753 sqm. The property slopes towards the rear from Mona Vale Road. The contours transverse the width of the site, with an overall fall of approximately 5.0 metres. Stormwater from each allotment is currently managed by on site dispersal.

No 154 Mona Vale Road supports a two storey brick dwelling and swimming pool. Vehicular access is available from Mona Vale Road.

No 156 Mona Vale Road supports a part 1 and 2 storey brick dwelling and swimming pool. Vehicular access is from Mona Vale Road.

No 158 Mona Vale Road supports a two storey dwelling and detached brick garage. Vehicular access is from Mona Vale Road.

Item 3

The site is not listed as having heritage significance nor is it in the vicinity of a heritage item. However the site is within an Urban Conservation Area.

Surrounding Development

Surrounding development comprises a mixture of residential, commercial and special use developments. The subject allotments of land area bounded by the Pymble Golf Course on the western and northern elevations. Opposite the site in Mona Vale Road is a Mobil Service Station and a recently completed SEPP 5 development. The Church of Christ is also located opposite the site at the intersection of Mona Vale Road and Cowan Road. The adjoining property to the south, being No 152 Mona Vale Road, supports a two storey brick and tile dwelling.

THE PROPOSAL

The proposal seeks approval for the consolidation of the three existing allotments into one, the demolition of the three existing dwellings and associated structures and the construction of three buildings two storey comprising nine (9) apartments each containing 3 bedrooms with car parking provided in a basement carpark. Units 1-8 have areas in the range of 204m² to 209m² with Unit 9 having an area of 236m². Vehicular access is provided from a single entry/exit point to the site off Mona Vale Road.

The basement carpark comprises nineteen (19) parking spaces, including one (1) visitor car space and garbage storage area. Lift access is provided to the basement level. Each unit is provided with a double garage and Units 1, 2, 3 and 9 are provided with an additional storage areas.

Access throughout the development is available by accessible pathways and lifts. The units and common areas are wheelchair accessible and all of the units are designed to be fully adaptable.

The three buildings are proposed to be finished in a combination of painted render, face brick and terracotta roof tiles.

The three buildings are described as follows.

Building A

Building A comprising Units 1, 3 and 5 will occupy the land known as 154 Mona Vale Road. This building will be set back from Mona Vale Road by 12.064 metres at its closest point, 2.749 metres from the southern (side) boundary and 5.18 metres from the western (side) boundary when measured from the basement level wall. The building is also set back 2.0 metres and 1.2 metres from the basement level terrace and pool terrace, respectively. Vehicular access to the total development will be provided from the common driveway that enters the site from the southern corner of this allotment. Building A is separated from Building B by 8.5 metres.

Building B

Item 3

Building B comprising Units 2, 4 and 6 will occupy the land known as 156 Mona Vale Road. This building is set back 10.765 metres from Mona Vale Road at its closest point. This building will be set back 11.0 metres from the rear western boundary when measured from the external wall and set back 5.5 metres from the western boundary when measured from the basement level terrace.

Building C

Building C comprising Units 7, 8 and 9 will occupy the land known as 158 Mona Vale Road. This building will be set back 10.7 metres from Mona Vale Road at its closest point, 2.547 metres from the northern side boundary and 11.626 metres from the western rear boundary. Building B and Building C are separated by 7.5 metres between Bedroom 2 of Unit 2 of Building B and the living room of Unit 7 of Building C.

A front fence is proposed along the Mona Vale Road boundary. The fence will be 1.7 metres in height, constructed of stone and will have metal vehicular and pedestrian gates. The front fence has various setbacks from a minimum of 0.6 metres to a maximum 3.0 metres located along its length to enable the provision of landscape screening forward of the fence line.

The proposed units will comprise the following:

Units 1 and 2 (at basement level)

Entry, study, living room, dining, kitchen, guest WC, laundry, three bedrooms (main including ensuite and robe) and bathroom. Rear terrace area is provided with access to living areas. A swimming pool is proposed for the occupants of Units 1 and 2.

Units 3 and 4 (at ground floor level)

Entry, study, living room, dining, kitchen, guest WC, laundry, three bedrooms (main including ensuite and robe) and bathroom. Rear balcony area is provided with access to living areas.

Units 7 and 8 (at ground floor level)

Entry, study, living/dining, family room kitchen, guest WC, laundry, three bedrooms (main including ensuite and robe) and bathroom. Rear terrace is provided with access to living areas.

Units 5 and 6 (at first floor level)

Entry, study, living room, dining, kitchen, guest WC, laundry, three bedrooms (main including ensuite and robe) and bathroom. Rear deck area is provided with access to living areas.

Unit 9 (at first floor level)

Study, living/dining, family room, kitchen, guest WC, laundry, three bedrooms (main including ensuite and robe) and bathroom. Rear balcony area is provided with access to the living areas.

Item 3

CONSULTATION - COMMUNITY

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

1. P J Harding, Pymble Golf Course

The submission raised the following issue:

Concern as regards to any trees being cut down just to provide a better view of the Golf Course.

Council's Landscape Development Officer supports the proposal. Twenty three (23) on site trees are proposed to be retained, twelve (12) on site trees require removal due to their various plant or urban environment weed status and fourteen (14) on site trees are proposed to be removed for the construction of the development. Conditions have been imposed to protect trees necessary to accommodate the buildings (**Refer to Conditions 52, 56, 57, 58, 59 and 60**).

CONSULTATION - WITHIN COUNCIL

Heritage

On the basis that the site is within Urban Conservation Area No 16 Council's Heritage Advisor has reviewed the Development Application. His comments are as follows:

Historically the land was acquired by the Pymble Golf Club with the intention of partially funding construction of the Golf Course through subdivision for high quality residences. The estate was offered for sale in June 1925. Initial sales were slow with only 26 lots sold by 1930. The main development period was the 1930s consistent with the age of these houses.

It was intended that the houses built on the estate would be of high quality and substantial size to continue the tradition of large estates in the area and for members of the golf course. Lots were sold with a restrictive covenant limiting erection of buildings with the following conditions:

- *No advertising signs;*
- *Brick or stone with slate or galvanised iron or other approved roofs;*
- *Must cost not less than one thousand two hundred and fifty pounds;*
- *Must contain a private dwelling house or shop.*
- *Approval from the vendor must be obtained before erecting any building;*
- *Only one main building;*

Several purchasers in the Estate bought two or more lots (mainly those with frontages to the golf course) with the intention of building grand houses with fine gardens taking advantage of the aspect, views and association with the golf course.

I inspected the exterior of the subject houses in August 2004 and offer the following comments:

- *No 154 is a large two storey painted brick house with green roof tiles, built c1930 with Inter War Old English stylistic influences. It has a high timber fence and gates along the Mona*

Item 3

Vale Road frontage. The house appears to be relatively intact. There is a small building to the north with a metal roof that is probably a later addition, although is consistent with the style. This house could be considered to have individual aesthetic significance and might reach the threshold for local heritage significance if fuller assessment were undertaken.

- *No 156 presents as a single storey house to Mona Vale Road with 2 stories facing the golf course. It is designed in the Inter War Georgian style. It has a high brick fence along Mona Vale Road.*
- *No 158 is a two storey brick house which presents as partially 3 stories from the golf course. It is a restrained style, probably dating to the 1940s with common bricks and minimal decorative elements. There is a recent brick garage at the northern end and large pine trees at the golf course side.*
- *The site is relatively obscure from Mona Vale Road due to high fences, landscaping and the fall of the site*

The National Trust classified UCA No 16 in 1996. It includes the golf course and the land formerly comprising the Golf Links Estate. Although this UCA has not been reviewed by Council, I believe the subject houses would be graded as contributory to the UCA. As contributory items in the National Trust UCA, Council should consider the effect of incremental change and the potential reduction in the intactness and integrity of the UCA. I note that an application for a similar development to the south (148, 150 & 152) is also under consideration by Council.

The proposed dwellings are designed in three blocks with the buildings at 154 and 156 visually linked by access structures. The dwellings are designed to take advantage of the north/east orientation over the golf course with large terraces.

Due to the fall on the site and the existing high walls, the Mona Vale Road elevation of the proposal would have a reasonable fit with the existing streetscape. However, when seen from the Golf Course they would present as three large contemporary buildings, largely three storeys in height with large areas of glazing and large terraces. In comparison to other buildings backing on to the golf course the proposed buildings would be visually dominant from the Golf Course and would reduce the intactness of the National Trust UCA. Although not part of this application a similar development is proposed for 148 to 152 Mona Vale Road and Council should consider the accumulative effect on the National Trust UCA.

Conclusion

While I can not support the application due to the potential erosion of the National Trust UCA I note that Council has not reviewed this UCA precinct and detailed information is not yet available to fully assess the potential impact. I am aware that an appeal to the Land & Environment Court has been lodged and there is insufficient time to complete a detailed UCA review.

Whilst the existing buildings of nos 154, 156 and 158 are contributory items in the National Trust Urban Conservation Area, such contributory items have no statutory protection. The three dwellings in question are not listed in Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance as heritage items. In the circumstances, it is not considered a valid reason to refuse the application in terms of not supporting the demolition of the three buildings on heritage grounds.

Item 3

The presentation of the three buildings to the golf course is acceptable given the following:

1. The buildings are stepped down the site and are a maximum of two storeys.
2. The existing and proposed significant tree planting together with proposed landscaping will soften the impact upon the golf course.
3. The elevated terraces which front the golf course have substantial planter boxes located on their perimeter which will also soften the perceived bulk towards the golf course.
4. The proposal has a maximum ceiling height of 7 metres and a floor space ratio of 0.5:1.
5. The roofs of the three dwellings have a pitch of 22° and are of a hipped design which assist in minimising the bulk of the development.
6. The intense landscaping at the rear of the site, the extensive planter boxes located around the terraces together with the proposed pergolas and sections of roof overhanging the first floor level balconies, assist in minimising the impact of the glazing which is presented to the golf course.

Landscaping

Council's Landscape Officer has reviewed the Development Application and has commented as follows:

This application is supported, subject to conditions.

Impact of the proposal upon vegetation.

Sixty nine plants ie: trees, shrubs, palms and tree ferns are identified as 'trees' in the applicant's Tree Site Analysis Plan prepared by Footprint Green Pty Ltd and dated 3 February 2003. Of the 69 'trees', 18 are located offsite – on the Mona Vale Road nature strip or within adjoining properties, 23 on-site 'trees' are proposed to be retained, 12 on-site 'trees' require removing due to their noxious plant or urban environmental weed status and 14 onsite 'trees' are proposed to be removed for construction of the development. Two trees: Nos. 156 and 158 have been removed due to their close proximity to the dwelling at No. 156 Mona Vale Road.

The following 14 protected trees are nominated for removal for construction of the proposed development. Twelve other currently exempt trees may also be removed from the site due to their noxious plant or environmental weed status:

- *151 - Tilia cordata (Linden), of 8 metres height in its deciduous stage, is located adjacent to the eastern side of the site for the vehicular ramp that is to connect with the basement garage.*
- *214 - Franklinia axillaris (Gordonia), of 6 metres height and healthy condition, is located within 2 metres of the southern side of proposed Unit 1 site.*

Item 3

- 255 - *Jacaranda mimosifolia* (Jacaranda), of 10 metres height and fair condition, is located centrally along the passage-way between the proposed southern and central buildings.
- 257 - *Brachychiton acerifolius* (Flame Tree), of 12 metres height and fair condition, is located centrally along the passage-way between the proposed southern and central buildings.
- 258 - *Ginkgo biloba* (Maiden-hair Tree), of 12 metres height and fair condition, is located centrally along the passage-way between the proposed southern and central buildings.
- 259 - *Tibouchina granulosa* (Lasiandra), of 6 metres height and fair condition, is located adjacent to the northern side of proposed Unit 1 site.
- 260 - *Arecastrum romanzoffianum* (Queen Palm), of 6 metres height and healthy condition, is located within the proposed Unit 1 site.
- 263 - *Camellia sasanqua* (Chinese Camellia), of 5 metres height and healthy condition, is located within the proposed swimming pool site.
- 264 - *Chamaecyparis obtusa* (False Hinoki Cypress), of 9 metres height and healthy condition, is located within the proposed swimming pool site.
- 265 - *Ulmus species* (Elm), of 10 metres height and poor condition, is located within the proposed swimming pool site.
- 266 - *Lagerstroemia indica* (Crepe Myrtle), of 9 metres height and healthy condition, is located within the proposed swimming pool site.
- 409.1 - *Camellia sasanqua* (Chinese Camellia), of 5 metres height and fair condition, is located adjacent to the site's central western boundary.
- 1024 - *Cupressus macrocarpa* (Monterey Cypress), of 14 metres height and poor, unstable condition due to past storm damage, is located adjacent to the eastern side of the basement garage site.
- 1110 - *Grevillea robusta* (Silky Oak), of 13 metres height and fair condition, is located adjacent to the site's northern boundary.

The majority of the trees nominated for removal are located within the proposed southern and central building, basement carpark and swimming pool areas. None of the trees are large although some are healthy mature examples of their species.

Item 3

Twenty three trees are nominated for retention on the applicant's landscape plan, however, the following 8 trees are located close to the proposed building works and will be adversely impacted upon most to the extent to which they will require removing:

- *155 - Cedrus deodara (Himalayan Cedar), of 15 metres height and healthy condition, is located near the Mona Vale Road frontage. This tree has been identified in the applicant's Tree Assessment Report as being of high landscape significance. Excavation for the basement carpark access ramp approximately 3 metres from the northwestern (lower) side of the tree's trunk and, according to the applicant's landscape plan, fill to 300 mm depth will be required over the northeastern half of its root zone will cause its early demise.*

To effectively preserve this tree no soil level changes are to occur beneath this tree's canopy beyond the excavation for the garage access ramp. (Refer to Condition 59).

- *324 - Pistacia chinensis (Pistacia), 8 metres in height and in its deciduous stage, is located within 1.5 metres of the northern corner of the proposed central building and associated terrace and therefore will be exempt. Two stormwater discharge lines of 150 and 300 mm diameter are also proposed within 2 metres of this tree's trunk. This tree will not survive the approximately 700 mm deep excavation within the southwestern half of its root zone and trenching for the 300 mm drainage line close to the northeastern side of its trunk. There is no objection to its removal.*
- *326 - Cedrus deodara (Himalayan Cedar), of 6 metres height and healthy condition, is located within the 3 metre exemption zone of the northern corner of the central building. This tree will be similarly impacted as the previous tree with similar results. There is no objection to its removal.*
- *516 & 517 - 2 Camellia sasanqua (Chinese Camellia), of 6 metres height and healthy condition, are located to the northeast of Tree 155. Proposed fill, to 600 mm depth over their root zones will cause their eventual demise. To effectively preserve these shrubs no soil levels changes are to occur beneath their canopies. (Refer to Condition 95).*
- *1092 - Camellia sasanqua (Chinese Camellia), of 7 metres height and healthy condition, is located 2 metres from the southern side of the northern building. Severe pruning of this shrub will be required for building construction. (Refer to Condition 56).*
- *1101 - Cedrus deodara (Himalayan Cedar), of 18 metres height and healthy condition, is assessed as being of high landscape significance. It is located close to the internal corner of proposed unit 8 within the northern building. (Refer to Condition 59).*
- *1113 - Araucaria heterophylla (Norfolk Island Pine), of 30 metres height and healthy condition, is assessed as being of significant landscape significance. It is located close to and its canopy will partially overhang the western end of proposed unit 8. (Refer to Condition 59).*

Item 3

Landscape plan.

An amended landscape plan, that includes at least 25% tree and shrub plantings selected from the Blue Gum High Forest assemblage of vascular plants – the original, and now endangered, ecological community of the site, is required. The use of these species is to facilitate conservation and promote biodiversity. (Refer to Condition 77).

The site will support the required minimum number of 19 canopy trees pending the preservation of all 6 existing canopy trees (Refer Condition 78). It may be necessary to relocate 1 Eucalyptus pilularis (Blackbutt), proposed to be planted directly over the proposed main 300 mm drainage line between the detention tank and the existing pit within Pymble Golf Course.

Stormwater plan.

All the proposed stormwater lines are to be located within the footprint of site excavation, with exception of the main discharge drainage line to the Pymble Golf Course boundary. As previously stated, its installation will result in the removal of 2 trees: Nos 324 and 326 proposed for retention. There is no objection to the removal of these 2 trees.

Engineering

Council's Development Engineer has reviewed the Development Application and has commented as follows :

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

Traffic

A traffic report was submitted with the application, Massey Wilson Twiney, April 2004. The report is satisfactory, however the report gives a width of 5.5 metres for the proposed driveway. Comments received from the Roads & Traffic Authority indicate that the RTA requires a 6 to 9 metre wide vehicular crossing. This has been included in the recommended conditions of consent (Refer Condition 51). A 6 metre wide crossing splaying out to 8 metres at the kerbline will provide adequate area for two vehicles to pass.

Both RTA and the traffic consultant's report recommend the trimming of vegetation in the Mona Vale Road reserve. The applicant will have to contact Council's Open Space section and obtain their approval prior to trimming the vegetation at their (the applicant's) own expense.

Internal garbage collection is proposed and this is consistent with DCP 40. The dimensions of the garbage storage and manoeuvring are satisfactory, including headroom. The drawings

Item 3

*show a roller shutter as the basement entrance. This will not be approved and a condition requiring the shutter to be deleted has been included (**Refer Condition 49**).*

*The applicant has submitted plans of the footpath in Mona Vale Road on the path of travel to the shopping centre, showing the broken and uneven sections. Repair of the path in accordance with the recommendations of the access report will be required (**Refer Condition 87**).*

Stormwater drainage

*The application was lodged on 16 April, so DCP 47 Water Management applies. The concept stormwater management plan submitted, AFCE Environment + Building Drawing 343132D1 to D3 demonstrates that compliance with DCP 47 can be achieved, although the design was prepared using Council's Stormwater Management Manual. Water quality measures will also be required as described in Chapter 8 of DCP 47. These specific requirements are included in the recommended conditions (**Refer Condition 50, 85 and 86**) I have discussed the matter with the consulting engineer.*

Pymble Golf Club, the owner of one of the properties, has submitted a letter indicating that approval would be granted to providing a drainage easement through the golf course.

CONSULTATION OUTSIDE COUNCIL

NSW Police - Ku-ring-gai Traffic Services

The NSW Police – Ku-ring-gai Traffic Services have made the following comments:

With reference to the above-referred matter, in principal there are no police objections to this development.

However could consideration be given to conditioning the approval:-

During demolition and construction, an accredited traffic control person to assist pedestrians crossing the driveway who are using Mona Vale Road as their route to the Shopping Centre and nearby Church. Additional consideration Mona Vale Road at this location carries a large volume of traffic during weekends and afternoon peak period.

A suitable condition has been included in the recommendation addressing the abovementioned concerns (**Refer to Condition 101**).

Roads & Traffic Authority

This proposal has been referred to the Roads & Traffic Authority as it is an Integrated Development. The Roads & Traffic Authority have commented as follows:

Item 3

I refer to your letter of 3 May 2004 (Council Ref: DA 378104) regarding the referral of the subject development application to the Roads and Traffic Authority (RTA) for comment. As this development proposes new vehicular access to Mona Vale Road, concurrence would be required under Section 139 of the Roads Act 1993.

Exercise of Concurrence Functions under the Roads Act

The RTA has assessed the development application and would grant its concurrence under section 138(2) of the Roads Act to the proposed development subject to Council's approval of the development application and the following comments being included in the Council's development consent.

- 1. The proposed vehicular access is to be a Category 2 Driveway (6.0 to 9.0m combined) in accordance with AS 2890.1-2004.*
- 2. The kerbside vegetation to the south of the driveway is to be removed or trimmed to improve sight distance from vehicles exiting the driveway.*
- 3. The design and construction of the gutter crossing on Mona Vale Road shall be in accordance with RTA requirements. Details of these requirements should be obtained from RTA's Project Services Manager, Traffic Projects Section, Blacktown (ph: 02 8814 2144).*
- 4. All works associated with the proposed development shall be at no cost to the RTA. In addition to the above, the RTA provides the following advisory comments to Council for consideration in the determination of the development application:*
- 5. The proposed development should be designed such that road traffic noise from Mona Vale Road is mitigated by durable materials, 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: 45 dB(A) Leq(15 hr) and 40 dB(A) Leq(9 hr);
and*
 - Sleeping rooms; 35 dB(A) Leq(9hr).*
- 6. The layout of the car parking areas associated with the subject development (including, driveways, grades, sight distance requirements, and parking bay dimensions) should be in accordance with AS 2890.1-2004.*

Item 3

7. *Storm water run-off from the subject site onto Mona Vale Road, as a result of the proposed development is not to exceed the existing level of run-off from the site.*
8. *Redundant vehicle crossings are to be removed and kerb and gutter to match the existing is to be reinstated.*
9. *Council is to consider provision on site for service vehicles.*

The conditions suggested by the RTA have been included in the recommendation (**Refer Conditions 46, 49, 51, 65 and 66**).

PROVISIONS OF RELEVANT LEGISLATION

1. Environmental Planning Instruments

This application requires development consent under the State Environmental Planning Policy (Seniors Living) 2004.

State Environmental Planning Policy (Seniors Living) 2004

Clause 18 of SEPP (Seniors Living) 2004 states that development may be carried out only with development consent unless another planning instrument allows the development without consent. The proposed development requires the consent of Council pursuant to the provisions of the Ku-ring-gai Planning Scheme Ordinance.

Clause 25 of SEPP (Seniors Living) 2004 requires that Council must not consent to a development application made pursuant to this chapter unless satisfied by written evidence of certain site related requirements have been met. Compliance with the requirements is indicated in the table below.

Clause	Requirement	Compliance
Clause 25(1)(2)	Access to shops, banks, other retail and commercial services, community services and the practice of a general medical practitioner.	Yes. The proposal is within 400 metres of St Ives Shopping Centre. Detailed evidence is provided in the Statement of Environmental Effects and the Access Report.

Clause 27(1) of SEPP (Seniors Living) 2004 states that Council must not consent to a development application unless satisfied by written evidence that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewerage.

Satisfactory written evidence of the above has been provided by the applicant.

Item 3

Clause 28 of SEPP (Seniors Living) 2004 requires a site analysis be carried out and submitted to the consent authority. A site analysis has been submitted. This analysis together with other documentation of the development application provides all the necessary information for assessment purposes under Clause 28 of SEPP (Seniors Living) 2004.

Clause 30 of SEPP (Seniors Living) 2004 requires that consent must not be granted unless Council is satisfied that adequate regard has been given to the following design principles.

Neighbourhood amenity and streetscape

The proposed development will maintain the neighbourhood amenity and appropriate residential character by virtue of the following:

1. The provision of building setbacks to Mona Vale Road which are greater than the minimum setbacks of the existing dwellings.

The existing setbacks for 154, 156 and 158 Mona Vale Road are 8.0 metres, 6.5 metres and 5.5 metres respectively. The setbacks for the proposed buildings at 154, 156 and 158 Mona Vale Road are 12.064 metres, 10.765 metres and 6.9 metres respectively. The proposed setbacks are appropriate given the increased setbacks to Mona Vale Road.

The increased setbacks will allow for mature planting forward of the buildings and will improve the characteristic setback of the area by providing dense planting and landscaping forward of the buildings. The setback of 6.9 metres for the building located at 158 Mona Vale is justified as its ground floor level is approximately 2.0 metres below the level of the footway at that location and is not evident from the street due to the presence of the 1.8 metres high front fence. The first floor level of the building at 158 Mona Vale Road will be set back 10.662 metres from Mona Vale Road which is in keeping with the other two buildings located at 154 and 156 Mona Vale Road, which have setbacks of 12.064 metres and 10.765 metres, respectively.

2. The proposal will present as three individual, two storey, dwellings to Mona Vale Road.
3. The height of the proposal will be consistent with that of the existing dwellings at 154 and 158 Mona Vale Road. The proposed building at 154 Mona Vale Road will have its ridge height 1.0 metre less than the existing dwelling's ridge height. The proposed buildings at 158 Mona Vale Road will have a ridge height 2.0 metres less than the ridge level of the existing dwelling. The following table represents the existing and proposed ridge heights.

Property No	Existing Ridge Height Levels	Proposed Ridge Height Levels
154 Mona Vale Road	RL175.57	RL174.5
156 Mona Vale Road	RL172.09	RL174.5
158 Mona Vale Road	RL177.38	RL175

Item 3

4. The proposed development will retain where reasonable significant trees.
5. The development proposed sufficient and appropriate landscaping to enhance the landscape character of the streetscape.

Visual and acoustic privacy

The proposed development has considered the visual and acoustic privacy of neighbours in the vicinity and residents given the following:

1. Dwelling 1 is set back 6.4 metres from the adjoining southern property at 152 Mona Vale Road. This provides adequate separation so as to achieve visual and acoustic privacy to the occupants at No.152 Mona Vale Road. There are no windows located on the northern side of the dwelling at 152 Mona Vale Road which assists in the preservation of privacy between the two buildings.
2. The provision of landscape screening between dwellings and the appropriate placement of windows. Landscape screen planting to a height of between 4.0 and 6.0 metres is proposed along the southern side of the development. The planter box located on the southern side of Unit 7 adjacent to bedrooms 2 and 3 includes a privacy wall to a height of 1.3 metres above floor level which, with the planting, will provide a good level of screening between the adjoining Unit 4 (which is at a level of 400mm lower). The external windows of the units are not located opposite the neighbouring unit windows, except that where this is the case a separation of at least 6.0 metres is provided, together with landscape screening provided in planter boxes.
3. The living areas and private open space areas are located and orientated towards the golf course.
4. The proposed development has its vehicular entry/exit point located at the south-eastern corner of the site which services the basement parking area. The driveway will not adversely impact upon the acoustic privacy of the neighbours or the residents.
5. Planter boxes are provided to the upper floor terraces to minimise the potential for overlooking into the adjoining terraces at lower levels.

Solar access and design for climate

The proposed development will ensure at least 3 hours of daylight to the main living areas and private open space of the adjoining southern property at 152 Mona Vale Road, as no overshadowing from the development will be cast upon the adjoining dwelling from around 11.00am on 21 June.

The future residents of the proposed development will receive adequate daylight to main living and private open space area due to the orientation of the units towards the northern/north-western sun during the winter period.

Item 3

Stormwater

The proposal will control and minimise disturbance and impacts of stormwater. Pymble Golf Club, the owner of 158 Mona Vale Road, has advised that approval would be granted to providing a drainage easement through the golf course.

Crime prevention

The units are designed so that approaching persons can be viewed from within units numbered 1 to 6 and the provision of “peep” holes within the doors to Units 7, 8 and 9 will allow for surveillance to the other units. The units are designed to allow residents to see who approaches their dwellings without the need to open the front door.

Accessibility

The proposal is designed so that each unit is accessible by a wheelchair bound person via suitably graded pathways and lift access. The accessibility report submitted in support of the proposal confirms that obvious and safe pedestrian links are provided from the site that provide access to public transport services or local facilities. Safe and attractive environments for pedestrians and motorists with convenient access and parking for residents and visitors have been provided by the basement carpark and landscaped pathways to unit entries.

Waste management

The waste management facility will include provision for the recycling of materials as provided by Council’s Development Control Plan 40 (**Refer Condition 75**).

Part 4 Development Standards

Clause 38(i) provides that a consent authority must not consent to a development application made pursuant to this chapter unless the proposed development complies with the standards specified in this clause.

Clause	Standard	Proposal	Compliance
38(2) - Site size	Minimum 1,000m ²	3,753m ²	YES
38(3) - Site Frontage	20 metres	90 metres	YES
38(4) - Height in zones where residential flat buildings are not permitted	8 metres or less	Building 1 - 7.0 metres Building 2 - 6.5 metres Building 3 - 6.5 metres	YES YES YES
38(4)(b) - Height in zones	Not more than 2 storeys in height adjacent to a	2 storeys	YES

Item 3

Clause	Standard	Proposal	Compliance
where residential flat buildings are not permitted	boundary of the site.		
38(4)(c) - Height in zones where residential flat building are not permitted	A building located in the rear 25% area of the site must not exceed 1 storey in height.	Units 1 and 2 are located within the rear 25% area of the site and are 1 storey in height.	YES

Clause 51 provides that a consent authority must not consent to a development application made pursuant to this chapter unless the proposed development complies with the following standards :

Clause	Standard	Proposal	Compliance
52(1) - Wheelchair access	100% of dwellings to have wheelchair access to public road or internal road if site gradient is less than 1:10.	All dwellings have access to an adjoining public road.	YES
52(4) - Common areas	Wheelchair access to be available to all common areas and facilities.	Wheelchair access available to all common areas.	YES
53 - Identification	If the site includes more than one street, street signage incorporating house numbers must be provided at each intersection.	The site only fronts one street.	NOT APPLICABLE
54 - Security	Pathway lighting must be designed and located to avoid glare.	Low level security lighting is proposed. (refer Condition 118(g))	YES
55 - Letterboxes	Must be lockable and situated on a hard standing area and be wheelchair accessible.	A centrally located, lockable, accessible letterbox is proposed adjacent to the entry path.	YES
56 - Private car accommodation	Car parking spaces must have: <ul style="list-style-type: none"> be not less than 6m x 3.2m or being capable of adapted. internal clearance of 2.5 metres 	Car parking spaces have: <ul style="list-style-type: none"> area 6m x 3.2m internal clearance of 2.5 metres 	YES YES

Item 3

Clause	Standard	Proposal	Compliance
	<ul style="list-style-type: none"> height at entry 2.3 metres any garage must have a power-operated roller door, or a power point to allow the above at a later date 	<ul style="list-style-type: none"> basement level has its own power-operated entry roller door 	YES
57 - Accessible entry	Every entry must: <ul style="list-style-type: none"> not have a slope that exceeds 1:40 comply with clauses 4.3.1 & 4.3.2 of AS 4299 have entry hardware which complies with AS 1428 	Proposal will be constructed so as to comply with requirements as stated in the Statement of Environmental Effects.	YES
58 - Exterior doors	All external doors to a dwelling must be keyed alike.	All external doors to each unit will be keyed alike as stated in the Statement of Environmental Effects.	YES
59 - Interior general	<ul style="list-style-type: none"> internal doors must have a clearance of 800mm internal corridors must have a width of at least 1000mm the width at internal door approaches must be at least 1200mm 	* Internal doors will have a clearance of 800mm. * Internal windows will have a minimum width of 100mm. * Internal door approaches minimum width of 1200mm.	YES YES YES
60 - Living room & dining room	A living room in a self contained dwelling must have: <ul style="list-style-type: none"> a circulation space of at least 2250mm in diameter and as set out in clause 4.7 of AS 4299 a telephone adjacent to a general power outlet 	The proposal complies as stated in the Accessibility Report (Refer to Conditions 118(g)).	YES

Item 3

Clause	Standard	Proposal	Compliance
	<ul style="list-style-type: none"> a potential illumination level of 300 lux 		
61 - Kitchen	<p>A kitchen in a self contained dwelling must have:</p> <ul style="list-style-type: none"> a width of at least 2.7 metres and a clear space between benches of 1450mm a width at door approaches of 1200mm benches that include one work surface that is at least 800mm in length and the height of which can be adjusted from 750mm to 850mm a tap set that is located within 300mm of the front of the sink and comprises of a lever type mixing tap a thermostatic mixing valve for the hot water outlet a cook top with either front or side controls which have a raised cross bar. The stove is also to be provided with an isolating switch a work surface adjacent to the cook top which is at the same height and at least 800mm in length an oven that is located adjacent to a 	Proposal complies as stated in the Statement of Environmental Effects. (Refer to Conditions 118(g)).	YES

Item 3

Clause	Standard	Proposal	Compliance
	<p>work surface the height of which can be adjusted</p> <ul style="list-style-type: none"> • “D” pull cupboard handles • General power outlets at least one is a double outlet within 300mm of the front of a work surface and one which is for a refrigerator which can be readily accessed once installed 		
62 - Main bedroom	<p>At least one bedroom within the dwelling must have:</p> <ul style="list-style-type: none"> • an area sufficient to accommodate a wardrobe and a queen sized bed, with an area at least 1200mm wide at the foot of the bed • 2 double general power outlets adjacent to the head of the bed • 1 general power outlet on the wall opposite the bed • a telephone outlet and power outlet next to the bed on the side closest to the door • a potential illumination of 300 lux 	Proposal complies as stated in the Statement of Environmental Effects. (Refer to Conditions 118(g)).	YES
63 - Bathroom	<p>A bathroom must have:</p> <ul style="list-style-type: none"> • an area that complies with AS 1428 	Proposal complies as stated in the Statement of Environmental Effects. (Refer to	YES

Item 3

Clause	Standard	Proposal	Compliance
	<ul style="list-style-type: none"> • a slip resistant floor • a shower recess at least 1160mm x 1100mm or that complies with AS 1428 or clause 4.4.4 and figures 4.6 and 4.7 of AS4299. the recess shall incorporate the following: <ul style="list-style-type: none"> ○ no hob ○ waterproofing ○ floor waste ○ the ability to provide a grab rail ○ suitable taps ○ can accommodate a hand held shower on a slider rail ○ can accommodate a folding seat • thermostatic mixing valves to all hot water outlets • a washbasin which complies with AS4299 • an illuminated wall cabinet • a mirror • a double power outlet beside the mirror 	Conditions 118(g)).	
64 - Toilet	<p>A dwelling must have a toilet:</p> <ul style="list-style-type: none"> • that is a visitable toilet in accordance with AS4299 • that is installed in accordance with 	Proposal complies as stated in the Statement of Environmental Effects. (Refer to Conditions 118(g)).	YES

Item 3

Clause	Standard	Proposal	Compliance
	<p>AS1428</p> <ul style="list-style-type: none"> • has a slip resistant floor surface • the WC pan is located from fixed walls in accordance with AS1428 • that can accommodate a grab rail in accordance with AS4299 & AS1428 		
65 - Access to kitchen, main bedroom, bathroom & toilet	A kitchen, main bedroom, bathroom and toilet must be provided on the ground floor of a multi level dwelling.	Proposal complies. All units are of single level design.	YES
66 - Lifts in multi storey buildings	<ul style="list-style-type: none"> • Lift access provided to all dwellings above the ground level of the building. 	Proposal complies. Lift access is provided to all levels.	YES
67 - Laundry	<p>A self contained dwelling must have a laundry which:</p> <ul style="list-style-type: none"> • has provision for a washing machine • has the provision for the installation of a clothes dryer • has a clear space in front of appliances of 1300mm • has a slip resistant floor surface • has an accessible path of travel to any external clothes line. 	Proposal complies as stated in the Statement of Environmental Effects. (Refer to Conditions 118(g)).	YES
68 - Storage	<p>A self-contained dwelling must be provided with a linen cupboard:</p> <ul style="list-style-type: none"> • that is at least 600mm wide • has adjustable 	A complying linen cupboard is provided as stated in the Statement of Environmental Effects. (Refer to Conditions 118(g)).	YES

Item 3

Clause	Standard	Proposal	Compliance
	shelving		
69 - Doors	Door hardware provided for opening doors must be: <ul style="list-style-type: none"> able to be operated with one hand located between 900mm and 1100mm above floor level 	Proposal will be constructed so as to comply with this requirement as stated in the Statement of Environmental Effects	YES
70 - Surface finishes	Balconies and external paved areas must have slip-resistant surfaces.	All paved areas will have slip-resistance surfaces. (Refer to Conditions 118(g)).	YES
71 - Ancillary items	<ul style="list-style-type: none"> switches must be located between 900mm and 1100mm above floor level general purpose outlets must be located at least 600mm above floor level 	Proposal will be constructed so as to comply with this requirement as stated in the Statement of Environmental Effects. (Refer to Conditions 118(g)).	YES
72 - Garbage	An outside garbage storage area must be provided in an accessible location.	A garbage storage facility is provided within the basement garage level.	NO

In relation to **Clause 72** the applicant has lodged a SEPP 1 objection to the development standard which requires the provision of a garbage storage area in an accessible location. The SEPP 1 objection is as follows:

“This objection is made pursuant to the provisions of Clause 6 of SEPP No 1. In this regard it is requested that Council support a variation to the development standard as provided by Clause 72 of Seniors Living 2004 SEPP.

- Is the control to be varied a development standard.*

Clause 51 of Division 4 provides that a consent authority must not consent to a development application for self contained dwellings unless it complied with the standards as specified in this Division.

Clause 72 provides,

Item 3

“Garbage - an outside garbage storage area must be provided in an accessible location”.

The application proposes the provision of a garbage storage area within the basement car park.

2. *What is the underlying objective or purpose of the development standard.*

The objectives of the garbage standard under Clause 72 of the Seniors Living SEPP are not expressed but are assumed to be:

- *To ensure good design and a design that is compatible with residential development in the locality;*
- *To ensure that the garbage storage area is located outside the residential area of the development in a convenient and accessible location.*
- *To avoid multiple garbage collection points in highly visible areas.*
- *To protect the health and amenity of occupants of the development.*
- *To be located to provide effective collection of waste receptacles.*

3. *Is compliance with the development standard consistent with the aim of SEPP No 1*

The aim of SEPP No 1 is to:

Provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(1)(i) and (ii) of the Act.

In this regard the objects of Section 5(a)(i) and (ii) of the Act are:

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

In this regard it is considered that the proposal is consistent with the aim of SEPP No 1.

4. *Why compliance with the Standard is unreasonable and unnecessary in the circumstances.*

Item 3

- *The proposal meets the objectives of the SEPP as the storage of the bins within the basement will not materially impact upon development on adjoining properties or the street.*
- *The proposed garbage room is provided in the basement level which is accessible by a continuous path of travel via a lift servicing 10 units. The garbage room is in an accessible location.*
- *The location of the garbage storage area is consistent with accepted practice.*
- *The location of the garbage storage area within the basement is accessible by council's 5m long waste collection area with adequate clearance and maneuvering being provided within the basement.*

5. *Conclusion*

It is submitted that it would be both unreasonable and unnecessary for strict compliance with this standard to be required in this case for the abovementioned reasons. The garbage storage area is located in a central, convenient and accessible location. Therefore it is respectfully requested that the Council support the variation of the development standard”.

Whilst there are no objectives for the standard in SEPP (Seniors Living) 2004, it is considered that its purpose is to ensure the provision of garbage storage occurs in a manner that affords easy access to all residents of the development. The proposed location as shown on the basement plan does so and also allows for access without leaving the building, thereby enabling easier access for potentially frail or disabled persons without exposure to the weather. As such, the SEPP 1 objection is considered to be well founded and is supported as it has demonstrated that strict application of the standard is unreasonable and unnecessary in this instance.

**Part 7 – Development standards that cannot be used as grounds to refuse consent –
Division 4 – self-contained dwellings**

The following is an assessment of the proposal against the requirements of Clause 81 of the SEPP. The consent authority must not refuse consent of an application on the grounds of the following if compliance is achieved.

Clause (a) – Building height	Height to be less than 8.0 metres	7.0 metres	YES
Clause (b) - Density & scale	0.5:1	0.5:1	YES
Clause (c) - Landscaped area	Minimum 30% of the site to be landscape area = 1, 125.9m ²	Total landscape area = 2,908m ² (77%)	YES

Item 3

Clause (d) - Deep soil zones	15% site area (562.95m ²) with 2/3 (375m ²) being located at the rear of the site with a minimum dimension of 3m.	<ul style="list-style-type: none"> Total deep soil landscaped area 857m² Deep soil landscaped area located at the rear of the site and having a minimum dimension of 3m = 857 m² 	YES YES
Clause (e) - Solar access	Min 70% of dwellings receive minimum 3 hours direct sunlight between 9am-3pm in mid-winter.	All units receive a minimum of 3 hours.	YES
Clause (f) - Private open space for in-fill housing	<ul style="list-style-type: none"> Single level or ground floor dwellings = 15m² (incl. Area 3m x 3m accessible from living area) All other dwellings = balcony min. 10m² (not less than 2m in length and accessible from a living area) 	<ul style="list-style-type: none"> Greater than the minimum 15m². Unit 1 has 54m², Unit 2 has 68m² and Unit 8 has 72m². Greater than the minimum 10m² required. Unit 3 has 160m², Unit 4 has 144m², Unit 5 has 36m², Unit 6 has 40m², Unit 7 has 35.3m², Unit 9 has 57m² 	YES YES
Clause (g) - Visitor parking	No standard where 9 or more dwellings are proposed.	Proposal is for 9 dwellings an additional 1 visitor parking spaces is available.	YES
Clause (h) - Parking	0.5 spaces per bedroom 27 x 0.5 = 13.5	18 resident spaces provided.	YES

State Environmental Planning Policy No 55 - Remediation of Land

Under Clause 7 of SEPP 55, a consent authority must not grant approval to any development on land unless it has considered whether the land is contaminated, and if contaminated, it is satisfied the land is suitable in its contaminated or remediated state for the purpose for which development is proposed.

There is no evidence to suggest any potential contamination of the site given the following factors:

1. The subject site and adjoining properties are currently used for residential purposes;
2. The subject site and surrounding land were not previously zoned for industrial or defence purposes; and
3. The subject site and surrounding properties have not been previously used by any potentially contaminating land uses or involved activities that may have posed a threat of contamination.

Item 3

Accordingly, the site is considered to be suitable in its present state for the proposed residential development.

Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River

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

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

The proposed development is considered to meet the general strategies of the SREP, however Clause 6 (4) sets out strategies for water quantity whereby the reuse of water is encourage where possible. Accordingly, rainwater tanks or similar should be incorporated in the proposed development to enable the reuse of stormwater for irrigation purposes. An appropriate condition is recommended. **(Refer Conditions 85 and 86).**

Ku-ring-gai Planning Scheme Ordinance (KPSO)

The site is zoned Residential 2(c) under the provisions of Ku-ring-gai Planning Scheme Ordinance and the erection of a residential flat building (as the development is defined pursuant to the KPSO) is prohibited within the zone. However, the provisions of SEPP (Seniors Living) 2004 override the controls of KPSO and the proposed SEPP (Seniors Living) 2004 development is permissible pursuant to that SEPP.

The provisions of Clause 33 require consideration of the aesthetic appearance of development adjacent to areas of open space and is applicable in this instances given the adjacent golf course.

The design as it faces the golf course is suitable in terms of bulk, scale and articulation and as such the provisions of this clause are satisfied by the proposal.

The provisions of Clause 38B do not allow consent to be granted for development unless a water supply is provided to the development and a suitable drainage system can be provided for the development. The site currently has a water supply and the proposed drainage system has been assessed as being suitable by Council’s Development Control Engineer.

The provisions of Clause 46(1) restrict the height of development to 7m, however being in conflict with the height control contained in SEPP (Seniors Living) 2004, the provision is overridden by SEPP (Seniors Living) 2004. Nevertheless, the proposal still complies with this control.

Item 3

Schedule 9 contains general aims and specific objectives for the Ordinance in relation to residential zones, including the Residential 2c zone. These aims and objectives would apply to the development to the extent that they are not inconsistent with the provisions of SEPP (Seniors Living) 2004.

The aims require development to maintain, and where appropriate improve the existing amenity and environmental character of residential zones and permit new residential development only where it is compatible with the existing environmental character of the locality and has a sympathetic and harmonious relationship with adjoining development.

The development is considered to be sympathetic and harmonious with adjoining development in relation to architectural design, height, scale and bulk. The proposal is considered to maintain the existing amenity and residential character of the locality to an appropriate degree as has been discussed previously in this report in relation to privacy and solar access.

The relevant objectives require development to maintain reasonable solar access to neighbour's living areas and recreation spaces at specified times, to be sited to minimise loss of privacy, encourage the replacement of tree cover, maintain a reasonable proportion of soft landscaping, be of appropriate size, bulk and scale, be of appropriate architectural character and provide for appropriate vehicular egress. The proposal is considered to be acceptable in relation to these objectives as has been discussed throughout the report.

Any Draft Environmental Planning Instruments

No draft environmental planning instruments apply to the assessment of this application.

Any Development Control Plan

Development Control Plan 40 - Waste Management

The site makes adequate provision of a waste and recycling storage area and provides for adequate access to them by garbage vehicles.

Development Control Plan 43 - Carparking (DCP 43)

The provisions of SEPP (Seniors Living) 2004 in relation to parking override any other parking requirements where in conflict. An assessment of the proposal's parking provision in relation to SEPP (Seniors Living) 2004 is provided previously within this report and the application complies with the controls.

Housing for Older People and People with a Disability Development Control Code (DCC)

The DCC became effective on 26 February 2003 and as such is a matter for consideration.

Item 3

Council's Code for Housing for Older People with a disability is a companion document to State Environmental Planning Policy No.5. This code essentially provides additional information intended to better reflect the needs of elderly and disabled residents within Kuring-gai.

Council is advised that SEPP5 has been abandoned. The new relevant state policy being SEPP (Seniors Living) 2004. Consequently, while this Code relates to SEPP5, it is considered that the principles within the Code should still be considered as part of Council's assessment of this Development Application, as follows:

Driveway: The proposal addresses the street appropriately and minimises the visual impact of the driveway by providing a landscaped strip adjacent to it and by curving it slightly.

Facades: The facades to the development are of appropriate bulk and are well articulated.

Entry: The entry to the building is obvious, with a path from the street directly to the entry.

Setback: The suitability of the front setback has been addressed previously and is considered acceptable.

Garages: Car parking is underground and as such is not visually dominant.

Fences and walls: The proposed 1.8 metres high front stone wall is a suitable design response to a site located between sites with high masonry fences on the boundary (to the south).

Front gardens: The proposed front garden is suitable, particularly given the retention of existing trees where possible together with additional landscaping, giving an appropriate softening of the appearance of the development from the street.

Private open space: Private open space is level and satisfies the minimum dimension criteria and a suitable level of privacy will be afforded. The private open space is appropriately located in relation to connection to the living areas.

Common open space: The proposal does not propose a significant area of communal open space. However, a condition of consent will require the rear yard area to be available as communal open space. (**Refer Condition 69**). The communal open space will be accessible to all residents and is overlooked by Dwellings 3, 4, 7 and 8.

Landscaping: The landscaping has been assessed as satisfactory by Council's Landscape Development Officer.

Car parking: The parking provision is acceptable and appropriate access is provided to the parking area. The driveway design as conditioned minimises the width whilst still allowing for access in an emergency. One visitor car space has been provided.

Energy efficiency: The proposal is appropriately designed with regard to energy efficiency.

Item 3

Privacy: Privacy is dealt with under the assessment of the development's compliance with SEPP (Seniors Living) 2004 and is considered acceptable subject to a number of conditions.

Access: The proposal provides a suitable level of accessibility.

Lighting: Appropriate lighting is recommended in the Accessibility Report, the recommendations of which are required as a condition of consent. **(Refer Condition 118(g)).**

Utilities: Suitable area is provided for the storage of waste and recycled material.

Adaptable housing: The development complied with the requirements of SEPP (Seniors Living) 2004 in terms of adaptable housing.

Internal design: The proposal provides a covered entry area. The dwellings are well designed in terms of privacy, convenience of movement and flexibility and allow for views to the areas of private open space and/or communal open space.

Support services: Appropriate support services are available in the area.

Section 94: The demolition of the existing three (3) houses and creation of a seniors living development comprising 9 units generates a Section 94 Contribution of \$72,709.80 **(Refer Condition 74).**

2. Any Matters prescribed by the Regulations

No other matters prescribed by the Regulations are of relevance to the assessment of this application.

3. Likely Impacts

The likely impacts of the development have been assessed throughout this report and are considered to be satisfactory.

4. Suitability of The Site

The site is considered to be appropriate for the erection of development pursuant to the provisions of SEPP (seniors living) 2004 and the design and location of the proposal has minimised any detrimental impacts to a reasonable degree.

5. Any Submissions

The submissions received in relation to the application have been summarised and addressed previously within this report.

6. Public Interest

Item 3

The proposed development will not result in any significant detrimental impact in relation to the public interest.

Any other Relevant Matters Considerations Not Already Addressed

There are no other matters for consideration.

CONCLUSION

The proposed development will perform adequately especially given the following.

1. The proposed development will be satisfactory with respect to the provisions of State Environmental Planning Policy (Seniors Living) 2004. It will provide housing for people over the age of 55 and people with a disability in an appropriate building form and location. The housing would be generally consistent with the aims and objectives of the SEPP.
2. The proposed development will generally satisfy the provisions within Council's environmental planning instruments and development control plans.
3. The design of the development will be sympathetic to the streetscape. It will be compatible with the bulk and scale of surrounding dwellings and provide a suitable landscape character.
4. It would not adversely impact on the amenity of surrounding residential properties in terms of loss of privacy, overshadowing or loss of views and will support the amenity needs of future residents.

Accordingly, the proposed development is satisfactory with respect to the relevant heads of consideration prescribed under Section 79C of the Environmental Planning and Assessment Act 1979 (as amended). The application is therefore, recommended for approval, subject to conditions.

RECOMMENDATION

That the Council, as the consent authority, grant development consent to DA 378/04 for the consolidation of the three existing lots, the demolition of existing structures and the construction of a SEPP (Seniors Living) 2004 development comprising 9 units on land at 154-158 Mona Vale Road, St Ives, 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 to be in accordance with Development Application No 378/04 and Development Application plans prepared by Barry Rush and Associates Pty Ltd, reference numbers DA1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, dated 19 March 2004 and lodged with Council on 16 April 2004.

Item 3

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 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.
5. 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.
6. For stormwater control, provision shall be made for the collection and disposal of all run-off surface waters from paved areas, recontoured areas, pool overflow and higher levels. All collected waters are to be dispersed without causing nuisance to the adjoining properties.
7. For safety purposes, depth markers shall be provided at both ends of the pool.
8. 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.
9. To maintain the existing ground levels all spoil shall be removed from the site. Sites shall not be re-shaped, re-contoured, nor the levels on any part of the site altered without the consent of the Council being obtained beforehand.
10. 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.
11. 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.

Item 3

12. 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.

13. 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.
14. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
15. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
16. 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.
17. 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.
18. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
19. 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 3

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

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

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

21. 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.
22. The fence and footings shall be constructed entirely within the boundaries of the property.
23. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
24. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
25. 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.
26. 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.

27. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.

Item 3

28. 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.
29. 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.
30. 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.
31. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
32. 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.
33. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
34. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
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.

Item 3

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
 - 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. "Peep holes" being provided to the entrance doors of units 7, 8 and 9 for personal security.
41. Stormwater runoff from all hard surfaces generating runoff or landscaped areas which are not at natural ground level shall be piped to the interallotment stormwater drainage line benefitting the subject site. The interallotment line is to be covered by the necessary easement for drainage which may exist or need to be created under this consent.
42. A mandatory rainwater re-use tank system, together with the additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.
43. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided in front of the garage door and connected to the main stormwater drainage system. The channel drain shall have outlet of minimum diameter 150mm to prevent blockage by debris.
44. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control*

Item 3

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.**

45. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
46. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking".
47. 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.
48. 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.
49. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage area, no doors or gates shall be provided in the access driveways to the basement carpark which would prevent this service.
50. Stormwater quality control measures as described in chapter 8 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.
51. The vehicular crossing is to be a minimum of 6 metres wide, splaying out to 8 metres at the kerbline.
52. 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.

Item 3

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.

53. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
54. Tree planting to satisfy tree retention/replenishment requirements shall be completed prior to the issue of the final Certificate of Compliance
55. 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.
56. 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 Arborist/Horticulturist, with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate:

No/Tree/Location

1092/*Camellia japonica* (Japanese Camellia) 3metres
Towards the rear of the northern building's southern side.

57. 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.
58. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the Council shall be required at monthly intervals. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.
59. 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:

No/Tree/Location

Radius From Trunk

150/*Nyssa sylvatica* (Tupelo) 3m
Close to and near the southern corner of the site.

Item 3

155/*Cedrus deodara* (Himalayan Cedar) 6m
Close to the site's central Mona Vale Road boundary.

1027/*Eucalyptus saligna* (Sydney Blue Gum) 6m
Adjacent to the site's Mona Vale Road boundary and towards
its eastern corner.

1032/*Nageia falcata* (Outeniqua Yellow Wood) 3m
Adjacent to the site's eastern (front) corner.

1041/*Eucalyptus saligna* (Sydney Blue Gum) 6m
Adjacent to, and towards the eastern end of the site's
north-eastern boundary.

1101/*Cedrus deodara* (Himalayan Cedar) 5m
Close to the northern internal corner of Unit 8.

1113/*Araucaria heterophylla* (Norfolk Island Pine) 6m
Close to the northern internal corner between Units 7 and 8.

60. 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.

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

Tree Species

4 *Angophora floribunda* (Rough barked Apple)
3 *Elaeocarpus reticulatus* (Blueberry Ash)

62. On completion of the LANDSCAPE WORKS including TREE 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.

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

Plant Species

Asparagus densiflorus (Asparagus Fern)

Item 3

Asparagus plumosus (Climbing Asparagus)
Chlorophytum comosum (Spider Plant)
Cinnamomum camphora (Camphor laurel)
Erigeron karvinskianus (Seaside Daisy)
Hedera helix (English Ivy)
Impatiens balsamina (Impatiens)
Ligustrum lucidum (Large-leaved Privet)
Ligustrum sinense (Small-leaved Privet)
Nephrolepis cordifolia (Fishbone fern)
Ochna serrulata (Ochna)
Tradescantia albiflora (Wandering Jew)

64. 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.
65. The redundant vehicle crossings are to be removed and kerb and guttering to match the existing is to be reinstated.
66. The development is to be designed such that road traffic noise from Mona Vale Road is mitigated by durable materials, 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 following internal noise objectives for all habitable rooms under ventilated conditions are to be achieved, 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)

67. Private garages having a power-operated roller door, or a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.
68. Prior to the issue of the Construction Certificate, the applicant shall submit for approval of the Principal Certifying Authority, documentary evidence demonstrating that the Plan of Consolidation of Lot Part A in DP 337944, Lot 1 in DP 658920 and Lot 1 in DP 613213 has been registered at the Department of Lands.
69. The rear yard being Communal Open Space.

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

Item 3

70. 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.

71. 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).
72. 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.
73. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.

Item 3

- 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.

74. 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 SIX (6) ADDITIONAL DWELLINGS IS CURRENTLY \$72,709.80. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

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

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

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

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

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

75. The garbage area located at the basement level is to comply with the 'Design of waste facilities', Appendix D of Council's Development Control Plan No 40. Details being

Item 3

submitted and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

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

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

77. An amended plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character.

The amended plan shall include the following information:

- All proposed species in the plant schedule shall agree with those on the plan.
- All proposed finished floor and ground levels shall agree with those on the architectural plans.
- To protect and enhance native vegetation for the conservation and promotion of biodiversity, at least 25% of the tree and shrub plantings shall be selected from the Blue Gum High Forest assemblage of vascular plants (included) as the site is located more than 300 metres from bushland.

The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works.

78. The property shall support a minimum number of 19 trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commence of work.
79. The 13 trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.
80. A CASH BOND/BANK GUARANTEE of \$10,000 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

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

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

81. A CASH BOND/BANK GUARANTEE of \$18,000 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.

No/Tree/Location

155/*Cedrus deodara* (Himalayan Cedar)/Close to the site's central Mona Vale Road boundary.

1027/*Eucalyptus saligna* (Sydney Blue Gum)/Adjacent to the site's Mona Vale Road boundary and towards its eastern corner.

1032/*Nageia falcata* (Outeniqua Yellow Wood)/Adjacent to the site's eastern (front) corner.

1041/*Eucalyptus saligna* (Sydney Blue Gum)/Adjacent to, and towards the eastern end of the site's northeastern boundary.

1101/*Cedrus deodara* (Himalayan Cedar)/Close to the northern internal corner of Unit 8.

1113/*Araucaria heterophylla* (Norfolk Island Pine)/Close to the northern internal corner between Units 7 and 8.

82. Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for approval by the Principal Certifying Authority (PCA). These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement parking slab. The driveway profiles must demonstrate the following:

Item 3

- a. That vehicular access can be obtained using grades of 25% (1 in 4) maximum and
- b. That all changes in grade (transitions) comply with Australian Standard 2890.1 – “Off-street car parking” (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.

If a new driveway crossing is proposed then the longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application.

- 83. Prior to issue of the Construction Certificate, submission of details and certification by a qualified civil/traffic engineer, for approval by the Principal Certifying Authority (PCA), that the parking provisions provided in common areas and within private parking areas comply with the following standards:
 - a. The State Environmental Planning Policy for Senior Living (particularly relating to height clearances and space dimensions) and
 - b. Australian Standard 2890.1 – 2004 “Off-street car parking” and
 - c. The 2.5 metres headroom requirement under DCP40 for waste collection trucks (where internal collection is required).
 - d. No doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection from the basement garbage storage area.
- 84. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document “Managing Urban Stormwater – Soils and Construction” (1998). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).
- 85. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including garden irrigation, laundry and toilet flushing. The necessary pumping, housing, filtration and delivery plumbing equipment for re-use shall be shown on this design. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. These details may be incorporated on the overall stormwater management plan and design for the retention/detention system.
- 86. 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, including stormwater quality control measures. 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

Item 3

to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 - Plumbing and Drainage Code.

87. (Upgrade footpaths and kerb ramps between the subject site and St Ives Shopping Village to comply with AS1428.1, as recommended in the Accessibility Report prepared by Accessibility Solutions dated 8 April 2004).

The Applicant must carry out the following infrastructure works in the Public Road:

Upgrade footpaths and kerb ramps between the subject site and St Ives Shopping Village to comply with AS1428.1, as recommended in the Accessibility Report prepared by Accessibility Solutions dated 8 April 2004.

Development Consent under the EP&A Act does NOT give approval to these works on Council property. **THE APPLICANT MUST OBTAIN A SEPARATE APPROVAL UNDER SECTION 138 AND 139 OF THE ROADS ACT 1993** for the works in the Public Road, required by this condition. The Construction Certificate must not be issued, and these works must not proceed, until Council has issued a formal written consent under the *Roads Act 1993*.

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

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

NOTE 1: A minimum of three (3) weeks will be required for assessment of Roads Act submissions. Early submission is highly recommended to avoid delays in obtaining a Construction Certificate.

NOTE 2: An engineering assessment fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees.

NOTE 3: Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

Item 3

88. Prior to the issue of a Construction Certificate the applicant shall lodge a \$10,000 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 or 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.
89. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), registered title documents demonstrating that the subject site is benefited by the necessary easement(s) for stormwater drainage as far as the approved point of discharge to the public drainage system. This information is to include, as a minimum, registered Title documents demonstrating the benefit and burdens, together with the instruments describing the terms of necessary drainage easement (s).
90. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full hydraulic design documentation for the required interallotment drainage system from the subject property to the approved point of discharge to the public drainage system. Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer in accordance with Council's Water Management DCP 47 (available on Councils website and at Customer Services) and the Plumbing and Drainage Code (AS3500). New pipes within the downstream easement drainage system must be sized to have adequate capacity to carry design flowrates, or detention system overflows where detention systems are to be provided, from the subject property. The following details must be included:
- a. Plan view of interallotment system to scale showing dimensions, location and reduced levels of all pits, grates, pipe inverts, flushing facilities and exact point of discharge,
 - b. The contributing catchment calculations and supporting pipe sizing information,
 - c. Longitudinal section showing existing ground levels and proposed pipe invert levels, grades and flow capacities,
 - d. Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system,
 - e. Means to preserve the root systems of trees within seven (7) metres of the drainage system.
91. 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

Item 3

system. The design shall be generally based on the concept plan 343132/D1 to D3 by AFCE Environment + Building, advanced for construction purposes, except that **retention and reuse measures** shall be incorporated, as well as **water quality measures** as described in Chapter 8 of DCP 47. The storage volumes and design shall comply with Council's Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from a minimum 100m² roof area for each 5000 litres of storage. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer and may be incorporated on the overall site drainage plan.

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

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

The design and construction of the layback is to be in accordance with RTA requirements. A detail of this requirement is to be obtained from the Roads and Traffic Authority's Project Services Manager, Traffic Projects Section on (02) 8814 2114. A copy of this detail should be submitted to Council with the driveway levels application.

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

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

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

93. 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 3

94. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council prior to the commencement of work.
95. 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.

No/Tree/Location	Radius in Metres
195/ <i>Cupressus sempervirens</i> 'Stricta' (Slender Italian Cypress) Abutting the site's southeastern (side) boundary.	2m
409/ <i>Camellia sasanqua</i> (Chinese Camellia) Adjacent to the site's central northwestern boundary.	3m
516/ <i>Camellia sasanqua</i> (Chinese Camellia) Close to the site's central Mona Vale Road boundary.	3m
517/ <i>Camellia sasanqua</i> (Chinese Camellia) Close to the site's central Mona Vale Road boundary.	3m
1107/ <i>Harpephyllum caffrum</i> (Kaffir Plum) Adjacent to the site's northeastern (side) boundary and towards its northern corner.	3m
1112/ <i>Magnolia x soulangiana</i> (Magnolia) Towards the site's northern (rear) corner.	3m
1122/ <i>Camellia sasanqua</i> (Chinese Camellia) Adjacent to the site's northern (rear) corner.	3m
1123/ <i>Lagerstroemia indica</i> (Crepe Myrtle) Adjacent to the site's northwestern boundary and near its northern (rear) corner.	4m
1127/ <i>Lagerstroemia indica</i> (Crepe Myrtle) Adjacent to the site's northwestern boundary and towards its northern (rear) corner.	4m
1128/ <i>Grevillea robusta</i> (Silky Oak) Within Pymble Golf Course and towards the site's northern (rear) corner.	7m

96. 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 3 UNIT BUILDINGS, GARAGE

Item 3

ACCESS RAMP, SWIMMING POOL and MONA VALE BOUNDARY FENCE 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:

No/Tree/Location	Radius From Trunk
------------------	-------------------

149/ <i>Tibouchina granulosa</i> (Lasiandra) Close to the site's central Mona Vale Road boundary.	2m
--	----

150/ <i>Nyssa sylvatica</i> (Tupelo) Close to the site's Mona Vale Road boundary and near its southern corner.	3m
---	----

155/ <i>Cedrus deodara</i> (Himalayan Cedar) Close to the site's central Mona Vale Road boundary.	6m
--	----

1027/ <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to the site's Mona Vale Road boundary and towards its eastern corner.	6m
---	----

1032/ <i>Nageia falcata</i> (Outeniqua Yellow Wood) Adjacent to the site's eastern (front) corner.	3m
---	----

1041/ <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to, and towards the eastern end of the site's northeastern boundary.	6m
--	----

1092/ <i>Camellia japonica</i> (Japanese Camellia) Towards the rear of the northern building's southern side.	3m
--	----

1101/ <i>Cedrus deodara</i> (Himalayan Cedar) Close to the northern internal corner of Unit 8.	5m
---	----

1113/ <i>Araucaria heterophylla</i> (Norfolk Island Pine) Close to the northern internal corner between Units 7 and 8.	6m
---	----

97. 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.
98. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

Item 3

99. Council property adjoining the construction site must be fully supported at all times during all excavation, demolition and building construction works. Details of shoring, propping and anchoring of works adjoining Council property, prepared by a qualified Structural Engineer or Geotechnical Engineer, must be submitted for the approval of the Principal Certifying Authority (PCA), before the commencement of the works, and prior to issue of the Construction Certificate. Backfilling of excavations adjoining Council property or any void remaining at completion of construction between the building and Council property must be fully compacted prior to the completion of works.
101. Prior to the commencement of any works on site and prior to issue of the Construction Certificate the applicant must submit, for review by Council Engineers, a Traffic Control/Parking and Delivery Management Plan. The plan must be prepared by a qualified civil/traffic engineer 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)”. The following matters must be addressed:

Heavy vehicle routes

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

Safe ingress and egress

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

Parking control

- a. The provision of on-site parking for employee, tradesperson and construction vehicles.

RTA concurrence

- a. Evidence of consultation with and concurrence of the RTA for the Traffic Control Plan.

Stages

Item 3

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

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

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

102. The applicant is to liaise with Council's Open Space Section to arrange for the trimming of vegetation in the Mona Vale Road reserve to improve sight distance for vehicles leaving the site. This work is to be at no cost to Council or the RTA.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

103. Prior to issue of an Occupation Certificate, the following works must be completed:

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

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

104. 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/retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council. Registered title documents showing the covenants and restrictions must be submitted and

Item 3

approved by the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

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

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

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

105. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the approved road, footpath and/or 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.
106. 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.
107. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
108. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit to the Principal

Item 3

Certifying Authority (PCA) certification from a suitably qualified and experienced traffic/civil engineer, that:

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

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

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

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

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

Item 3

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

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

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

111. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the construction of the required interallotment drainage system must be completed in full. The designing engineer or equivalent professional engineer must supervise the works. At the completion of works, and prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following shall be submitted to the Principal Certifying Authority (PCA):

- a. Certification from the supervising engineer that the as-constructed works comply with the approved interallotment design documentation, and
- b. A full works-as-executed drawing of the as built drainage line (dimensions, grades, materials, invert levels) prepared by a registered surveyor, and
- c. Certification from the surveyor that all drainage structures are wholly contained within the drainage easement(s).

112. Prior to issue of the occupation certificate, the creation of a Restriction-on-Use under the Conveyancing Act, restricting the occupation of the premises to:

- a. People aged 55 years or over, or people with a disability as defined by the provisions of the State Environmental Planning Policy for Seniors Living.
- b. People who live with such people as defined in (a) above.
- c. Staff employed to assist in the administration of and provision of services to housing provided in this development.

BUILDING CONDITIONS

Item 3

113. 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.
114. 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.
115. 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.
116. 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.
117. 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.

Item 3

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.

118. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Wet area waterproofing details complying with the Building Code of Australia.
 - b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.
 - c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - d. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
 - e. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.
 - f. A Registered Surveyor's Report on completion of footings but before external walls are above floor level verifying compliance with this consent.
 - g. A Compliance Certificate that the development complies with the relevant design standards of clauses 52(1), 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70 & 71 of State Environmental Planning Policy (Seniors Living) 2004.

G Bolton
Team Leader, St Ives
Ward

M Prendergast
Manager
Development Assessment
Services

M Miocic
Director
Environment &
Regulatory Services

Attachments: **Site Location Plan**
 Elevations
 Site Analysis
 Shadow Diagrams
 Landscaping Plan
 Floor Plans

60 COONANBARRA ROAD, WAHROONGA - OPTION TO RENEW

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council of Kindergarten Union (KU) Children's Services exercising its option to renew the lease for the premises located at 60 Coonanbarra Road, Wahroonga to operate the Wahroonga Pre-school.
BACKGROUND:	The lease for the pre-school expires on 30 September 2004, however, that agreement contains an option to renew for a further 3 years.
COMMENTS:	KU Children's Services have exercised their option to renew as per the terms of the lease.
RECOMMENDATION:	That Council authorise the exercise of the option by KU Children's Services for the premises at 60 Coonanbarra Road, Wahroonga.

PURPOSE OF REPORT

To advise Council of Kindergarten Union (KU) Children's Services exercising its option to renew the lease for the premises located at 60 Coonanbarra Road, Wahroonga to operate the Wahroonga Pre-school.

BACKGROUND

Council is the owner of Lots 1-7 DP 6297 and Lot 1 DP 726135, that are zoned Special Uses 'A' (Municipal Purposes) and classified as Community Land.

On 6 August 2002 Council resolved to grant a 2 year lease with a 3 year option to KU Children's Services to operate the Wahroonga Pre-school from the premises located at 60 Coonanbarra Road, Wahroonga. The initial 2 year lease commenced on 1 October 2002 and expires on 30 September 2004.

COMMENTS

KU Children's Services under the conditions of the lease has exercised the option to renew the lease for a further 3 years.

The Wahroonga Pre-school has operated from these premises since 1956. KU Children's Services has been meeting its responsibilities as a tenant and has complied with the conditions as set out in Council's Policy for Leasing Council Property to Community Organisations. Given this, it is recommended that KU Children's Services be granted a renewal of its lease.

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

CONSULTATION

KU Children's Services have exercised their option to renew as per the terms of the lease.

FINANCIAL CONSIDERATIONS

The current rental being paid by Wahroonga Pre-school is \$5,409 and is subject to annual CPI adjustments throughout the option period.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable

SUMMARY

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

RECOMMENDATION

- A. That Council approve the valid exercise of option and grant a 3 year lease to KU Children's Services over Council premises at 60 Coonanbarra Road, Wahroonga.
- B. That the Mayor and General Manager be authorised to execute all necessary lease documents.
- C. That Council authorise the affixing of the common seal of Council to the lease agreement.

Stephen Plumb	Janice Bevan
COMMUNITY FACILITIES COORDINATOR	DIRECTOR COMMUNITY

261 MONA VALE ROAD, ST IVES - OPTION TO RENEW LEASE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council of St Ives Occasional Care Inc. exercising its option to renew the lease for the premises located at 261 Mona Vale Road, St Ives.
BACKGROUND:	The lease for the Occasional Care Centre expires on 30 September 2004, however, that agreement contains an option to renew for a further 3 years.
COMMENTS:	St Ives Occasional Care Inc. has exercised their option to renew for another 3 years as per the terms of the lease.
RECOMMENDATION:	That Council authorise the exercise of the option by St Ives Occasional Care Inc. for the premises at 261 Mona Vale Road, St Ives.

PURPOSE OF REPORT

To advise Council of St Ives Occasional Care Inc. exercising its option to renew the lease for the premises located at 261 Mona Vale Road, St Ives.

BACKGROUND

Council is the owner of Lot 31, DP 719052, that is zoned Residential 2(d3) and classified as Community Land.

On 6 August 2002 Council resolved to grant a 2 year lease with a 3 year option to St Ives Occasional Care Inc.

The initial 2 year lease commenced on 1 October 2002 and expires on 30 September 2004.

COMMENTS

St Ives Occasional Care Inc. under the conditions of the lease has exercised the option to renew the lease for a further 3 years.

The centre has operated an occasional care centre from these premises since 1977. St Ives Occasional Care Inc. has been meeting its responsibilities as a tenant and has complied with the conditions as set out in Council's Policy for Leasing Council Property to Community Organisations. Given this, it is recommended that St Ives Occasional Care Inc. be granted a renewal of its lease.

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

A clause was included in the lease 2 years ago, that stated the lease may be terminated by Council subject to any rezoning of the land. This condition still stands as part of the option to renew the lease.

CONSULTATION

St Ives Occasional Care Inc. have exercised their option to renew as per the terms of the lease.

FINANCIAL CONSIDERATIONS

The current rental being paid by St Ives Occasional Care Inc. is \$3,633 and is subject to annual CPI adjustments throughout the option period.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

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

RECOMMENDATION

- A. That Council approve the valid exercise of option and grant a 3 year lease to St Ives Occasional Care Inc. over Council premises at 261 Mona Vale Road, St Ives.
- B. That the Mayor and General Manager be authorised to execute all necessary lease documents.
- C. That Council authorise the affixing of the common seal of Council to the lease agreement.

Stephen Plumb
COMMUNITY FACILITIES COORDINATOR

Janice Bevan
DIRECTOR COMMUNITY SERVICES

4 BABBAGE ROAD, ROSEVILLE - OPTION TO RENEW LEASE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council of Roseville Kids' Care Association exercising its option to renew the licence for the premises located at 4 Babbage Road, Roseville.
BACKGROUND:	The licence for Roseville Kids' Care Association expires on 30 September 2004, however, that agreement contains an option to renew for a further 3 years.
COMMENTS:	Roseville Kids' Care Association has exercised their option to renew as per the terms of the licence.
RECOMMENDATION:	That Council authorise the exercise of the option by Roseville Kids' Care Association for the premises at 4 Babbage Road, Roseville.

PURPOSE OF REPORT

To advise Council of Roseville Kids' Care Association exercising its option to renew the licence for the premises located at 4 Babbage Road, Roseville.

BACKGROUND

Council is the owner of Lots Pt. 19-21 DP 9852, Lot Pt. 24 and Lot 23 DP 7517, that is zoned Special Uses 'A' Municipal Purposes and classified as Community Land.

On 20 August 2002 Council resolved to grant a 2 year licence with a 3 year option to Roseville Kids' Care Association to operate an outside of school hours care from the premises located at 4 Babbage Road, Roseville. The initial 2 year licence commenced on 1 October 2002 and expires on 6 October 2004.

COMMENTS

Roseville Kids' Care Association under the conditions of the licence has exercised the option to renew the licence for a further 3 years.

Roseville Kids' Care Association has operated from these premises since 1993. The centre has been meeting its responsibilities as a tenant and has complied with the conditions as set out in Council's Policy for Leasing Council Property to Community Organisations. Given this, it is recommended that Roseville Kids' Care Association be granted a renewal of its licence.

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

CONSULTATION

Roseville Kids' Care Association has exercised their option to renew as per the terms of the licence.

FINANCIAL CONSIDERATIONS

The current rental being paid by Roseville Kids' Care Association is \$1,633 and is subject to annual CPI adjustments throughout the option period.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Item 6

P33559
18 August 2004

The licensee has validly exercised their option to renew and fulfilled their obligations under the term of the licence. Accordingly, Council is obliged to grant the renewal of the licence. The conditions of the original licence stand and are reflective of the leasing policy at the time.

RECOMMENDATION

- A. That Council approve the valid exercise of option and grant a 3 year licence to Roseville Kids' Care Association over Council premises at 4 Babbage Road, Roseville.
- B. That the Mayor and General Manager be authorised to execute all necessary licence documents.
- C. That Council authorise the affixing of the common seal of Council to the licence agreement.

Stephen Plumb
COMMUNITY FACILITIES COORDINATOR

Janice Bevan
DIRECTOR COMMUNITY SERVICES

30 LOFBERG ROAD, WEST PYMBLE - OPTION TO RENEW LEASE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council of Kindergarten Union (KU) Children's Services exercising its option to renew the lease for the premises located at 30 Lofberg Road, West Pymble to operate the West Pymble Pre-school.
BACKGROUND:	The lease for the pre-school expires on 30 September 2004, however, that agreement contains an option to renew for a further 3 years.
COMMENTS:	KU Children's Services have exercised their option to renew as per the terms of the lease.
RECOMMENDATION:	That Council authorise the exercise of the option by KU Children's Services for the premises at 30 Lofberg Road, West Pymble.

PURPOSE OF REPORT

To advise Council of Kindergarten Union (KU) Children's Services exercising its option to renew the lease for the premises located at 30 Lofberg Road, West Pymble to operate the West Pymble Pre-school.

BACKGROUND

Council is the owner of Lot 1 DP 521870 and Lot 3 DP 554781, that are zoned Recreation Existing 6(a) and classified as Community Land.

On 20 August 2002 Council resolved to grant a 2 year lease with a 3 year option to KU Children's Services to operate the West Pymble Pre-school from the premises located at 30 Lofberg Road, West Pymble. The initial 2 year lease commenced on 7 October 2002 and expires on 6 October 2004.

COMMENTS

KU Children's Services under the conditions of the lease has exercised the option to renew the lease for a further 3 years.

The West Pymble Pre-school has operated from these premises since 1966 with the lease assigned to KU Children's Services from the West Pymble Pre-school Centre Ltd. in 1993. KU Children's Services been meeting its responsibilities as a tenant and has complied with the conditions as set out in Council's Policy for Leasing Council Property to Community Organisations. Given this it is recommended that KU Children's Services be granted a renewal of its lease.

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

CONSULTATION

KU Children's Services have exercised their option to renew as per the terms of the lease.

FINANCIAL CONSIDERATIONS

The current rental being paid by Wahroonga Pre-school is \$4,400 and is subject to annual CPI adjustments throughout the option period.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

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

RECOMMENDATION

- A. That Council approve the valid exercise of option and grant a 3 year lease to KU Children's Services over Council premises at 30 Lofberg Road, West Pymble.
- B. That the Mayor and General Manager be authorised be authorised to execute all necessary lease documents.
- C. That Council authorise the affixing of the common seal of Council to the lease agreement.

Stephen Plumb
COMMUNITY FACILITIES COORDINATOR

Janice Bevan
DIRECTOR COMMUNITY
SERVICES

WEST PYMBLE BOWLING CLUB HOUSE SITE - FIVE YEAR LEASE WITH TWO FURTHER FIVE YEAR OPTIONS 161 TO 163 RYDE ROAD, WEST PYMBLE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider granting a five year Lease with two further options of five years to the West Pymble Bowling Club Inc located at 161-163 Ryde Road, West Pymble.

BACKGROUND:

West Pymble Bowling Club has been occupying this site since 1960, and is keen to continue their usage through formal agreement with Council.

COMMENTS:

West Pymble Bowling Club Inc has 175 bowling members and 255 social members. The Club is fully licensed and has nine gaming machines.

RECOMMENDATION:

That Council grant a five year lease with two further options of five years to the West Pymble Bowling Club Inc and authorise the Mayor and General Manager to sign the documentation and affix the Common Seal of Council to the Lease, subject to no significant objections being received to the proposal.

PURPOSE OF REPORT

For Council to consider granting a five year Lease with two further options of five years to the West Pymble Bowling Club Inc located at 161-163 Ryde Road, West Pymble.

BACKGROUND

West Pymble Bowling Club Limited has been occupying Council's land since 1960 when a group of local residents formed "The West Pymble War Memorial Community Centre Bowling Club" and is located at 161-163 Ryde Road, West Pymble also known as 2 Prince of Wales Drive, West Pymble.

In 1961 agreement was reached with Council for a Lease on land of which the Clubhouse now stands, and in that same year the Club became incorporated and commenced its outdoor bowling club activities. The indoor bowling club also continued for several years and in 1962 the West Pymble Women's Bowling Club was formed as part of the Club.

Construction of the Clubhouse and the 2 greens commenced during 1962 and the Clubhouse officially opened on 13 June 1964.

The Club has over recent years commenced a refurbishment program spending approximately \$100,000 on the kitchen upgrade, \$30,000 on a new roof and during February 2002 installed three major air conditioning units for the facility. New carpet has recently been laid throughout the Clubhouse and shade structures erected around both greens with aluminum seats. The Club has also installed flood lights in the top car park for security purposes.

The Clubhouse comprises a single storey concrete block with a metal deck roof. Accommodation comprises a dining area, bar/gaming machine area, commercial kitchen, cellar area with a cool room, male and female toilet blocks and locker areas, women member's room and an office. The Clubhouse is considered to be in a reasonable condition and has been well maintained.

Other site improvements comprise two bowling greens, a shed at the southern part of the site used for male and female toilets and storage, a club tea room, brick barbeque and a shed. Car park one located adjacent to the Clubhouse is for exclusive use by the Bowling Club and has 23 marked tar sealed car parking spaces. Car park 2, located at the northern part of the site is for shared use between the Bowling Club and the remainder of the sporting groups and other users within Bicentennial Park. The surrounding development mainly comprises residential houses and the Bicentennial Park.

The land is approximately 8,584 sq metres and is zoned special uses 5(a) with Ku-ring-gai Planning Scheme and categorised 'General Community Use' in the Bicentennial Park Plan of Management. The site comprises lot 1 DP 211444.

The previous Lease commenced 1 January 1997 and expired 31 December 2001. Negotiations commenced during October 2001 but the matter could not be considered by Council until the Bicentennial Park Plan of Management, the enabling document for such a Lease was adopted and

Item 8

S02710
31 August 2004

until confirmation regarding appropriate Lot subdivision as outlined in this report could be registered.

Plan of Management

The management of this site is addressed by the Bicentennial Park Plan of Management, adopted by Council 6 August 2002. The plan recognises the activity and authorises such Leases in accordance with the principles of the Local Government Act (1993) and in particular, management of "Community Lands". In accordance with section 47D of the Local Government Act 1993 which is outlined below, this report proposes the granting of a lease to West Pymble Bowling Inc:

Section 47 outlines the following:

"The exclusive occupation or exclusive use by any person, of community land otherwise than in accordance with:

- a) A lease, licence or estate to which section 47 or 47A applies, or*
- b) A sublease or other title directly or indirectly derived from the holder of such a lease, licence or estate, is prohibited."*

COMMENTS

Council commenced negotiations regarding a new lease with the club in October 2001. A new lease was not able to be entered into by Council until the adoption of the Bicentennial Park Plan of Management which occurred in August 2002. Whilst the club and staff had largely reached agreement on proposals for renewal of the lease, the proposed duration of the lease was such that the Land Property Information Office (formerly the Land Titles Office) advised Council individual lots for leases of greater than 5 years for registration purposes would be required. This was not reflected in the then current subdivision pattern.

Consequently staff submitted a Development Application that proposed to subdivide the lot into lots 11, 12 and 13. Lot 11 is for access and Lot 12 remains as park but with utility easements. Lot 13 only relates to the proposed lease for the clubhouse. Attachment 1 depicts this.

The sites location adjacent to a SEPP19 area, within a Bushfire Hazard zone, adjacent to foreshore and waterway areas and complications with the establishment of a right of way over Community land resulted in considerable work being undertaken to receive development consent for the subdivision. That consent (DA 597/03) for subdivision purposes was approved by Council on 24 May 2004 staff delegation.

Subsequently, Council has engaged surveyors to prepare the Section 88b instrument and finalised all conditions prior to registration with the Land Property Information Office.

Concurrent with matters relating to the subdivision process, staff have inspected the facility in relation to both facility and site management. The building and site are generally in good repair. Some minor changes to the club's environmental management practices were identified. The club has already undertaken these works to the satisfaction of staff.

Item 8

S02710
31 August 2004

A summary of the proposed heads of agreement is outlined below.

Lessee Name	West Pymble Bowling Club Inc
Incorporation No	000351657
Leased Area	161-163 Ryde Road West Pymble (also known as 2 Prince of Wales Drive, West Pymble)
Title Details	Lot 1 DP 211444
Car parking	70 car parking spaces
Term	5 years
Options	2 further options of 5 years
Commencing	Expiration of public notification of the proposed new Lease
Specified activity	Playing of lawn bowls and recreational/community activities, eg functions and activities related to lawn bowls, (games, trivia nights and restaurant nights).
Trading hours	Monday to Friday – 7am till 12 midnight. Saturday from 7:30 am to 12:30 am Sunday from 8 am – 11pm Public Holidays from 8am to 11pm
Ownership of Buildings	Club currently owns the buildings and improvements within the leased area. When the lease is terminated or expired, or if the Club ceases to exist as a bowling club, the buildings and improvements revert to Council's ownership.
Lease Fee	In accordance with attached confidential lease fee structure
Payment frequency	6 monthly basis
Goods and services taxes	Lessee is responsible for the payment of GST
Utilities	Lessee is responsible for all payments of telephone, water, electricity, gas, Council rates and insurance
Costs	1. Lessee to bear the full costs associated with the preparation and finalisation of the proposed lease – legal, stamp duty, GST, disbursements. 2. Lessor is responsible for costs associated with the state valuation report and public notification process.
Repairs and Maintenance	1. Lessee is responsible for all repairs and maintenance of the leased area including the car parking area. 2. Lessee to replace any plate glass (if used in the building) or have sufficient insurance cover to meet the cost of replacement. 3. Lessee has the right to allow drilling, painting of walls by way of improvement but not allow damage to the building.
Structural Works	Lessee is responsible for all structural works to the buildings within the leased area.
Insurance	1. Lessee is to provide a copy of the certificate of currency at commencement of the lease for \$10 million public risk insurance policy. 2. Lessee to ensure it has appropriate level of cover for building and content insurance. 3. Lessee to indemnify Council against all claims arising out of the use of the leased area, the right of ways or the specified activity. 4. Lessor will not take responsibility for any loss or damage to the leased area.

Item 8

S02710
31 August 2004

	<p>5. Lessee to provide a copy of 3 types of insurance to Council on an annual basis and ensure it is covered sufficiently and timely.</p> <p>6. Lessee to be responsible solely for any increase in the premiums associated with the policies required under this lease.</p>
--	---

Benefits to Council

West Pymble Bowling Club has approximately 120 Bowling members and 250 social members and is a community based non profit company limited by guarantee.

Unlike most sporting facilities throughout Ku-ring-gai, the upkeep of the West Pymble Bowling Club Inc is self funded by its membership and covers its own costs, making no call upon Council or the wider community to assist with funding.

The Club maintains its own grounds, car park, clubhouse, sheds, greens and equipment. The Club has regular working bees to ensure their maintenance program is undertaken on an ongoing basis. This includes painting, landscaping, weeding and general beautification of the site. In addition members have adhered to the improved and ongoing site management practices relating to the area near the bowling greens. All electrical, plumbing and other services have been upgraded periodically by the Club to ensure safety and compliance requirements are met.

The Board of Directors work voluntarily and are elected annually to manage the bowling club. Unlike some bowling clubs, West Pymble Bowling Club Inc has been able to maintain its membership numbers and consequently remain in a financially viable position. The Club has an active recruitment team whose function it is to attract new members to ensure the Club's long term viability.

CONSULTATION

Council staff have met and discussed the proposed Lease, draft Heads of Agreement, subdivision matters, Plan of Management and site specific environmental management practices with club executives on a number of occasions since negotiations commenced in October 2001.

Staff commissioned the State Valuation Office to undertake a valuation on 21 August 2002 using the base factor formula as provided by the Department of Local Government. (Refer Attachment 2)

In accordance with Section 47 public notification of the proposed lease will be undertaken. Should significant objections be received the matter will be further reported to Council.

FINANCIAL CONSIDERATIONS

The value of the lease has been determined utilising the base factor formula as provided by the Department of Local Government in relation to Bowling Clubs as outlined in Attachment 2.

In accordance with this formula a further subsidy has been applied by Council that reduced from 90% to 80% over the first five years of the lease. Attachment 3 outlines in full, anticipated income resulting from this lease and notes that should the options be exercised fresh market valuation will

Item 8

S02710
31 August 2004

be undertaken prior to the exercise of both options. The table below summarises lease amounts due to Council for the first five years. The lessee is responsible for payment of Council rates.

Year	Assessed Value of Lease (including cpi)	Rebate	Payable to Council (including GST)
1	\$44,040	90	\$4,844.40
2	\$45,493	90	\$5,004.27
3	\$46,994	85	\$7,754.11
4	\$48,545	85	\$8,009.99
5	\$50,147	80	\$11,032.43

Total: \$36 645.00

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

In preparation of this report Open Space has sought input from Finance and Business Development regarding proposed lease terms and conditions.

SUMMARY

The Club has occupied the Clubhouse facility since 1960 and is keen to continue their occupation and formalise such usage via a Lease with Council. Refer Attachment 4. There are 430 Club members and the Club boasts a record of high achievement in district lawn bowls events.

The Bicentennial Park Plan of Management was adopted by Council on 6 August 2002 and is the enabling document, which authorises such leases or licences over Community Land.

It is proposed that Council enter into a lease arrangement with West Pymble Bowling Club Inc for a period of five years with two further options of five years subject to the conditions outlined in the body of this report and in accordance with the Local Government Act (1993).

RECOMMENDATION

- A. That Council grant a lease to West Pymble Bowling Club Inc for the use of the site known as 161 – 169 Ryde Road, for the term of five years and with two further options of five years at Council's discretion, commencing on the expiration of the public notification of the proposed Lease.
- B. That Council issue a public notice as prescribed by Section 47 of the Local Government Act (1993).
- C. The Council authorise the Mayor and General Manager to sign the documentation.
- D. That Council authorise the affixing of the Common Seal of Council to the lease document.

Item 8

S02710
31 August 2004

- E. That a report be brought back to Council if there are significant objections to the proposal in accordance with Section 47 (4-10) of the Local Government Act (1993).

Edward Illy
LAND ADMINISTRATION OFFICER

Amanda Colbey
MANAGER PARKS, SPORT &
RECREATION

John McKee
DIRECTOR FINANCE AND BUSINESS

Steven Head
DIRECTOR OPEN SPACE

Attachments:

- 1. Location plan**
- 2. State Valuation Office report**
- 3. Confidential - Draft Heads of Agreement**
- 4. Club Letter of Support**

NOMINATION FOR COMMITTEES - PARKS, SPORT & RECREATION REFERENCE GROUP/BUSHLAND, CATCHMENTS & NATURAL AREAS REFERENCE GROUP

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To select members from the nominations received for the Parks, Sport & Recreation Reference Group and for the Bushland, Catchments and Natural Areas Reference Group.
BACKGROUND:	Council at its meeting of 22 June 2004 resolved to create the above named Reference Groups for Open Space to facilitate community consultation in the decision making process of Council.
COMMENTS:	Invitations for the Reference Groups were invited through advertising, community and club mail outs and details included on Council's website.
RECOMMENDATION:	That Committee Members be selected from the nominations received.

PURPOSE OF REPORT

To select members from nominations received for the Parks, Sport & Recreation Reference Group and for the Bushland, Catchments & Natural Areas Reference Group.

BACKGROUND

Council at its meeting of 1 June 2004 resolved to establish its process for decision making including community participation.

In relation to Open Space, charters were adopted for both Reference Groups (Attachment 1 – Parks, Sport & Recreation Reference Group) and (Attachment 1 – Bushland, Catchments & Natural Areas Reference Group).

Letters were sent to sports and parks groups, meetings with relevant groups were undertaken and an advertisement was placed in the local newspaper. Information was also posted on Council's web site calling for nominations.

Membership for Bushland Catchments and Natural Areas Reference Group is limited to 15 members, plus Councillors, made up of:

- Chair (Councillor Malicki)
- Deputy Chair (Councillor Andrew)
- Key local community groups, 4 members
- General community representatives – 3 members
- Catchment Management Authority - 1
- DIPNR (water management issues) – 1
- Research – 1
- National Parks & Wildlife Service – 1
- Rural Fire Service
- All interested Councillors

Membership for Parks, Sport & Recreation Reference Group is limited to 15 members, plus Councillors, made up of:

- Chair (Councillor Ebbeck)
- Deputy Chair (Councillor Malicki)
- 3 community members
- 4 key sporting associations
- 4 targeted groups (as identified in strategic plan, including women's sport, youth sport & minority sports)
- Public sports forum – 1 member
- Local school's representative – 1
- Industry expertise – 1
- All interested Councillors

COMMENTS

Following notification, a total of 16 nominations have been received for the Bushland, Catchments & Natural Areas Reference Group (Attachment 3) and 23 nominations were received for the Parks, Sport & Recreation Reference Group (Attachment 4).

In addition, organisations identified within the respective charters have been contacted to determine their commitment to the Reference Groups and to establish a nominee.

More nominations have been received than there are positions in the Reference Groups. In assessing the applications, staff have attempted to engage a broad range of skills and interest areas and minor amendments to the membership of each Reference Group is proposed.

The recommendations provided for Reference Group membership encourage a balance of experienced previous advisory committee members and opportunities for new participants. Regardless of membership, opportunities to participate in consultation and direction setting for Council should be available to all applicants. Accordingly, it is proposed that all nominees not identified as Reference Group members be thanked for registering their interest and requested to allow Council to keep their details for further involvement as appropriate. Examples may include specific project groups assisting with policy development or specialised stakeholder consultation.

The table below (**Table 1**) outlines recommendations for membership of the Bushland, Catchments & Natural Areas Reference Group based on applications and identified organisations.

Table 1 - Bushland, Catchments & Natural Areas Reference Group

Group's Representation	Nominee	Comment
Key local community Groups STEP	Neroli Lock	Considerable experience. STEP nominee and will nominate alternate delegate
Ku-ring-gai Bushcare Association	Margaret Booth	Considerable experience on community advisory committee
Ku-ring-gai Bat Conservation Society	Nancy Pallin	Considerable experience on community advisory committee
Australian Native Plant Society (ANPS)	Julia Robertson	Recommend minor change to Reference Group membership. All four community nominees are part of Blue Gum High Forest Group. Important to include membership of ANPS as they are a long term contributor to many Council and community environmental programs
General Community Representatives (3)	James Rennie	Has worked in local government for 7 years in the area of bushland and catchment management. Will be able to bring knowledge of issues, opportunities and alternative practices.
	Stephen Shortis	Experience in greenspace planning and bush

Item 9

S03447, S03448
30 August 2004

		regeneration
	Dr David Robinson	Extensive experience in civil and environmental engineering. Director of WP Brown Consulting and has consulted to local government for many years
Catchment Management Authority	Board has not yet been appointed	To be advised to Council
Department of Infrastructure Planning & Natural Resources (water management issues)	DIPNR to provide nominee	Sydney Harbour Catchment Authority when formed.
Research (eg Macquarie University, School of Environmental Science)	Dr Mark Taylor	Senior lecturer at Macquarie University in the Department of Physical Geography. Key research areas include fluvial geomorphology, urban stream management
National Parks & Wildlife Service	Chris McIntosh	Regional Manager for all National Park areas covered by Ku-ring-gai
Rural Fire Service	Angelo Baldo or alternate nominee	District Manager – Rural Fire Service

The table below (**Table 2**) outlines recommendations for membership of the Parks, Sport & Recreation Reference Group based on applications and identified organisations:

Table 2 - Parks, Sport & Recreation Reference Group

Group's Representation	Nominee	Comment
General Community Members (4 proposed)	Nick Farr Jones	Former Australian Rugby Player and businessman
	Hugh Bennett	Former member of KSAC. Interest in senior's access to appropriate recreation facilities.
	Peter Duncan	Resident with family and former Director of Centennial & Moore Park Trust. A strong advocate regarding Open Space matters at State level
	Sandra Van de Water	Former Chair of Urban Parks Advisory Committee. Strong interest in children's play & community engagement and empowerment.
Key Sporting Associations	Soccer – Gary Foster	General Manager of Ku-ring-gai District Soccer Association; largest sporting association in Ku-ring-gai.
	Rugby – Rugby NSW	Nominee from Rugby NSW to be confirmed
	Netball – Grant Corderoy	President Ku-ring-gai Netball Association. Wide sporting experience and representative of large association.
	Cricket – Cricket NSW	Cricket NSW have responded positively and will nominate representation from

Item 9

S03447, S03448
30 August 2004

		either Regional Council or professional staff member.
Targetted Sports Women's Sport	Softball - Hugh Southwood	Initial opportunity for participation, strong advocate of equity in sport and review changes.
	Hockey – Ann Smith	Long term involvement in sport as participant, coach, parent, volunteer and club official. First opportunity to participate on committee
Youth Sport	Little Athletics – Alan Fredericks	Former Chair of KSAC and significant experience in sport and sports administration.
Minority Sport	Baseball – Frank Freeman	Experienced sports administrator, long term experience on KSAC.
	Swimming – Kuring-gai Swimming Club	Judy Macourt or alternate nominee.
Sports Forum Nominee	To be determined at first forum	
Local School Representative	PSSA President – Col Simpson	The Public School's Sporting Association are high volume users of Council's facilities and represent a significant number of local children.
Industry Expertise	Department of Tourism, Sport & Recreation	Awaiting advice from Kerry Turner, Manager – Active Communities Program.

The Chair of the Park, Sport & Recreation Reference Group has raised with three high profile local sports people their interest in contributing to this Reference Group. They are Tony Roach, (Tennis), Wayne Pearce (Rugby League) and Gordon Bray (Rugby Union Commentator). All have indicated a willingness and interest in the group. It is suggested in this report that their services be retained as advisers to the Reference Group and that they be called upon for involvement as appropriate.

CONSULTATION

The Reference Groups are in themselves consultative mechanisms of Council. Establishment of both of the Reference Groups and identification of potential members has involved notification by letter and on Council's website and advertisement in local papers. It is recommended that all who have completed applications be given the opportunity for ongoing involvement through mechanisms such as specific project groups and feedback on draft policies. Nominations have been discussed in general terms with the respective chair of each Reference Group.

FINANCIAL CONSIDERATIONS

There are no financial considerations.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation was not required with other Departments within Council.

SUMMARY

Following a review of its Advisory Committees, Council has established two Reference Groups for the purpose of community involvement in Open Space activities. Notification and advertisement for nominations has been undertaken and 39 responses have been received for both Reference Groups. Recommendations to Council for members are identified in this report. Initial meetings of both committees are scheduled for late September and October.

RECOMMENDATION

- A. That Council resolve to appoint the nominations identified in this report to the Bushland, Catchments & Natural Areas and Parks, Sport & Recreation Reference Groups.
- B. That nominees be advised of their appointment and remaining applicants be thanked for their interest and informed that their details will be kept for further reference and involvement as appropriate.

Steven Head
Director Open Space

- Attachments:**
- 1. Charter for Parks, Sport & Recreation Reference Group**
 - 2. Charter for Bushland, Catchments & Natural Areas Reference Group**
 - 3. Nominations received for Bushland, Catchments & Natural Areas Reference Group**
 - 4. Nominations received for Parks, Sport & Recreation Reference Group.**

HERITAGE ADVISORY COMMITTEE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Councillors to determine a new Chairperson for the Heritage Advisory Committee.
BACKGROUND:	At its meeting on 1 June 2004, Council appointed Councillor Cross as Chairperson for the Heritage Advisory Committee.
COMMENTS:	Councillor Cross has resigned as Chairperson.
RECOMMENDATION:	That Council elect a new Chairperson for the Heritage Advisory Committee.

PURPOSE OF REPORT

For Councillors to determine a new Chairperson for the Heritage Advisory Committee.

BACKGROUND

At its meeting on 1 June 2004, Council appointed Councillor Cross as Chairperson and Councillor Bennett as Deputy Chairperson for the Heritage Advisory Committee. The Committee meets bi-monthly.

COMMENTS

Councillor Cross has resigned as Chairperson of the Committee. He has advised that he has external commitments that will not allow him to allocate the time he believes necessary to hold the position.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

That Council elect a new Chairperson for the Heritage Advisory Committee.

Geoff O'Rourke
SENIOR GOVERNANCE OFFICER

Brian Bell
General Manager

DESIGN COMPETITION

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	This report responds to a Council request to consider the benefit of a Design Competition as part of the planning for Stage 2 Residential Development Strategy centres.
BACKGROUND:	Design competitions can be useful to as either part of a tender selection process for a project or as a means of getting ideas.
COMMENTS:	The preparation for plans for commercial centres requires a multi-disciplinary team approach in which design, while an important component needs to be integrated with a number of other factors. In these circumstances the value of a competition would be restricted to generating ideas which in the final instance may not be practical when other considerations are taken into account. The conduct of a competition which would yield practical results would use valuable staff and financial resources and cause delay in developing final plans and thus is not recommended. There may be some value in having a student competition to generate some ideas which may or may not be practical.
RECOMMENDATION:	That Council approach urban design programs at universities to discuss the feasibility of involving students in coming up with urban design solutions for one or more of the commercial centres in Ku-ring-gai.

PURPOSE OF REPORT

This report responds to a Council request to consider the benefit of a Design Competition as part of the planning for Stage 2 Residential Development Strategy centres.

BACKGROUND

On 22 June 2004 Council resolved:-

With respect to the Minister's Direction under Section 55 of the Act "to prepare an LEP in relation to areas in and around the existing retail and commercial areas within the rail/road corridor in Ku-ring-gai" that:

- A. *Within the timeframe given by the Minister, Council examine opportunities in all the areas covered by the Minister's Directive.*
- B. *Where retail/commercial Centres are split by the Pacific Highway and opportunities exist to re-orientate shopping Centres away from the Highway consideration be given to this in the planning process.*
- C. *A Report be brought to Council on the possibility of running a design competition for selected CBDs to ensure the best planning outcomes.*
- D. *The General Manager Report to Council urgently on the resources necessary to undertake this task.*

COMMENTS

Design competitions are used in two main ways:

1. As a part of a tender selection process for specific projects.
2. As a way of generating ideas for design.

Where a design competition is used as part of a tender selection process what is necessary in order for a design competition to be successful is that the value and/or prestige of the final project is sufficiently attractive and proportionate to the work and time spent on preparing the preliminary design for the competition. For example the Opera House used a design competition to choose the architect for that project. In that case, the landmark site and the value of the project were sufficiently attractive for architects from around the world to enter. The resultant product has become an icon for Sydney. This does not mean that all projects need to be of Opera House status or value, but what is important is the proportionate relationship between the value of the project and the value of time spent in preparing the design. The other matters to note about the competition is that it is for a specific project for a single site and this type of project most lends itself to a design competition in contrast to urban design work which requires the skills to work as part of a multidisciplinary team to simultaneously address complex issues.

Item 11

S02036
1 September 2004

It should also be noted that the winning entry for the Opera House, while inspirational and imaginative, it was very conceptual and that considerable cost blow outs and delays were experienced in that project to make an inspirational idea workable. Indeed work is still proceeding (some 40 years later) with the original architect and his son to make acoustics in the concert hall acceptable.

Where a competition is used to generate ideas, then again what is important is that the value or prestige of the project is proportionate to the value of the work and time spent in preparing the entry. This would generally require that there be prizes available or the real likelihood of future work of perceived value to the designer.

In order for an urban design project to be sufficiently attractive then the value of the prizes would need to approach the value of the work to be undertaken in order for entrants to feel that it is worthwhile taking time away from other paying projects to enter.

If for example if a competition were for a single town centre then prizes would probably need to be in the vicinity of \$50,000 for first prize, \$20,000 for second prize in order for companies to even think about entering. There would also be costs associated with publicising the competition, judging etc. The total budget proposed for urban design work for each centre as part of stage 2 of the RDS is \$100,000 and thus there would not be much left if a prize is given.

The output of a competition be number of ideas which may or may not be practical when detailed planning for the centre is undertaken. The planning for the centre would still need to take place because design is only one component in what essentially requires a multidisciplinary team approach if the urban design concept is to be practical and able to be implemented. In planning for commercial centres, generally the urban design follows from the resolution of other issues such as the need to improve safety, improve vehicular and pedestrian accessibility, to locate new community facilities, create new public spaces etc.

The conduct of the competition would use valuable staff resources and valuable budget to generate ideas that may or may not be able to be incorporated into the final plans for the centre because the concepts developer may or may not be compatible with the resolution of other issues for the centre.

The use of design competitions for urban design work is very rare. One recent example is the Parramatta Road Project that was commissioned by the Inner Metropolitan Regional Organisation of Councils (IMROC). The competition for that project attracted a lot of interest from urban designers at the time because the project budget was high, it was a high profile project which attracted metropolitan media attention for concepts submitted and there was the possibility of follow up design work for the successful entrant.

The project was awarded and the winning entrant developed their scheme for Parramatta Road based on their competition entry. The proposals developed for Parramatta Road were inspiring and visionary. The project was transferred from IMROC to DIPNR, who provided a large part of the funding for the project. It is understood that there is litigation proceeding over the payment for the project and that this that relates to the fact that the outcome of the project, while visionary and inspirational, is not considered to be practical.

Item 11

S02036
1 September 2004

There is government commitment to implementing changes along the length of Parramatta Road but before anything can be implemented significant resources and planning effort will be required to make the proposal workable. This is in part an outcome of the fact that urban design for areas with complex issues and problems requires an integrated approach and input from a multidisciplinary team and consideration of issues of funding, commitment from various parties etc and the practical implementation of the outcome needs to be simultaneously addressed, ie it is not merely a matter of finding a design solution.

Conduct of a design competition for the commercial centres that will form stage 2 of the RDS is therefore not recommended for the following reasons:

A design competition is more suitable for work that require predominantly design skills rather one that requires a multidisciplinary approach;

A design competition is more suited to a limited specific task eg design a building for a specific site, design streetscape etc.

A design competition will only attract entrants if there are strong incentives to enter. This would require that either there is financial reward or prestige value for the project or where the effort required to develop the initial design concept is low in proportion to the contract or prize that is offered for the successful entrant.

Design competitions have decreased in popularity because many projects do not proceed to contract following competition and because many projects do not readily lend themselves to simply a design solution.

The number of companies in Sydney that are highly skilled in quality integrated urban design work is limited and there is plenty of work available so many would simply not spend time in the current market to prepare an entry, especially when the budget for our projects is comparatively small.

The prize Council would need to offer in order to attract entrants would significantly eat into the available budget and would not necessarily yield a design solution that is workable in the absence of a multidisciplinary approach.

The conduct of a competition would require staff time and resources to advertise, adequately brief entrants and judging. The competition would also delay work that needs to be done. This would result in the risk that project schedules will be blown out with little guarantee that the outcome would be acceptable or able to be implemented.

However there is some merit in attracting alternative ideas that could be considered for at least some of the commercial centres. There are several urban design courses conducted in Sydney universities and there may be benefit in approaching the lecturers in those courses to propose that one or more of the commercial centres could be set as a student project and Council could give some form of reward to the project team which comes up with the imaginative solutions for all or part of that town centre.

Item 11

S02036
1 September 2004

This would have yield some of the benefits of a competition ie generate ideas without necessarily incurring some of the financial and time commitments that would be necessary were a competition to be used as the means of planning.

The rewards that could be offered for students would include marks in their course if the lecturer agrees to make the work an assignment, the student may get some recognition by seeing some of their ideas incorporated into the final scheme and this may give them a competitive edge in seeking employment on completion of their course or there may even be the opportunity of some part time work with Council or its consultants on the final project.

CONSULTATION

The idea has been discussed with several urban designers.

FINANCIAL CONSIDERATIONS

The dollar value of the urban designer component of the budget for any individual centre is comparatively small and may not be sufficient to conduct a competition. Prize money that would need to be offered to attract entrants would deplete the majority of the budget, leaving few funds to undertake the work subsequently.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not required for the preparation of this report.

SUMMARY

While there are some benefits in holding a design competition, the work that needs that needs to be done for the town centres requires that an urban designer work as part of a multidisciplinary team in order to come up with practical ideas. The work is not solely design. While design competitions can be a useful approach to tender selection and to come up with innovative ideas, the use of design competitions is not common due to the fact that there needs to be incentives in the form of perceived possible status or financial benefit to the entrant to attract entrants and the experience of competitions often yields outcomes which may not be practical without considerable additional work.

Conduct of a competition will use up valuable staff and budget resources without any guarantee that there will be an outcome that is workable within the time frame and budget available.

However in order to generate alternative ideas there may be value in approaching urban design course in Sydney to investigate opportunities for student involvement.

RECOMMENDATION

That Council approach lecturers of urban design courses in Sydney to explore opportunities to have students work on one or more of the commercial centres in Ku-ring-gai as a student project and consider the incorporation of ideas generated into planning for the relevant centre.

Leta Webb
Director
Planning & Environment

DEVELOPMENT CONTROL PLAN 56 - NOTIFICATION

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To obtain a resolution from Council that a Development Control Plan (DCP) for Notification be prepared.
BACKGROUND:	Council's Notification Policy came into effect in February 2003. However, under current legislation Council's notification provisions for development applications must be contained in a Local Environmental Plan (LEP) or DCP.
COMMENTS:	The existing Notification Policy has no force under current legislation and must therefore be changed to a DCP. The preparation of the DCP provides an opportunity to review the objectives and provisions of the document.
RECOMMENDATION:	That a new DCP for Notification be prepared in accordance with the legislation. That the DCP incorporate a range of notification and advertising provisions appropriate to the different types of development applications received.

PURPOSE OF REPORT

To obtain a resolution from Council that a Development Control Plan (DCP) for Notification be prepared.

BACKGROUND

Under current legislation, the only forms of development application that must be advertised and notified are designated development, State significant advertised development and integrated development applications. The legislation therefore does not require advertisements or notification of the majority of development applications received by Council.

To ensure that Councils are able to appropriately consult with stakeholders, the *Environmental Planning and Assessment Act 1979* ('the Act') allows Council to add to or extend the provisions contained in the regulations concerning notification and advertising of development applications and the making of submissions relating to advertised development.

In December 2002, Council adopted a Notification Policy in order to provide for improved stakeholder participation in the development assessment and rezoning processes. The Policy came into effect in February 2003. The document extended the advertising and notification requirements for:-

- a. All development applications other than designated development (exempt and complying development do not require a development application).
- b. Development applications amended by the proponent before the applications are determined.
- c. Applications for modifications to development consents.
- d. Applications for review of determinations; and
- e. Rezoning applications.

The Notification Policy is still being used by Council to determine where notification is required and how it must be undertaken, however, current legislation does not allow for this to occur.

COMMENTS

The Need for a DCP

Under the Act, where Council wishes to extend the notification and advertising requirements for development applications, request for review of determinations, applications for modification of development consent and applications for complying development certificates, Council must prepare a Development Control Plan. The legislation does not provide for Council to extend the notification and advertising requirements under a Policy.

In order to ensure that Council may legally continue to notify and advertise certain applications it is therefore necessary to create a Development Control Plan (DCP) that specifies the circumstances under which this will occur and the manner in which it will be undertaken.

Review of the Document's Provisions

The preparation of the proposed DCP for Notification provides Council with the opportunity to review the objectives and provisions in the existing Policy.

The existing Policy lists four categories of development with different sets of notification and advertising requirements. While the Policy acknowledges that different levels of development should be notified in different ways, it requires a level of advertising which, in some cases, is unwarranted. It is therefore proposed to review both the categories and the notification / advertising provisions in order to ensure that Council undertakes notification and advertising only to people who are likely to be reasonably affected by the development.

The existing Policy also describes the manner in which rezoning applications must be notified and advertised. However, rezoning is not subject matter for which the legislation provides to be included in a DCP. Rather, an application for rezoning is effectively an application for the creation of a new Local Environmental Plan (LEP), for which advertising and notification procedures are already specified in the legislation.

Including a procedure for notifying and advertising rezoning applications in the proposed Notification DCP would be misleading to the public as it would suggest that such a policy was binding. The proposed new DCP would therefore not include such information.

CONSULTATION

The proposed Draft DCP would be publicly exhibited for comment prior to recommendation for adoption.

FINANCIAL CONSIDERATIONS

The costs associated with the preparation of this DCP are limited to staff time and advertising / exhibition costs.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation will be undertaken with relevant staff in the Environment & Regulatory Services Department and the Planning & Environment Department.

SUMMARY

Item 12

S03673
31 August 2004

Council must prepare a DCP for Notification as a matter of priority in order to ensure a legal basis for its notification and advertising of applications. In preparing the DCP, Council has the opportunity to develop more appropriate provisions for the wide range of applications received by redefining development and rezoning categories and simplifying processes where appropriate. Council cannot, however, include provisions for the notification and advertising of rezoning applications.

RECOMMENDATION

- A. That a new Development Control Plan for Notification be prepared in accordance with provisions of the EPA Act and Regulations.
- B. That the Development Control Plan incorporate a range of notification and advertising provisions appropriate to the different types of development applications received.
- C. That the matter be brought back to Council prior to exhibition.

Katherine Lustig
Environmental Planner

Antony Fabbro
Manager Strategic Planning

Leta Webb
Director Planning & Environment

Michael Miocic
Director Environment & Regulatory Services

TELSTRA/OPTUS SECTION 611 CHARGES

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to consider advice received from Mr Geoffrey Kennett, Barrister regarding the likely outcome of any federal court action regarding a one off compensation claim by Councils against telecommunications carriers.
BACKGROUND:	On 30 August 2004, the Local Government Association of NSW provided Council with advice regarding the likely outcome of any Federal Court action in this matter.
COMMENTS:	Advice received has concluded that Council's chances of being successful in this matter are slight.
RECOMMENDATION:	That Council resolved to discontinue any further proceedings against telecommunications carriers in this matter.

PURPOSE OF REPORT

For Council to consider advice received from Mr Geoffrey Kennett, Barrister regarding the likely outcome of any federal court action regarding a one off compensation claim by Councils against telecommunications carriers.

BACKGROUND

On 17 June 2004 Council received correspondence from the Local Government Association of NSW advising that Deacons Lawyers were of the opinion that all Council's should seek Counsel's advice in light of the decision of the High Court regarding Councils unsuccessful attempt to charge telecommunications carriers under Section 611 of the Local Government 1993. (refer **attached** Appendix A).

In response Council wrote to the Local Government Association on 6 July 2004 confirming its willingness to be party to any action that may be brought against telecommunication carriers for compensation.

On 30 August 2004 the Local Government Association of NSW provided all Council's with advice from Mr Geoffrey Kennett, Barrister, regarding the likely outcome of any Federal Court action in this matter.

COMMENTS

In summary the advice of Mr Kennett is of the opinion that the chances of being successful in this matter in court are slight, and that the problems to be overcome and costs involved would be substantial.

Mr Kennett states in part that:

"In my view the Council's probably will not succeed in establishing that the provisions conferring power on the carriers and their predecessors to enter and construct facilities were invalid. If that is not established, the claims for compensation for acquisition of property and the alternative claims in trespass will necessarily fail".

And further that:

"...I think it unlikely that the councils will succeed in establishing that relevant provisions of the 1901 Act were laws with respect to the acquisition of property".

After reading the advice of Mr Kennett the Legal Officer from the Local Government Association of NSW is also of the opinion that councils are unlikely to succeed in this matter. A full copy of the correspondence from the Local Government Association of NSW is **attached** as Appendix B.

Given the advice referred to above, it is recommended that Council write to the Local Government Association of NSW confirming that any further action in this matter, is to be discontinued.

CONSULTATION

The Local Government Association of NSW has consulted with all Councils regarding this matter.

FINANCIAL CONSIDERATIONS

The costs of obtaining the advice from Mr Kennett has been capped at \$20,000 and spread across all NSW Councils. Council's decision to discontinue proceedings will limit any further costs accruing on this matter.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not Applicable

SUMMARY

On 30 August 2004, Council received advice from the Local Government Association of NSW. The advice concluded that the chances of being successful in this matter are slight. Accordingly it is recommended that council discontinue any further proceedings.

RECOMMENDATION

- A. That Council resolve to discontinue any proceedings against telecommunications carriers in accordance with advice received from Geoffrey Kennett, Barrister.
- B. That Council write to the Local Government Association of NSW informing them of its decision.

John McKee
Director Finance and Business

Brian Bell
General Manager

Attachments: **Appendix A. Letter from Local Government Association of NSW dated 17 June 2004**
 Appendix B. Full copy of correspondence from Local Government Association dated 30 August 2004

STAGE 2 - RESIDENTIAL DEVELOPMENT STRATEGY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To outline a proposed approach to the planning of commercial centres and Stage 2 of the Residential Development Strategy.
BACKGROUND:	The Minister has directed that Stage 2 of the Residential Development Strategy now concentrate on the major commercial centres in Ku-ring-gai.
COMMENTS:	It is proposed that the centres to be looked at be St Ives, Turramurra, Gordon, Pymble, Roseville and Lindfield. That the planning for the centers not only look at increasing residential opportunities but adopt an integrated approach considering parking and traffic issues, the location of community facilities, improvement of public domain, safety, commercial viability and the general livability of the centres.
RECOMMENDATION:	That Council resolve to prepare integrated plans for the centres of St Ives, Turramurra, Gordon, Pymble, Roseville and Lindfield and adopt the consultation and timeframe as set out in the plan subject to this being acceptable to the Minister.

PURPOSE OF REPORT

To outline a proposed approach to the planning of commercial centres and Stage 2 of the Residential Development Strategy.

BACKGROUND

In her letter of 27 May, 2004 the Minister gave a direction to Council to prepare an LEP in relation to areas in and around existing retail and commercial centres in the Rail / corridor and St Ives Centre as Stage 2 of its Residential Development Strategy. This work is to include shop top housing and reevaluate density controls on existing medium density zones. The Direction gives council 12 months to complete this task.

The letter also recommends that Council apply for funds under the Planning Reform Funding Program to assist in this work.

COMMENTS

Since receipt of the letter, council officers have considered the task to be undertaken and have conducted a briefing for Councillors and now propose as follows:

- That stage 2 of the Residential Development Strategy focus on the following retail / commercial centres in order of priority: St Ives, Turramurra, Gordon, Pymble, Roseville, Lindfield.
- That the work to be done not only focus on increasing opportunities for residential development but that this be achieved in the context of an integrated planning approach to each centre focusing on social, economic, environmental and amenity objectives. This approach should focus on improving the viability and livability of each centre, improving traffic and parking, providing new open space (where appropriate), improving public domain, improving safety, improving accessibility of each centre etc. Parallel to this work Council and community facilities should be reviewed to identify opportunities for upgrading facilities or including new facilities. An integrated planning approach is recommended because focus purely on increasing housing will see certain sites redeveloped but will also raise a real risk of exacerbating existing problems and developing certain site for residential development in the absence of overall planning for that centre may lock out future options for the improved planning services in each town centre. Good planning requires an integrated rather than single issue approach.
- That an economic strategy study be undertaken which considers the role of each centre both within the context of the Council area but also considers the role of each centre in a sub-regional context and which recommends the amount of retail and commercial space that should be planned for in each centre.

- The planning of each centre should involve consultation with the community and stakeholders throughout the planning process.

A timetable and indicative budget has been prepared for the strategy and each centre. It proposes that a realistic timeframe for the work to be undertaken is two years and indicates that additional funding will be required this year from Council's budget and that additional funding will also be required for next year.

Council officers have met with officers from the Department of Infrastructure, Planning and Natural Resources to discuss the above proposals. They have indicated as follows:

- The amount that is likely to be available to Council by way of grant from the Planning Reform Funding Program is likely to be about \$200,000.
- They recommend that Council write to the Minister proposing the approach that Council wishes to take and seek her agreement that this approach and timeframe would meet the requirements of her direction to Council.

Consultation with the community and stakeholders will be an important part of the process and it is recommended that this be undertaken to ensure that a broad range of community and stakeholder views are considered and comprise the following elements:

- Initial small group consultation for each centre with representatives from a cross section of the community including, but not limited to, the aged, youth, parents with children, established community and service groups, ethnic minority groups (where relevant) and the general community. This consultation will identify existing issues in each centre, identify what type of centre the community would like it to be in the future.
- Consultation with stakeholder groups including business owners, people who work in each centre, community service providers.
- Consultation with government authorities.
- Creation of a community and stakeholder reference group.
- Conduct of staff and Councillors workshop.
- Conduct of a design workshop which includes Councillors, relevant staff, representatives of the community and stakeholder groups.
- Formal exhibition of initial design concepts, including staffed displays in the shopping centres to allow informal questions and feedback, presentations to community and stakeholder reference group.
- Formal exhibition of a draft LEP/DCP and action plan for each centre, including consultation sessions, informal staffed and unstaffed displays.

It is recommended that the consultative approach outlined above be complemented with a communications strategy including information on Council's website, local media, newsletters etc.

CONSULTATION

Council staff have consulted with DIPNR staff on the above approach.

FINANCIAL CONSIDERATIONS

It is estimated that the direct project costs to undertake the work will be approximately \$657,500 for the 2004/2005 financial year and \$590,000 for the 2005/2006 financial year and that staff involvement will be to the value of approximately \$605,000 per financial year. DIPNR officers have indicated that they envisage that a grant of about \$200,000 may be available from the Planning Reform Funding Program. On the assumption that this amount will be available, the shortfall from funds available from the Planning Department's budget for this financial year is estimated to be \$157,000. This amount will need to be found during quarterly reviews. In addition, unless additional funding can be obtained from DINPR or other sources, it is likely that an amount over and above what is generally allocated to the Planning Department of \$340,000 will be required in the 2005/2006 budget.

Once planning is completed for each Centre, a section 94 plan will also need to be created for each centre. Funds for this work to be undertaken will be funded by section 94 funds.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

As integrated planning will require involvement of each Department within Council, each Director has been consulted and has identified staff who are likely to be involved. There will be consultation and direct involvement of staff from across Council throughout the integrated planning process.

SUMMARY

Good planning requires that a holistic integrated approach be adopted to planning for each retail and commercial centre included in stage 2. Focusing purely on identification of opportunities for residential development in the absence of an integrated approach creates real risk that existing problems in centres may be exacerbated, new problems created and that development of certain sites may lock out opportunities for good planning in the future.

An integrated planning approach, in consultation with community and stakeholders provides an opportunity to improve the viability, amenity and livability of each centre.

The timeframe set by the Minister for completion of stage 2 of the Residential Strategy does not allow for an integrated planning approach. Following discussion with Departmental officers, it is

proposed that Council write to the Minister outlining the approach to be taken and seeking her agreement that this approach and timeframe will satisfy her directive.

RECOMMENDATION

- A. That Stage 2 of the Residential Development Strategy focus on the following centres in priority order: St Ives, Turramurra, Gordon, Pymble, Roseville, Lindfield.
- B. That Council resolve to adopt an integrated approach for each centre in order to improve the viability of each centre.
- C. That Council write to the Minister setting out the centres that will be part of the Residential Development Strategy and setting out the approach to be adopted and timeframe and seek her agreement that this approach and timeframe will satisfy her direction of 27 May 2004.
- D. That Council seek a grant of \$200,000 from the Planning Reform Funding Program.
- E. That Council endorse the consultation strategy as set out in this report.
- F. That Council adopt identified options for meeting the budget shortfall anticipated for Stage 2 of the Residential Development Strategy this year as part of the quarterly review process and budget for the full cost of the Residential Development Strategy in the 2005/2006 budget.

Leta Webb
Director
Planning & Environment

Attachments: Proposed timeframe for Residential Development Strategy - Stage 2 Centres

[illegible][illegible]

Turrumurra Centre

[illegible]

[illegible][illegible]

[illegible][illegible]

[illegible][illegible]

Lindfield Centre

[illegible]

NOTICE OF MOTION

COUNCIL MEETING CYCLE

Notice of Motion from Councillor G Innes dated 23 August 2004.

I move:

That Council amend its Meeting Cycle to 2 Ordinary meetings per month on the 2nd and 4th Tuesday of each month.

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Cr Graeme Innes
Councillor for Roseville Ward

Attachments: **Background information**